

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Appellant,

vs.

THE STATE OF NEVADA ex rel.
DEPARTMENT OF TAXATION;
THE HONORABLE DAN
SCHWARTZ, in his official capacity
as TREASURER OF THE STATE OF
NEVADA; and THE LEGISLATURE
OF THE STATE OF NEVADA,

Respondents.

Supreme Court No.: 66851

District Court Case No.: 12 OC 00168 1B

JOINT APPENDIX

VOLUME 16 PART 4

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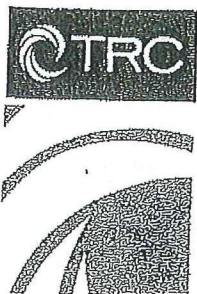
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July 22, 2008

Mr. Lowell Patton
Public Works Director
City of Fernley
595 Silver Lace Blvd.
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RE: City of Fernley Five-Year Plan Reconstruction Program Projection

Mr. Patton,

The Five-Year Plan Reconstruction Program Projection spreadsheet included below provides our recommendations for the future reconstruction of roadways within the City of Fernley. The table summarizes the proposed projects by Design Cost and Construction Cost and is listed by Budget Year.

CITY OF FERNLEY - PUBLIC WORKS BUDGET YEAR 2008/2009 5 YEAR STREET RECONSTRUCTION PROGRAM PROJECTION					
Project	Design		Construction		Total
	Budget Year	Cost	Budget Year	Cost	Cost
Rancho Sierra Improvements	2007/2008	NA	2008/2009	\$ 337,000	\$ 337,000
Winnie Lane Improvements	2007/2008	NA	2009/2010	\$ 438,000	\$ 504,000
Shadow Lane	2009/2010	\$ 71,000	2010/2011	\$ 340,000	\$ 411,000
Lyon Drive Phase 1 Reconstruction	2007/2008	NA	2010/2011	\$ 884,000	\$ 884,000
Lyon Drive Phase 2 Reconstruction	2007/2008	NA	2011/2012	\$ 714,000	\$ 714,000
Willow Wy, Curry Dr, Cedar St Reconstruction	2010/2011	\$ 112,000	2011/2012	\$ 700,000	\$ 812,000
Willow Way Rehabilitation	2011/2012	\$ 41,000	2012/2013	\$ 254,000	\$ 295,000
Hardie Lane Phase 1 Reconstruction	2012/2013	\$ 112,000	2012/2013	\$ 936,000	\$ 1,048,000
Hardie Lane Phase 2 Reconstruction	2012/2013	\$ 144,000	2013/2014	\$ 1,200,000	\$ 1,344,000
Palomino Dr	2013/2014	\$ 15,000		\$ 83,000	\$ 98,000
Sierra Street	2013/2014	\$ 19,000		\$ 100,000	\$ 119,000
Pioneer Court	2013/2014	\$ 16,000		\$ 88,000	\$ 104,000
6th Street	2013/2014	\$ 62,000		\$ 499,000	\$ 561,000

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Mr. Lowell Patton

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Pavement condition index (PCI) values have been assigned to all roadways in Fernley, utilizing the Micro-Paver program and our previously completed pavement condition surveys. For purposes of developing the Five-Year Plan Reconstruction Program, TRC focused on addressing roadways with a PCI of 45 or less.

The roadway construction projects have all been separated into two stages, with the engineering design cost estimates outlined during the first year, and the construction and construction administration cost estimates outlined during the subsequent year. The proposed construction projects during the 2008/2009 Budget Year were scoped for design during the 2007/2008 Budget Year, therefore, the design costs for these projects are not shown on the spreadsheet. The proposed construction projects during the 2009/2010 Budget Year were scoped for design during the 2007/2008 Budget Year, as well.

Palomino Drive, Sierra Street, Pioneer Court, and 6th Street are all included on the Five-Year Plan Reconstruction Program as projects that will be designed but not constructed in the next five years. In addition, several roadways with a PCI of less than 45 have not been included on the Five-Year Plan Reconstruction Program for design or construction. We understand that this is solely due to budget constraints within the City of Fernley. The roadways with a PCI of less than 45, that are not included in the Plan, include 7th Street, G Street, Pilot Road, and Mull Lane. In addition, we anticipate that several roadways north of Freemont Street, and east of Main Street/US 95 will be rolling over into a PCI rating of less than 45 and will become candidates for reconstruction in the next year. At this point, preventative maintenance will not be effective on these roadways.

The Standard of Practice for Pavement Management Systems is to attempt to maintain a City-wide PCI of approximately 70. To date, the City of Fernley slightly exceeds that goal. However, as more and more of our roadways require reconstruction, and the reconstruction is pushed out due to a shortage of funding, the overall PCI rating will begin to drop drastically.

In attempt to illustrate the effects of time on the PCI rating of Fernley roadways, we have analyzed the data collected during the pavement conditions surveys completed since 2001. Based on our analysis, TRC determined that developing PCI Degradation Curves specific to the City of Fernley is not feasible at this time. This is largely due to the short time period that the City has been incorporated and using a pavement management system and the lack of historic data for roadway construction and maintenance under Lyon County.

TRC could complete further investigation at your request, with the goal of expanding the existing roadway database to develop a family of PCI vs. Time curves. In 2007, TRC obtained Lyon County Road Department Maintenance Files for all maintained roadways within the City of Fernley limits. TRC could review those files for additional information that may allow us to create useful curves. In addition, manipulation of the database to discount PCI increases due to routine maintenance can be completed for more accurate curves; however, this work is out of our scope of services for the 5-Year Reconstruction Program Recommendations.

