

1 Case No. 19-CV-00812

2 Dept. No. II

3 Undersigned hereby affirm that  
4 this document does not contain  
5 the social security number of any person

6 IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF LYON

9 LYON COUNTY, a political subdivision of  
10 the State of Nevada, and LYON COUNTY  
11 SCHOOL DISTRICT,

12 Plaintiffs,

13 v.

14 CITY OF FERNLEY, FERNLEY  
15 REDEVELOPMENT AGENCY, STATE  
16 OF NEVADA DEPARTMENT OF  
17 TAXATION, NORTH LYON COUNTY  
18 FIRE PROTECTION DISTRICT,  
19 FERNLEY SWIMMING POOL  
20 DISTRICT, DOES I-X

21 Defendants.

**SETTLEMENT AGREEMENT**  
**and**  
**STIPULATED JUDGMENT**

22 Plaintiff LYON COUNTY, by and through its undersigned counsel, Plaintiff  
23 LYON COUNTY SCHOOL DISTRICT, by and through its undersigned counsel,  
24 Defendant CITY OF FERNLEY, by and through its undersigned counsel, Defendant  
25 FERNLEY REDEVELOPMENT AGENCY, by and through its undersigned counsel,  
26 Defendant NORTH LYON COUNTY FIRE PROTECTION DISTRICT, by and through  
27 its undersigned counsel, and Defendant FERNLEY SWIMMING POOL DISTRICT, by  
28 and through its undersigned counsel, HEREBY STIPULATE AND AGREE to settle the  
above-captioned lawsuit pursuant to this Settlement Agreement and Stipulated Judgment.

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## I. INTRODUCTION

On March 14, 2019, the Fernley City Council adopted a Redevelopment Plan and established Fernley Redevelopment Area Number 1 pursuant to NRS Chapter 279.

On June 12, 2019, Lyon County filed this suit, asserting several causes of actions challenging the validity of the Redevelopment Plan under NRS Chapter 279 and naming as defendants City of Fernley, Fernley Redevelopment Agency, State of Nevada Department of Taxation, North Lyon County Fire Protection District, Fernley Swimming Pool District, and Lyon County School District.

Lyon County subsequently filed a First Amended Complaint, which Lyon County School District joined as a plaintiff. The First Amended Complaint similarly challenged the validity of the Redevelopment Plan under NRS Chapter 279.

City of Fernley moved to dismiss Lyon County and Lyon County School District's complaint with prejudice pursuant NRCP 12(b)(5), which motion was joined by North Lyon County Fire Protection District and Fernley Swimming Pool District. Lyon County and Lyon County School District opposed the motion. The motion was fully briefed and submitted to this Court for decision. This Court, prior to ruling on the motion, held a status conference in which the parties advised that mediation might assist the parties in seeking resolution. This Court accordingly continued proceedings in this matter to provide the parties with the opportunity to mediate their dispute.

A mediation was held and an agreement was reached to settle this lawsuit on the terms and conditions set forth in this Settlement Agreement and Stipulated Judgment.

## II. SETTLEMENT AGREEMENT AND STIPULATED JUDGMENT

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The Parties, by and through their undersigned counsel, now STIPULATE AND AGREE as follows:

- 1) The City of Fernley hereby withdraws its motion to dismiss the First Amended Complaint filed by Lyon County and Lyon County School District;
- 2) North Lyon County Fire Protection District and Fernley Swimming Pool District hereby consent to the withdrawal of the motion to dismiss that was filed by City

1 of Fernley;

2 3) Lyon County and Lyon County School District hereby voluntarily dismiss  
3 all causes of action against the State of Nevada Department of Taxation pursuant to Rule  
4 41 of the Nevada Rules of Civil Procedure;

5 4) The Parties stipulate, agree, and consent to the entry of this Settlement  
6 Agreement and Stipulated Judgment in this matter hereby declaring that the City of  
7 Fernley's current Redevelopment Plan is unlawful, void, and invalid under NRS Chapter  
8 279 and of no further force and/or effect. The Parties further stipulate and agree that entry  
9 of this Settlement Agreement and Stipulated Judgment is without prejudice to the ability  
10 of the City of Fernley to adopt a new redevelopment plan in the future consistent with the  
11 mandates of NRS Chapter 279 and the terms and conditions of this Settlement Agreement  
12 and Stipulated Judgment;

