

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF LAS VEGAS, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,

Appellant,

vs.

180 LAND CO., LLC, A NEVADA LIMITED-
LIABILITY COMPANY; AND FORE STARS,
LTD., A NEVADA LIMITED-LIABILITY
COMPANY,

Respondents.

180 LAND CO., LLC, A NEVADA LIMITED-
LIABILITY COMPANY; AND FORE STARS,
LTD., A NEVADA LIMITED-LIABILITY
COMPANY,

Appellants/Cross-Respondents,

vs.

CITY OF LAS VEGAS, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,

Respondent/Cross-Appellant.

No. 84345

Electronically Filed
Aug 25 2022 04:36 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

No. 84640

**JOINT APPENDIX,
VOLUME NO. 112**

LAW OFFICES OF KERMITT L. WATERS

Kermitt L. Waters, Esq.

Nevada Bar No. 2571

kermitt@kermittwaters.com

James J. Leavitt, Esq.

Nevada Bar No. 6032

jim@kermittwaters.com

Michael A. Schneider, Esq.

Nevada Bar No. 8887

michael@kermittwaters.com

Autumn L. Waters, Esq.

Nevada Bar No. 8917

autumn@kermittwaters.com

704 South Ninth Street

Las Vegas, Nevada 89101

Telephone: (702) 733-8877

*Attorneys for 180 Land Co., LLC and
Fore Stars, Ltd.*

LAS VEGAS CITY ATTORNEY'S OFFICE

Bryan K. Scott, Esq.

Nevada Bar No. 4381

bscott@lasvegasnevada.gov

Philip R. Byrnes, Esq.

pbyrnes@lasvegasnevada.gov

Nevada Bar No. 166

Rebecca Wolfson, Esq.

rwolfson@lasvegasnevada.gov

Nevada Bar No. 14132

495 S. Main Street, 6th Floor

Las Vegas, Nevada 89101

Telephone: (702) 229-6629

Attorneys for City of Las Vegas

CLAGGETT & SYKES LAW FIRM

Micah S. Echols, Esq.

Nevada Bar No. 8437

micah@claggettlaw.com

4101 Meadows Lane, Suite 100

Las Vegas, Nevada 89107

(702) 655-2346 – Telephone

*Attorneys for 180 Land Co., LLC and
Fore Stars, Ltd.*

McDONALD CARANO LLP

George F. Ogilvie III, Esq.

Nevada Bar No. 3552

gogilvie@mcdonaldcarano.com

Amanda C. Yen, Esq.

ayen@mcdonaldcarano.com

Nevada Bar No. 9726

Christopher Molina, Esq.

cmolina@mcdonaldcarano.com

Nevada Bar No. 14092

2300 W. Sahara Ave., Ste. 1200

Las Vegas, Nevada 89102

Telephone: (702) 873-4100

LEONARD LAW, PC

Debbie Leonard, Esq.

debbie@leonardlawpc.com

Nevada Bar No. 8260

955 S. Virginia Street Ste. 220

Reno, Nevada 89502

Telephone: (775) 964.4656

SHUTE, MIHALY & WEINBERGER, LLP

Andrew W. Schwartz, Esq.

schwartz@smwlaw.com

California Bar No. 87699

(admitted pro hac vice)

Lauren M. Tarpey, Esq.

ltarpey@smwlaw.com

California Bar No. 321775

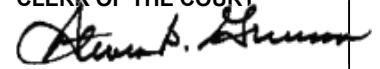
(admitted pro hac vice)

396 Hayes Street

San Francisco, California 94102

Telephone: (415) 552-7272

Attorneys for City of Las Vegas



LAW OFFICES OF KERMITT L. WATERS

Kermitt L. Waters, Esq., Bar No. 2571

kermitt@kermittwaters.com

James J. Leavitt, Esq., Bar No. 6032

jim@kermittwaters.com

Michael A. Schneider, Esq., Bar No. 8887

michael@kermittwaters.com

Autumn L. Waters, Esq., Bar No. 8917

autumn@kermittwaters.com

704 South Ninth Street

Las Vegas, Nevada 89101

Telephone: (702) 733-8877

Facsimile: (702) 731-1964

Attorneys for Plaintiffs Landowners

DISTRICT COURT

CLARK COUNTY, NEVADA

180 LAND CO., LLC, a Nevada limited liability company, FORE STARS Ltd., DOE INDIVIDUALS I through X, ROE CORPORATIONS I through X, and ROE LIMITED LIABILITY COMPANIES I through X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of the State of Nevada, ROE government entities I through X, ROE CORPORATIONS I through X, ROE INDIVIDUALS I through X, ROE LIMITED LIABILITY COMPANIES I through X, ROE quasi-governmental entities I through X,

Defendant.

Case No.: A-17-758528-J

Dept. No.: XVI

**PLAINTIFF LANDOWNERS' MOTION
FOR REIMBURSEMENT OF PROPERTY
TAXES**

Hearing Requested

COMES NOW Plaintiffs Landowners, 180 LAND CO., LLC and FORE STARS Ltd. (hereinafter "the Landowners"), by and through their attorneys of record, the Law Offices of Kermitt L. Waters, pursuant to Article 1 Section 22(4) of the Nevada Constitution and Clark County v. Alper, 100 Nev. 382, 395 (1984) and hereby respectfully submit Plaintiffs Landowners' Motion for Reimbursement of Property Taxes in the amount of \$ 925,582.57.

1 This motion is based upon the papers and pleadings on file, the exhibits attached hereto,
2 and any evidence or argument heard at the time of the hearing on this matter.

3 DATED this 6th day of December, 2021.

4 **LAW OFFICES OF KERRITT L. WATERS**

5 /s/ Autumn Waters

6 Kermitt L. Waters, Esq. (NSB 2571)

7 James J. Leavitt, Esq. (NSB 6032)

8 Michael A. Schneider, Esq. (NSB 8887)

9 Autumn L. Waters, Esq. (NSB 8917)

10 704 South Ninth Street

11 Las Vegas, Nevada 89101

12 Telephone: (702) 733-8877

13 Facsimile: (702) 731-1964

14 ***Attorneys for Plaintiffs Landowners***

15 **MEMORANDUM OF POINTS AND AUTHORITIES**

16 **I. FACTS**

17 This is a constitutional proceeding brought under Article 1 Section 8 and 22 of the Nevada
18 Constitution. The Landowners were forced to bring this action against the City of Las Vegas
19 (“City”) on September 14, 2017, as the City had unconstitutionally taken the Landowners’ 35 Acre
20 Property. This motion is brought for reimbursement of the property taxes the Landowners were
21 wrongly forced to pay after being dispossessed of their property. Had the City followed the law
22 and initiated formal eminent domain proceedings under Chapter 37 of the Nevada Revised
23 Statutes, the 35 Acre Property would have been taken off the tax rolls and the Landowners would
24 not have had to incur nearly a million dollars in property taxes. However, because the City did
not follow the law, the Landowners were forced to file this action and, not only litigate against the
City for over 4 long years, but the Landowners were also forced to bear the burden of property
taxes they never should have had to pay during this 4-year period. During this time period the
Landowners were forced to make 18 property tax payments totaling \$925,582.57 for the 35 Acre

1 Property. (*See Exhibit 1 and 2*). Pursuant to Article 1 Section 22(4) of the Nevada Constitution
2 and Clark County v. Alper, 100 Nev. 382, 395 (1984) the Landowners are entitled to be reimbursed
3 for these payments.

4 **II. LAW**

5 **A. An Owner Who is Dispossessed of her Property is no longer Obligated to Pay Taxes.**

6 In Nevada, a property owner is entitled to be reimbursed for the property taxes she actually
7 paid after her property was taken by the government as “[a]n owner who is dispossessed from his
8 or her land when it is taken for public use is no longer obligated to pay taxes.” Clark County v.
9 Alper, 100 Nev. 382, 395 (1984). Alper speaks directly to this point.

10 “The Alpers claim that they should be reimbursed by the county for all taxes paid by them
11 since the June 1, 1972 date of taking. We agree...The district court is therefore reversed with
12 instructions to reimburse the Alpers for property taxes actually paid after the land was taken by
13 the county.” Alper at 395.

14 Article 1 Section 22(4) of the Nevada Constitution provides that “[i]n all eminent domain
15 actions, just compensation shall be defined as that sum of money, necessary to place the property
16 owner back in the same position, monetarily, without any governmental offsets, as if the property
17 had never been taken.” Here, to make the Landowners whole, they must be reimbursed for the
18 property taxes they were forced to pay after being dispossessed by the City from their property.

19 **B. Date Upon Which Property Taxes Were No Longer Obligated – The Date of First Injury.**

20 The date upon which property taxes were no longer obligated is the date the owner is
21 dispossessed of her property. In situation such as this, where the government engages in numerous
22 taking actions, the Nevada Supreme Court looks to the first date of compensable injury resulting
23 from the government’s conduct. City of North Las Vegas v. 5th & Centennial, LLC., 130 Nev. 619
24

1 (2014) (relying on eminent domain statutes and law to commence interest in a precondemnation
2 damages case on the first date of compensable injury).

3 This Court's FFCL Re: Take provides guidance on the first date of compensable
4 injury. The FFCL Re: Take finds that the City, at the direction of the surrounding owners, denied
5 all Landowner requests to use the 35 Acre Property for a residential use, even though the City's
6 own Planning Department determined the proposed residential use complied with all City
7 development standards and all Nevada Revised Statute requirements. *FFCL Re: Take, filed*
8 *October 25, 2021, p. 11:5 – p. 19:10*. The City first denied the 35 Acre stand-alone application
9 on June 21, 2017, on the basis that it would only approve one Master Development Agreement
10 (MDA) for the entire 250 Acres, but then denied the MDA when it was presented for approval just
11 42 days later on August 2, 2017. *Id.* Finding #86 on page 19 concisely states, "the City denied an
12 application to develop the 35 Acre Property as a stand-alone property and the MDA to develop the
13 entire 250 Acres. Both of these denials were contrary to the recommendation of the City's
14 Planning Department." *Id.* The City then followed this up with countless systematic and
15 aggressive actions to deny all use of the 35 Acre Property. *See generally the FFCL Re:*
16 *Take*. Therefore, the first date of injury is at least **August 2, 2017**, the date the City denied the
17 MDA, after claiming to deny the 35 Acre stand-alone application because it would only approve
18 the MDA.

19 **C. Calculations.**

20 The Landowners made the following real property tax payments for the 35 Acre Property
21 after August 2, 2017 and request reimbursement of the same:
22
23
24

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of the Law Offices of Kermitt L. Waters, and
3 that on the 6th day of December, 2021, pursuant to NRCP 5(b), a true and correct copy of the
4 foregoing: **PLAINTIFF LANDOWNERS' MOTION FOR REIMBURESEMNT OF**
5 **PROPERTY TAXES** was served on the below via the Court's electronic filing/service system
6 and/or deposited for mailing in the U.S. Mail, postage prepaid and addressed to, the following:

7 **McDONALD CARANO LLP**

8 George F. Ogilvie III, Esq.
9 Christopher Molina, Esq.
2300 W. Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102
10 gogilvie@mcdonaldcarano.com
cmolina@mcdonaldcarano.com

11 **LAS VEGAS CITY ATTORNEY'S OFFICE**

12 Bryan Scott, Esq., City Attorney
13 Philip R. Byrnes, Esq.
Rebecca Wolfson, Esq.
495 S. Main Street, 6th Floor
Las Vegas, Nevada 89101
14 bscott@lasvegasnevada.gov
pbyrnes@lasvegasnevada.gov
15 rwolfson@lasvegasnevada.gov

16 **SHUTE, MIHALY & WEINBERGER, LLP**

17 Andrew W. Schwartz, Esq.
18 Lauren M. Tarpey, Esq.
396 Hayes Street
San Francisco, California 94102
19 schwartz@smwlaw.com
ltarpey@smwlaw.com

20 /s/ Sandy Guerra
21 an employee of the Law Offices of Kermitt L. Waters
22
23
24

Exhibit 1

Property Account Inquiry - Summary Screen						
New Search						
Parcel ID	138-31-201-005	Tax Year	2022	District	200	Rate 3.2782
Situs Address:	UNASSIGNED SITUS LAS VEGAS					
Legal Description:	ASSESSOR DESCRIPTION: PARCEL MAP FILE 121 PAGE 100 LOT 1					
Status:	Property Characteristics		Property Values		Property Documents	
Active	Tax Cap Increase Pct.	7.7	Land	6260363	2015111600238	11/16/2015
Taxable	Tax Cap Limit Amount	221029.72	Total Assessed Value	6260363		
	Tax Cap Reduction	0.00	Net Assessed Value	6260363		
	Land Use	0-00 Vacant - Single Family Re	Exemption Value New Construction	0		
	Cap Type	OTHER	New Construction - Supp Value	0		
	Acreage	34.0700				
	Exemption Amount	0.00				
Role	Name	Address			Since	To
Owner	180 LAND CO L L C	C/O V DEHART 1215 S FORT APACHE RD #120 , LAS VEGAS, NV 89117 UNITED STATES			6/14/2019	Current
Summary						
Item				Amount		
Taxes as Assessed				\$205,227.22		
Less Cap Reduction				\$0.00		
Net Taxes				\$205,227.22		
PAST AND CURRENT CHARGES DUE TODAY						
Tax Year		Charge Category			Amount Due Today	
THERE IS NO PAST OR CURRENT AMOUNT DUE as of 11/3/2021					\$0.00	
NEXT INSTALLMENT AMOUNTS						
Tax Year		Charge Category			Installment Amount Due	
2022		Property Tax Principal			\$51,306.81	
NEXT INSTALLMENT DUE AMOUNT due on 1/3/2022					\$51,306.81	
TOTAL AMOUNTS DUE FOR ENTIRE TAX YEAR						
Tax Year		Charge Category			Remaining Balance Due	
2022		Property Tax Principal			\$102,613.62	
2022		Las Vegas Artesian Basin			\$0.00	
TAX YEAR TOTAL AMOUNTS DUE as of 11/3/2021					\$102,613.62	
PAYMENT HISTORY						
Last Payment Amount				\$51,306.81		
Last Payment Date				10/18/2021		
Fiscal Tax Year Payments				\$102,616.66		
Prior Calendar Year Payments				\$205,229.64		
Current Calendar Year Payments				\$205,230.28		

Property Account Inquiry - Summary Screen							
New Search		Recorder		Treasurer		Assessor	
Clark County Home							
Parcel ID	138-31-201-005	Tax Year	2021	District	200	Rate	3.2782
Situs Address:	UNASSIGNED SITUS LAS VEGAS						
Legal Description:	ASSESSOR DESCRIPTION: PARCEL MAP FILE 121 PAGE 100 LOT 1						
Status:		Property Characteristics		Property Values		Property Documents	
Active		Tax Cap Increase Pct.		Land		2015111600238	
Taxable		6.7		6260363		11/16/2015	
		Tax Cap Limit Amount		Total Assessed Value			
		218977.44		6260363			
		Tax Cap Reduction		Net Assessed Value			
		0.00		6260363			
		Land Use		Exemption Value New Construction			
		0-00 Vacant - Single Family Re		0			
		Cap Type		New Construction - Supp Value			
		OTHER		0			
		Acreage					
		34.0700					
		Exemption Amount					
		0.00					
Role	Name	Address				Since	To
Owner	180 LAND CO L L C	C/O V DEHART 1215 S FORT APACHE RD #120 , LAS VEGAS, NV 89117 UNITED STATES				6/14/2019	Current
Summary							
Item				Amount			
Taxes as Assessed				\$205,227.22			
Less Cap Reduction				\$0.00			
Net Taxes				\$205,227.22			
PAST AND CURRENT CHARGES DUE TODAY							
Tax Year	Charge Category					Amount Due Today	
THERE IS NO PAST OR CURRENT AMOUNT DUE as of 9/2/2020						\$0.00	
NEXT INSTALLMENT AMOUNTS							
Tax Year	Charge Category					Installment Amount Due	
2021	Property Tax Principal					\$51,306.81	
NEXT INSTALLMENT DUE AMOUNT due on 10/5/2020						\$51,306.81	
TOTAL AMOUNTS DUE FOR ENTIRE TAX YEAR							
Tax Year	Charge Category					Remaining Balance Due	
2021	Property Tax Principal					\$153,920.43	
2021	Las Vegas Artesian Basin					\$0.00	
TAX YEAR TOTAL AMOUNTS DUE as of 9/2/2020						\$153,920.43	
PAYMENT HISTORY							
Last Payment Amount				\$51,309.21			
Last Payment Date				8/19/2020			

001180

Ex. 1, pg. 0002

20108

Fiscal Tax Year Payments	\$51,309.21
Prior Calendar Year Payments	\$205,228.96
Current Calendar Year Payments	\$153,922.83

001181

Ex. 1, pg. 0003

20109

Exhibit 2

180 LAND CO LLC

1043

Check#: 1043	Date: 10/02/2017	Vendor#: 10 CLARK COUNTY TREASURER			
Invoice#	Job/Description	Balance	Retain	Discount	This Check
13831201005 1st	1st Installment 1383120100	51,308.59			51,308.59
13831201005 2nd	2nd Installment 138312010	53,359.15			53,359.15

1043

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117



10/02/2017 \$ *104,667.74

ONE HUNDRED FOUR THOUSAND SIX HUNDRED SIXTY-SEVEN AND 74/100 DOLLARS

DATE

AMOUNT

PAY
TO THE
ORDER
OF

CLARK COUNTY TREASURER
500 S GRAND CNTRL PKWY 1ST FLR
PO BOX 551220
LAS VEGAS NV 89155-1220

AUTHORIZED SIGNATURE

⑈001043⑈

180 LAND CO LLC

1043

Check#: 1043	Date: 10/02/2017	Amount: 104,667.74	Vendor: 10 CLARK COUNTY TREASURER		
Invoice#	Job/Description	Balance	Retain Discount This Check		
13831201005 1st	1st Installment 1383120100	51,308.59			51,308.59
13831201005 2nd	2nd Installment 138312010	53,359.15			53,359.15