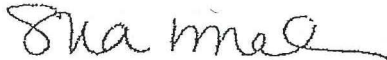
In lieu of providing local curves, TRC obtained regionally developed curves from Washoe County. The PCI Degradation Curves provided by Washoe County include all data collected by Washoe County, City of Reno, and City of Sparks. The PCI Degradation Curves for select arterial and residential streets are attached for your review. As you can see, PCI degradation occurs differently under different traffic conditions. In addition, variability should be expected with differing construction methodologies, quality control/quality assurance, and roadway geometries.

Mr. Lowell Patton
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Based on the current condition of the roadways in Fernley, our 5-Year Reconstruction Recommendations, and our review of the potential PCI degradation over time, we recommend that the City investigate alternative sources of funding for critical roadway reconstruction projects. TRC could complete a preliminary investigation of funding sources, including, but not limited, grant funding for environmentally-friendly projects, emergency grant funding for infrastructure in qualifying low-income areas, and a General Improvement District.

If you have any questions, or if you would like additional information, TRC is available to meet at your convenience.

Sincerely,
TRC



Shari L. Whalen, P.E.
Project Manager

Attachments

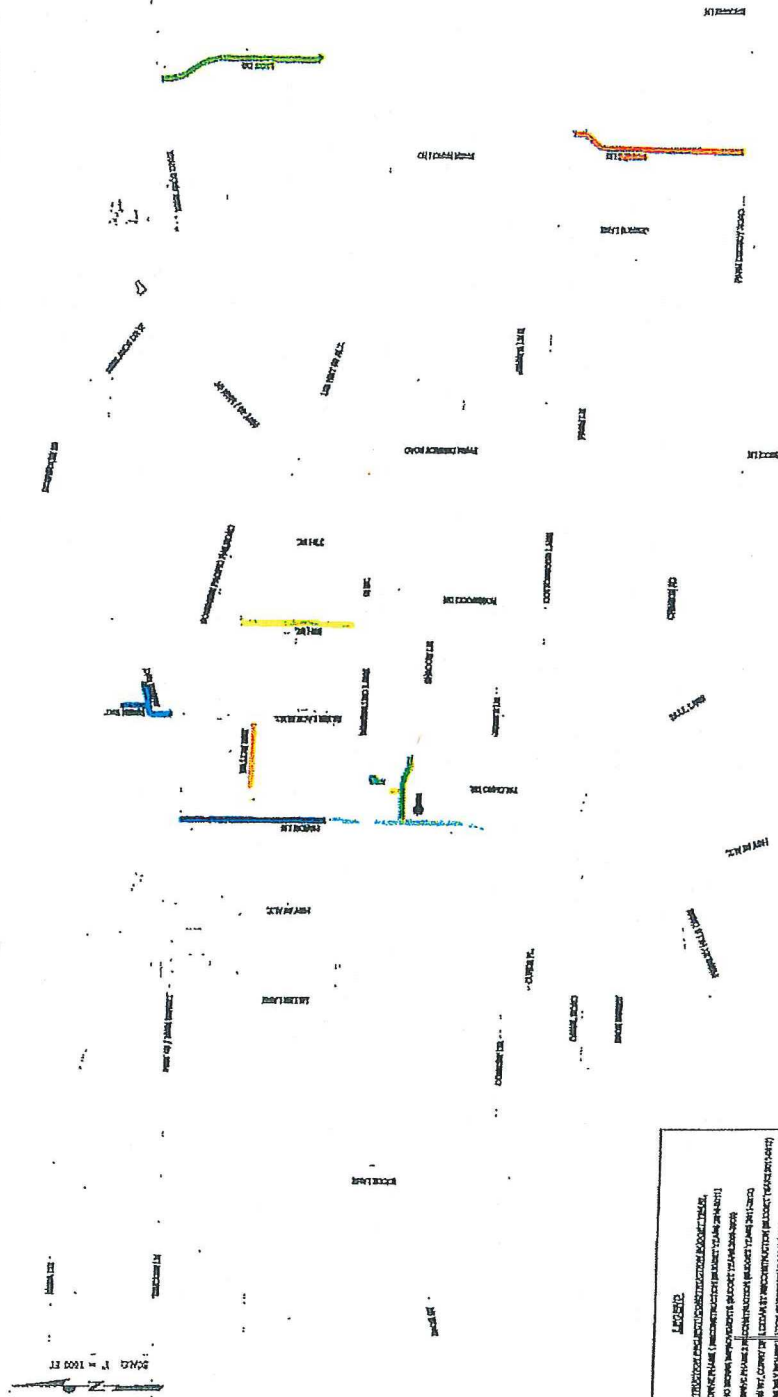
cc: Mike P. Bidart, P.E., TRC
Robert Bidart, P.E., TRC

