



# WASHOE COUNTY

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Other \_\_\_\_\_

## STAFF REPORT

BOARD MEETING DATE: April 28, 2015

**DATE:** April 27, 2015  
**TO:** Board of County Commissioners  
**FROM:** Paul A. Lipparelli, Assistant Washoe County District Attorney

**SUBJECT:** Discussion and possible action on settlement agreement between Washoe County and Nevada Land, LLC which resolves legal disputes regarding property taxes for Aces Ballpark parcels (including lawsuits), provides for the terms of the payment of past property taxes, provides for contribution of county share of future baseball stadium parcel property tax proceeds for community benefit and, providing for the release and waiver of certain claims relating to baseball stadium property taxes and other matters properly relating thereto.

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### SUMMARY

The proposed settlement agreement would resolve the County's disputes with Nevada Land concerning 5 years of unpaid property taxes by having Nevada Land pay the full amount of the taxes owed in 4 installments.

### BACKGROUND

*The Stadium Project.* Ace's Ballpark in Reno is located at 250 Evans Avenue on approximately 7.5 acres (APN 011-450-20 for tax year 2009 and 2010 and as APN 011-450-22 for tax years 2011, 2012, 2013 and 2014). The land is owned by Nevada Land, LLC and the baseball stadium improvements are owned by Redevelopment Agency of the City of Reno ("RDA"). The stadium is leased to the baseball team which is legally separate from Nevada Land. The baseball stadium was constructed in 2008-2009 and opened on April 17, 2009. Each year property taxes have been assessed to the landowner Nevada Land and remain unpaid.

The stadium was constructed by the baseball developers at an approximate construction cost of \$58 million and the total development costs including land acquisition and relocation expenses were approximately \$85 million. The stadium project was a public-private venture involving a special taxing district formed by the City of Reno which was designed to direct the growth in property tax collections in the district back to the baseball developers (Tax Increment District). The proceeds of approximately \$30M in rental car tax bonds approved by Washoe County in February of 2008 were transferred to the City of Reno and the RDA for the stadium project and by statute could be used only for a minor league baseball stadium project. NRS 244A.810. Short-term commercial loans in the approximate amount of \$55 million were used by the developers to cover the total project costs.

The RDA, the City and the baseball developers anticipated the incremental growth in property tax revenue from the Tax Increment District and Star bond revenues (the “Expected Revenue”) would exceed \$1M per year and would perhaps be as much as \$2.5M. The Expected Revenue was to be directed to the baseball developers through a set of complex and comprehensive agreements and would be available to pay off the developer’s commercial loan. However, the Great Recession hit and property tax values in the Tax Increment District declined significantly reducing or eliminating property tax revenue attributable to incremental growth. The total taxable value of real property in Washoe County declined about 30% from \$17.2 billion in tax year 2008-09 to \$12.2 billion in tax year 2012-13. About the same time the first payments were expected by the baseball developers from the RDA from the Expected Revenues, the property tax bills for the improved parcels were becoming due. Baseball has informed county officials that it deferred its property tax payments until the problems with the Tax Increment District payment could be resolved.

*The RDA Property Tax Allocation Claims.* In early 2010, not long after it was clear the Expected Revenues would not materialize, the baseball developers began exploring ideas that property taxes revenues were not being properly allocated by the county to the RDA. They pointed out that some tax exempt parcels were being improperly assessed affecting the base level of taxes in the Tax Increment District and also argued that a minimum amount of property taxes were due to redevelopment agencies to secure the repayment of their debts. The theory was based on a statute that was enacted in 1987 that imposed a cap on revenues that could be paid to redevelopment agencies and the Legislature’s intent to protect bondholders against an unconstitutional impairment of their bond agreements with the redevelopment agencies. NRS 279.676. Baseball shared its findings with the City and the RDA.