Ex. 2, pg. 0001

20111

180 LAND CO LLC

1056

Check#: 1056

Date: 01/03/2018

Vendor#: 10 CLARK COUNTY TREASURER

Invoice#	Job/Description	Balance	Retain	Discount	This Check
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13831601008 3rd	3rd Installment 1383160100	30,074.79			30,074.79
13831702003 3rd	3rd Installment 1383170200	67,193.39			67,193.39
13831702004 3rd	3rd Installment 1383170200	34,612.14			34,612.14
13831801002 3rd	3rd Installment 1383180100	9,743.46			9,743.46

1056

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117

BANK OF NEVADA
1119 E. Flamingo Ave. • 702-666-7100
Las Vegas, NV 89119
94-177/1224

01/03/2018 \$ *192,930.59

ONE HUNDRED NINETY-TWO THOUSAND NINE HUNDRED THIRTY AND 59/100
DOLLARS

DATE

AMOUNT

PAY
TO THE
ORDER
OF

CLARK COUNTY TREASURER
500 S GRAND CNTRL PKWY 1ST FLR
PO BOX 551220
LAS VEGAS NV 89155-1220

AUTHORIZED SIGNATURE

⑈001056⑈

180 LAND CO LLC

1056

Check#: 1056

Date: 01/03/2018

Amount: 192,930.59

Vendor: 10 CLARK COUNTY TREASURER

Invoice#	Job/Description	Balance	Retain	Discount	This Check
13831201005 3rd	3rd Installment 1383120100	51,306.81			51,306.81
13831601008 3rd	3rd Installment 1383160100	30,074.79			30,074.79
13831702003 3rd	3rd Installment 1383170200	67,193.39			67,193.39
13831702004 3rd	3rd Installment 1383170200	34,612.14			34,612.14
13831801002 3rd	3rd Installment 1383180100	9,743.46			9,743.46

Ex. 2, pg. 0002

20112

180 LAND CO LLC

1062

Check#: 1062

Date: 03/02/2018

Vendor#: 10 CLARK COUNTY TREASURER

Invoice#	Job/Description	Balance	Retain	Discount	This Check
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13831601008 4th	4th Installment 1383160100	30,074.79			30,074.79
13831702003 4th	4th Installment 1383170200	67,193.39			67,193.39
13831702004 4th	4th Installment 1383170200	34,612.14			34,612.14
13831801002 4th	4th Installment 1383180100	9,743.64			9,743.64

180 LAND CO LLC 1215 S. FORT APACHE RD., #120 LAS VEGAS, NV 89117		BANK OF NEVADA 1115 S. Flamingo Ave. • 702-866-7100 Las Vegas, NV 89117 94-177/1224	1062
ONE HUNDRED NINETY-TWO THOUSAND NINE HUNDRED THIRTY AND 77/100 DOLLARS		03/02/2018	\$ *192,930.77
CLARK COUNTY TREASURER 500 S GRAND CNTRL PKWY 1ST FLR PO BOX 551220 LAS VEGAS NV 89155-1220		DATE	AMOUNT
PAY TO THE ORDER OF		AUTHORIZED SIGNATURE	

⑈00 106 2⑈

180 LAND CO LLC

Check#: 1062

Date: 03/02/2018

Amount: 192,930.77

Vendor: 10 CLARK COUNTY TREASURER

1062

Invoice#	Job/Description	Balance	Retain	Discount	This Check
13831201005 4th	4th Installment 1383120100	51,306.81			51,306.81
13831601008 4th	4th Installment 1383160100	30,074.79			30,074.79
13831702003 4th	4th Installment 1383170200	67,193.39			67,193.39
13831702004 4th	4th Installment 1383170200	34,612.14			34,612.14
13831801002 4th	4th Installment 1383180100	9,743.64			9,743.64

PRODUCT DLM102

USE WITH 91500 ENVELOPE

Reorder: CADform (928) 855-9846

PRINTED IN U.S.A.

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Ex. 2, pg. 0003

20113

180 LAND CO LLC

1080

Check#: 1080

Date: 08/01/2018

Vendor#: 10 CLARK COUNTY TREASURER

Invoice#	Job/Description	Balance	Retain	Discount	This Check
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13831702003 1st	1st Installment 1383170200	67,195.16			67,195.16
13831702003 1st	1st Installment 1383170200	34,613.91			34,613.91
13831801002 1st	1st Installment 1383180100	10,154.46			10,154.46

1080

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117

BANK OF
NEVADA
1115 S. Maryland Way • 702-666-7100
Las Vegas, NV 89117
94-177/1224

08/01/2018 \$ *193,348.66

ONE HUNDRED NINETY-THREE THOUSAND THREE HUNDRED FORTY-EIGHT AND
66/100 DOLLARS

DATE

AMOUNT

PAY
TO THE
ORDER
OF

CLARK COUNTY TREASURER
500 S GRAND CNTRL PKWY 1ST FLR
PO BOX 551220
LAS VEGAS NV 89155-1220

AUTHORIZED SIGNATURE

⑈001080⑈

180 LAND CO LLC

Check#: 1080

Date: 08/01/2018

Amount: 193,348.66

Vendor: 10 CLARK COUNTY TREASURER

1080

Invoice#	Job/Description	Balance	Retain	Discount	This Check
13831201005 1st	1st Installment 1383120100	51,308.57			51,308.57
13831601008 1st	1st Installment 1383160100	30,076.56			30,076.56
13831702003 1st	1st Installment 1383170200	67,195.16			67,195.16
13831702003 1st	1st Installment 1383170200	34,613.91			34,613.91
13831801002 1st	1st Installment 1383180100	10,154.46			10,154.46

180 LAND CO LLC

1096

Check#: 1096

Date: 10/01/2018

Vendor#: 10 CLARK COUNTY TREASURER

Invoice#	Job/Description	Balance	Retain	Discount	This Check
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13831601008 2nd	2nd Installment 138316010	30,074.79			30,074.79
13831702003 2nd	2nd Installment 138317020	67,193.39			67,193.39
13831702004 2nd	2nd Installment 138317020	34,612.14			34,612.14
13831801002 2nd	2nd Installment 138318010	10,152.68			10,152.68

1096

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117

BANK of NEVADA
1115 S. Flamingo Ave. • 702.855.7100
Las Vegas, NV 89117
94-177/1224

10/01/2018

\$

*193,339.80

ONE HUNDRED NINETY-THREE THOUSAND THREE HUNDRED THIRTY-NINE AND
80/100 DOLLARS

DATE

AMOUNT

PAY
TO THE
ORDER
OF

CLARK COUNTY TREASURER
500 S GRAND CNTRL PKWY 1ST FLR
PO BOX 551220
LAS VEGAS NV 89155-1220

AUTHORIZED SIGNATURE

Security features. Details on back.

⑈001096⑈

180 LAND CO LLC

1096

Check#: 1096

Date: 10/01/2018

Amount: 193,339.80

Vendor: 10 CLARK COUNTY TREASURER

Invoice#	Job/Description	Balance	Retain	Discount	This Check
13831201005 2nd	2nd Installment 138312010	51,306.80			51,306.80
13831601008 2nd	2nd Installment 138316010	30,074.79			30,074.79
13831702003 2nd	2nd Installment 138317020	67,193.39			67,193.39
13831702004 2nd	2nd Installment 138317020	34,612.14			34,612.14
13831801002 2nd	2nd Installment 138318010	10,152.68			10,152.68

PRODUCT DLM102 USE WITH 61500 ENVELOPE

Reorder: CADform (928) 855-9846

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Ex. 2, pg. 0005

20115

180 LAND CO LLC

1125

Check#: 1125

Date: 01/02/2019

Vendor#: 10 CLARK COUNTY TREASURER

Invoice#	Job/Description	Balance	Retain	Discount	This Check
13831201005 3rd	3rd Installment 1383120100	51,306.80			51,306.80
13831601008 3rd	3rd Installment 1383160100	30,074.79			30,074.79
13831702003 3rd	3rd Installment 1383170200	67,193.39			67,193.39
13831702004 3rd	3rd Installment 1383170200	34,612.14			34,612.14
13831801002 3rd	3rd Installment 1383180100	10,152.68			10,152.68

1125

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117

BANK OF NEVADA
1115 S. FORTAPACHE WAY • 702-856-1100
Las Vegas, NV 89117
94-177/1224

01/02/2019 \$ *193,339.80

ONE HUNDRED NINETY-THREE THOUSAND THREE HUNDRED THIRTY-NINE AND
80/100 DOLLARS

DATE

AMOUNT

PAY
TO THE
ORDER
OF

CLARK COUNTY TREASURER
500 S GRAND CNTRL PKWY 1ST FLR
PO BOX 551220
LAS VEGAS NV 89155-1220

AUTHORIZED SIGNATURE

⑈001125⑈

180 LAND CO LLC

Check#: 1125

Date: 01/02/2019

Amount: 193,339.80

Vendor: 10 CLARK COUNTY TREASURER

1125

Invoice#	Job/Description	Balance	Retain	Discount	This Check
13831201005 3rd	3rd Installment 1383120100	51,306.80			51,306.80
13831601008 3rd	3rd Installment 1383160100	30,074.79			30,074.79
13831702003 3rd	3rd Installment 1383170200	67,193.39			67,193.39
13831702004 3rd	3rd Installment 1383170200	34,612.14			34,612.14
13831801002 3rd	3rd Installment 1383180100	10,152.68			10,152.68

Ex. 2, pg. 0006

20116

180 LAND CO LLC

1137

Check#: 1137

Date: 03/01/2019

Vendor#: 10 CLARK COUNTY TREASURER

Invoice#	Job/Description	Balance	Retain	Discount	This Check
13831201005 4th	4th Installment 1383120100	51,306.80			51,306.80
13831601008 4th	4th Installment 1383160100	30,074.79			30,074.79
13831702003 4th	4th Installment 1383170200	67,193.39			67,193.39
13831702004 4th	4th Installment 1383170200	34,612.14			34,612.14
13831801002 4th	4th Installment 1383180100	10,152.68			10,152.68

1137

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117

BANK OF NEVADA
1116 S. HENDERSON WAY • 702-856-7100
Las Vegas, NV 89117
94-177/1224

03/01/2019 \$ *193,339.80

ONE HUNDRED NINETY-THREE THOUSAND THREE HUNDRED THIRTY-NINE AND
80/100 DOLLARS

DATE

AMOUNT

PAY
TO THE
ORDER
OF

CLARK COUNTY TREASURER
500 S GRAND CNTRL PKWY 1ST FLR
PO BOX 551220
LAS VEGAS NV 89155-1220

AUTHORIZED SIGNATURE

⑈001137⑈

180 LAND CO LLC

Check#: 1137

Date: 03/01/2019

Amount: 193,339.80

Vendor: 10 CLARK COUNTY TREASURER

1137

Invoice#	Job/Description	Balance	Retain	Discount	This Check
13831201005 4th	4th Installment 1383120100	51,306.80			51,306.80
13831601008 4th	4th Installment 1383160100	30,074.79			30,074.79
13831702003 4th	4th Installment 1383170200	67,193.39			67,193.39
13831702004 4th	4th Installment 1383170200	34,612.14			34,612.14
13831801002 4th	4th Installment 1383180100	10,152.68			10,152.68

180 LAND CO LLC

1167

Check#: 1167

Date: 08/01/2019

Vendor#: 10 CLARK COUNTY TREASURER

Invoice#	Job/Description	Balance	Retain	Discount	This Check
13831201005 1st	1st Installment 1383120100	51,308.55			51,308.55
13831601008 1st	1st Installment 1383160100	30,076.54			30,076.54
13831702003 1st	1st Installment 1383170200	67,195.14			67,195.14
13831702004 1st	1st Installment 1383170200	34,613.89			34,613.89
13831801002 1st	1st Installment 1383180100	10,641.76			10,641.76

1167

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117



08/01/2019 \$ *193,835.88

ONE HUNDRED NINETY-THREE THOUSAND EIGHT HUNDRED THIRTY-FIVE AND
88/100 DOLLARS

DATE

AMOUNT

PAY
TO THE
ORDER
OF

CLARK COUNTY TREASURER
500 S GRAND CNTRL PKWY 1ST FLR
PO BOX 551220
LAS VEGAS NV 89155-1220

AUTHORIZED SIGNATURE

⑈001167⑈

180 LAND CO LLC

Check#: 1167

Date: 08/01/2019

Amount: 193,835.88

Vendor: 10 CLARK COUNTY TREASURER

1167

Invoice#	Job/Description	Balance	Retain	Discount	This Check
13831201005 1st	1st Installment 1383120100	51,308.55			51,308.55
13831601008 1st	1st Installment 1383160100	30,076.54			30,076.54
13831702003 1st	1st Installment 1383170200	67,195.14			67,195.14
13831702004 1st	1st Installment 1383170200	34,613.89			34,613.89
13831801002 1st	1st Installment 1383180100	10,641.76			10,641.76

180 LAND CO LLC

1186

Check#:	1186	Date:	10/01/2019	Vendor#:	10 CLARK COUNTY TREASURER		
Invoice#	13831201005 2nd	Job/Description	2nd Installment 138312010	Balance	51,306.81	Retain	Discount
						This Check	51,306.81

180 LAND CO LLC		BANK OF NEVADA		1186	
1215 S. FORT APACHE RD., #120		1116 S. Rautapal Way • 702-856-7100			
LAS VEGAS, NV 89117		94-177/1224			
		10/01/2019	\$	*51,306.81	
FIFTY-ONE THOUSAND THREE HUNDRED SIX AND 81/100 DOLLARS					
		DATE	AMOUNT		
PAY TO THE ORDER OF		CLARK COUNTY TREASURER			
		500 S GRAND CNTRL PKWY 1ST FLR			
		PO BOX 551220			
		LAS VEGAS NV 89155-1220			
AUTHORIZED SIGNATURE					
1186					

180 LAND CO LLC		Date: 10/01/2019		Amount: 51,306.81		Vendor: 10 CLARK COUNTY TREASURER		1186
Check#:	1186							
Invoice#	13831201005 2nd	Job/Description	2nd Installment 138312010	Balance	51,306.81	Retain	Discount	This Check
								51,306.81

180 LAND CO LLC

1210

Check#:	1210	Date:	01/02/2020	Vendor#:	237 Clark County Treasurer		
Invoice#	Invoice Date	Job/Description	Balance	Retain	Discount	This Check	
13831201005 3rd	12/31/2019	3rd Installment 1383	51,306.81			51,306.81	
13831601008 3rd	12/31/2019	3rd Installment 1383	30,074.79			30,074.79	
13831702003 3rd	12/31/2019	3rd Installment 1383	67,193.39			67,193.39	
13831702004 3rd	12/31/2019	3rd Installment 1383	34,612.14			34,612.14	
13831801002 3rd	12/31/2019	3rd Installment 1383	10,640.01			10,640.01	

1210

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117

BANK OF NEVADA
1115 S. Hualapai Way • 702-856-7100
Las Vegas, NV 89117
94-177/1224

01/02/2020 \$ *193,827.14

ONE HUNDRED NINETY-THREE THOUSAND EIGHT HUNDRED TWENTY-SEVEN AND
14/100 DOLLARS

DATE

AMOUNT

PAY
TO THE
ORDER
OF

Clark County Treasurer
500 S Grand Cntrl Pkwy 1St Flr
PO BOX 551220
Las Vegas NV 89155-1220

Security features. Details on back.

AUTHORIZED SIGNATURE

⑈001210⑈

180 LAND CO LLC

Check#: 1210

Date: 01/02/2020

Amount: 193,827.14

Vendor: 237 Clark County Treasurer

1210

Invoice#	Invoice Date	Job/Description	Balance	Retain	Discount	This Check
13831201005 3rd	12/31/2019	3rd Installment 1383	51,306.81			51,306.81
13831601008 3rd	12/31/2019	3rd Installment 1383	30,074.79			30,074.79
13831702003 3rd	12/31/2019	3rd Installment 1383	67,193.39			67,193.39
13831702004 3rd	12/31/2019	3rd Installment 1383	34,612.14			34,612.14
13831801002 3rd	12/31/2019	3rd Installment 1383	10,640.01			10,640.01

Ex. 2, pg. 0010

20120

180 LAND CO LLC

1225

Check#:	1225	Date:	03/02/2020	Vendor#:	237 Clark County Treasurer		
Invoice#		Invoice Date	Job/Description	Balance	Retain	Discount	This Check
13831201005 4th		03/01/2020	4th Installment 1383	51,306.81			51,306.81

180 LAND CO LLC

1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117

94-177/1224

03/02/2020

\$

*51,306.81

FIFTY-ONE THOUSAND THREE HUNDRED SIX AND 81/100 DOLLARS

DATE

AMOUNT

PAY
TO THE
ORDER
OFClark County Treasurer
500 S Grand Cntrl Pkwy 1St Flr
PO BOX 551220
Las Vegas NV 89155-1220

AUTHORIZED SIGNATURE

⑈001225⑈

180 LAND CO LLC

Check#: 1225

Date: 03/02/2020

Amount: 51,306.81

Vendor: 237 Clark County Treasurer

1225

Invoice#	Invoice Date	Job/Description	Balance	Retain	Discount	This Check
13831201005 4th	03/01/2020	4th Installment 1383	51,306.81			51,306.81

180 LAND CO LLC

1258

Check#: 1258	Date: 08/03/2020	Vendor#: 237 Clark County Treasurer				
Invoice#	Invoice Date	Job/Description	Balance	Retain	Discount	This Check
13831201005 1st	08/01/2020	1st Installment 1383	51,309.21			51,309.21

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117



08/03/2020 \$ *51,309.21

FIFTY-ONE THOUSAND THREE HUNDRED NINE AND 21/100 DOLLARS

DATE

AMOUNT

PAY
TO THE
ORDER
OF

Clark County Treasurer
500 S Grand Cntrl Pkwy 1st Flr
PO BOX 551220
Las Vegas NV 89155-1220

AUTHORIZED SIGNATURE

⑈001258⑈

180 LAND CO LLC

1258

Check#: 1258	Date: 08/03/2020	Amount: 51,309.21	Vendor: 237 Clark County Treasurer			
Invoice#	Invoice Date	Job/Description	Balance	Retain	Discount	This Check
13831201005 1st	08/01/2020	1st Installment 1383	51,309.21			51,309.21

180 LAND CO LLC

1273

Check#: 1273

Date: 10/01/2020

Vendor#: 237 Clark County Treasurer

Invoice#	Invoice Date	Job/Description	Balance	Retain	Discount	This Check
13831201005 2nd	10/01/2020	2nd Installment 1383	51,306.81			51,306.81

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117



10/01/2020 \$ *51,306.81

FIFTY-ONE THOUSAND THREE HUNDRED SIX AND 81/100 DOLLARS

DATE

AMOUNT

PAY
TO THE
ORDER
OF

Clark County Treasurer
500 S Grand Cntrl Pkwy 1st Flr
PO BOX 551220
Las Vegas NV 89155-1220

AUTHORIZED SIGNATURE

⑈001273⑈

180 LAND CO LLC

Check#: 1273

Date: 10/01/2020

Amount: 51,306.81

Vendor: 237 Clark County Treasurer

1273

Invoice#	Invoice Date	Job/Description	Balance	Retain	Discount	This Check
13831201005 2nd	10/01/2020	2nd Installment 1383	51,306.81			51,306.81

PRODUCT DLM102

USE WITH 91500 ENVELOPE

Reorder: CADform (928) 855-9846

PRINTED IN U.S.A.