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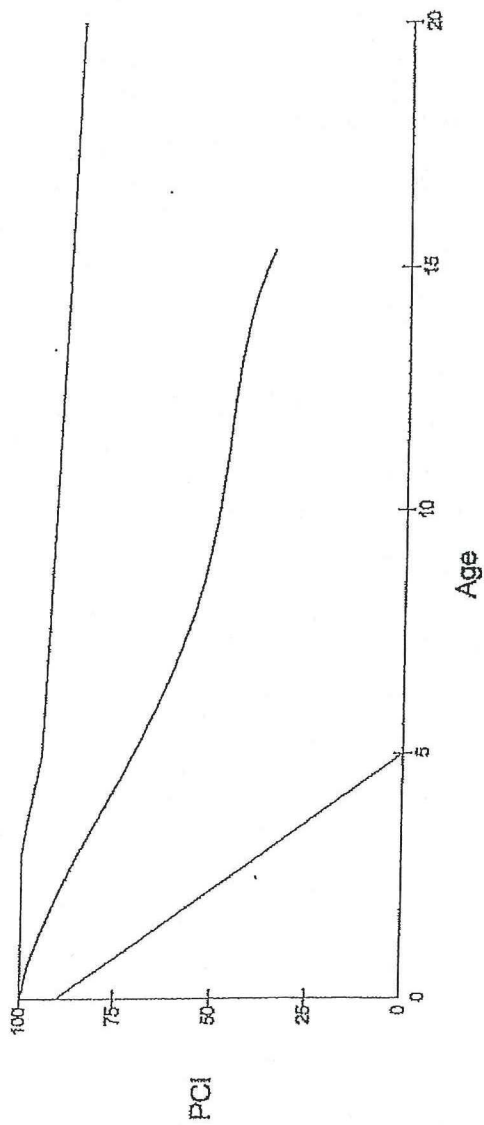
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CITY OF FERNLEY 5-YEAR PLAN RECONSTRUCTION PROGRAM



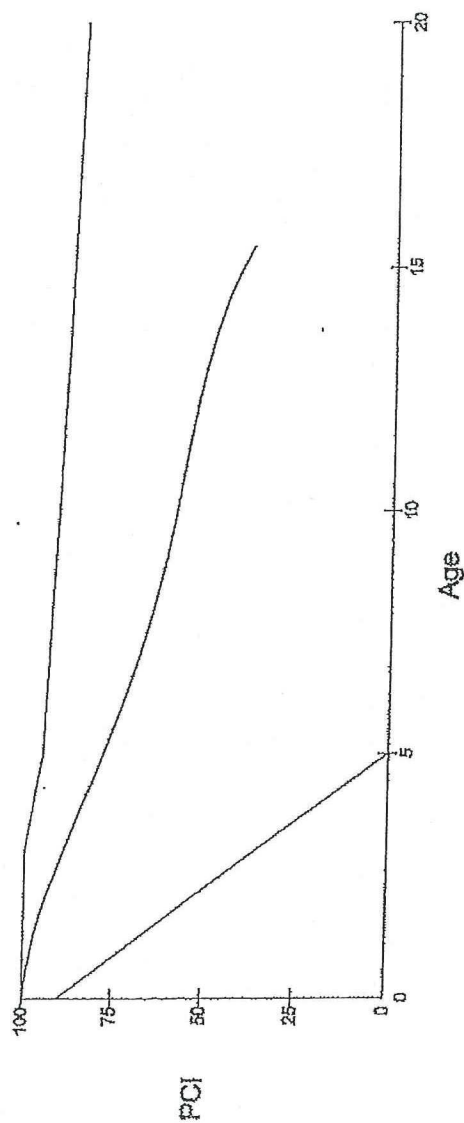
Color	Description
Green	Proposed Reconstruction Projects
Yellow	Proposed Reconstruction Projects
Orange	Proposed Reconstruction Projects
Blue	Proposed Reconstruction Projects



PCI CURVE: TM-A ART-WC

Truckee Meadows Rank A Arterial by Washoe County

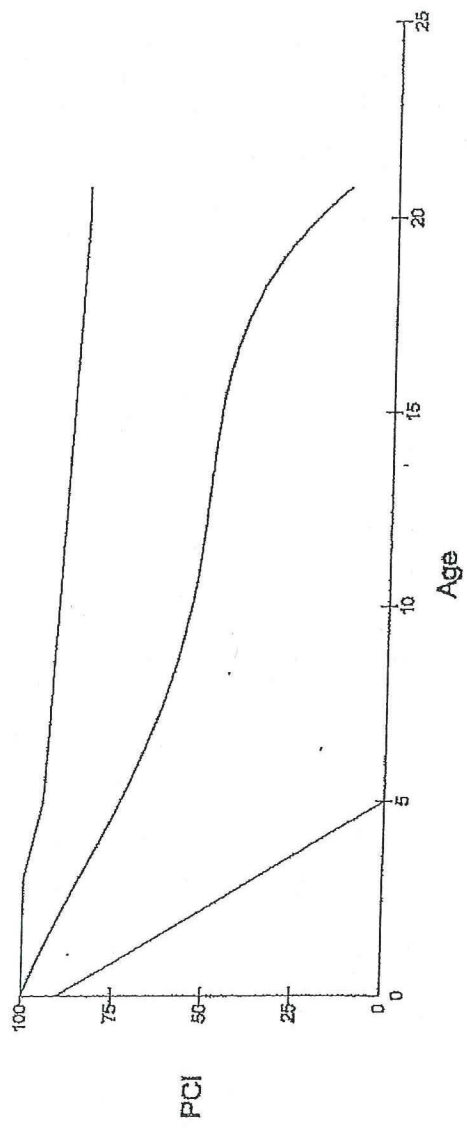
Provided by Greg Belancio, Washoe County