The drastic dip in property tax revenues caused the insurers of RDA debt to become concerned about the RDA meeting its obligations to bond holders. City and RDA officials began meetings with representatives of the bond insurers and later the State Department of Taxation. On August 31, 2011 the Nevada Attorney General issued an opinion that supported minimum payment theory followed by a supplemental opinion on September 16, 2011. On October 14, 2011 the Washoe County District Attorney issued an opinion to the County Treasurer differing from the Attorney General. Also in October, the City Manager wrote a claim letter to Washoe County for payment of \$2.7M of RDA tax allocations for the 2011/2012 tax year and requested a meeting to discuss prior years. Settlement discussions ensued between the RDA, the County and the other recipients of property tax allocations. On August 28, 2012 after almost a year of meetings and negotiations the Board of County Commissioners approved a settlement agreement that resulted in a \$5,584,223 payment to the RDA. The infusion of settlement proceeds had the additional benefit of keeping the RDA from defaulting on RDA debt which would have had extremely negative financial effects for the entire region and would have disabled the RDA from restructuring its deal with baseball. Nevada Land and its affiliates believe they would have received the Expected Revenue or a larger portion of the Expected Revenue than it actually received if the assessed valuation of tax-exempt parcels had been properly removed from the tax roll pursuant to NRS 361.676 and the RDA would have received property tax distributions that reflected proper minimum payments under NRS 279.676. Nevada Land and its affiliates believe they were disadvantaged by the settlement that resulted in \$5,584,233 being paid to the RDA.

*The City's Forbearance and Restructuring Agreement.* About the same time the RDA tax allocation dispute was being discussed and negotiated, the baseball developers, the City and the RDA recognized that the Expected Revenue was not realized and there would be no funds to discharge the construction financing. Those parties began a long and difficult process of negotiating and agreeing to a restructuring of their agreements relating to the Expected Revenue ("RDA/City Settlement Agreement"). The RDA/City Settlement Agreement included, among other things, agreements to restructure the Stadium Ground Lease and the Stadium Lease, to establish replacement support payments from the City, to restructure loans and to potentially restructure the Construction Financing. The Board of County Commissioners received an update on the RDA/City Settlement Agreement on October 9, 2012. That report included a summary from the director of the University of Nevada Center for Economic Development that estimated with annual expenditures of \$11.7M and annual employment of 677 jobs, the Reno Aces produced a total economic impact to the regional economy of \$21.1M per year.

*Tolling Agreement.* In 2012, Nevada Land and Washoe County entered into a tolling agreement to provide time to explore resolution of the back tax issue, as well as, issues concerning the property tax treatment of the Subject Property in future tax years and the County's participation in the Baseball Stadium Authority. Pursuant to the tolling agreement the Parties agreed that "time defenses" such as the statute of limitations, waiver and estoppel will not commence while the tolling agreement is in effect.

*The Distinct Tax Collection Process Applicable to Nevada Land Lease.* The RDA's ownership of the stadium would usually render it tax exempt, but the Washoe County Assessor has assessed the RDA's lease of the stadium to Nevada Land pursuant to NRS 361.157 which provides that the leasehold interest, possessory interest, beneficial interest or beneficial use of real estate which is otherwise tax exempt is subject to taxation. Pursuant to this section, Nevada Land has been billed \$1,946,049.36 in property taxes (not including penalties and interest) on the subject property for tax years 2009, 2010, 2011, 2012, 2013 and 2014. Taxes assessed in this manner do not become a lien against the property, but constitute debt which if unpaid is "recoverable by the county through a civil action in a proper court." NRS 361.157(3). Many have noted that owners of ordinary residential or commercial property who fail to pay their taxes are subjected to liens and an eventual tax sale. That is indeed what happens to such property owners under NRS 361.5648 et.seq. That process is not available to collect unpaid property taxes for lessees or users of tax exempt real estate and the specific remedy of a civil suit is provided in NRS 361.157.

Nevada Land disputes that the Subject Property is subject to NRS 361.157 and claims that the Subject Property should be exempt. Additionally, Nevada Land has pursued adjustments of its property taxes at the County and State Boards of Equalization with some success.

On June 10, 2013 the Washoe County Treasurer issued a Certified List of Delinquencies which included the stadium parcel. Upon the issuance of that list the Washoe County District Attorney may, or shall when directed by the Board of County Commissioners, commence an action for the collection of the delinquent taxes. NRS 361.635. Shortly thereafter the District Attorney, upon direction from the Board, issued a demand letter for the payment of property taxes. With guidance from the prior Board of County Commissioners and the present one, the District Attorney's office has been engaged

in settlement discussions with representatives of the baseball developers. Mr. Herb Simon, the principal owner of the baseball development group, got personally involved in the discussions in the summer of 2014 and the proposed settlement is the product of about 9 months of efforts between the parties.

The District Attorney has filed a complaint in the Second Judicial District Court for the delinquent taxes for the 2009 through 2014 tax years.