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Ex. 2, pg. 0013

20123

180 LAND CO LLC

1292

Check#: 1292	Date: 01/04/2021	Vendor#: 237 Clark County Treasurer				
Invoice#	Invoice Date	Job/Description	Balance	Retain	Discount	This Check
13831201005 3rd	12/31/2020	3rd Installment 1383	51,306.81			51,306.81

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117



01/04/2021 \$ *51,306.81

FIFTY-ONE THOUSAND THREE HUNDRED SIX AND 81/100 DOLLARS

DATE

AMOUNT

PAY
TO THE
ORDER
OF

Clark County Treasurer
500 S Grand Cntrl Pkwy 1st Flr
PO Box 551220
Las Vegas NV 89155-1220

AUTHORIZED SIGNATURE

⑈001292⑈

180 LAND CO LLC

1292

Check#: 1292	Date: 01/04/2021	Amount: 51,306.81	Vendor: 237 Clark County Treasurer			
Invoice#	Invoice Date	Job/Description	Balance	Retain	Discount	This Check
13831201005 3rd	12/31/2020	3rd Installment 1383	51,306.81			51,306.81

180 LAND CO LLC

1307

Check#:	1307	Date:	03/01/2021	Vendor#:	237 Clark County Treasurer		
Invoice#	13831201005 4th	Invoice Date	03/01/2021	Job/Description	4th Installment 1383	Balance	51,306.81
						Retain	
						Discount	
						This Check	51,306.81

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117

BANK OF NEVADA
1115 S. HAWAIIAN WAY • 702.656.7100
Las Vegas, NV 89117
94-177/1224

03/01/2021 \$ *51,306.81

FIFTY-ONE THOUSAND THREE HUNDRED SIX AND 81/100 DOLLARS

DATE

AMOUNT

PAY
TO THE
ORDER
OF

Clark County Treasurer
500 S Grand Cntrl Pkwy 1st Flr
PO Box 551220
Las Vegas NV 89155-1220

AUTHORIZED SIGNATURE

⑈001307⑈

Security features. Details on back.

180 LAND CO LLC

Check#:	1307	Date:	03/01/2021	Amount:	51,306.81	Vendor:	237 Clark County Treasurer	1307
Invoice#	13831201005 4th	Invoice Date	03/01/2021	Job/Description	4th Installment 1383	Balance	51,306.81	
						Retain		
						Discount		
						This Check		51,306.81

Ex. 2, pg. 0015

20125

180 LAND CO LLC

1332

Check#: 1332	Date: 08/02/2021	Vendor#: 237 Clark County Treasurer			
Invoice#	Invoice Date	Job/Description	Balance	Retain	Discount
13831201005 1st	08/01/2021	1st Installment 1383	51,309.85		
					This Check
					51,309.85

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117



FIFTY-ONE THOUSAND THREE HUNDRED NINE AND 85/100 DOLLARS 08/02/2021 \$ *51,309.85
DATE AMOUNT

PAY
TO THE
ORDER
OF

Clark County Treasurer
500 S Grand Cntrl Pkwy 1st Flr
PO Box 551220
Las Vegas NV 89155-1220

AUTHORIZED SIGNATURE

⑈001332⑈

Security features. Details on back.

180 LAND CO LLC

Check#: 1332

Date: 08/02/2021

Amount: 51,309.85

Vendor: 237 Clark County Treasurer

1332

Invoice#	Invoice Date	Job/Description	Balance	Retain	Discount	This Check
13831201005 1st	08/01/2021	1st Installment 1383	51,309.85			51,309.85

Ex. 2, pg. 0016

20126

180 LAND CO LLC

1340

Check#: 1340

Date: 10/01/2021

Vendor#: 237 Clark County Treasurer

Invoice#	Invoice Date	Job/Description	Balance	Retain	Discount	This Check
13831201005 2nd	10/01/2021	2nd Installment 1383	51,306.81			51,306.81

180 LAND CO LLC
1215 S. FORT APACHE RD., #120
LAS VEGAS, NV 89117



1340

FIFTY-ONE THOUSAND THREE HUNDRED SIX AND 81/100 DOLLARS 10/01/2021 \$ *51,306.81
DATE AMOUNT

PAY
TO THE
ORDER
OF

Clark County Treasurer
500 S Grand Cntrl Pkwy 1st Flr
PO Box 551220
Las Vegas NV 89155-1220

Security features. Details on back.

AUTHORIZED SIGNATURE

⑈001340⑈

180 LAND CO LLC

Check#: 1340

Date: 10/01/2021

Amount: 51,306.81

Vendor: 237 Clark County Treasurer

1340

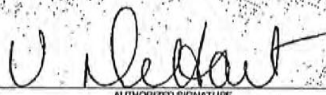
Invoice#	Invoice Date	Job/Description	Balance	Retain	Discount	This Check
13831201005 2nd	10/01/2021	2nd Installment 1383	51,306.81			51,306.81

WA
WESTERN ALLIANCE BANK
Alliance Association Bank | Alliance Bank of Arizona
Bank of Nevada | Bridge Bank | First Independent Bank | Torrey Pines Bank

Current Date: November 02, 2021

Account Number: [REDACTED]
Capture Date: October 17, 2017
Item Number: 5250024359536
Posted Date: October 17, 2017
Posted Item Number: 52559536
Amount: 104,667.74
Record Type: Debit

180 LAND CO LLC
1215 S FT APACHE RD STE 120
LAS VEGAS NV 89117-5489

180 LAND CO LLC 1215 S. FORT APACHE RD., #120 LAS VEGAS, NV 89117		BANK OF NEVADA 1111 S. FLORISSANT BLVD. • 702-609-7100 LAS VEGAS, NV 89102 94-177/1224	1043
ONE HUNDRED FOUR THOUSAND SIX HUNDRED SIXTY-SEVEN AND 74/100 DOLLARS		10/02/2017	\$ *104,667.74
PAY TO THE ORDER OF CLARK COUNTY TREASURER 500 S GRAND CNTRL PKWY 1ST FLR PO BOX 551220 LAS VEGAS NV 89155-1220		DATE	AMOUNT
		 AUTHORIZED SIGNATURE	

⑈001043⑈

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PAY TO THE ORDER OF
BANK OF AMERICA
FOR DEPOSIT ONLY
CLARK COUNTY

014232144

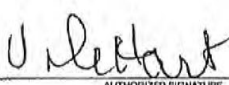
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Current Date: November 02, 2021

Account Number: [REDACTED]
Capture Date: January 16, 2018
Item Number: 5250030366427
Posted Date: January 16, 2018
Posted Item Number: 52566427
Amount: 192,930.59
Record Type: Debit

180 LAND CO LLC
1215 S FT APACHE RD STE 120
LAS VEGAS NV 89117-5489

180 LAND CO LLC 1215 S. FORT APACHE RD., #120 LAS VEGAS, NV 89117		BANK OF NEVADA 1115 E. FLORISSANT AVE. • 702.656.3100 LAS VEGAS, NV 89117 94-177/1224	1056
ONE HUNDRED NINETY-TWO THOUSAND NINE HUNDRED THIRTY AND 59/100 DOLLARS		01/03/2018	\$ *192,930.59
CLARK COUNTY TREASURER 500 S GRAND CNTRL PKWY 1ST FLR PO BOX 551220 LAS VEGAS NV 89155-1220		DATE	AMOUNT
PAY TO THE ORDER OF	 AUTHORIZED SIGNATURE		

⑈001056⑈

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PAY TO THE ORDER OF
BANK OF AMERICA
FOR DEPOSIT ONLY
CLARK COUNTY

014232144

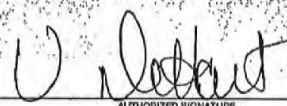
Security Features: Results of document analysis are listed below. If any of the listed features are not present, the document may be a counterfeit. For more information, visit www.bankofamerica.com/counterfeit.

Security Features: Results of document analysis are listed below. If any of the listed features are not present, the document may be a counterfeit. For more information, visit www.bankofamerica.com/counterfeit.

Current Date: November 02, 2021

Account Number: [REDACTED]
 Capture Date: March 13, 2018
 Item Number: 5250034513678
 Posted Date: March 13, 2018
 Posted Item Number: 52513678
 Amount: 192,930.77
 Record Type: Debit

180 LAND CO LLC
 1215 S FT APACHE RD STE 120
 LAS VEGAS NV 89117-5489

180 LAND CO LLC 1215 S. FORT APACHE RD., #120 LAS VEGAS, NV 89117		BANK OF NEVADA <small>1110 S. RAMPART HWY • 702.666.7100 Las Vegas, NV 89101</small> 94-177/1224	1062
		03/02/2018	\$ *192,930.77
ONE HUNDRED NINETY-TWO THOUSAND NINE HUNDRED THIRTY AND 77/100 DOLLARS		DATE	AMOUNT
PAY TO THE ORDER OF CLARK COUNTY TREASURER 500 S GRAND CNTRL PKWY 1ST FLR PO BOX 551220 LAS VEGAS NV 89155-1220	 AUTHORIZED SIGNATURE		Security Features: Details on back B

⑈001062⑈

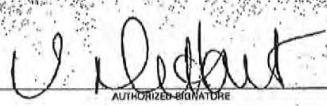
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PAY TO THE ORDER OF BANK OF AMERICA FOR DEPOSIT ONLY CLARK COUNTY 014232144	

WA
WESTERN ALLIANCE BANK
Alliance Association Bank | Alliance Bank of Arizona
Bank of Nevada | Bridge Bank | First Independent Bank | Torrey Pines Bank

Current Date: November 02, 2021

Account Number: [REDACTED]
Capture Date: August 24, 2018
Item Number: 5250046035618
Posted Date: August 24, 2018
Posted Item Number: 52535618
Amount: 193,348.66
Record Type: Debit

180 LAND CO LLC
1215 S FT APACHE RD STE 120
LAS VEGAS NV 89117-5489

180 LAND CO LLC 1215 S. FORT APACHE RD., #120 LAS VEGAS, NV 89117		BANK OF NEVADA 1115 S. FORT APACHE RD. • 702.854.7100 LAS VEGAS, NV 89117 94-177/1224	1080
ONE HUNDRED NINETY-THREE THOUSAND THREE HUNDRED FORTY-EIGHT AND 66/100 DOLLARS		08/01/2018	\$ *193,348.66
DATE		AMOUNT	
PAY TO THE ORDER OF	CLARK COUNTY TREASURER 500 S GRAND CNTRL PKWY 1ST FLR PO BOX 551220 LAS VEGAS NV 89155-1220		
		 AUTHORIZED SIGNATURE	

⑈001080⑈

PAY TO THE ORDER OF
BANK OF AMERICA
FOR DEPOSIT ONLY
CLARK COUNTY

014232144

ENDORSE HERE

Ex. 2, pg. 0021

20131

Current Date: November 02, 2021

Account Number: [REDACTED]
Capture Date: October 09, 2018
Item Number: 5250049234599
Posted Date: October 09, 2018
Posted Item Number: 52534599
Amount: 193,339.80
Record Type: Debit

180 LAND CO LLC
1215 S FT APACHE RD STE 120
LAS VEGAS NV 89117-5489

180 LAND CO LLC 1215 S. FORT APACHE RD., #120 LAS VEGAS, NV 89117		BANK OF NEVADA 1115 E. FLORISSANT AVE. • 702.854.1100 LAS VEGAS, NV 89101 94-177/1224	1096
ONE HUNDRED NINETY-THREE THOUSAND THREE HUNDRED THIRTY-NINE AND 80/100 DOLLARS		10/01/2018	\$ *193,339.80
DATE		AMOUNT	
PAY TO THE ORDER OF	CLARK COUNTY TREASURER 500 S GRAND CNTRL PKWY 1ST FLR PO BOX 551220 LAS VEGAS NV 89155-1220	<i>V. Reedant</i> AUTHORIZED SIGNATURE	

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1100109611

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BANK OF AMERICA
FOR DEPOSIT ONLY
CLARK COUNTY
014232144

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WA
WESTERN ALLIANCE BANK
Alliance Association Bank | Alliance Bank of Arizona
Bank of Nevada | Bridge Bank | First Independent Bank | Torrey Pines Bank

Current Date: November 02, 2021

Account Number: [REDACTED]
Capture Date: January 14, 2019
Item Number: 5250056222050
Posted Date: January 14, 2019
Posted Item Number: 52522050
Amount: 193,339.80
Record Type: Debit

180 LAND CO LLC
1215 S. FT APACHE RD STE 120
LAS VEGAS NV 89117-5489

180 LAND CO LLC 1215 S. FORT APACHE RD., #120 LAS VEGAS, NV 89117		BANK OF NEVADA 1115 E. FLORISSANT PKWY # 200 LAS VEGAS, NV 89119 94-177/1224	1125
ONE HUNDRED NINETY-THREE THOUSAND THREE HUNDRED THIRTY-NINE AND 80/100 DOLLARS		01/02/2019	\$ *193,339.80
CLARK COUNTY TREASURER 500 S GRAND CNTRL PKWY 1ST FLR PO BOX 551220 LAS VEGAS NV 89155-1220		AUTHORIZED SIGNATURE <i>[Signature]</i>	
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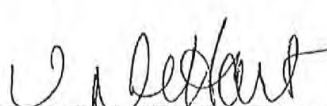
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WA
WESTERN ALLIANCE BANK
Alliance Association Bank | Alliance Bank of Arizona
Bank of Nevada | Bridge Bank | First Independent Bank | Torrey Pines Bank

Current Date: November 02, 2021

Account Number: [REDACTED]
Capture Date: March 13, 2019
Item Number: 5250060761013
Posted Date: March 13, 2019
Posted Item Number: 52561013
Amount: 193,339.80
Record Type: Debit

180 LAND CO LLC
1215 S FT APACHE RD STE 120
LAS VEGAS NV 89117-5489

180 LAND CO LLC 1215 S. FT APACHE RD., #120 LAS VEGAS, NV 89117		BANK OF NEVADA 1115 S. Las Vegas Way • 702.696.1100 Las Vegas, NV 89101 94-177/1224	1137
ONE HUNDRED NINETY-THREE THOUSAND THREE HUNDRED THIRTY-NINE AND 80/100 DOLLARS		03/01/2019	\$ *193,339.80
PAY TO THE ORDER OF CLARK COUNTY TREASURER 500 S GRAND CNTRL PKWY 1ST FLR PO BOX 551220 LAS VEGAS NV 89155-1220		DATE	AMOUNT
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Current Date: November 02, 2021

Account Number: [REDACTED]
Capture Date: August 19, 2019
Item Number: 5250072731633
Posted Date: August 19, 2019
Posted Item Number: 52531633
Amount: 193,835.88
Record Type: Debit

180 LAND CO LLC
1215 S FT APACHE RD STE 120
LAS VEGAS NV 89117-5489

180 LAND CO LLC 1215 S. FORT APACHE RD., #120 LAS VEGAS, NV 89117		BANK OF NEVADA 1111 S. MAIN ST. #100 LAS VEGAS, NV 89101 94-177/1224	1167
ONE HUNDRED NINETY-THREE THOUSAND EIGHT HUNDRED THIRTY-FIVE AND 88/100 DOLLARS		08/01/2019	\$ *193,835.88
DATE		AMOUNT	
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Bank of Nevada | Bridge Bank | First Independent Bank | Torrey Pines Bank

Current Date: November 02, 2021

Account Number: [REDACTED]
Capture Date: October 15, 2019
Item Number: 5250077059305
Posted Date: October 15, 2019
Posted Item Number: 52559305
Amount: 51,306.81
Record Type: Debit

180 LAND CO LLC
1215 S.FT APACHE RD STE 120
LAS VEGAS NV 89117-5489

180 LAND CO LLC 1215 S. FORT APACHE RD., #120 LAS VEGAS, NV 89117		BANK OF NEVADA 1115 S. LAS VEGAS BLVD. • 702.588.7100 94-177/1224	1186
FIFTY-ONE THOUSAND THREE HUNDRED SIX AND 81/100 DOLLARS		10/01/2019	\$ *51,306.81
CLARK COUNTY TREASURER 500 S GRAND CNTRL PKWY 1ST FLR PO BOX 551220 LAS VEGAS NV 89155-1220		DATE	AMOUNT
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Current Date: November 02, 2021

Account Number: [REDACTED]
Capture Date: January 16, 2020
Item Number: 5250085087020
Posted Date: January 16, 2020
Posted Item Number: 52587020
Amount: 193,827.14
Record Type: Debit

180 LAND CO LLC
1215 S FT APACHE RD STE 120
LAS VEGAS NV 89117-5489

180 LAND CO LLC 1215 S. FORT APACHE RD., #120 LAS VEGAS, NV 89117		BANK OF NEVADA 1110 S. FORT APACHE RD. - 1ST FLOOR LAS VEGAS, NV 89101 94-177/1224	1210
ONE HUNDRED NINETY-THREE THOUSAND EIGHT HUNDRED TWENTY-SEVEN AND 14/100 DOLLARS		01/02/2020	\$ *193,827.14
PAY TO THE ORDER OF Clark County Treasurer 500 S Grand Cntrl Pkwy 1St Flr PO BOX 551220 Las Vegas NV 89155-1220		DATE	AMOUNT
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Current Date: November 02, 2021