PCI CURVE: TM-B COL-WC

Truckee Meadows Rank B Collector by Washoe County

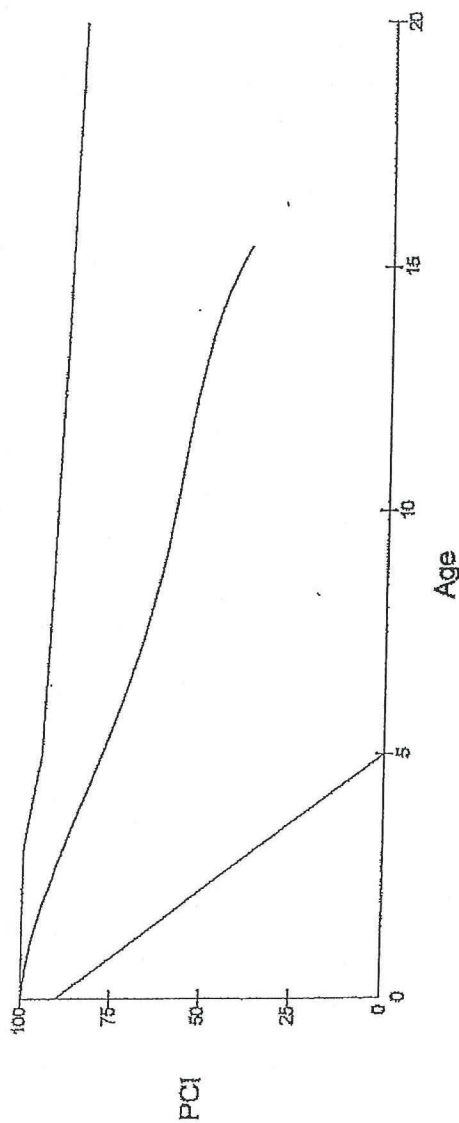
Provided by Greg Belancio, Washoe County



PCI CURVE: TM-C RES-WC

Truckee Meadows Rank C Residential by Washoe County

Provided by Greg Belancio, Washoe County



PCI CURVE: TM-D IND-WC

Truckee Meadows Rank D Industrial by Washoe County

Provided by Greg Belancio, Washoe County

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17	Opposition to Plaintiff's Motion for Summary Judgment	Nevada Legislature	07/11/14	2942-3071
18	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3072-3292
19	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3292-3512
20	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3515-3567
7	Order (Converting Motion to Dismiss to Motion for Summary Judgment, Setting Briefing Schedule and Dismissing Treasurer)	First Judicial District Court	06/06/14	1451-1457
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7	Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012	First Judicial District Court	12/17/12	1361-1363
7	Order Granting A Continuance to Complete Discovery	First Judicial District Court	10/15/12	1341-1343
7	Order Granting in Part and Denying in Part Petition for Writ of Mandamus	Nevada Supreme Court	01/25/13	1373-1377
23	Order Granting Nevada Department of Taxation's Motion for Costs	First Judicial District Court	10/15/14	4190-4194
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23	Plaintiff's Motion to Strike, or Alternatively, Motion to Retax Costs	City of Fernley	10/14/14	4178-4189
21	Plaintiff's Objections to Nevada Legislature's Proposed Order and Request to Submit Proposed Order and Judgment	City of Fernley	10/02/14	3846-3862
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7	Reply Concerning Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	Nevada Legislature	05/27/14	1438-1450
7	Reply in Support of Joinder in Motion to Dismiss	Nevada Legislature	10/08/12	1317-1340
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20	Reply in Support of Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order as to Defendant's Nevada Department of Taxation and Nevada Treasurer; Plaintiff's Opposition to Countermotion for Order Dismissing Nevada Department of Taxation	City of Fernley	07/25/14	3641-3673
20	Reply in Support of Plaintiff's Motion for Summary Judgment Against Defendant Nevada Legislature	City of Fernley	07/25/14	3606-3640
21	Reply to Opposition to Countermotion for Order Dismissing Nevada Department of Taxation	State of Nevada/Dept Taxation	08/01/14	3769-3772
3	Reply to Opposition to Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	08/27/12	636-647
20	Reply to Plaintiff's Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	State of Nevada/Dept Taxation	07/25/14	3583-3605
7	Response to Nevada Department of Taxation	City of Fernley	05/16/14	1424-1432
7	Second Stipulation and Order Regarding Change of Briefing Schedule	Parties/First Judicial District Court	03/17/14	1406-1409
7	Stipulation and Order for an Extension of Time to File Responses to Discovery Requests; Extend Certain Discovery Deadlines and Extend Time to File Dispositive Motions	Parties/First Judicial District Court	04/11/14	1410-1413
7	Stipulation and Order Regarding Change of Briefing Schedule and Plaintiff's Response to Defendant's Motion to Strike Plaintiff's Jury Demand	Parties/First Judicial District Court	02/19/14	1403-1405
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23	Transcript of Hearing	Court Reporter	01/07/15	4213-4267
7	Writ of Mandamus	Nevada Supreme Court	01/25/13	1371-1372

RECONSTRUCTION PROJECT 2009/2010
WILLOW WAY (PCI=42)
C/G TO W/E SILVER LAKE BLVD.

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	4,096 SY	\$15.50	\$63,488.00
2	Install Type 2 Class B Aggregate Base (6")	86,864 SF	\$0.60	\$52,118.40
3	Install Type 2 AC 20 Bituminous Pavement (8")	4,096 SY	\$19.00	\$77,824.00
4	Install Striping and Signage	1 LS		\$1,030.00
5	Traffic Control	1 LS		\$5,150.00
Total Construction Cost:				\$169,610.40
Force Account (20%):				\$33,922.08
Total Construction Cost with Force Account:				\$203,532.48
Total Engineering Cost (20%):				\$40,706.50
Total Construction Administration Cost (25%):				\$50,883.12
Total Project Cost including Engineering, Construction Admin. And Construction:				\$295,122.10