*The Proposed Settlement.* Under the terms of the proposed settlement, the parties agree as follows:

- Baseball would pay the entire amount of the property taxes assessed for the 2009-2014 tax years (the amount currently outstanding) for a total of \$1,946,049.36.
- The penalties, interest and costs totaling approximately \$803,678.10 are waived.
- If Baseball keeps its future property taxes current and complies with the terms of the settlement agreement, the County will contribute to the stadium authority the portion of the proceeds of the stadium parcel attributable to the County general fund which would be approximately \$75,000 to \$80,000 for the 2015/16 tax year.
- The County's contributions to the stadium authority may be discontinued by the County if Nevada Land sells or otherwise transfers the Subject Property, enters bankruptcy, or fails to perform under or otherwise breaches this agreement or if Nevada Land or its affiliates cease to use the stadium for a minor league baseball stadium for the games of an affiliate of Major league Baseball.
- The complaint for delinquent taxes would be dismissed and the parties, while reserving their rights regarding future property tax disputes, are agreeing to release one another for past property taxes disputes and agree not to sue regarding past tax disputes.

The terms of the proposed settlement agreement represent compromise. As in all compromises and settlements, neither party gets everything it believes it is owed. This proposed settlement would end 5 years of disputes and provide a fresh start for the County and the taxpayers. The proposed settlement would avoid the potentially high cost of protracted property tax litigation. This litigation could grow to include involve a challenge to the County's 2012 RDA settlement which by itself involves over a year of negotiations and dozens of witnesses. The parties would also avoid the need for expensive expert witnesses and attorneys experienced at tax litigation. The litigation with Incline Village property tax payers has lasted more than 10 years with several trips to the Nevada Supreme Court. While the Incline Village cases involve different legal concepts, they are an example of how difficult and uncertain tax litigation can be.

Property tax bills become due on the third Monday in August. NRS 361.483. Taxpayers can elect to pay in equal installments throughout the years. NRS 361.483. Before the Treasurer is required by statute to take action to collect more typical property taxes by taking trustee deeds and proceeding to forced sale, she has some discretion to allow taxpayers to make installment payments. Based on these concepts, the proposed settlement allows Baseball to make its payments over 4 years.

### **FISCAL IMPACT**

The four \$486,513 payments to be made to the County under the proposed agreement will be allocated by the Treasurer according to state law. The County General Fund would have been allocated the following approximate amounts for 2009/10 through 2014/15: \$44,000; \$59,000; \$79,000; \$75,000; \$81,000; and \$72,000. It is estimated that the County promise to contribute the General Fund share of the property tax collections from the baseball stadium parcel for 2015/2016 will be between \$75,000 and \$80,000. The amounts for future years will depend on the future tax bills and should roughly track the trends in property tax values. If Baseball succeeds in reducing or eliminating its obligations to pay future property taxes through restructuring of its ownership of the land and the stadium or through challenges to its tax amounts, the County's obligations to contribute to the stadium authority will be reduced correspondingly.

### **RECOMMENDATION**

It is recommended that the Board of County Commissioners approve the proposed settlement agreement between Washoe County and Nevada Land, LLC which resolves legal disputes regarding property taxes for Aces Ballpark parcels (including lawsuits), provides for the terms of the payment of past property taxes, provides for contribution of county share of future baseball stadium parcel property tax proceeds for community benefit and, providing for the release and waiver of certain claims relating to baseball stadium property taxes and other matters properly relating thereto.

### **POSSIBLE MOTION**

Should the Board agree with staff's recommendation, a possible motion would be to approve the proposed settlement agreement between Washoe County and Nevada Land, LLC which resolves legal disputes regarding property taxes for Aces Ballpark parcels (including lawsuits), provides for the terms of the payment of past property taxes, provides for contribution of county share of future baseball stadium parcel property tax proceeds for community benefit and, providing for the release and waiver of certain claims relating to baseball stadium property taxes and other matters properly relating thereto.

## Settlement Agreement

This Settlement Agreement (“Agreement”) is made and entered into as of the Effective Date by and among Nevada Land, LLC, a Nevada limited liability company (“Nevada Land”), and the County of Washoe, a legal subdivision of the State of Nevada (“Washoe County”), who are collectively referred to herein as the “Parties”.