Account Number: [REDACTED]
Capture Date: March 17, 2020
Item Number: 5250090172353
Posted Date: March 17, 2020
Posted Item Number: 52572353
Amount: 51,306.81
Record Type: Debit

180 LAND CO LLC
1215 S FT APACHE RD STE 120
LAS VEGAS NV 89117-5489

180 LAND CO LLC 1215 S. FORT APACHE RD., #120 LAS VEGAS, NV 89117		BANK OF NEVADA <small>(111) 211-2222 • 100 BANK-1000 1000 Las Vegas, NV 89101</small> 94-177/1224	1225
FIFTY-ONE THOUSAND THREE HUNDRED SIX AND 81/100 DOLLARS		03/02/2020	\$ *51,306.81
DATE		AMOUNT	
PAY TO THE ORDER OF	Clark County Treasurer 500 S Grand Cntrl Pkwy 1St Flr PO BOX 551220 Las Vegas NV 89155-1220	 AUTHORIZED SIGNATURE	

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		08/03/2020	\$	*51,309.21
FIFTY-ONE THOUSAND THREE HUNDRED NINE AND 21/100 DOLLARS				
		DATE		AMOUNT
PAY TO THE ORDER OF	Clark County Treasurer 500 S Grand Cntrl Pkwy 1St Flr PO BOX 551220 Las Vegas NV 89155-1220			
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180 LAND CO LLC
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BANK OF NEVADA
1115 S. HARRIS BLVD. • 702.559.1100
LAS VEGAS, NV 89117
94-177/1224

1273

10/01/2020 \$ *51,306.81

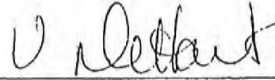
FIFTY-ONE THOUSAND THREE HUNDRED SIX AND 81/100 DOLLARS

DATE

AMOUNT

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TO THE
ORDER
OF

Clark County Treasurer
500 S Grand Cntrl Pkwy 1St Flr
PO BOX 551220
Las Vegas NV 89155-1220



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2020/10/07 000946 317 G B T FJ
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BANK OF NEVADA
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LAS VEGAS, NV 89101
94-177/1224

1292

01/04/2021 \$ *51,306.81

FIFTY-ONE THOUSAND THREE HUNDRED SIX AND 81/100 DOLLARS

DATE

AMOUNT

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OF

Clark County Treasurer
500 S Grand Cntrl Pkwy 1St Flr
PO Box 551220
Las Vegas NV 89155-1220

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BANK OF NEVADA
1115 S. Flamingo Ave. • 702.866.7100
Las Vegas, NV 89119
94-177/1224

1307

03/01/2021 \$ *51,306.81

FIFTY-ONE THOUSAND THREE HUNDRED SIX AND 81/100 DOLLARS

DATE AMOUNT

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Clark County Treasurer
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PO Box 551220
Las Vegas NV 89155-1220

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LAS VEGAS, NV 89117

BANK OF
NEVADA
1115 S. 15th Ave. Ste. 100
Las Vegas, NV 89102
94-177/1224

1332

FIFTY-ONE THOUSAND THREE HUNDRED NINE AND 85/100 DOLLARS 08/02/2021

\$

*51,309.85

DATE

AMOUNT

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TO THE
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OF

Clark County Treasurer
500 S Grand Cntrl Pkwy 1St Flr
PO Box 551220
Las Vegas NV 89155-1220



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1115 S. RAMPART HWY. • 702.656.7100
LAS VEGAS, NV 89102
94-177/1224

FIFTY-ONE THOUSAND THREE HUNDRED SIX AND 81/100 DOLLARS 10/01/2021 \$ *51,306.81
DATE AMOUNT

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TO THE
ORDER
OF

Clark County Treasurer
500 S Grand Cntrl Pkwy 1St Flr
PO Box 551220
Las Vegas NV 89155-1220

[Signature]
AUTHORIZED SIGNATURE

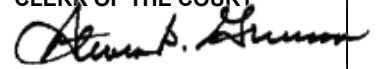
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⑈001340⑈

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2021/10/11 006153 272 N 64854
014232144

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**MOT
LAW OFFICES OF KERMITT L. WATERS**

Kermitt L. Waters, Esq., Bar No. 2571
kermitt@kermittwaters.com
James J. Leavitt, Esq., Bar No. 6032
jim@kermittwaters.com
Michael A. Schneider, Esq., Bar No. 8887
michael@kermittwaters.com
Autumn L. Waters, Esq., Bar No. 8917
autumn@kermittwaters.com
704 South Ninth Street
Las Vegas, Nevada 89101
Telephone: (702) 733-8877
Facsimile: (702) 731-1964

Attorneys for Plaintiff Landowners

DISTRICT COURT

CLARK COUNTY, NEVADA

180 LAND CO., LLC, a Nevada limited liability
company, FORE STARS Ltd., DOE
INDIVIDUALS I through X, ROE
CORPORATIONS I through X, and ROE
LIMITED LIABILITY COMPANIES I through
X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of
the State of Nevada, ROE government entities I
through X, ROE CORPORATIONS I through X,
ROE INDIVIDUALS I through X, ROE
LIMITED LIABILITY COMPANIES I through
X, ROE quasi-governmental entities I through X,

Defendant.

Case No.: A-17-758528-J

Dept. No.: XVI

**PLAINTIFF LANDOWNERS' MOTION
TO DETERMINE PREJUDGMENT
INTEREST**

Hearing Requested

COMES NOW Plaintiff Landowners, 180 LAND CO., LLC and FORE STARS Ltd.
(hereinafter "the Landowners"), by and through their attorneys, the Law Offices of Kermitt L.
Waters, and hereby files this Motion to Determine Prejudgment Interest.

///

1 This motion is based upon the papers and pleadings on file, the appendix of exhibits and
2 declarations attached hereto and any evidence or argument heard at the time of the hearing on this
3 matter.

4 DATED this 9th day of December, 2021.

5 **LAW OFFICES OF KERMITT L. WATERS**

6 /s/ James J. Leavitt

7 Kermitt L. Waters, Esq. (NSB 2571)

8 James J. Leavitt, Esq. (NSB 6032)

9 Michael A. Schneider, Esq. (NSB 8887)

10 Autumn L. Waters, Esq. (NSB 8917)

11 704 South Ninth Street

12 Las Vegas, Nevada 89101

13 Telephone: (702) 733-8877

14 Facsimile: (702) 731-1964

15 ***Attorneys for Plaintiffs Landowners***

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **I. INTRODUCTION**

18 This is a constitutional proceeding brought under Article 1, Section 8 of the Nevada State
19 Constitution.¹ A Judgment of \$34,135,000 was entered in favor of Plaintiff Landowners, 180
20 LAND CO., LLC and FORE STARS Ltd. (hereinafter “the Landowners”) and against the City of
21 Las Vegas (hereinafter “the City”). This post trial motion is brought to request that the Court
22 determine the prejudgment interest owed on the \$34,135,000 verdict.² To determine the
23 prejudgment interest owed, the Landowners request that the Court make three findings: 1) the date
24 interest should commence; 2) the proper interest rate; and, 3) whether interest should be
compounded monthly or annually.

¹ Nev. Const. art. I§§ 8, 22. *See also* U.S. Const. amend. V.

² Pursuant to NRS 37.175(1) the Landowners are entitled to prejudgment interest until the judgment is satisfied. The City has yet to satisfy the judgment, so the daily interest rate is provided for the period until the City satisfies the judgment.

1
2 **II. LAW**

3 Nevada has adopted very specific rules for deciding the prejudgment interest award in the
4 context of this inverse condemnation action. The following legal argument sets forth these specific
5 rules and how they apply to this inverse condemnation action.

6 **A. Prejudgment Interest Must be Awarded as Part of the Landowners' "Just Compensation" Award.**

7 It is well settled that the constitutional mandate of "just compensation" includes
8 prejudgment interest: "Just compensation shall include, but is not limited to, **compounded**
9 **interest** and all reasonable costs and expenses actually incurred" Nev. Const. art. I §22(4)
10 (emphasis added); NRS 37.120(3). It is also well settled that "just compensation" must be "real,
11 substantial, full and ample" and it must put the landowner in "as good a position monetarily" as
12 she would have been in had her property not been taken. Id. Therefore, the Landowners are entitled
13 to an amount of prejudgment interest that is real, substantial, full, and ample, which will put them
14 back in the same position, monetarily, as they would have been, had their property not been taken.
15 Id.

16 **B. This Court Decides Three Issues to Calculate the Landowners' Prejudgment Interest.**

17
18 Nevada has adopted specific legislation for deciding the prejudgment interest issues in this
19 inverse condemnation case, requiring that this Court decide three issues: 1) the date interest
20 commences; 2) the rate; and, 3) how to compound the interest:

21 "The court shall determine, in a posttrial hearing, the award of interest and award
22 as interest the amount of money which will put the person from whom the property
23 is taken in as good a position monetarily as if the property had not been taken. The
24 district court shall enter an order concerning:

- a) The date on which the computation of interest will commence;
- b) The rate of interest to be used to compute the award of interest, which must not be less than the prime rate of interest plus 2 percent; and

1 c) Whether the interest will be compounded annually."

2 NRS 37.175 (4).

3 **1. First Issue - Interest Must Commence on the Date of First Injury.**

4 In an eminent domain and inverse condemnation case, where the market value is not paid
5 contemporaneously with the taking, "the owner is entitled to interest for the delay in the payment
6 from the date of the taking until the date of the payment." Clark County v. Alper, 100 Nev. 382,
7 392 (1984). *See also* McCarran Int'l Airport v. Sisolak, 122 Nev. 645 (2006) (affirming award of
8 prejudgment interest in an inverse condemnation proceeding from the date of taking until the date
9 of payment). "The purpose of awarding interest is to compensate the landowner for the delay in
10 the monetary payment that occurred after the property had been taken." Id.

11 Unlike some cases where there is one specific act that results in the taking, here, the City
12 engaged in numerous systematic and aggressive actions toward the Landowners' 35 Acre Property
13 to prohibit all use of the property so that the surrounding public could use the Landowners'
14 Property. *See* Findings of Fact and Conclusions of Law Granting Landowners' Motion to
15 Determine Take, filed October 25, 2021 ("FFCL Re: Take"). Under these circumstances, the Court
16 looks to the first date of compensable injury resulting from the government's conduct. City of
17 North Las Vegas v. 5th & Centennial, LLC., 130 Nev. 619 (2014) (relying on eminent domain
18 statutes and law to commence interest in a precondemnation damages case on the first date of
19 compensable injury).

20 This Court's FFCL Re: Take provides guidance on the first date of compensable injury.
21 The FFCL Re: Take finds that the City, at the direction of the surrounding owners, denied all
22 Landowner requests to use the 35 Acre Property for a residential use, even though the City's own
23 Planning Department determined the proposed residential use complied with all City development
24 standards and all Nevada Revised Statute requirements. FFCL Re: Take, filed October 25, 2021,

1 p. 11:5 – p. 19:10. The City first denied the 35 Acre stand-alone application on June 21, 2017, on
2 the basis that the City was going to approve the Master Development Agreement (MDA) for the
3 entire 250 Acres, but then when the MDA was presented for approval just 42 days later on **August**
4 **2, 2017**, the City denied the MDA. Id. Finding #86 on page 19 concisely states, “the City denied
5 an application to develop the 35 Acre Property as a stand-alone property and the MDA to develop
6 the entire 250 Acres. Both denials were contrary to the recommendation of the City’s Planning
7 Department.” Id. The City then followed this up with countless systematic and aggressive actions
8 to deny all use of the 35 Acre Property. *See generally* the FFCL Re: Take. Therefore, the first
9 date of injury is at least **August 2, 2017**, the date of the MDA denial and, accordingly, the
10 Landowners recommend that this date be used as “[t]he date on which the computation of interest
11 will commence” under NRS 37.175(4).

12 **2. Second Issue - The Rate of Interest to Be Used to Compute the Award**
13 **of Interest.**

14 The Nevada Supreme Court has held that the determination of the interest rate in an
15 eminent domain action is a question of fact for the district court judge to decide post trial. State
16 ex rel. Dept. of Transp. v. Barsy, 113 Nev. 712 (1997). The Nevada Revised Statutes and Nevada
17 eminent domain and inverse condemnation law provide the standard on this question of fact. NRS
18 37.175 (4) provides that the prejudgment interest rate in an eminent domain case must not be less
19 than the prime rate of interest plus 2 percent. The Nevada Supreme Court has recognized that this
20 prime plus 2 percent is the “floor” - “[s]tatutory interest rates as applied to prejudgment interest
21 are generally considered as a ‘floor’ on the rate allowable for compensation under the fifth
22 amendment.” Clark County v. Alper, *supra*, at 394. *See also State ex rel. Dept. of Transp. v.*
23 *Barsy*, 113 Nev. 712, *overruled on unrelated issue* (1997) (eminent domain case rejecting the
24 argument that the statutory rate is prima facie evidence of a fair rate and holding the statutory rate
is a “floor on permissible rates.” *Id.*, at 719). This “floor” rate is not used if competent evidence

1 of a more appropriate rate is provided - “once competent evidence is presented supporting another
2 rate of interest as being more appropriate, the district judge must then determine which rate would
3 permit the most reasonable interest rate.” Barsy, at 718. The Court reasoned that just
4 compensation requires that the landowner “be put in as good position pecuniarily as he would have
5 been if his property had not been taken” and the “purpose of awarding interest is to compensate
6 the landowner for the delay in the monetary payment that occurred after the property has been
7 taken.” Barsy, at 718.

8 Therefore, this Court should determine the proper interest rate based on what rate of return
9 the Landowners could have achieved on \$34,135,000 had it been paid on August 2, 2017, the date
10 set forth above. This requires the Court to decide the proper rate of return from 2017 (the date of
11 take) to 2021 (the date of judgment).

12 In the Barsy case, as one factor to decide the proper interest rate, Mr. Barsy’s expert
13 testified that a prudent landowner would have “invested his money in land similar to that
14 condemned” and the district court relied, in part, on this rate of return on land as the basis for the
15 proper interest rate and the Nevada Supreme Court held this substantially supported the district
16 court’s interest rate finding. Barsy, at 718-19. Moreover, as this Court heard extensively during
17 this litigation, the Landowners principals are real estate developers who invest in land for the
18 purpose of future development and/or sale and, therefore, the only way the Landowners can be
19 “put in as good position pecuniarily as [they] would have been if [their] property had not been
20 taken” is to consider the rate of return on land investments during the relevant period.³ Therefore,
21 the Landowners, following Barsy, have obtained the rate of return on vacant single-family and
22 multi-family residential properties in Las Vegas during the relevant periods (2017-2021) – which

23
24 ³ The Landowners have incurred significant other losses as a result of the City’s actions in this
matter, including substantial damages to their company, meaning that even this award of
prejudgment interest will not fully cover all of their losses.

1 is consistent with the legally permissible uses of the 35 Acre Property. Based on this data, the
2 Landowners then suggest a proper rate of return.

3 **a. Rate of Return on Vacant Residential Land Similar to the 35**
4 **Acre Property, Following the Barsy Decision.**

5 To determine the rate of return on land similar to the 35 Acre Property for the years 2017
6 - 2021, the Landowners provide two sources: 1) an analysis by expert appraiser Tio DiFederico;
7 and, 2) an analysis by real estate expert, Bill Lenhart. *Exhibits 1 and 2, respectively.*

8 **Analysis by Appraiser Tio DiFederico⁴** – Mr. DiFederico researched and
9 analyzed the appreciation rate for vacant residential land in Las Vegas from August 2, 2017 –
10 September, 2021. He considered Colliers International Research & Forecast Reports from the 3rd
11 quarter 2017 through 3rd quarter 2021, which reported an increase of 190.2% for vacant residential
12 land in the Southwest submarket of Las Vegas – the location of the 35 Acre Property (which
13 equates to **30.5% per year, to be compounded annually**). *Exhibit 1, p. 1 and p. 3, Summary*
14 *Chart*. He also considered data compiled by CoStar, a source relied upon by expert appraisers that
15 compiles property sales in Las Vegas, which showed an increase of 128.6% for vacant residential
16 land in Las Vegas from 2017-2021 (which equates to **23% per year, to be compounded**
17 **annually**). *Exhibit 1, p. 2 and p. 3, Summary Chart*. He also considered the rate increase for
18 vacant residential finished lots sold in the Summit, a residential area in Summerlin, which showed
19 an increase of 97.1% from 2017-2021 (which equates to **18.9% per year, to be compounded**
20 **annually**). *Exhibit 1, p. 2 and p. 3, Summary Chart*. Mr. DiFederico also considered the sale and
21 resale of five vacant residential properties in Las Vegas during the relevant 2017-2021 period,
22 which showed an increase of **23% per year, to be compounded annually**. *Exhibit 1, p. 4*. Mr.

23 ⁴ Mr. DiFederico confirms by Declaration that all of the data in his report is considered relevant
24 and reliable in his field of expertise and is true and correct. *Exhibit 1A, Declaration of Tio*
DiFederico.

1 DiFederico then concludes that an investor who purchased residential land in the area of the 35
2 Acre Property in 2017 and held that investment until 2021, would have received a rate of return of
3 23%, to be compounded annually. *Id.* This analysis is consistent with the analysis that was
4 approved in the Barsy case.

5 **Analysis by Real Estate Expert Bill Lenhart⁵** – Mr. Lenhart is the managing member of
6 a large real estate brokerage company - Sunbelt Development and Realty Partners, LLC. He
7 researched seven properties that were originally purchased by investors at Clark County auctions
8 (involving BLM / Clark County Aviation properties) and then resold that property during the
9 relevant 2017-2021 period. *Exhibit 2.* All eight of the sales and re-sales involve vacant residential
10 land in the southwest sector of the Las Vegas valley – near the area of the 35 Acre Property. *Id.*
11 These eight sales and resales showed an annual rate of return on these residential properties of
12 39.40%, 25.81%, 47.82%, 47.99%, 45.50%, 45.50%, 22.03%, and 15.32%. *Id.* He concluded,
13 based on his research and analysis, that an investor that invested \$34,135,000 in vacant residential
14 land in the Southwest sector of Las Vegas in 2017 and resold it in 2021 would reasonably expect
15 an annual rate of return of **25-27%, to be compounded annually.** *Id.* This analysis is also
16 consistent with the analysis that was approved in the Barsy case.