RECONSTRUCTION PROJECT 2009/2010
HARDIE LANE - PHASE 1 (PCI=41)
S/E DIANNE WAY TO S/E MAIN ST

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	7,067 SY	\$15.50	\$109,538.50
2	Install Type 1 C&G with Aggregate	4,174 LF	\$33.00	\$137,742.00
3	Install 4 ft Sidewalk with Aggregate	8,348 SF	\$12.40	\$103,515.20
4	Install Type 2 Class B Aggregate Base (6")	83,480 SF	\$0.60	\$50,088.00
5	Install Type 2 AC 20 Bituminous Pavement (4")	9,276 SY	\$20.00	\$185,511.11
6	Install Striping and Signage	1 LS		\$7,500.00
7	Traffic Control	1 LS		\$30,000.00
Total Construction Cost:				\$623,894.81
Force Account (20%):				\$124,778.96
Total Construction Cost with Force Account:				\$748,673.77
Total Engineering Cost (15%):				\$112,301.07
Total Construction Administration Cost (25%):				\$187,168.44
Total Project Cost including Engineering, Construction Admin. And Construction:				\$1,048,143.28

RECONSTRUCTION PROJECT 2009/2010
HARDIE LANE - PHASE 2 (PCI-41)
S/E RACHEL ST TO S/E DIANE WAY

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	7,007 SY	\$15.50	\$108,608.50
2	Remove and Replace Existing Sidewalk	18,172 SF	\$18.00	\$327,096.00
3	Install Type 1 C&G with Aggregate	4,548 LF	\$33.00	\$149,919.00
4	Install Type 2 Class B Aggregate Base (6")	60,602 SF	\$0.80	\$38,161.20
5	Install Type 2 AC 20 Bituminous Pavement (4")	7,007 SY	\$20.00	\$140,140.00
6	Install Striping and Signage	1 LS		\$4,000.00
7	Traffic Control	1 LS		\$30,000.00
Total Construction Cost:				\$800,052.48
Force Account (20%):				\$160,010.50
Total Construction Cost with Force Account:				\$960,062.97
Total Engineering Cost (15%):				\$144,009.45
Total Construction Administration Cost (25%):				\$240,015.74
Total Project Cost including Engineering, Construction Admin. And Construction:				\$1,344,088.16

RECONSTRUCTION PROJECT 2011-2012
SHADOW LANE (PCI=32)
E/E HARDIE LN TO CONSTRUCTION JOINT WEST OF FL 400

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	5,883 SY	\$15.50	\$91,186.50
2	Install Type 2 Class B Aggregate Base (6")	48,450 SF	\$0.60	\$29,070.00
3	Install Type 2 AC 20 Bituminous Pavement (4")	5,883 SY	\$20.00	\$117,660.00
4	Install Striping and Signage	1 LS		\$1,000.00
5	Traffic Control	1 LS		\$15,000.00
Total Construction Cost:				\$236,476.50
Force Account (20%):				\$47,295.30
Total Construction Cost with Force Account:				\$283,771.80
Total Engineering Cost (25%):				\$70,942.95
Total Construction Administration Cost (20%):				\$56,754.36
Total Project Cost including Engineering, Construction Admin. And Construction:				\$410,950.30

RECONSTRUCTION PROJECT 2011-2012
PALOMINO DRIVE (PCI=50)
SHADOW LANE TO APPALOOSA WY

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	884 SY	\$15.50	\$13,702.00
2	Install Type 2 Class B Aggregate Base (6")	7,955 SF	\$0.60	\$4,773.00
3	Install Type 2 AC 20 Bituminous Pavement (3")	884 SY	\$19.00	\$16,796.00
4	Install Striping and Signage	1 LS		\$1,000.00
5	Traffic Control	1 LS		\$15,000.00
Total Construction Cost:				\$51,267.00
Force Account (20%):				\$10,253.40
Total Construction Cost with Force Account:				\$61,520.40
Total Engineering Cost (25%):				\$15,380.10
Total Construction Administration Cost (25%):				\$21,630.10
Total Project Cost including Engineering, Construction Admin. And Construction:				\$98,530.60

RECONSTRUCTION PROJECT 2011-2012
SIERRA STREET (PCI=50)
DU DE SAC TO W/E PALOMINO DR

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	1,148 SY	\$15.50	\$17,794.00
2	Install Type 2 Class B Aggregate Base (6")	10,335 SF	\$0.60	\$6,201.00
3	Install Type 2 AC 20 Bituminous Pavement (3")	1,148 SY	\$19.00	\$21,812.00
4	Install Striping and Signage	1 LS		\$1,000.00
5	Traffic Control	1 LS		\$15,000.00
Total Construction Cost:				\$51,807.00
Force Account (20%):				\$10,361.40
Total Construction Cost with Force Account:				\$62,168.40
Total Engineering Cost (25%):				\$15,542.10
Total Construction Administration Cost (25%):				\$15,542.10
Total Project Cost including Engineering, Construction Admin. And Construction:				\$103,253.60

RECONSTRUCTION PROJECT 2011-2012
PIONEER COURT (PG# 50)
N/E APPALOOSA WAY TO CUL DE SAC

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	962 SY	\$15.50	\$14,911.00
2	Install Type 2 Class B Aggregate Base (6")	8,658 SF	\$0.60	\$5,194.80
3	Install Type 2 AC 20 Bituminous Pavement (3")	962 SY	\$19.00	\$18,278.00
4	Install Striping and Signage	1 LS		\$1,000.00
5	Traffic Control	1 LS		\$15,000.00
Total Construction Cost:				\$54,383.80
Force Account (20%):				\$10,876.76
Total Construction Cost with Force Account:				\$65,260.56
Total Engineering Cost (25%):				\$16,315.14
Total Construction Administration Cost (35%):				\$22,841.20
Total Project Cost including Engineering, Construction Admin. And Construction:				\$104,416.90