### Recitals

1. The real property identified by the Washoe County Assessor as APN 011-450-20 for tax year 2009 and 2010 and as APN 011-450-22 for tax years 2011, 2012, 2013 and 2014 has a land area of approximately 7.5 acres (the “Land Area”) and is improved with a baseball stadium, restaurants, bars and a retail store (the “Baseball Stadium”). Together the Land Area and Baseball Stadium are referred to as the “Subject Property”.

2. The Land Area is owned by Nevada Land and is leased to the Redevelopment Agency of the City of Reno (“RDA”) pursuant to a ground lease (the “Stadium Ground Lease”).

3. To assist in the financing of construction of the Baseball Stadium on the Land Area, the RDA and the City of Reno (the “City”) formed a special taxing district, a portion of the revenue from which would be paid to Nevada Land, or its affiliates, and Washoe County issued rental car tax bonds the proceeds of which were distributed to the City and RDA for use in construction of the Baseball Stadium.

4. The RDA, the City and Nevada Land anticipated that Nevada Land would be able to repay the cost of constructing the Baseball Stadium through funds Nevada Land received from (i) the RDA as proceeds of rental car tax bonds issued by Washoe County; (ii) incremental growth in property tax revenue from such special taxing district; and (iii) Star bond revenues (the “Expected Revenue”).

5. The Baseball Stadium was constructed for the RDA by Nevada Land, or its affiliates, at an approximate construction cost of \$58 million and approximate total development cost of \$85 million (including land acquisition and relocation costs). The financing of the cost of construction not paid by the proceeds of rental car tax bonds was provided, in large part, by Deutsche Bank and Nevada Land, or its affiliates, remains responsible for repayment of approximately \$55 million to Deutsche Bank (the “Construction Financing”).

6. The Baseball Stadium is owned by the RDA. The RDA has leased the Land Area and the Baseball Stadium to Nevada Land (the “Stadium Lease”).

7. The Subject Property and the AAA Pacific Coast League team currently using the Baseball Stadium are very popular in the community and have stimulated economic activity in the vicinity of the stadium and regionally.

8. Despite the success of the Subject Property, the Expected Revenue did not meet the expectations of the City and the RDA and payments to Nevada Land or its affiliates were not made or, if made, were less than expected.

9. As a result of the Great Recession, property tax values in the special taxing district declined (the total taxable value of real property in Washoe County declined from \$17.2 billion

in tax year 2008-09 to \$12.2 billion in tax year 2012-13) significantly reducing or eliminating property tax revenue attributable to incremental growth.

10. The City, Washoe County, Washoe County School District and the State of Nevada have agreed to the settlement of disputed claims concerning the allocation, pursuant to NRS 297.676(1)(a) and NRS 279.676(3), of tax revenue in prior tax years. Pursuant to the Settlement Agreement the settling parties agreed to pay the RDA \$5,584,223.

11. Nevada Land and its affiliates believe they would have received the Expected Revenue or a larger portion of the Expected Revenue than it actually received if the assessed valuation of tax-exempt parcels had been properly removed from the tax roll pursuant to NRS 361.676 and the RDA would have received property tax distributions that reflected proper minimum payments under NRS 279.676. Nevada Land and its affiliates believe they were disadvantaged by the settlement between Washoe County, the City, the Washoe County School District and the State of Nevada that resulted in \$5,584,233 being paid to the RDA.

12. Nevada Land, the City and the RDA recognized that the Expected Revenue is not sufficient to discharge the Construction Financing and, therefore, agreed to restructure their agreements relating to the Expected Revenue ("RDA/City Settlement Agreement"). The RDA/City Settlement Agreement included, among other things, agreements to restructure the Stadium Ground Lease and the Stadium Lease, to establish replacement support payments from the City, to restructure loans and to potentially restructure the Construction Financing. However, even after the RDA/City Settlement Agreement, if all funds to which Nevada Land is entitled over the term of the agreement were immediately available, it would not be sufficient to discharge the Construction Financing.

13. The RDA/City Settlement Agreement contemplates Washoe County's participation in the formation of a Baseball Stadium Authority by Intergovernmental Agreement pursuant to NRS Chapter 277.