17 Therefore, a proper rate of return (interest rate) to apply in specific context of this inverse
18 condemnation case is either 23% or 25-27%, to be compounded annually.

19 **3. Third Issue - Whether the Interest Will Be Compounded.**

20 The final determination this Court must make to calculate the prejudgment interest is
21 whether the interest will be compounded annually or more often. The Nevada Constitution states,
22 “[j]ust compensation shall include, but is not limited to, **compounded interest** and all reasonable
23

24 ⁵ Mr. Lenhart confirms by Declaration that all of the data in his report is considered relevant and
reliable in his field of expertise and is true and correct. *Exhibit 2A, Declaration of Bill Lenhart.*

1 costs and expenses actually incurred" Nev. Const. art. I §22(4) (emphasis added). NRS 37.175(1)
2 further provides that this compounding continues "until the date the judgment is satisfied."
3 Therefore, the interest amounts herein will continue to increase until the City satisfies the
4 judgment.

5 There are several ways to compound interest - annually, quarterly, monthly, weekly, daily,
6 etc. Here, experts Tio DiFederico and Bill Lenhart opine that, if the rate of return on land is used,
7 then the rate should be compounded annually. *Exhibits 1 and 2*. This is what an investor in the
8 real world would have achieved had the \$34,135,000 judgment been paid in 2017. And, it is what
9 the Landowners would have received on their land investments, which is necessary to "be put in
10 as good position pecuniarily as [they] would have been if [their] property had not been taken."
11 Barsy, at 718. And, the "purpose of awarding interest is to compensate the [Landowners] for the
12 delay in the monetary payment that occurred after the property has been taken." Id.

13 Accordingly, applying the rate of return on land, requires that this rate be compounded
14 annually.

15 **III. CONCLUSION AND CALCULATIONS**

16 The analysis above provides the basis for the Court to calculate the prejudgment interest in
17 this matter. **First**, it is respectfully requested that prejudgment interest commence on August 2,
18 2017. **Second**, it is respectfully requested that this Court order 23% as the rate of return,⁶ as this
19 is the rate most commensurate with land value increases, like the 35 Acre Property, and this same
20 analysis was approved in the Barsy case.⁷ **Third**, it is respectfully requested that the rate of return
21 be compounded annually. Using these data points, the prejudgment interest award in this case may
22

23 ⁶ As set forth above, Mr. Lenhart's report arrived at a 25-27% rate of return, which may also be
24 considered by this Court. In the event this Court determines the proper rate of return is 25-27%,
the Landowners will provide calculations for this rate of return.

⁷ As indicated above, this 23% is the lowest rate of return provided by the experts.

1 be easily calculated, using a compound interest calculator, which results in the following
2 prejudgment interest award from August 2, 2017 (date of take) – February 2, 2022 (anticipated
3 date of entry of prejudgment interest order):

4 \$34,135,000 x 23% for 4.5 years, compounded annually = **\$52,515,866.90** in prejudgment
5 interest.

6 *See Exhibits 3, 4, and 5, three different compound interest calculators inputting the above data*
7 *and uniformly arriving at \$52,515,866.90 in prejudgment interest.*

8 Additionally, prejudgment interest continues to run until the judgment is satisfied. NRS
9 37.175(1). The prejudgment interest for the final half year is \$8,520,411.33, or \$17,040,822.70 for
10 a full year – up to August 2, 2022. *See Exhibit 5.* This equates to \$46,687.19 per day
11 (\$17,040,822.70 / 365 = \$46,687.19). Therefore, it is respectfully requested that the daily
12 prejudgment interest accrue at a rate of **\$46,687.19 per day** until the City satisfies the judgment.
13 This daily rate will apply up to August 2, 2022, meaning if the City does not satisfy the judgment
14 by that date, the daily prejudgment interest will continue to accrue as follows:

- 15 • For the period August 2, 2022 – August 2, 2023 – **\$54,601.92 per day**
16 (\$19,929,699.57 interest / 365); and,
- 17 • For the period August 2, 2023 – August 2, 2024 – **\$67,160.36 per day**
18 (\$24,513,530.51 interest / 365).

19 *See Exhibits 6 and 7, daily rates taken from the interest calculations for August 2, 2022 – August*
20 *2023 and August 2023 – August 2024.*

21 Two blanks were left in the FFCL re: Just Compensation and Judgment in Inverse
22 Condemnation for prejudgment interest. It is respectfully requested that those two blanks now be
23 filled in as follows:

1 The City shall pay prejudgment interest in the amount of **\$52,515,866.90** for interest up to
2 ~~the date of judgment (October 27, 2021)~~ February 2, 2022,⁸ and a daily prejudgment interest
3 thereafter in the amount of **\$46,687.19 (up to August 2, 2022); \$54,601.92 (up to August 2,**
4 **2023); and, \$67,160.36 (up to August 2, 2024)**, until the date the judgment is satisfied. NRS
5 37.175.

6 DATED this 9th day of December, 2021.

7 **LAW OFFICES OF KERMITT L. WATERS**

8 /s/ James J. Leavitt

9 Kermit L. Waters, Esq. (NSB 2571)

10 James J. Leavitt, Esq. (NSB 6032)

11 Michael A. Schneider, Esq. (NSB 8887)

12 Autumn L. Waters, Esq. (NSB 8917)

13 704 South Ninth Street

14 Las Vegas, Nevada 89101

15 Telephone: (702) 733-8877

16 Facsimile: (702) 731-1964

17 ***Attorneys for Plaintiffs Landowners***

18
19
20
21
22
23
24 ⁸ The October 27, 2021, date should be changed to February 2, 2022, as this date reflects the
anticipated date of entry of the prejudgment interest order, meaning interest should be calculated
up to this date, with daily interest running thereafter until the City satisfies the judgment.

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of the Law Offices of Kermitt L. Waters, and
3 that on the 9th day of December, 2021, pursuant to NRCP 5(b), a true and correct copy of the
4 foregoing: **PLAINTIFFS LANDOWNERS' MOTION TO DETERMINE PREJUDGMENT**
5 **INTEREST** was served on the below via the Court's electronic filing/service system and/or
6 deposited for mailing in the U.S. Mail, postage prepaid and addressed to, the following:

7 **McDONALD CARANO LLP**

8 George F. Ogilvie III, Esq.
9 Christopher Molina, Esq.
2300 W. Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102
10 gogilvie@mcdonaldcarano.com
cmolina@mcdonaldcarano.com

11 **LAS VEGAS CITY ATTORNEY'S OFFICE**

12 Bryan Scott, Esq., City Attorney
13 Philip R. Byrnes, Esq.
Rebecca Wolfson, Esq.
495 S. Main Street, 6th Floor
Las Vegas, Nevada 89101
14 bscott@lasvegasnevada.gov
pbyrnes@lasvegasnevada.gov
15 rwolfson@lasvegasnevada.gov

16 **SHUTE, MIHALY & WEINBERGER, LLP**

17 Andrew W. Schwartz, Esq.
18 Lauren M. Tarpey, Esq.
396 Hayes Street
San Francisco, California 94102
19 schwartz@smwlaw.com
ltarpey@smwlaw.com

20 /s/ Sandy Guerra
21 an employee of the Law Offices of Kermitt L. Waters
22
23
24

Note that in the case where you make a deposit into a bank (e.g., put money in your savings account), you have, from a financial perspective, lent money to the bank. In such a case the interest rate reflects your profit.

The interest rate is commonly expressed as a percentage of the principal amount (outstanding loan or value of deposit). Usually, it is presented on an annual basis, which is known as the annual percentage yield (APY), or effective annual rate (EAR).

What is the compound interest definition?

Generally, compound interest is defined as **interest that is earned not solely on the initial amount invested but also on any further interest**. In other words, compound interest is the interest on both the initial principal *and* the interest which has been accumulated on this principle so far. This concept of adding a carrying charge makes a deposit or loan grow at a faster rate.

You can use the compound interest equation to find the value of an investment after a specified period of time, or to estimate the rate you have earned when buying and selling some investments. It also allows you to answer some other questions such as how long it will take to double your investment.

We will answer these questions in the examples below.

Simple vs. compound interest

You should know that simple interest is something different than the **compound interest**. It is calculated only on the initial sum of money. On the other hand, compound

interest is the interest on the initial principal plus the interest which has been accumulated.

Compounding frequency

Most financial advisors will tell you that the compound frequency is the compounding periods in a year. But if you are not sure what compounding is, this definition will be meaningless to you... To understand this term you should know that compounding frequency is an answer to the question *How often is the interest added to the principal each year?* In other words, **compounding frequency is the time period after which the interest will be calculated on top of the initial amount.**

For example:

- **annual (1/Yr)** compounding has a compounding frequency of **one**,
- **quarterly (4/Yr)** compounding has a compounding frequency of **four**,
- **monthly (12/Yr)** compounding has a compounding frequency of **twelve**.

Note that the greater the compounding frequency is, the greater the final balance. However, even when the frequency is unusually high, the final value can't rise above a particular limit. To understand the math behind this, check out our [natural logarithm calculator](#).

As the main focus of the calculator is the compounding mechanism, we designed a chart where you can follow the progress of the annual interest balances visually. If you choose a higher than yearly compounding frequency, the diagram will display the resulting extra or *additional part of interest gained over yearly compounding by the higher frequency*. Thus, in this way, you can easily observe the real power of compounding.

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Compound interest formula

The compound interest formula is an equation that lets you estimate how much you will earn with your savings account. It's quite complex because it takes into consideration not only the annual interest rate and the number of years but also the number of times the interest is compounded per year.

The formula for annual compound interest is as follows:

$$FV = P (1 + r/m)^{mt}$$

Where:

- FV - the future value of the investment, in our calculator it is the **final balance**
- P - the **initial balance** (the value of the investment)
- r - the annual **interest rate** (in decimal)
- m - the number of times the interest is compounded per year (**compounding frequency**)
- t - the **numbers of years** the money is invested for

It is worth knowing that when the compounding period is one ($m = 1$) then the interest rate (r) is called the CAGR (compound annual growth rate).

How to calculate compound interest

Actually, you don't need to memorize the compound interest formula from the previous section to estimate the future value of your investment. In fact, you don't even need to know how to calculate compound interest! Thanks to our compound interest calculator

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you can do it in just a few seconds, whenever and wherever you want. (NB: Have you already tried the mobile version of our calculators?)

With our smart calculator, all you need to calculate the future value of your investment is to fill the appropriate fields:

- **Main properties**

1. **Initial balance** - the amount of money you are going to invest or deposit.
2. **Interest rate** – the interest rate expressed on a yearly basis.
3. **Term** – the time frame you are going to invest money.
4. **Compound frequency** – in this field, you should select how often the compounding applies to your balance. Usually, the interest added to the principal balance daily, weekly, monthly, quarterly, semi-annually, or yearly. But you may set it as continuous compounding as well, which is the theoretical limit for the compounding frequency. In this case, the number of periods when compounding occurs is infinite.

- **Additional deposits**

1. **How much** - the amount you are planning to deposit on the account.
2. **How often** - you can choose the frequency of the additional deposit here.
3. **When** - you should select the timing of the transaction of the additional deposit. More specifically, you may place the money to the account *at the beginning* or *at the end* of the periods.
4. **Growth rate of deposit** - this option allows you to set a growth rate of the additional deposit. This option can be particularly useful in the long term when your income possibly increases due, for example, to inflation and/or promotions.

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That's it! In a flash, our compound interest calculator makes all necessary computations for you and gives you the results.

The two main results are:

- the **final balance**, that is the total amount of money you will receive after the specified period, and
- the **total interest**, which is the total compounded interest payment.

In case you set the additional deposit field, we gave you the results for the **compounded initial balance** and **compounded additional balance**.

Besides, we also show you their contribution to the total interest amount, namely, **interest on the initial balance** and **interest on the additional deposit**.

Compound interest examples

- *Do you want to understand the compound interest equation?*
- *Are you curious about the fine details of how to calculate the compound interest rate?*
- *Are you wondering how our calculator works?*
- *Do you need to know how to interpret the results of compound interest calculation?*
- *Are you interested in all possible uses of the compound interest formula?*

The following examples are there to try and help you answer these questions. We believe that after studying them, you won't have any trouble with the understanding and practical implementation of compound interest.

Example 1 – basic calculation of the value of an investment

The first example is the simplest, in which we calculate the future value of an initial investment.

Question

You invest \$10,000 for 10 years at the annual interest rate of 5%. The interest rate is compounded yearly. What will be the value of your investment after 10 years?

Solution

Firstly let's determine what values are given, and what we need to find. We know that you are going to invest **\$10,000** - this is your initial balance P , and the number of years you are going to invest money is **10**. Moreover, the interest rate r is equal to **5%**, and the interest is compounded on a yearly basis, so the m in the compound interest formula is equal to **1**.

We want to calculate the amount of money you will receive from this investment, that is, we want to find the future value FV of your investment.

To count it, we need to plug in the appropriate numbers into the compound interest formula:

$$FV = 10,000 * (1 + 0.05/1) ^ (10*1) = 10,000 * 1.628895 = 16,288.95$$

Answer

The value of your investment after 10 years will be \$16,288.95.

Your profit will be $FV - P$. It is $\$16,288.95 - \$10,000.00 = \$6,288.95$.

Note that when doing calculations you must be very careful with your rounding. You shouldn't do too much until the very end. Otherwise, your answer may be incorrect. The accuracy is dependent on the values you are computing. For standard calculations, six digits after the decimal point should be enough.

Example 2 - complex calculation of the value of an investment

In the second example, we calculate the future value of an initial investment in which interest is compounded monthly.

Question

You invest \$10,000 at the annual interest rate of 5%. The interest rate is compounded monthly. What will be the value of your investment after 10 years?

Solution

Like in the first example, we should determine the values first. The initial balance P is \$10,000, the number of years you are going to invest money is 10, the interest rate r is equal to 5%, and the compounding frequency m is 12. We need to obtain the future value FV of the investment.

Let's plug in the appropriate numbers in the compound interest formula:

$$\begin{aligned} FV &= 10,000 * (1 + 0.05/12) ^ (10*12) \\ &= 10,000 * 1.004167 ^ 120 = 10,000 * \\ 1.647009 &= 16,470.09 \end{aligned}$$

Answer

The value of your investment after 10 years will be \$16,470.09.

Your profit will be $FV - P$. It is $\$16,470.09 - \$10,000.00 = \$6,470.09$.

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Did you notice that this example is quite similar to the first one? Actually, the only difference is the compounding frequency. Note that, only thanks to more frequent compounding this time you will earn \$181.14 more during the same period! ($\$6,470.09 - \$6,288.95 = \$181.14$)

Example 3 - Calculating the interest rate of an investment using the compound interest formula

Now, let's try a different type of question that can be answered using the compound interest formula. This time, some basic algebra transformations will be required. In this example, we will consider a situation in which we know the initial balance, final balance, number of years and compounding frequency but we are asked to calculate the interest rate. This type of calculation may be applied in a situation where you want to determine the rate earned when buying and selling an asset (e.g., property) which you are using as an investment.

Data and question

You bought an original painting for \$2,000. Six years later, you sold this painting for \$3,000. Assuming that the painting is viewed as an investment, what annual rate did you earn?

Solution

Firstly, let's determine the given values. The initial balance P is $\$2,000$ and final balance FV is $\$3,000$. The time horizon of the investment t is 6 years and the frequency of the computing is 1. This time, we need to compute the interest rate r .

Let's try to plug this numbers in the basic compound interest formula:

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$$3,000 = 2,000 * (1 + r/1) ^ (6*1)$$

So:

$$3,000 = 2,000 * (1 + r) ^ (6)$$

We can solve this equation using the following steps:

Divide both sides by 2000

$$3,000 / 2,000 = (1 + r) ^ (6)$$

Raise both sides to the 1/6th power

$$(3,000 / 2,000) ^ (1 / 6) = (1 + r)$$

Subtract 1 from both sides

$$(3,000 / 2,000) ^ (1 / 6) - 1 = r$$

Finally solve for r

$$\begin{aligned} r &= 1.5 ^ {0.166667} - 1 = 1.069913 - 1 \\ &= 0.069913 = 6.9913\% \end{aligned}$$

Answer

In this example you earned \$1,000 out of the initial investment of \$2,000 within the six years, meaning that your annual rate was equal to 6.9913%.

As you can see this time, the formula is not very simple and requires a lot of calculations. That's why it's worth testing our compound interest calculator, which solves the same equations in an instant, saving you time and effort.

Example 4 - Calculating the doubling time of an investment using the compound interest formula

Have you ever wondered how many years it will take for your investment to double its value? Besides its other capabilities, our calculator can

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help you to answer this question. To understand how it does it, let's take a look at the following example.

Data and question

*You put \$1,000 on your saving account.
Assuming that the interest rate is equal to 4%
and it is compounded yearly. Find the number of
years after which the initial balance will double.*

Solution

The given values are as follows: the initial balance P is \$1,000 and final balance FV is $2 * \$1,000 = \$2,000$, and the interest rate r is 4%. The frequency of the computing is 1. The time horizon of the investment t is unknown.

Let's start with the basic compound interest equation:

$$FV = P (1 + r/m)^{mt}$$

Knowing that $m = 1$, $r = 4\%$, and $FV = 2 * P$ we can write

$$2P = P (1 + 0.04)^t$$

Which could be written as

$$2P = P (1.04)^t$$

Divide both sides by P (P mustn't be 0!)

$$2 = 1.04^t$$

To solve for t , you need take the natural log (\ln), of both sides:

$$\ln(2) = t * \ln(1.04)$$

So

$$t = \ln(2) / \ln(1.04) = 0.693147 / 0.039221 = 17.67$$

Answer

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In our example it takes 18 years (18 is the nearest integer that is higher than 17.67) to double the initial investment.

Have you noticed that in the above solution we didn't even need to know the initial and final balances of the investment? It is thanks to the simplification we made in the third step (*Divide both sides by P*). However, when using our compound interest rate calculator, you will need to provide this information in the appropriate fields. Don't worry if you just want to find the time in which the given interest rate would double your investment, just type in any numbers (for example 1 and 2).