RECONSTRUCTION PROJECT 2012-2013
6TH STREET (PCI = 49)
S/E D ST TO S/E HWY 40

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	4,611 SY	\$15.50	\$71,470.50
2	Install Type 2 Class B Aggregate Base (6")	41,500 SF	\$0.60	\$24,900.00
3	Install Type 2 AC 20 Bituminous Pavement (4")	4,611 SY	\$20.00	\$92,222.22
4	Install Striping and Signage	1 LS		\$1,000.00
5	Traffic Control	1 LS		\$15,000.00
Total Construction Cost:				\$204,592.72
Force Account (20%):				\$40,918.54
Total Construction Cost with Force Account:				\$245,511.27
Total Engineering Cost (15%):				\$36,826.69
Total Construction Administration Cost (20%):				\$49,102.25
Total Project Cost including Engineering, Construction Admin. And Construction:				\$331,440.21

RECONSTRUCTION PROJECT 2012-2013
6TH STREET (PCI = 50)
711/490 @ G ST TO S/E D ST

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	3,078 SY	\$15.50	\$47,709.00
2	Install Type 2 Class B Aggregate Base (6")	27,702 SF	\$0.60	\$16,621.20
3	Install Type 2 AC 20 Bituminous Pavement (4")	3,078 SY	\$20.00	\$61,560.00
4	Install Striping and Signage	1 LS		\$1,000.00
5	Traffic Control	1 LS		\$15,000.00
Total Construction Cost:				\$141,890.20
Force Account (20%):				\$28,378.04
Total Construction Cost with Force Account:				\$170,268.24
Total Engineering Cost (15%):				\$25,540.24
Total Construction Administration Cost (20%):				\$34,053.65
Total Project Cost including Engineering, Construction Admin. And Construction:				\$229,862.12

RECONSTRUCTION PROJECT 2012-2013
7TH STREET (PCI = 53)
497/889 @ G ST TO S/E D ST

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	3,078 SY	\$15.50	\$47,709.00
2	Install Type 2 Class B Aggregate Base (6")	27,702 SF	\$0.60	\$16,621.20
3	Install Type 2 AC 20 Bituminous Pavement (4")	3,078 SY	\$20.00	\$61,560.00
4	Install Striping and Signage	1 LS		\$1,000.00
5	Traffic Control	1 LS		\$15,000.00
Total Construction Cost:				\$141,890.20
Force Account (20%):				\$28,378.04
Total Construction Cost with Force Account:				\$170,268.24
Total Engineering Cost (15%):				\$25,540.24
Total Construction Administration Cost (20%):				\$34,053.65
Total Project Cost including Engineering, Construction Admin. And Construction:				\$229,862.12

RECONSTRUCTION PROJECT 2012-2013
7TH STREET (PCI = 53)
S/E D ST TO S/E HWY 40

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	3,040 SY	\$15.50	\$48,658.00
2	Install Type 2 Class B Aggregate Base (6")	27,090 SF	\$0.60	\$16,254.00
3	Install Type 2 AC 20 Bituminous Pavement (4")	3,040 SY	\$20.00	\$60,800.00
4	Install Striping and Signage	1 LS		\$1,000.00
5	Traffic Control	1 LS		\$15,000.00
Total Construction Cost:				\$139,409.00
Force Account (20%):				\$27,881.80
Total Construction Cost with Force Account:				\$166,930.80
Total Engineering Cost (15%):				\$25,039.62
Total Construction Administration Cost (20%):				\$33,386.16
Total Project Cost including Engineering, Construction Admin, And Construction:				\$225,356.58

RECONSTRUCTION PROJECT 2012-2013
G STREET (PCI = 52)
711/490 @ 6TH ST TO 497/889 @ 7TH ST

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	4,418 SY	\$15.50	\$68,401.50
2	Install Type 2 Class B Aggregate Base (6")	39,718 SF	\$0.60	\$23,827.80
3	Install Type 2 AC 20 Bituminous Pavement (4")	4,418 SY	\$20.00	\$88,251.11
4	Install Striping and Signage	1 LS		\$1,000.00
5	Traffic Control	1 LS		\$15,000.00
Total Construction Cost:				\$196,480.41
Force Account (20%):				\$39,296.08
Total Construction Cost with Force Account:				\$235,776.49
Total Engineering Cost (15%):				\$35,366.47
Total Construction Administration Cost (20%):				\$47,155.30
Total Project Cost including Engineering, Construction Admin, And Construction:				\$325,293.27

RECONSTRUCTION PROJECT 2013-2014
 PILOT ROAD (PCI = 41)
 S/E W/6 OF TRUCK WASH TO W/6 HWY 40 (SR 427)

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	2,560 SY	\$15.50	\$39,680.00
2	Install Type 1 C&G with Aggregate	632 LF	\$33.00	\$20,856.00
3	Install 4 ft Sidewalk with Aggregate	2,528 SF	\$12.40	\$31,347.20
2	Install Type 2 Class B Aggregate Base (6")	22,952 SF	\$0.80	\$18,361.60
3	Install Type 2 AC 20 Bituminous Pavement (4")	2,560 SY	\$20.00	\$51,200.00
4	Install Striping and Signage	1 LS		\$1,000.00
5	Traffic Control	1 LS		\$15,450.00
Total Construction Cost:				\$172,979.40
Force Account (20%):				\$34,595.88
Total Construction Cost with Force Account:				\$207,575.28
Total Engineering Cost (20%):				\$41,515.06
Total Construction Administration Cost (35%):				\$72,651.35
Total Project Cost including Engineering, Construction Admin. And Construction:				\$321,741.69