13 5) The Parties jointly stipulate and agree that all funds received by the Fernley  
14 Redevelopment Agency for the previous and current tax year, if any, will remain with the  
15 Fernley Redevelopment Agency, and that the current assessment and tax increment  
16 treatment shall remain in force for the current tax year until entry of this Settlement  
17 Agreement and Stipulated Judgment. The foregoing shall not bar or modify the City of  
18 Fernley and/or the Fernley Redevelopment Agency from collecting and distributing taxes  
19 pursuant to a new redevelopment plan that is adopted in accordance with the mandates of  
20 NRS Chapter 279 and the terms and conditions of this Settlement Agreement and  
21 Stipulated Judgment;

22 6) Lyon County will pay ninety thousand and 00/100ths Dollars (\$90,000.00)  
23 to the City of Fernley's general fund within ninety (90) days of entry of this Settlement  
24 Agreement and Stipulated Judgment;

25 7) The Parties jointly agree, consent, and acknowledge that City of Fernley  
26 may adopt a new Redevelopment Plan at any point after entry of this Settlement  
27 Agreement and Stipulated Judgment; provided, however, such Redevelopment Plan shall  
28 comply with the mandates of NRS Chapter 279;

1           8)       The Parties stipulate and agree that if City of Fernley seeks to adopt a new  
2 Redevelopment Plan following entry of this Settlement Agreement and Stipulated  
3 Judgment, the Parties will work on the new Redevelopment Plan in a coordinated and  
4 cooperative effort to create a Redevelopment Plan that complies with NRS Chapter 279,  
5 addresses the redevelopment needs of City of Fernley, and reduces the fiscal impact of  
6 such plan to Lyon County and Lyon County School District. Lyon County further agrees  
7 that if City of Fernley seeks to adopt a new Redevelopment Plan following entry of this  
8 Settlement Agreement and Stipulated Judgment, Lyon County, as the initial step in the  
9 coordinated and cooperative effort referenced in the foregoing sentence, will provide  
10 proposed revisions and changes to the Redevelopment Plan the Fernley City Council  
11 adopted on March 14, 2019; provided, however, that Lyon County shall not thereafter be  
12 obligated to fulfill the lead role in developing or drafting any new Redevelopment Plan.  
13 City of Fernley shall fulfill that role, with the other Parties hereto participating in the  
14 coordinated and cooperative effort set forth above. The Parties stipulate and agree further  
15 that if City of Fernley seeks to adopt a new Redevelopment Plan, the Parties will hire a  
16 neutral firm, who did not work on City of Fernley's prior Redevelopment Plan, to review  
17 any new Redevelopment Plan and analyze the fiscal impacts on such plan to the Parties  
18 hereto. The Parties agree that City of Fernley shall pay the fees and costs of the neutral  
19 firm;

20           9)       Lyon County further stipulates and agrees to devote County staff time to  
21 work on any new Redevelopment Plan the City of Fernley seeks to adopt and to make  
22 comments and suggested revisions to any such Redevelopment Plan in accordance with  
23 the terms and conditions of this Settlement Agreement and Stipulated Judgment. The  
24 Parties agree and understand that the Lyon County staff will be Lyon County employees  
25 with other duties and will not be assigned full-time to the new Redevelopment Plan. Any  
26 other parties are also permitted to devote staff time or resources to the development of the  
27 new Redevelopment Plan;

1           10)    The City of Fernley further stipulates and agrees to consider Lyon County,  
2 Lyon County School District, Fernley Swimming Pool District, and North Lyon Fire  
3 Protection District’s comments and suggestions in good faith, in accordance with the  
4 terms and conditions of this Settlement Agreement and Stipulated Judgment, in adopting  
5 any new Redevelopment Plan;