It is also worth knowing that exactly the same calculations may be used to compute when the investment would triple (or multiply by any number in fact). All you need to do is just use a different multiple of P in the second step of the above example. You can also do it with our calculator.

Compound interest table

Compound interest tables were used everyday, before the era of calculators, personal computers, spreadsheets, and unbelievable solutions provided by Omni Calculator 🧮. The tables were designed to make the financial calculations simpler and faster (yes, really...). They are included in many older financial textbooks as an appendix.

Below, you can see what a compound interest table looks like.

Using the data provided in the compound interest table you can calculate the final balance of your investment. All you need to know is that the column **compound amount**

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factor shows the value of the factor $(1 + r)^t$ for the respective interest rate (first row) and t (first column). So to calculate the final balance of the investment you need to multiply the initial balance by the appropriate value from the table.

Note that the values from the column **Present worth factor** are used to compute the present value of the investment when you know its future value.

Obviously, this is only a basic example of a compound interest table. In fact, they are usually much, much larger, as they contain more periods t various interest rates r and different compounding frequencies m ... You had to flip through dozens of pages to find the appropriate value of compound amount factor or present worth factor.

With your new knowledge of how the world of financial calculations looked before Omni Calculator, do you enjoy our tool? Why not share it with your friends? Let them know about Omni! If you want to be financially smart, you can also try our other finance calculators.

Additional Information

Now that you know how to calculate compound interest, it's high time you found other applications to help you make the greatest profit from your investments:

To compare bank offers which have different compounding periods, we need to calculate the Annual Percentage Yield, also called Effective Annual Rate (EAR). This value tells us how much profit we will earn within a year. The most comfortable way to figure it out is using the [APY calculator](#), which estimates the EAR from the interest rate and compounding frequency.

If you want to find out how long it would take for something to increase by $n\%$, you can use our [rule of 72 calculator](#). This tool enables you to check how much time you need to double your investment even quicker than the compound interest rate calculator.

You may also be interested in the [credit card payoff calculator](#), which allows you to estimate how long it will take until you are completely debt-free.

Another interesting calculator is our [cap rate calculator](#) which determines the rate of return on your real estate property purchase.

We also suggest you try the [lease calculator](#) which helps you determine the monthly and total payments for a lease.

If you're looking to finance the purchase of a new recreational vehicle (RV), our [RV loan calculator](#) makes it simple to work out what the best deal will be for you.

The [depreciation calculator](#) enables you to use three different methods to estimate how fast the value of your asset decreases over time.

And finally, why not to try our [dream come true calculator](#).

which answers the question: how long do you have to save to afford your dream?

Tomasz Jedynak, PhD and Tibor Pal, PhD
candidate

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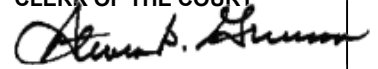
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**MOT
LAW OFFICES OF KERMITT L. WATERS**

Kermitt L. Waters, Esq., Bar No. 2571
kermitt@kermittwaters.com
James J. Leavitt, Esq., Bar No. 6032
jim@kermittwaters.com
Michael A. Schneider, Esq., Bar No. 8887
michael@kermittwaters.com
Autumn L. Waters, Esq., Bar No. 8917
autumn@kermittwaters.com
704 South Ninth Street
Las Vegas, Nevada 89101
Telephone: (702) 733-8877
Facsimile: (702) 731-1964

Attorneys for Plaintiff Landowners

DISTRICT COURT

CLARK COUNTY, NEVADA

180 LAND CO., LLC, a Nevada limited liability
company, FORE STARS Ltd., DOE
INDIVIDUALS I through X, ROE
CORPORATIONS I through X, and ROE
LIMITED LIABILITY COMPANIES I through
X,

Plaintiffs,

vs.

CITY OF LAS VEGAS, political subdivision of
the State of Nevada, ROE government entities I
through X, ROE CORPORATIONS I through X,
ROE INDIVIDUALS I through X, ROE
LIMITED LIABILITY COMPANIES I through
X, ROE quasi-governmental entities I through X,

Defendant.

Case No.: A-17-758528-J

Dept. No.: XVI

**PLAINTIFF LANDOWNERS' MOTION
FOR ATTORNEY FEES**

Hearing Requested

COMES NOW Plaintiffs Landowners, 180 LAND CO., LLC and FORE STARS Ltd.
(hereinafter "Landowners"), by and through their attorneys of record, the Law Offices of Kermitt
L. Waters, and hereby respectfully submit Plaintiffs Landowners' Motion for Attorney Fees.

///

1 This motion is based upon NRCPC Rule 54 and those other laws set forth herein, the papers
2 and pleadings on file, the declarations of counsel attached hereto and any evidence or argument
3 heard at the time of the hearing on this matter.

4 DATED this 9th day of December, 2021.

5 **LAW OFFICES OF KERMIT L. WATERS**

6 /s/ Autumn L. Waters

7 Kermit L. Waters, Esq. (NSB 2571)

8 James J. Leavitt, Esq. (NSB 6032)

9 Michael A. Schneider, Esq. (NSB 8887)

10 Autumn L. Waters, Esq. (NSB 8917)

11 704 South Ninth Street

12 Las Vegas, Nevada 89101

13 Telephone: (702) 733-8877

14 Facsimile: (702) 731-1964

15 *Attorneys for Plaintiffs Landowners*

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **I. FACTS**

18 This is an inverse condemnation action brought by 180 LAND CO, LLC, and FORE
19 STARS Ltd. ("Landowners") against the City of Las Vegas ("City") for the taking of the
20 Landowners' 34.07 acre residentially zoned property located near the southeast corner of Hualapai
21 Way and Alta Drive in Las Vegas, Nevada ("35 Acre Property" and/or "Landowners' Property").
22 This case involved three phases: 1) the property interest phase - the determination of the property
23 interest the Landowners had prior to the City's actions; 2) the take phase - whether the City
24 engaged in actions to take the Landowners' property; and, 3) the value phase - the value of the
Landowners' Property taken by the City. The Landowners have prevailed in all 3 phases and, as
the prevailing party in an inverse condemnation case, the Landowners are entitled to an award of
attorney fees. The attorney fees award should be based on: 1) the Lodestar method – the hours
worked times the hourly rate; and, 2) an enhanced fee based on the 12 Hsu Factors.

1 **II. LAW**

2 **A. Law Requiring Attorney Fees.**

3 There are three sources of Nevada law that provide the City must pay the Landowners’
4 attorney fees in this inverse condemnation action – 1) the Uniform Relocation Assistance and Real
5 Property Acquisition Act (“Relocation Act”); 2) the Nevada Constitution Article 1, Section 22 (4);
6 and, 3) NRS 18.010(2)(b).

7 **1. The Relocation Act**

8 In the seminal inverse condemnation case of McCarran Int’l Airport v. Sisolak, 122 Nev.
9 645, 673 (2006), the district court awarded Mr. Sisolak attorney fees as a prevailing landowner in
10 an inverse condemnation action and the Supreme Court affirmed, holding, “the district court
11 properly based its award of attorney fees on a relevant provision of the Uniform Relocation
12 Assistance and Real Property Acquisition Policies Act (Relocation Act).” *See also* Tien Fu Hsu
13 v. County of Clark, 123 Nev. 625, 637 (2007) (adopting the same Sisolak attorney fees law). The
14 Court held that “[t]he Relocation Act requires that a state government entity receiving federal
15 funds institute formal condemnation proceedings to acquire any interest in real property by
16 exercising the power of eminent domain” and, if not, Nevada landowners may bring inverse
17 condemnation claims and “may recover attorney fees and costs if they succeed in an inverse
18 condemnation claim against the government.” Sisolak, at 673. The Sisolak Court held that these
19 attorney fee provisions “apply to all Nevada political subdivisions and agencies” that receive
20 federal funds. Id., at 674. The Court further held that there does not need to be a specific nexus
21 between federal funds and the project for which the property has been taken, which had previously
22 been suggested in a prior case – Alper. Id. Finally, the Court held that eligibility for attorney fees
23 is not limited to those situations where a person has been displaced. Id., at 675. The Court then
24 plainly stated the standard for recovery of attorney fees in an inverse condemnation action –

1 “Because Sisolak is *a property owner who was successful in his inverse condemnation action*,
2 the plain terms of the Relocation Act allowed the District Court to award reasonable attorney fees
3 and costs.” Id.

4 Here, the Landowners are property owners who were successful in their inverse
5 condemnation action and, therefore, the plain terms of the Relocation Act allow recovery of
6 attorney fees. Specifically, 49 CFR § 24.107(c)(2020) provides:

7 **§ 24.107 Certain litigation expenses.** The owner of the real property shall be
8 reimbursed for any reasonable expenses, including reasonable attorney, appraisal,
9 and engineering fees, which the owner actually incurred because of a condemnation
10 proceeding, if: ... (c) The court having jurisdiction renders a judgment in favor of
11 the owner in an inverse condemnation proceeding or the Agency effects a
12 settlement of such proceeding. (*Exhibit 7, 49 CFR 24*) (emphasis added).

13 And, insofar as the rule may require a showing that the taking agency receives federal funds to
14 recover attorney fees under the Relocation Act, the Court can take judicial notice that the City
15 receives federal funds as this issue is beyond dispute and attached hereto is evidence of the City’s
16 federal funding. *See Exhibits 12-16. Exhibit 12, screenshot of the City’s Website stating the City*
17 *receives federal funds; Exhibit 13, the City’s 2050 Master Plan where the City details how it*
18 *receives federal funds, specifically for parks and open space see ATTY FEE MOT 0226; Exhibit*
19 *14, the City’s SNPLMA Projects (SNPLMA is a federal grant program where federal dollars are*
20 *given to the City for Parks and Open Space); Exhibit 15, the City’s 2017 Budget detailing federal*
21 *dollars received; Exhibit 16, City’s 2021 Budget detailing federal dollars received.*

22 Therefore, the Landowners are entitled to recovery of attorney fees under the Relocation
23 Act and the law set forth in Sisolak and Hsu.

24 **2. Nevada Constitution Article 1, Section 22 (4) – Effective 2008 after the
Sisolak and Hsu Decisions.**

While not necessary to explore, as there is a statute directly on point and two cases
interpreting that statute to mean a successful landowner in an inverse condemnation case is entitled

1 to attorney fees, the Nevada constitution also provides for attorney fees. Specifically, the Nevada
2 constitution provides, “[i]n all eminent domain actions, just compensation shall be defined as that
3 sum of money, necessary to place the property owner back in the same position, monetarily,
4 without any governmental offsets, as if the property had never been taken.” Nev. Const. Art I §
5 22(4). The Constitution further provides that “Just compensation shall include, but is not limited
6 to, compounded interest and all reasonable costs and expenses actually incurred.” Nev. Const. Art
7 I § 22(4)(emphasis added). Attorney fees are expenses actually incurred. As the Nevada Supreme
8 Court specifically stated, when interpreting constitutional provisions, the normal and ordinary
9 meaning of words **must** be utilized. Strickland v. Waymire, 126 Nev. 230, 234 (2010). The normal
10 and ordinary meaning of the word “*expense*,” according to Merriam-Webster, include “the amount
11 of money that is needed to pay for or buy something” and “something on which money is spent.”¹
12 These normal and ordinary meanings of “*expense*” certainly includes the amount of money needed
13 to pay for legal counsel. Therefore, pursuant to the normal and ordinary meanings of the word
14 “*expense*” it is clear that the voters of Nevada intended to include attorney fees, otherwise, the
15 voters would not have voted so overwhelmingly for the passage of Article 1, Section 22.

16 When a constitutional provision’s language is clear on its face, as is the case here, the Court
17 will not go beyond that language in determining the voters’ intent. Strickland at 608. However,
18 this constitutional provision was presented to and overwhelmingly approved by the Nevada
19 electorate twice – 2006 and 2008 – and it was clear that the voters knew that passing Article 1,
20 Section 22 would mean that Just Compensation would include attorney fees for a landowner,
21 meaning that the government would have to pay for a landowner’s attorney fees in eminent domain
22 matters. In fact, the Argument Opposing Passage in the Sample Ballot specifically informed
23 Nevada Voters in 2006 and 2008 that “Further, we believe **taxpayers may have to pay all lawyers**

24 _____
¹ <http://www.merriam-webster.com/dictionary/expense>

1 **fees** and court expenses for any legal actions brought by private parties on eminent domain!” (Bold
2 added, “!” in original text)(*Exhibit 9*, p. 11 and *Exhibit 10*, p. 7). The drafters of the Argument
3 Opposing Passage were so certain that the government would have to pay for a landowner’s
4 attorney fees in an eminent domain action under Article 1, Section 22, that they even added an
5 exclamation point “!” to the end of that sentence to denote its major significance to all Nevada
6 voters. An exclamation point is used to “indicate forceful utterance or strong feeling” or to indicate
7 “major significance.”² Accordingly, the opponents of Article 1, Section 22 made sure that even if
8 the normal and ordinary meaning of *expenses* was somehow lost on the Nevada voters, that the
9 voters were made aware that it would include attorney fees.

10 There can be no doubt, by both the normal and ordinary meaning and then as reinforced by
11 the Argument Opposing Passage that the Nevada voters intended for the government to pay for a
12 landowner’s attorney fees when a landowner’s private property is taken by eminent domain.
13 Accordingly, Article 1 § 22(4) provides that landowners must be reimbursed for their attorney
14 fees.

15 Furthermore, the intent of the just compensation clause and Article 1 § 22 is to put the
16 landowner back in the same position monetarily as if the property had never been taken. A
17 landowner simply cannot be made whole until they have been reimbursed for their attorney fees.
18 As will be shown below, attorney fees can be significant in these matters, and requiring a
19 landowner to bear the burden of her own attorney fees in a constitutional matter such as this would
20 have a chilling effect on constitutional rights and just compensation as defined would never be
21 achieved.

22 There was an effort by the Legislature to unwind part of Article 1 § 22(4) with NRS 37.120
23 as it relates to direct condemnation actions by excluding attorney’s fees, however, as made clear
24

² <http://www.merriam-webster.com/dictionary/exclamation%20point>

1 by NRS 37.185 such legislative exclusion (whether valid or not) is not applicable to an inverse
2 condemnation action, such as this, where there is no question that the Landowners are entitled to
3 attorney fees - “[t]his section (that denies attorney fees) does not apply in an inverse condemnation
4 action if the owner of the property that is the subject of the actions makes a request for attorney’s
5 fees from the other party to the action.” NRS 37.185.

6 **3. NRS 18.010(2)(b).**

7 The Landowners are additionally entitled to attorney fees under NRS 18.010(2)(b) which
8 provides in pertinent part that, under certain circumstances, the court may award a prevailing party
9 attorney fees:

10 Without regard to the recovery sought, when the court finds that the claim,
11 counterclaim, cross-claim or third-party complaint or defense of the opposing party
12 was brought or maintained without reasonable ground or to harass the prevailing
13 party. The court shall liberally construe the provisions of this paragraph in favor
14 of awarding attorney’s fees in all appropriate situations. It is the intent of the
15 Legislature that the court award attorney’s fees pursuant to this paragraph and
impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in
all appropriate situations to punish for and deter frivolous or vexatious claims and
defenses because such claims and defenses overburden limited judicial resources,
hinder the timely resolution of meritorious claims and increase the costs of
engaging in business and providing professional services to the public.

16 As the Court is aware, the City challenged all three phases of the Landowners’ inverse
17 condemnation case. The City repeatedly re-argued issues that had already been decided, made
18 arguments contrary to the position of its own client (the City Attorney, Planning, Tax departments,
19 and City Councilpersons), argued contrary to long standing Nevada eminent domain and inverse
20 condemnation precedent, and argued for a taking standard that has never been the law in any
21 jurisdiction. The City repeatedly argued petition for judicial review law, despite at least 4 orders
22 from the Court rejecting the petition for judicial review law’s application to inverse condemnation
23 and a decision directly on point from the Nevada Supreme Court that petition for judicial review
24 law should not be used. *See City of Henderson v. Eighth Judicial District Court*, 137 Nev. Adv.Op.
26 (June 24, 2021). The City simply ignored the Court’s orders and Nevada Supreme Court

precedent. The specifics of these actions are set forth below, as they are relevant to the first of the 12 Hsu Factors for enhancing the Landowners' attorney fees award. However, suffice it to say the City's frivolous and vexation claims overburdened both this Court's limited judicial resources and substantially increased the costs of engaging in business. Therefore, as more fully set forth below, the Landowners are entitled to recovery of attorney fees under NRS 18.010(2)(b).

In summary, the Landowners are entitled to attorney fees under specific inverse condemnation federal and state statutory law, the Nevada Constitution, Nevada case law and general Nevada statutory law. The following section will show how Nevada has elected to calculate these attorney fees in the specific context of an inverse condemnation case.

B. Nevada Inverse Condemnation Law Provides a Two-Step Process to Determine the Attorney Fee Award.

The leading case on calculation of attorney fees, in an inverse condemnation case, is Tien Fu Hsu v. County of Clark, 123 Nev. 625 (1007). Hsu requires a two-step process. **First**, the district court applies the lodestar analysis to "multiply the number of hours reasonably spent on the case by a reasonable hourly rate." Id., at 637. **Second**, the district court applies its "sound discretion" and adjusts the fee upward or downward based upon 12 Factors: "(1) the time and work required; (2) the difficulty of the issue; (3) the skill required to perform the service; (4) the amount of time taken away from other work; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) the time limitations imposed on the attorney by the case; (8) the amount of money involved and the results obtained; (9) the reputation, experience, and ability of the attorney; (10) the lack of desirability of the case; (11) the length of the acquaintanceship with the client; and, (12) awards in similar cases." Id. These 12 Factors will be referred to herein as the "12 Hsu Factors."

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1 The 12 Hsu Factors are guide posts and the district court has wide discretion when applying
2 them, because the district court is most familiar with the case, having been present during all of
3 the proceedings.