RECONSTRUCTION PROJECT 2013-2014
 STOCK LANE (PCI = 37)
 S/E CAROL WAY TO S/E TRUCKEE LANE

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	3,047 SY	\$15.50	\$47,228.57
2	Install Type 2 Class B Aggregate Base (6")	31,344 SF	\$0.60	\$18,806.40
3	Install Type 2 AC 20 Bituminous Pavement (4")	3,483 SY	\$20.00	\$69,663.33
4	Install Striping and Signage	1 LS		\$2,000.00
5	Traffic Control	1 LS		\$10,000.00
Total Construction Cost:				\$147,698.40
Force Account (20%):				\$29,539.68
Total Construction Cost with Force Account:				\$177,238.08
Total Engineering Cost (20%):				\$35,446.42
Total Construction Administration Cost (30%):				\$53,169.62
Total Project Cost including Engineering, Construction Admin. And Construction:				\$265,849.12

RECONSTRUCTION PROJECT 2013-2014
 SAGE STREET (PCI = 25)
 BEGINNING OF NEW IMPROVEMENTS TO US HWY 95A

Item Number	Work Description	Total Quantity	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	12,244 SY	\$15.50	\$189,782.44
2	Install Type 2 Class B Aggregate Base (6")	129,360 SF	\$0.60	\$77,616.00
3	Install Type 2 AC 20 Bituminous Pavement (4")	14,373 SY	\$20.00	\$287,466.67
4	Install Striping and Signage	1 LS		\$2,000.00
5	Traffic Control	1 LS		\$15,000.00
Total Construction Cost:				\$571,865.11
Force Account (20%):				\$114,373.02
Total Construction Cost with Force Account:				\$686,238.13
Total Engineering Cost (20%):				\$137,247.63
Total Construction Administration Cost (15%):				\$102,936.20
Total Project Cost including Engineering, Construction Admin. And Construction:				\$926,421.96

RECONSTRUCTION PROJECT 2013-2014
 MULTILANE (PG = 35)
 CONSTRUCTION JOINT TO CATTLE GUARD (L= 4071 LF)

Item Number	Work Description	Total Quantity	Unit	Unit Cost	Total Cost
1	Remove and Dispose of Existing Bituminous Pavement	9,499	SY	\$16.50	\$147,234.60
2	Install Type 2 Class B Aggregate Base (8")	19,704	SF	\$0.60	\$58,622.40
3	Install Type 2 AC 20 Bituminous Pavement (4")	19,858	SY	\$20.00	\$217,120.00
4	Install Striping and Signage	1	LS		\$2,000.00
5	Traffic Control	1	LS		\$10,000.00
Total Construction Cost:					\$434,976.96
Force Account (20%):					\$86,995.38
Total Construction Cost with Force Account:					\$521,972.28
Total Engineering Cost (20%):					\$104,394.46
Total Construction Administration Cost (10%):					\$52,197.23
Total Project Cost Including Engineering, Construction Admin. And Construction:					\$678,563.96

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Appellant,

vs.

THE STATE OF NEVADA ex rel.
DEPARTMENT OF TAXATION;
THE HONORABLE DAN
SCHWARTZ, in his official capacity
as TREASURER OF THE STATE OF
NEVADA; and THE LEGISLATURE
OF THE STATE OF NEVADA,

Respondents.

Supreme Court No.: 66851

District Court Case No.: 12 OC 00168 1B

JOINT APPENDIX

VOLUME 16 PART 2

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7	Answer	State of Nevada/Dept Tax/ Treasurer	02/01/13	1384-1389
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22	Defendant's Opposition to Motion to Retax Costs and Reply to Opposition to Motion for Costs (Cont.)	State of Nevada/Dept Taxation	10/03/14	3929-3947
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2	Exhibits to Joinder in Motion to Dismiss (Cont.)	Nevada Legislature	08/16/12	221-332
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7	Motion for Summary Judgment	City of Fernley	06/13/14	1458-1512
8	Motion for Summary Judgment (Cont.)	City of Fernley	06/13/14	1513-1732
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10	Motion for Summary Judgment (Cont.)	City of Fernley	06/13/14	1917-1948
11	Motion for Summary Judgment (Cont.)	City of Fernley	06/13/14	1949-2004
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1	Motion to Intervene	Nevada Legislature	08/03/12	18-40
21	Motion to Retax Costs and Opposition to Motion for Costs	City of Fernley	09/24/14	3794-3845
7	Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	05/05/14	1414-1420
7	Nevada Department of Taxation and Nevada Treasurer's Reply to Response to Renewal of Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	05/23/14	1433-1437
12	Nevada Department of Taxation's Opposition to Plaintiff's Motion for Summary Judgment	State of Nevada/Dept Taxation	07/11/14	2053-2224
13	Nevada Department of Taxation's Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	State of Nevada/Dept Taxation	07/11/14	2225-2353