14. Washoe County collects and distributes property taxes for itself and on behalf of other taxing entities within the county. The Washoe County Assessor has assessed the RDA's lease of the Baseball Stadium to Nevada Land pursuant to NRS 361.157. Pursuant to this section, Nevada Land has been billed \$1,946,049.36 in property taxes (not including penalties and interest) on the Subject Property for tax years 2009, 2010, 2011, 2012, 2013 and 2014. The amount of tax assessed annually for this period is summarized on Exhibit 1, which is attached hereto and incorporated into this Agreement. Tax assessed pursuant to NRS 361.157 does not become a lien against the property, but is a debt which if unpaid is recoverable by the county through a civil action in a proper court.

15. Nevada Land disputes that the Subject Property is subject to NRS 361.157 and claims that the Subject Property should be exempt.

16. In 2012, Nevada Land and Washoe County entered into a tolling agreement to provide time to explore resolution of the back tax issue, as well as, issues concerning the property tax treatment of the Subject Property in future tax years and the County's participation in the Baseball Stadium Authority. Pursuant to the tolling agreement the Parties agreed that "time defenses" such as the statute of limitations, waiver and estoppel will not commence while the tolling agreement is in effect.

17. On behalf of Washoe County, the Washoe County District Attorney commenced a civil action against Nevada Land in the Second Judicial District of the State of Nevada to pursue Nevada Land's unpaid property taxes and the related penalties, interest and fees for the Subject Tax Years (the "Property Tax Complaint").

18. The Parties have agreed to compromise and settle the disputes and litigation among them and this Agreement represents the definitive, formal agreement of the parties to compromise and settle their disputes and litigation.

**In consideration of the mutual conditions, covenants and terms contained in this Agreement including the recitals above, the parties agree:**

1. Definitions. In addition to the definitions stated in the preceding recitals, the following defined terms, wherever used in this Agreement, shall have the meanings described below:

1.1 "Effective Date" means the date on which this Agreement has been signed by all of the Parties.

1.2 "Nevada Land" means Nevada Land, LLC, a Nevada limited liability company, and its assigns and successors in interest.

1.3 "Subject Property" is defined in Recital 2 above.

1.4 "Subject Tax Years" means 2009, 2010, 2011, 2012, 2013 and 2014 as tax years under the Nevada property tax laws.

1.5 "Washoe County" means Washoe County, a political subdivision of the State of Nevada, and its elected and appointed officials, officers, managers, employees, attorneys, contractors, agents, successors in interest, assigns and all other affiliated persons or entities in their personal and official capacities.

## 2. Payment and Consideration.

2.1 Nevada Land shall pay Washoe County and/or its assignee(s) or designee(s) a total of \$1,946,049.36, and no more, to be allocated among tax receiving entities by Washoe County in accordance with the Nevada law on distribution of property taxes. The foregoing payment shall be as and for consideration for all covenants and promises of Nevada Land as contained in this Agreement, relating to the Subject Property for the Subject Tax Years. This sum may be paid in cash, certified check, or by wire transfer at once or in accordance with the following schedule at the discretion of Nevada Land:

- \$486,513.36 has been submitted with this Agreement, and
- \$486,512.00 on or before June 1, 2016, and
- \$486,512.00 on or before June 1, 2017, and
- \$486,512.00 on or before June 1, 2018.

The initial payment made by Nevada Land is to be applied first to the payment of taxes assessed for tax year 2014 or whatever other manner is deemed necessary to satisfy the requirements of NRS 278.5693 and any other local ordinance applicable to the recording of maps relating to boundary line adjustments.

2.2 Washoe County acknowledges and agrees that it has received adequate consideration for this Settlement Agreement. The County further agrees that the consideration set forth in this Settlement Agreement is accepted as full payment for any and all claims and demands, and claims for relief that would be asserted in the Property Tax Complaint for the Subject Property for the Subject Tax Years. Nevada Land acknowledges and agrees that it has received adequate consideration for this Agreement.

2.3 The penalties and interest which would attach to the unpaid taxes on the Subject Property for the Subject Tax Years are waived by Washoe County.

### 3. Future Tax Years.

3.1 This Agreement resolves disputed issues concerning the property tax treatment of the Subject Property for the Subject Tax Years. Nothing in this Agreement should be construed as an admission by Nevada Land that the Subject Property is subject to property tax in future tax years and the property tax treatment accorded the Subject Property for the Subject Tax Years should not be construed as precedent for how the Subject Property should be treated in future tax years.