4 **1. The First Step – Attorney Fees Actually Incurred.**

5 **a. The Numbers of Hours the Law Offices of Kermitt L. Waters
6 Spent on the 35 Acre Case.**

7 Kermitt L. Waters, James Jack Leavitt, Autumn Waters, and Michael Schneider, of the
8 Law Offices of Kermitt L. Waters, (jointly referred to as “Landowners’ Counsel”) were the four
9 attorneys that worked on behalf of the Landowners in this 35 Acre inverse condemnation case.
10 Landowners’ Counsel were retained, beginning on or about August 14, 2017. From that date
11 forward, Landowners’ Counsel have kept contemporaneous records of the hours worked on this
12 35 Acre Case. *Exhibits 1, 2, 3, and 4* (Declarations of Landowners’ Counsel). The Landowners’
13 Counsel were very careful to identify the hours worked on this 35 Acre Case separate from the
14 other three cases - 17, 65, and 133 Acre Cases. *Id.* The total hours worked for **all four cases**, as
15 of October 31, 2021, was 6,866.93, while the total hours for the 35 Acre Case individually were
16 only 3,536.25. The hours identified herein for recovery of attorney fees are the hours worked
17 exclusively on the 35 Acre Case as of October 31, 2021.³ *Id.* In those circumstances where work
18 was performed for all four cases, the hours for that work was split four ways between the 17, 35,
19 65, and 133 Acre cases, meaning $\frac{1}{4}$ of those hours are identified as work in the 35 Acre Case
20 pending before the Court. *Id.* To assure that correct hourly records were kept, the hours worked
21 on the 35 Acre Case were either recorded when the individual task was complete, at the end of the
22 day each task was completed, or very shortly thereafter. *Id.*

23
24

³ A supplemental calculation of additional hours will be included in the reply or at the conclusion
of the post-trial motion practice, as attorney hours are still accumulating.

The following shows the hours worked by each attorney over the more than four years in this 35 Acre Case only:

Kermitt L. Waters	217.9
James Jack Leavitt	1,338.45
Autumn L. Waters	1,446.68
Michael A. Schneider	533.22
TOTAL	3,536.25

See Declarations attached hereto as *Exhibits 1, 2, 3, and 4*.

The following are the hours worked by Landowners' Counsels' legal assistants during this more than four-year period in the 35 Acre Case only:

Sandy Guerra	264.52
Stacy Sykora	156.35
Evelyn Washington	477.14
TOTAL	898.25

See *Exhibit 3 at ¶ 11*.

b. The Blended and Reduced Hourly Rate.

The Landowners' Counsel saw the grave injustice that was being imposed on the Landowners. The Landowners were struggling under the excessive costs the City forced them to endure and the massive burden of the monthly carrying costs the Landowners had to shoulder as involuntary trustees for the City. Therefore, from the commencement of this case through May 31, 2019, that hourly rate was significantly reduced to \$450.00. From June 1, 2019, that hourly rate was adjusted upward, but still based on a reduced hourly rate of \$675.00 per hour. The rate for the legal assistants has been a consistent \$50 per hour.

///

The following shows the total attorney fees, using these rates:

<u>Attorney</u>	\$450 (8/17-6/19)	\$675 (6/19-10/21)
Kermitt L. Waters	123.67	94.22
James Jack Leavitt	314.68	1,023.77
Autumn L. Waters	330.08	1,116.61
Michael A. Schneider	216.50	316.72
TOTAL HOURS	984.93	2,551.32
TOTAL FEES	\$443,218.50	\$1,722,141 = \$2,165,359.50

Legal Assistants

Total hours worked = 898.25 x hourly rate of \$50.00 = \$44,912.50

See Declarations, Exhibits 1 – 5.

Therefore, the total attorney fees and legal assistant fees actually incurred amounts to **\$2,165,359.50 + \$44,912.50 = \$2,210,272.00**. As will be shown, this rate was a significantly reduced rate for the Law Offices of Kermitt Waters and the specialized area of inverse condemnation practice. Therefore, an enhanced hourly rate is justified based on the second step to determine attorney fees in this inverse condemnation case – consideration of the 12 Hsu Factors.

2. The Second Step - Analysis of the 12 Hsu Factors Justifies an Enhanced Attorney Fee.

The consideration of enhanced fees pursuant to the 12 Hsu Factors is in the sound discretion of the Court, because the Court was present during all of the hearings and, therefore, is best suited to consider these 12 Factors. Hsu at 637.

As a preliminary matter, perhaps the best indication of an appropriate enhanced hourly rate under the 12 Hsu Factors is to consider the hourly rate approved in the seminal Sisolak case, which was an inverse condemnation case, like this 35 Acre Case. In that case, counsel for Governor Sisolak limited her practice to inverse condemnation at that time. She had a contingency fee and

1 therefore, did not keep hourly records, but, instead, provided an affidavit estimating the hours
2 worked at 1,400 hours. *Exhibit 8, Attorney Fee Affidavit of Counsel in the Sisolak case.* The
3 Sisolak Court approved a fee of \$1,950,000. Sisolak, supra, 657 and 671. Dividing the \$1,950,000
4 approved fee by the 1,400 hours worked on the Sisolak case, results in an approved hourly rate of
5 \$1,392 per hour. Therefore, the Nevada Supreme Court has approved an hourly rate of \$1,392 per
6 hour for the very specialized area of inverse condemnation. And, this hourly rate was approved
7 over 15 years ago.

8 The following shows that at least 11 of these 12 Hsu Factors are applicable in this case,
9 justifying an enhanced hourly rate, commensurate with the \$1,392 hourly rate approved in the
10 Sisolak case.

11 • **HSU FACTOR #1 - THE TIME AND WORK REQUIRED**

12 The time and work required is relevant to both this first Hsu Factor and the underlying
13 basis for awarding attorney fees under NRS 18.010(2)(b), referenced above. The time required
14 for the Sisolak case was only about one year. *Exhibit 8, Attorney Fee Affidavit of Counsel in the*
15 *Sisolak case.* Here, due to the City's improper litigation strategy to repeatedly re-argue issues that
16 had already been decided; argue contrary to the position of its own client; argue contrary to long
17 standing Nevada eminent domain and inverse condemnation precedent; repeatedly argue
18 inappropriate petition for judicial review law and ignore the Court's orders and Nevada Supreme
19 Court precedent, the time required in this case was over four years. Therefore, this Factor justifies
20 an enhanced hourly rate at least commensurate with the \$1,392 per hour approved in Sisolak. The
21 following further supports an enhanced fee.

22 (a) **The City's Improper Attempts to Dismiss and Remove to**
23 **Federal Court.**

24 As the Court will recall, this inverse condemnation case involved three phases under
Nevada law: 1) the determination of the property interest; 2) the determination of whether the

1 City's actions amounted to a taking; and, 3) the value of the property taken. Before the
2 Landowners even got to these three phases, the City filed a motion to dismiss and a redundant
3 motion for judgment on the pleadings and lost both requests. *City Motion to Dismiss, filed October*
4 *30, 2017; City Motion for Judgment on the Pleadings, filed February 13, 2019.* The City then
5 sought a Writ to the Nevada Supreme Court, which the Landowners had to oppose, and, after the
6 City lost the Writ, the City requested a panel rehearing and, after losing that, requested en banc
7 reconsideration, which it lost. *See City Notice of Filing of Petition for Writ, filed on May 17, 2019.*

8 Compounding the amount and complexity of the work in this case, the City then conflated
9 findings from the petition for judicial side of the 35 Acre Case with the inverse condemnation side.
10 As the Court will recall, the Court order severed the petition for judicial review matter from this
11 inverse condemnation case and tried both cases entirely separate and independent from one
12 another. This Courts' severance order proved correct by a recent Nevada Supreme Court case.
13 *See City of Henderson, supra.* The City however, improperly included four paragraphs in the
14 FFCL entered in the petition for judicial review matter that wrongfully dismissed the Landowners'
15 inverse condemnation case. This required the Landowners to file a motion to reconsider that
16 petition for judicial review FFCL to remove those improperly included four paragraphs.
17 *Landowners' request for reconsideration, filed December 11, 2018.* Instead of conceding the four
18 paragraphs were improper, the City filed a 25-page opposition and then, brazenly, asked for
19 sanctions against the Landowners. *City Opposition to reconsideration, filed January 1, 2019; City*
20 *Motion to Strike Landowners Motion for Summary Judgment, filed December 21, 2018 (asking for*
21 *sanctions against the Landowners).* These City actions were pure procedural gamesmanship, used
22 as an attempt to deny the Landowners their due process right and to cause excessive litigation costs
23 and attorney fees for the Landowners. The Court saw through the City's improper actions and, at
24 the hearing on the Landowners' motion, called the case up first in time and stated the matter "is

1 going to be uncontested because I'm going to issue a - - have someone issue a nunc pro tunc order.”
2 *Exhibit 11, 4:6-9, 16.* This Court continued, “I never intended on any level for that to be included
3 in the order” and, in the order granting reconsideration, held, “this Court had no intention of
4 making any findings of fact, conclusions of law or orders regarding the landowners severed inverse
5 condemnation claims as part of the Findings of Fact and Conclusions of Law entered on November
6 21, 2018 [petition for judicial review FFCL].” *Nunc Pro Tunc Order, filed February 6, 2019, 6:9-*
7 *10.*

8 The City also filed an improper removal to federal court on August 22, 2019 – more than
9 two years after this case commenced and, after significant briefing and oral arguments. The federal
10 court issued a written opinion that the removal was improper. *City Notice of Removal, filed August*
11 *22, 2019.* The City's improper removal delayed this matter, and caused significantly more time
12 and attorney hours defeating the improper removal.

13 **(b) The City's Frivolous Property Interest Arguments.**

14 Upon remand, the Landowners were finally able to move to the first phase in this inverse
15 condemnation action – the property interest, but the City's vexatious and frivolous tactics
16 continued. The City repeatedly argued against long standing Nevada inverse condemnation
17 precedent. The City argued contrary to Alper, Sisolak and Hsu. These are foundational cases in
18 this area of law. It is not proper and it is vexatious and harassing to come to Nevada and force a
19 Nevada landowner to argue over already well-established law, yet that is exactly what the City
20 forced upon the Landowners in this case.

21 During this phase, as the Court will recall, the City repeatedly and vexatiously argued that
22 the Landowners did not have the property right to use their Property for anything other than a park
23 or open space because, according to the City, there was a City Master Plan PR-OS designation or
24 a Peccole Ranch Master Plan open space designation on the 35 Acre Property and these “master

1 plan” designations trump the R-PD7 zoning (PR-OS / PRMP Argument). This was a baseless and
2 frivolous argument.

3 **First**, the Queensridge Homeowners brought this same “open space” argument back in a
4 2016 case and the district court held that the entire 250 Acres has always been zoned “R-PD7,”
5 the zoning “dictates its use,” and gives the Landowners the “right to develop” and the arguments
6 to the contrary were “frivolous” and awarded the Landowners attorney fees. *SJMT Exhibits 172*,
7 vol. 19, filed September 15, 2021 at 005115:3-4; *SJMT Exhibit 173*, vol. 19 filed September 15,
8 2021 at 005142:11-12, 005152:23-24, 005167:10-18.⁴ The Nevada Supreme Court affirmed the
9 ruling and the district court’s attorney fee award. *SJMT Exhibit 175*, vol. 19 filed September 15,
10 2021 at p. 4. The City had actual knowledge of this ruling and this should have been sufficient for
11 the City to concede: 1) the R-PD7 zoning governs the use of the 35 Acre Property; and, 2) that R-
12 PD7 zoning gives the Landowners the “right to develop” residential units.

13 **Second**, there are 6 Nevada Supreme Court eminent domain / inverse condemnation cases
14 on point that hold zoning must be used to decide the property interest issue in an inverse
15 condemnation case, not the master plan. In fact, the City was a party to the eminent domain case
16 of City of Las Vegas v. Bustos, 119 Nev. 360 (2003), and the City argued in that case that the
17 courts should follow the City’s master plan, not zoning, under petition for judicial review law and
18 the district court and Supreme Court rejected the City’s argument, finding zoning must be
19 followed.

20 **Third**, the City’s master plan PR-OS / PRMP Argument was flatly rejected by the City
21 itself. As the Court will recall, the City Attorney’s Office, the City Planning Department, and the
22 City Tax Assessor flatly rejected this City argument. *See Landowners’ Reply in Support of*

23
24 ⁴ The SJMT Exhibits are the exhibits presented to the Court at the summary judgment hearing on
the take issue. *Exhibits 1-150* filed on March 26, 2021 and *Exhibits 151-198* filed on September
15, 2021.

1 *Plaintiff Landowners’ Motion to Determine “Property Interest,” filed September 9, 2020, pp. 9-*
2 *10, 14-16, 18-20.* The City’s own master plan says it is only a “policy” and zoning is the “law.”
3 *SJMT Exhibit 161, vol. 19* filed September 15, 2021, City 2050 Master Plan pages. Long-time
4 land use attorney Stephanie Allen confirmed how frivolous this City argument was, submitting an
5 affidavit that states in her 17 years of practice, zoning always governed property uses, the master
6 plan was just a planning document, and that “I don’t recall any government agency or employee
7 ever making the argument that a master plan land use designation trumps zoning.” *SJMT Exhibit*
8 *195, vol. 21* filed September 15, 2021 at 006088.

9 Despite this well-settled eminent domain law on the property interest issue, the City
10 repeatedly and unceasingly cited to petition for judicial review law to claim the Landowners never
11 had a right to use their property to begin with, because the City has “discretion” to deny the use of
12 property. The Court entered at least four orders that petition for judicial review law does not apply,
13 and the Supreme Court entered a recent decision confirming the Court’s orders - that petition for
14 judicial review law does not apply in this inverse condemnation action. City of Henderson v.
15 Eighth Judicial District Court, 137 Nev. Adv.Op. 26 (June 24, 2021). *See also FFCL Re: Take,*
16 *pp. 41-43.* The City didn’t care and, even after the City of Henderson decision, continued to
17 extensively cite petition for judicial review law and the PR-OS / PRMP Argument all the way up
18 to trial, requiring a motion in limine to exclude the argument. As the Court is aware, this caused
19 significant time and work to address.

20 **(c) The City’s Frivolous Take Arguments.**

21 The City clearly has the right to challenge inverse condemnation claims brought by
22 landowners, what the City doesn’t have a right to do is force a landowner to reargue long standing
23 Nevada takings jurisprudence. The City engaged in systematic and aggressive actions to take the
24 Landowners’ 35 Acre Property that clearly met Nevada’s four taking standards. *See FFCL Re:*

1 *Take.* The City did not deny these actions. Instead, the City argued that Nevada law is not actually
2 the law and cited to a series of “separation of powers” and petition for judicial review cases to
3 claim that: 1) the City has “discretion” to deny landowners the use of their property in Nevada; 2)
4 the doctrine of “separation of powers” prohibits the Court from interfering with the City’s
5 “discretion” to deny Nevada landowners the use of their property, and, 3) the Courts can only
6 intervene in the most egregious circumstances where there is a “total wipe out” of value. This was
7 a frivolous argument that has not been accepted in Nevada, where our Court has held: 1) the “first
8 right” in Nevada’s Constitution is the “inalienable right to acquire, possess and protect private
9 property;” 2) the Nevada Constitution contemplates expansive property rights in the context of
10 takings claims through eminent domain;” and, “our state enjoys a rich history of protecting private
11 property owners against government takings.” Sisolak, supra, at 669-670. This, again,
12 complicated and compounded the briefing and arguments on the take issue, requiring an excessive
13 amount of time to address. *See e.g. Exhibit 6, summary of list of filings.*

14 Then, when it came time to determine the City’s liability for its taking actions, the City
15 again caused significantly delay (and more attorney hours) by claiming it needed more time and
16 discovery to determine the economic impact the City’s actions had on the Landowners’ Property.
17 *See Transcr. of hearing on April 21, 2021 at 47-48.* In a shocking revelation, when it came time
18 to present this economic impact, the City had nothing to present and claimed it didn’t need
19 anything, completely contrary to the reasons it provided to obtain more time and discovery.

20 Attached as *Exhibit 6* is a list of the substantive pleadings, identifying the number of pages
21 for each pleading and the number of pages for the extensive exhibits. As identified in *Exhibit 6*,
22 the City’s litigation tactics required 2,009 pages of substantive pleadings and 29,977 pages of
23 exhibits. *Exhibit 6.* In fact, the City’s briefs kept getting longer and longer, as if each attorney
24 for the City that reviewed the briefs would simply add more sections, as opposed to edits and

1 revisions. The City's vexatious pleading practice crescendoed with a 92 page brief. *See City Opp.*
2 *to Motion to Determine Take filed August 25, 2021.* The City additionally filed motions and then
3 would withdraw them the day before the Landowners' opposition was due. *See Notice of*
4 *Withdrawal filed October 21, 2021.* Again, causing excessive attorney hours.

5 Finally, as the Court will recall, the City also made extensive discovery requests, demanded
6 monthly status checks, filed numerous motions to compel (nearly all of which were denied) and
7 filed lengthy status reports before each status check all of which required Landowners' Counsel's
8 attention. The City waged a war of attrition on the Landowners in an attempt to litigate them into
9 submission. This is a constitutional proceeding, and such litigation tactics should be strongly
10 discouraged. The only means of discouragement is to award the Landowners and their Counsel
11 substantial attorney fees.

12 Therefore, Factor #1 justifies an enhanced attorney fee.

13 • **HSU FACTOR #2 - THE DIFFICULTY OF THE ISSUE**

14 Inverse condemnation cases can be very difficult to litigate. The government has unlimited
15 resources, allowing it to hold a heavy hammer over the landowner's head. In fact, the City had to
16 go out of state to find an attorney to handle this case. So, in addition to hiring McDonald Carano
17 (one of the larger firms in Nevada) the City also hire Shute Mihaly and Weinberg from San
18 Francisco. Accordingly, the City had two separate law firms submitting work that the
19 Landowners' Counsel had to address. This shows not only the inherent difficulty of the issues in
20 this case, but also how the City unnecessarily made those issues more difficult.

21 Therefore, Factor #2 justifies an enhanced attorney fee.

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- **HSU FACTOR #3 - THE SKILL REQUIRED TO PERFORM THE SERVICES**

and

- **HSU FACTOR #9 - THE REPUTATION, EXPERIENCE, AND ABILITY OF THE ATTORNEY**

As Factors #3 and #9 are interrelated, these two Factors will be analyzed together.