6           11)    City of Fernley stipulates and agrees further that the Board of the Fernley  
7 Redevelopment Agency under any successor Redevelopment Plan shall consist of five  
8 members – two of whom shall be members of the City of Fernley City Council, one of  
9 whom shall be a member of the Lyon County Board of Commissioners, one of whom  
10 shall be a Lyon County School District Board Member, and one of whom shall be the  
11 Mayor of the City of Fernley. The Mayor of Fernley will vote only in tie-breaking  
12 situations; provided that all Redevelopment Agency Board Members must be eligible for  
13 such service under NRS Chapter 279. If no member of Lyon County Board of County  
14 Commissioners is eligible for service on the Redevelopment Agency Board under NRS  
15 Chapter 279, the Lyon County Board of County Commissioners shall provide the Fernley  
16 City Council with a list of three people eligible to serve on the Redevelopment Agency  
17 under NRS Chapter 279, and the Fernley City Council will appoint one of those listed  
18 persons to the Redevelopment Agency Board. If no member of Lyon County School  
19 Board is eligible for service on the Redevelopment Agency Board under NRS Chapter  
20 279, the Lyon County School Board shall provide the Fernley City Council with a list of  
21 three people eligible to serve on the Redevelopment Agency under NRS Chapter 279, and  
22 the Fernley City Council will appoint one of those listed persons to the Redevelopment  
23 Agency Board;

24           12)    City of Fernley shall have final decision over the approval of any future  
25 Redevelopment Plan;

26           13)    Nothing herein shall preclude Lyon County or any other Party from  
27 challenging any future Redevelopment Plan adopted by the City of Fernley to the extent  
28 such Redevelopment Plan or its adoption violates any applicable law, including but not

1 limited to NRS Chapter 279;

2 14) The Parties stipulate and agree that their respective obligations in this  
3 Settlement Agreement and Stipulated Judgment are contractual in nature and may be enforced  
4 as such in addition to any other legal and/or equitable remedies that may exist with respect to  
5 the enforcement of a final judgment;

6 15) The Parties hereby acknowledge, stipulate, and agree that irreparable harm will  
7 occur if there is breach of this Settlement Agreement and Stipulated Judgment for which  
8 monetary damages will be inadequate. Therefore, if there is a breach of this Settlement  
9 Agreement and Stipulated Judgment, then any non-breaching Party shall be entitled to  
10 injunctive relief from a Court of competent jurisdiction, in addition to any and all other  
11 remedies at law or equity, to enforce this Settlement Agreement and Stipulated Judgment;

12 16) This Settlement Agreement and Stipulated Judgment may be amended only by  
13 a writing executed by all of the Parties. The Parties accordingly hereby waive any right to  
14 seek modification of or relief from this Settlement Agreement and Stipulated Judgment under  
15 Rule 60 of the Nevada Rules of Civil Procedure or any other applicable law or rule.

16 17) This Settlement Agreement and Stipulated Judgment contains the entire  
17 agreement among and between the Parties hereto, and the terms of this Settlement Agreement  
18 and Stipulated Judgment are contractual and not a mere recital.

19 18) Notwithstanding the entry of this Settlement Agreement and Stipulated  
20 Judgment in favor of Lyon County and Lyon County School District, the Parties hereby  
21 stipulate and agree that all Parties shall bear their own costs and attorneys' fees.

22 DATED: \_\_\_\_\_, 2021.

DATED: \_\_\_\_\_, 2021.

23 By: \_\_\_\_\_  
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Redevelopment Agency*

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Approved as to form and content:

DATED: \_\_\_\_\_, 2021.

DATED: \_\_\_\_\_, 2021.

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District*

*Attorneys for Lyon County School District*

**[PROPOSED] ORDER AND JUDGMENT**

Cause appearing, the stipulation of the parties is adopted as an order of this Court and judgment is hereby entered in favor of Lyon County and Lyon County School District. All parties to bear their own costs and fees except as specified in the above stipulation of the parties.

SO ORDERED.

\_\_\_\_\_  
DISTRICT COURT JUDGE