3.2 The Parties acknowledge and agree that there are material issues concerning the property tax treatment of the Subject Property in future tax years, and Washoe County, as the entity that administers the property tax for itself and on behalf of the other taxing entities within the county, agrees to cooperate and work with Nevada Land to resolve those issues. If Nevada Land timely pays any future property taxes, Washoe County agrees to transfer its portion of any future property taxes attributable to the County General Fund up to a maximum of \$100,000 per year for the minor league baseball stadium project as defined in NRS 244A.800, to pay costs allowed by NRS 244A.810 for the Baseball Stadium. This County obligation may be extinguished in the County's sole discretion in the event Nevada Land sells or otherwise transfers the Subject Property, enters bankruptcy, or fails to perform under or otherwise breaches this agreement or if Nevada Land or its affiliates cease to use the stadium for a minor league baseball stadium for the games of an affiliate of Major league Baseball.

3.3 The Parties understand that a boundary line adjustment will be recorded. This will cause the land area of the Subject Property to change and as a consequence the Assessor will assign the property a new parcel number. The parties acknowledge and agree that the terms of this agreement regarding future taxes will continue to apply to the new parcel which includes the Baseball Stadium and the land on which it is located.

### 4. Dismissal of the Property Tax Complaint and Releases.

4.1 Washoe County shall cause its legal counsel to execute, deliver and file such stipulations, motions or requests as are required to cause the dismissal with prejudice of the Property Tax Complaint based on the terms of this Agreement.

4.2 Through this Agreement and stipulation, Washoe County, for itself and its elected and appointed officials, officers, employees, attorneys, contractors, agents, managers, successors in interest, assigns and all other affiliated persons or entities in their personal and official capacities, releases and forever discharges Nevada Land and its members, officers, employees, attorneys, contractors, agents, managers, successors in interest, assigns, and all other affiliated entities or persons, in their personal and official capacities, from any and all claims, demands, and claims for relief which relate to the events giving rise to the Property Tax Complaint.

4.3 Through this Agreement and stipulation Nevada Land, for itself and its members, officers, employees, attorneys, contractors, agents, managers, successors in interest, assigns and all other affiliated persons or entities in their personal and official capacities, releases and forever discharges the County and its officers, employees, attorneys, contractors, agents, managers, successors in interest, assigns, and all other affiliated entities or persons, in their personal and official capacities, from any and all claims, demands, and claims for relief which relate to the events giving rise to the Property Tax Complaint but only for the Subject Tax Years.

#### 5. Reservation of Rights.

The Parties acknowledge and agree that they each have rights and responsibilities in the assessment, payment and possible challenges to future property tax assessments that are not intended to be affected by this Agreement. The Parties intend to reserve their rights with regard to those future property tax assessments. The County agrees and covenants that it will administer any challenge, claim, appeal or other recognized administrative remedy pursued by Nevada Land, its affiliates and principals in a good faith and fair manner and without regard to the matters resolved by this Agreement. Without limiting the generality of the foregoing, Nevada Land retains all rights to challenge the valuation, tax classification and tax status of the Subject Property.

#### 6. Covenants Not to Sue.

Washoe County agrees and covenants on behalf of itself and its elected and appointed officials, officers, employees, attorneys, contractors, agents, managers, successors in interest, assigns and all other affiliated persons or entities in their personal and official capacities that neither it nor they will commence any legal action, or otherwise assert any claims or demands, against Nevada Land or its members, officers, employees, attorneys, contractors, agents, managers, successors in interest, assigns, and all other affiliated entities or persons in their personal and official capacities which relate to the events giving rise to any of the Property Tax Complaint.

Subject to the reservations set forth above, Nevada Land agrees and covenants on behalf of itself and its members, officers, employees, attorneys, contractors, agents, managers, successors in interest, assigns and all other affiliated persons or entities in their personal and official capacities that neither it nor they will commence any legal action, or otherwise assert any claims or demands, against Washoe County or its officers, employees, attorneys, contractors, agents, managers, successors in interest, assigns, and all other affiliated entities or persons in their personal and official capacities which relate to the events giving rise to any of the Property Tax Complaint.

The Parties reserve their rights in the event of a dispute over the interpretation or enforcement of this Agreement and those rights are not waived by this section.

7. Representations and Warranties. Each party represents and warrants for itself as follows:

7.1. Such party has the full authority and power to enter into this Agreement and to consummate the transactions contemplated under this Agreement.

7.2. The execution, delivery and consummation by such party of the transactions contemplated under this Agreement will not result in the breach of any term or provision of, or constitute a default under, any applicable law or regulation or under any other agreement or instrument to which such party is a party or by which it is bound.