In regards to Factor #3, eminent domain / inverse condemnation is a very specialized area of law that involves complicated and difficult issues. Nichols on Eminent Domain, the foremost authority on eminent domain law has over 20 volumes that discuss the law in this area, demonstrating there are many unique nuances of inverse condemnation law. Nevada's eminent domain statutes (Chapter 37) fall under TITLE 3 – which are referred to as “special actions and proceedings.” The Nevada State Constitution dedicates nine provisions to eminent domain in Article 1, Section 22. It is beyond dispute that this is a very specialized area of law that very few attorneys practice in and requires a specific skill set. This is further evidenced by the fact that, McDonald Carano, one of the larger firms in Nevada had to associate counsel in from San Francisco to litigate the Landowners' inverse condemnation claims. Therefore, Factor #3 justifies an enhanced attorney fee.

In regard to Factor #9, the Law Offices of Kermitt L. Waters' eminent domain and inverse condemnation expertise is incomparable. As will be explained, the attorneys with the Law Offices of Kermitt L. Waters have, combined, over **110 years** of legal expertise in Nevada eminent domain and inverse condemnation law. They are responsible for most of Nevada's eminent domain caselaw and drafted in its entirety the nine eminent domain provisions in Nevada's Constitution. In fact, the Law Offices of Kermitt L. Waters represented Mr. Hsu for over 14 years, which resulted in the Hsu case that includes the 12 Factors that guides this Court's award of attorney fees in this case.

1 **Kermitt L. Waters** has practiced exclusively in the area of eminent domain and inverse
2 condemnation in the State of Nevada for over 50 years. *See Exhibit 1, Declaration of Kermitt L.*
3 *Waters for all facts relevant to his expertise.* He has represented 100s of landowners at the district
4 court and appellate court levels in Nevada and has recovered more for landowners than any other
5 attorney in the history of Nevada. The Owners’ Counsel of America is a network of attorneys who
6 represents landowners across the country and chooses only one lawyer from each State to be a
7 member and Mr. Waters was chosen for Nevada. Mr. Waters has more published and unpublished
8 Nevada Supreme Court eminent domain and inverse condemnation cases than any other attorney
9 in the history of Nevada. In 2005 – 2006, Mr. Waters drafted 9 eminent domain and inverse
10 condemnation provisions to be added to the Nevada Constitution through amendment and
11 personally financed the ballot initiative, which included being personally sued by many
12 government entities trying to stop the initiative. The people of Nevada overwhelmingly voted in
13 2006 and 2008 to amend the Constitution to adopt the nine provisions drafted by Mr. Waters which
14 are now part of the Nevada Constitution. *See Nev. Const. art. 1, sec. 22 (1) – (9).* Mr. Waters was
15 also Arby Alper’s trial counsel, in the Alper case, which has been heavily cited in all three phases
16 of this case. In summary, Mr. Waters’ work has resulted in numerous published and unpublished
17 eminent domain and inverse condemnation Supreme Court decisions and he drafted the eminent
18 domain provisions in the Nevada Constitution.

19 Although Mr. Waters did not present the majority of oral arguments, he was always present
20 during strategy meetings and at the hearings, providing wisdom and guidance on how the case
21 must proceed. As stated by former Las Vegas Mayor, Jan Laverty Jones, “I don’t think anyone is
22 more powerful in their representation of a client ... He’s passionate, he’s dogged.” The Law
23 Offices of Kermitt L. Waters has the reputation of being the “preeminent eminent domain firm on
24

1 the West Coast.” *See Exhibit 1, Declaration of Kermitt L. Waters for all facts relevant to his*
2 *expertise.* Mr. Waters’ contribution and work in this matter was incomparable.

3 **James Jack Leavitt** has practiced exclusively in the area of eminent domain and inverse
4 condemnation in the State of Nevada for over 25 years. *See Exhibit 2, Declaration of James Jack*
5 *Leavitt for all facts relevant to his expertise.* He went to work for Mr. Waters during his second
6 year of law school in 1995. He passed the Nevada State Bar prior to his final semester of law
7 school (Nevada allowed that back in 1995). After graduating, he continued his work with Mr.
8 Waters and has been with him ever since. Like Mr. Waters, Mr. Leavitt has limited his practice
9 exclusively to eminent domain and inverse condemnation for his entire career, having briefed,
10 argued, and presented cases to the Nevada judiciary on nearly every issue a Nevada landowner
11 may face when the government takes their property, frequently issues of first impression in
12 Nevada. Mr. Leavitt has testified at the Nevada Legislature on behalf of proposed eminent domain
13 legislation, he assisted Mr. Waters with drafting the Nevada Constitution’s eminent domain
14 provisions (as explained above), he has argued many eminent domain cases to the Nevada Supreme
15 Court, again, frequently issues of first impression, and he appears as counsel on many published
16 eminent domain decisions in Nevada. Mr. Leavitt has Co-chaired CLE seminars on eminent
17 domain and has frequently presented at conferences on eminent domain issues.

18 **Autumn L. Waters** has practiced exclusively in the area of eminent domain and inverse
19 condemnation in the State of Nevada for over 18 years. *See Exhibit 3, Declaration of Autumn L.*
20 *Waters for all facts relevant to her expertise.* Ms. Waters worked for the Law Offices of Kermitt
21 L. Waters during law school and then joined the firm in 2003 directly out of law school and has
22 dedicated her entire practice to eminent domain and inverse condemnation. Ms. Waters has
23 represented Nevada landowners in a wide variety of eminent domain and inverse condemnation
24 cases, including preparing Amicus Curiae briefs to the Nevada Supreme Court in defense of Article

1 1, Section 22, to ensure the protections intended by the amendments were maintained. Ms. Waters
2 has practiced in both state and federal court at both the trial and appellate court levels dealing with
3 unique and complex takings issues. Ms. Waters has chaired several CLE seminars dedicated to
4 eminent domain and inverse condemnation.

5 **Michael A. Schneider** has practiced exclusively in the area of eminent domain and inverse
6 condemnation in the State of Nevada for over 18 years. *See Exhibit 4, Declaration of Michael A.*
7 *Schneider for all facts relevant to his expertise.* Like both Mr. Leavitt and Ms. Waters, Mr.
8 Schneider worked for the Law Offices of Kermitt L. Waters while in law school and upon
9 graduation continued working with Mr. Waters and has for his entire career. Mr. Schneider has
10 litigated some of the most complex eminent domain and inverse condemnation cases in the State
11 of Nevada and has been instrumental in recovering millions of dollars for Nevada landowners. Mr.
12 Schneider has briefed numerous eminent domain matters before the Nevada Supreme Court,
13 including matters of first impression. He assisted Mr. Waters with drafting the constitutional
14 provisions on eminent domain which were adopted in Nevada and are now the operative law in
15 the state. Mr. Schneider has presented eminent domain topics at both national and regional CLE
16 seminars and has co-authored ABA publications on eminent domain law for the State of
17 Nevada.

18 In summary, this combined over 110 years of practicing exclusively in the area of eminent
19 domain and inverse condemnation in the State of Nevada has resulted in a reputation for the Law
20 Offices of Kermitt L. Waters, as the “preeminent eminent domain firm on the west coast.” *See*
21 *Exhibit 1, Declaration of Kermitt L. Waters for all facts relevant to his expertise.*

22 Therefore, Factors #3 and #9 justify an enhanced attorney fee.

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1 • **HSU FACTOR #4 - THE AMOUNT OF TIME TAKEN AWAY FROM**
2 **OTHER WORK**

3 As explained above and as this Court saw over the past four years, it is beyond dispute that
4 this case would cause a smaller law firm, like the Law Offices of Kermitt L. Waters, to take time
5 away from other work. For four years the City buried the Landowners' Counsel with improper
6 motions to dismiss, improper orders, improper removal to federal court, discovery, motions to
7 compel, extensive pleadings, repeated and extensive citations to inapplicable petition for judicial
8 review law, and **excessive** re-argument of already settled facts and law. The City even repeatedly
9 re-argued issues to the Court that the Court had already decided. The Law Offices of Kermitt L.
10 Waters is a small firm with four attorneys and it was impossible to maintain a full calendar of cases
11 during this four-year period. There were times when this 35 Acre Case occupied all or nearly all
12 of the time of all attorneys at the Law Offices of Kermitt L. Waters. And, there were several
13 occasions over the past four years when cases were turned down due to the time needed to manage
14 this 35 Acre Case. *See Exhibit 2, Declaration of James Jack Leavitt.* Therefore, Factor #4 justifies
15 an enhanced attorney fee.

16 • **HSU FACTOR #5 - THE CUSTOMARY FEE**

17 When deciding Factor #5, the Court should consider the "rates and practices prevailing in
18 the relevant market." City of Burlington v. Dague, 505 U.S. 557, 567 (1992). The Court should
19 also consider that eminent domain and inverse condemnation is a very unique and specialized area
20 of practice. In this connection, as explained above, perhaps the best evidence of an appropriate
21 hourly rate for specialized eminent domain counsel is the \$1,392 hourly rate awarded in the Sisolak
22 inverse condemnation case. As explained, in Sisolak, the Court awarded a fee of \$1,950,000,
23 based on an "estimate" of 1,400 hours worked, which amounts to \$1,392 per hour. And, that
24 hourly rate was approved over 15 years ago.

1 Based on the over 110 years of combined inverse condemnation experience and using the
2 Sisolak decision as a guide, a reasonable hourly rate for this inverse condemnation case is as
3 follows:

4	Kermitt L. Waters (over 50 years experience)	\$1,500 per hour
5	James Jack Leavitt (over 25 years experience)	\$1,300 per hour
6	Autumn Waters (over 18 years experience)	\$ 800 per hour
7	Michael Schneider (over 18 years experience)	\$ 800 per hour

8 Therefore, Factor #5 justifies an enhanced attorney fee and the hourly rates above should
9 be used to determine the enhanced attorney fee, which is calculated below.

10 • **HSU FACTOR #6 - WHETHER THE FEE IS FIXED OR**
11 **CONTINGENT**

12 While a contingency fee comes with an acknowledged risk that the attorney will receive
13 no payment, which is not present here, the Landowners' Counsel did apply a significant reduction
14 in their hourly rate to ensure that the Landowners were able to pursue their constitutional rights.
15 This should be considered in applying an upward adjustment.

16 • **HSU FACTOR #7 - THE TIME LIMITATIONS IMPOSED ON THE**
ATTORNEY BY THE CASE

17 The Landowners were paying to maintain property the City had taken which was a great
18 financial strain. This imposed time limitations on the Landowners' Counsel to pursue matters as
19 quickly as possible, despite the City's litigation strategy to hire two separate law firms to litigate
20 the Landowners into submission. Defending against the City's litigation strategy was all
21 consuming at times. Factor #7 justifies an enhanced fee.

22 • **HSU FACTOR #8 - THE AMOUNT OF MONEY INVOLVED AND**
23 **THE RESULTS OBTAINED**

24 The City denied liability, claiming not to owe the Landowners any money for the taking of
the 35 Acre Property. The Landowners' appraiser valued the property at nearly \$35 Million. That

1 is a tremendous spread and it is not yet complete. The Landowners will also be entitled to interest
2 which will increase that spread even more - the Nevada Supreme Court has held that prejudgment
3 interest is part of the just compensation award and this prejudgment interest will be calculated by
4 the Court post trial pursuant to NRS 37.175. *See Clark County v. Alper*, 100 Nev. 382 (1984).

5 Also, the Landowners prevailed at every phase of these proceedings - the property interest,
6 take, and value phases - despite lengthy opposition over a four-year period. The Landowners also
7 defeated numerous attempts to dismiss this matter, including defeating the City's Writ Petition to
8 the Nevada Supreme Court. At the end of the day, the Court entered a judgment in favor of the
9 Landowners for the exact amount the Landowners' appraiser valued the property at - \$34,135,000.
10 *See FFCL Re: Just Compensation, filed November 18, 2021.*

11 The amount of money involved in this matter is significant and the results the Landowners'
12 Counsel obtained speak for themselves.

13 Therefore, Factor #8 justifies an enhanced attorney fee.

14 • **HSU FACTOR #10 - THE LACK OF DESIRABILITY OF THE CASE**

15 Anytime a party has to fight the unlimited resources of the government, it is an undesirable
16 case. This case was even more challenging as the Landowners were suffering every month with
17 excessive carrying costs associated with being an involuntary trustee for the City. It is not
18 desirable to have a client who is suffering under the weight of City Hall (literally). Second, as this
19 Court will recall, the City's private counsel explained on September 24, 2021, during the hearings
20 on the take issue that the denial of the fence application was, perhaps, "politically charged" and
21 there is no doubt that the facts of this case bore this out. In fact, numerous judges have recused
22 themselves from the companion cases, arguably reflecting on the lack of desirability of these cases.
23 Third, the tenor of the City's counsel has made this case lack desirability. In nearly every brief,
24 the City has accused the Landowners' Counsel of filing frivolous claims stating "It is hard to

1 conceive of a greater abuse of the legal system than this case.”⁵ The City’s counsel has called the
2 Landowners’ Counsel’s argument “absurd,” just to name one of the insulting comments the
3 Landowners’ Counsel has had to endure. And, at every turn, the City’s counsel improperly alleged
4 that Landowners’ Counsel was “misrepresenting” the law. The barrage of insults from the City
5 has added to the lack of desirability of this case.

6 Therefore, Factor #10 justifies an enhanced attorney fee.

7 • **HSU FACTOR #11 - THE LENGTH OF THE ACQUAINTANCESHIP**
8 **WITH THE CLIENT**

9 The Law Offices of Kermit L. Waters has represented the Landowners from the very
10 beginning of this inverse condemnation case, from August, 2017, to present. Therefore, this Factor
11 #11 justifies an enhanced attorney fee.

12 • **HSU FACTOR #12 - AWARDS IN SIMILAR CASES**

13 The seminal inverse condemnation case of Sisolak provides a bench mark of the success
14 obtained in this case and the appropriate fee enhancement. In Sisolak, Governor Sisolak retained
15 two expert appraisers who valued his taken airspace at \$6,980,000 and \$6,970,000, the
16 Government had valued the taken airspace at \$200,000. Sisolak, at 657. The jury returned a
17 verdict of \$6,500,000, which is \$480,000 and \$470,000 less than Governor Sisolak’s expert
18 appraisers’ values. Id. Based on the success in Sisolak case, Judge Mark Denton awarded Mr.
19 Sisolak’s lawyer an enhanced attorney fee of \$1,392 per hour (total of \$1,950,000 for 1,400 hours
20 of work). The Nevada Supreme Court affirmed this \$1,392 per hour attorney fee.

21 Here, the Landowners obtained an award of \$34,135,000 – the exact value opined by the
22 Landowners’ expert appraiser, Tio DiFederico. Therefore, the result in this case was not only
23 higher, but it was not reduced below the value of the Landowners’ appraiser’s value, as was the
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⁵ City Opp. and CM for Summary Judgment date August 25, 2021 at 2:5.

1 award in the Sisolak case. Therefore, the Landowners’ success in this case exceeds that in the
2 Sisolak case. Accordingly, an hourly rate commensurate with the \$1,392 per hour fee awarded in
3 Sisolak, adjusted upward for time, is appropriate.

4 Therefore, Factor #12 justifies an enhanced attorney fee.

5 **3. Requested Attorney Fee.**

6 As explained above, the total attorney fees paid to the Law Offices of Kerritt L. Waters
7 to date in this 35 Acre Case is \$2,165,359.50, based on a blended reduced rate of \$450 per hour
8 (from August, 2017 to May, 2019) and \$675 per hour (from June, 2019 – November, 2021).

9 However, an enhanced fee is appropriate here. Based on the argument above, the following
10 is a summary of the hours worked for each attorney at the Law Offices of Kerritt L. Waters and
11 the requested enhanced hourly rate:

12	Kerritt L. Waters – 217.9 hours x \$1,500 per hour =	\$326,850.00
13	James Jack Leavitt – 1,338.45 hours x \$1,300 per hour =	\$1,739,985.00
14	Autumn Waters – 1,446.68 hours x \$800 per hour =	\$917,344.00
15	Michael Schneider – 533.22 hours x \$800 per hour =	\$426,576.00
16	TOTAL	\$3,410,755.00

17 **III. CONCLUSION**

18 As explained, the second step to calculate attorney’s fees set forth in Hsu, provides that the
19 Court use its “sound discretion” and consider the 12 Hsu Factors to “adjust this fee award.” The
20 Supreme Court clearly intended that the 12 Hsu Factors be considered by the Court to adjust the
21 fee upward. Otherwise, there would have been no reason to include these 12 Factors to “adjust”
22 the fee; the Nevada Supreme Court could have merely ordered a straight calculation of hours
23 worked multiplied by a reasonable hourly rate. Moreover, it is clear that the application of the 12
24 Hsu Factors warrants an upward adjustment of the attorney fee. Furthermore, the City’s litigation

1 tactics in this case warrant an upward adjustment, to not only encourage counsel to take difficult
2 constitutional cases such as this, but also to discourage the government from trying to suppress
3 constitutional rights through a war of attrition.

4 Based on the foregoing, the Landowners' request an attorney fee award in the amount of
5 **\$3,410,755.00**. The Landowners also request reimbursement of fees paid for the Law Offices of
6 Kermitt L. Waters legal assistants in the amount of **\$44,912.50**.

7 DATED this 9th day of December, 2021.

8 **LAW OFFICES OF KERMITT L. WATERS**

9 /s/ Autumn L. Waters
10 Kermitt L. Waters, Esq. (NSB 2571)
11 James J. Leavitt, Esq. (NSB 6032)
12 Michael A. Schneider, Esq. (NSB 8887)
13 Autumn L. Waters, Esq. (NSB 8917)
14 704 South Ninth Street
15 Las Vegas, Nevada 89101
16 Telephone: (702) 733-8877
17 Facsimile: (702) 731-1964
18 ***Attorneys for Plaintiffs Landowners***
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McDONALD CARANO LLP
George F. Ogilvie III, Esq.
Christopher Molina, Esq.
2300 W. Sahara Avenue, Suite 1200
Las Vegas, Nevada 89102
gogilvie@mcdonaldcarano.com
cmolina@mcdonaldcarano.com

SHUTE, MIHALY & WEINBERGER, LLP
 Andrew W. Schwartz, Esq.
 Lauren M. Tarpey, Esq.
 396 Hayes Street
 San Francisco, California 94102
schwartz@smwlaw.com
ltarpey@smwlaw.com

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