8. No Admission of Liability. This Agreement is made to compromise, settle, terminate and to constitute an accord in satisfaction of the claims released by the Parties in accordance with this Agreement. The Parties admit no fault, liability or wrongdoing of any nature or any kind whatsoever and expressly deny and disclaim any fault, liability or wrongdoing alleged, or which could have been alleged.

9. Voluntary Agreement. Each of the Parties represents and warrants for itself that it has read this Agreement and understands its contents, and that this Agreement is executed voluntarily with full knowledge of the consequences and implications of the obligations and rights of the other party in this Agreement. Each party represents and warrants for itself that it has had an opportunity to review this Agreement and to be represented by independent counsel of its choice during the negotiations which preceded execution of this Agreement and in connection with the preparation and execution of this Agreement.

10. Governing Law. The terms and conditions of this Agreement shall be construed and enforced in accordance with the laws of the State of Nevada.

11. Sole Agreement and Modification. This Agreement is intended to be the full and final expression and complete and exclusive statement of all of the terms of the understanding between the Parties for their compromise and settlement of the claims of Washoe County against Nevada Land for the Subject Property for the Subject Tax Years. Any prior agreements, negotiations or understandings among the Parties inconsistent herewith are superseded and terminated by this Agreement. This Agreement may not be amended or modified except by a written instrument executed by each of the Parties.

12. Binding Effect. This Agreement shall inure to the benefit of and be binding on each of the Parties, their members, officers, employees, attorneys, contractors, agents, trustees, intended beneficiaries, managers, elected and appointed officials, successors in interest, assigns, all other affiliated persons or entities in their personal and official capacities and each party shall have the right to enforce this Agreement in accordance with its terms.

13. No Unintended Third-Party Beneficiaries. Except as otherwise set forth herein, nothing in this Agreement shall be construed to benefit any non-party or third party. The Parties to this Agreement agree that no non-party or third-party shall be considered or construed to be a beneficiary or third-party beneficiary of this Agreement except as otherwise set forth herein.

14. Severability. If any part, term or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law of the United States or any state, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

15. Construction. This Agreement shall be interpreted as if prepared by the Parties equally, and shall not be construed against or in favor of any one party or group of Parties.

16. Costs and Attorneys' Fees. Except as expressly provided in this Agreement, each party shall pay and be responsible for any attorney's fees or costs incurred by such party arising from or relating to the disputes among the Parties which have been compromised and settled in accordance with this Agreement.

17. Further Assurances. The Parties covenant and agree that each of them will perform such other acts and provide such other assurances as are reasonably required to implement the intentions of the Parties as stated in this Agreement.

18. Notices. Any notices required or authorized to be given by this Agreement shall be in written form. Any notices required or authorized to be given by this Agreement may be sent by registered or certified delivery, postage prepaid and return receipt requested, addressed to the proper party at the following address or such address as the party shall have designated to the other Parties in accordance with this Section. Any notice required or authorized to be given by this Agreement shall be deemed to have been sufficiently given or served in written form if mailed as provided herein, personally delivered to the proper party, or sent by facsimile and actually received by the addressee. Such notice shall be effective on the date of receipt by the addressee party.

19. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which shall constitute the same Agreement.

The Parties have executed this Agreement on the dates indicated below.

**Nevada Land, LLC**

By: \_\_\_\_\_  
Herbert Simon, its Manager

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

**The County of Washoe**

Attest:

By: \_\_\_\_\_  
Marsha Berkbigler  
Chairman County Commission

\_\_\_\_\_  
Washoe County Clerk

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

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

**EXHIBIT 1**

<b>PROPERTY TAXES</b>		
<b>APN</b>	<b>TAX YEAR</b>	<b>TAX</b>
<b>01145020</b>	<b>2009</b>	<b>\$ 296,620.46</b>
<b>01145020</b>	<b>2010</b>	<b>\$ 314,546.20</b>
<b>01145022</b>	<b>2011</b>	<b>\$ 332,020.34</b>
<b>01145022</b>	<b>2012</b>	<b>\$ 318,273.06</b>
<b>01145022</b>	<b>2013</b>	<b>\$ 318,169.12</b>
<b>01145022</b>	<b>2014</b>	<b>\$ 366,420.18</b>
<b>TOTAL</b>		<b>\$ 1,946,049.36</b>