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23	Notice of Entry of Order	State of Nevada/Dept	10/17/14	4195-4204
7	Notice of Entry of Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012	State of Nevada/Dept Tax/ Treasurer	12/19/12	1364-1370
7	Notice of Entry of Order Granting A Continuance to Complete Discovery	City of Fernley	10/19/12	1344-1350
3	Notice of Entry of Order Granting Nevada Legislature's Motion to Intervene	Nevada Legislature	09/04/12	651-657
7	Notice of Entry of Order on Defendant's Motion for Extensions of Time to File Answer	State of Nevada/Dept Tax/ Treasurer	11/15/12	1354-1360
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3	Opposition to Motion to Dismiss and Motion for Continuance Pursuant to NRCP 56(F) (Cont.)	City of Fernley	08/20/12	442-625
2	Opposition to Motion to Nevada Legislature's Motion to Intervene	City of Fernley	08/20/12	324-330
13	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	City of Fernley	07/11/14	2354-2445
14	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.)	City of Fernley	07/11/14	2446-2665
15	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.)	City of Fernley	07/11/14	2666-2819
16	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.)	City of Fernley	07/11/14	2820-2851
17	Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss (Cont.)	City of Fernley	07/11/14	2852-2899
4	Opposition to Nevada Legislature's Joinder in Motion to Dismiss	City of Fernley	09/28/12	662-881
5	Opposition to Nevada Legislature's Joinder in Motion to Dismiss (Cont.)	City of Fernley	09/28/12	882-1101
6	Opposition to Nevada Legislature's Joinder in Motion to Dismiss (Cont.)	City of Fernley	09/28/12	1102-1316
17	Opposition to Nevada Legislature's Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	City of Fernley	07/11/14	2900-2941
20	Opposition to Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order	Nevada Legislature	07/11/14	3586-3582

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City of Fernley v. State of Nevada et al., Case No. 66851

Volume Number	Document	Filed By	Date	Bates Stamp Number
12	Opposition to Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order and Countermotion for Order Dismissing Nevada Department of Taxation	State of Nevada/Dept Tax/ Treasurer	07/11/14	2049-2052
17	Opposition to Plaintiff's Motion for Summary Judgment	Nevada Legislature	07/11/14	2942-3071
18	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3072-3292
19	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3292-3512
20	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3515-3567
7	Order (Converting Motion to Dismiss to Motion for Summary Judgment, Setting Briefing Schedule and Dismissing Treasurer)	First Judicial District Court	06/06/14	1451-1457
22	Order and Judgment	First Judicial District Court	10/06/14	3948-4000
7	Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012	First Judicial District Court	12/17/12	1361-1363
7	Order Granting A Continuance to Complete Discovery	First Judicial District Court	10/15/12	1341-1343
7	Order Granting in Part and Denying in Part Petition for Writ of Mandamus	Nevada Supreme Court	01/25/13	1373-1377
23	Order Granting Nevada Department of Taxation's Motion for Costs	First Judicial District Court	10/15/14	4190-4194
3	Order Granting Nevada Legislature's Motion to Intervene	First Judicial District Court	08/30/12	648-650
7	Order on Defendant's Motion for Extensions of Time to File Answer	First Judicial District Court	11/13/12	1351-1353
7	Order Pursuant to Writ of Mandamus	First Judicial District Court	02/22/13	1390-1392
21	Order Vacating Trial	First Judicial District Court	09/03/14	3773-3775
23	Plaintiff's Motion to Strike, or Alternatively, Motion to Retax Costs	City of Fernley	10/14/14	4178-4189
21	Plaintiff's Objections to Nevada Legislature's Proposed Order and Request to Submit Proposed Order and Judgment	City of Fernley	10/02/14	3846-3862
7	Pretrial Order	First Judicial District Court	10/10/13	1393-1399
7	Reply Concerning Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	Nevada Legislature	05/27/14	1438-1450
7	Reply in Support of Joinder in Motion to Dismiss	Nevada Legislature	10/08/12	1317-1340
3	Reply in Support of Motion to Intervene	Nevada Legislature	08/24/12	626-635
21	Reply in Support of Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order as to Defendant Nevada Legislature	City of Fernley	07/25/14	3709-3746

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Volume Number	Document	Filed By	Date	Bates Stamp Number
20	Reply in Support of Plaintiff's Motion for Summary Judgment Against Defendants Nevada Department of Taxation and Nevada Treasurer	City of Fernley	07/25/14	3674-3708
20	Reply in Support of Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order as to Defendant's Nevada Department of Taxation and Nevada Treasurer; Plaintiff's Opposition to Countermotion for Order Dismissing Nevada Department of Taxation	City of Fernley	07/25/14	3641-3673
20	Reply in Support of Plaintiff's Motion for Summary Judgment Against Defendant Nevada Legislature	City of Fernley	07/25/14	3606-3640
21	Reply to Opposition to Countermotion for Order Dismissing Nevada Department of Taxation	State of Nevada/Dept Taxation	08/01/14	3769-3772
3	Reply to Opposition to Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	08/27/12	636-647
20	Reply to Plaintiff's Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	State of Nevada/Dept Taxation	07/25/14	3583-3605
7	Response to Nevada Department of Taxation	City of Fernley	05/16/14	1424-1432
7	Second Stipulation and Order Regarding Change of Briefing Schedule	Parties/First Judicial District Court	03/17/14	1406-1409
7	Stipulation and Order for an Extension of Time to File Responses to Discovery Requests; Extend Certain Discovery Deadlines and Extend Time to File Dispositive Motions	Parties/First Judicial District Court	04/11/14	1410-1413
7	Stipulation and Order Regarding Change of Briefing Schedule and Plaintiff's Response to Defendant's Motion to Strike Plaintiff's Jury Demand	Parties/First Judicial District Court	02/19/14	1403-1405
12	Stipulation and Order Regarding Change of Briefing Schedule and Setting Hearing for Oral Argument	Parties/First Judicial District Court	06/25/14	2046-2048
7	Stipulation and Order Regarding Defendant's Motion to Strike Plaintiff's Jury Demand	Parties/First Judicial District Court	10/23/13	1400-1402
3	Stipulation and Order Regarding Joinder to Motion to Dismiss	Parties/First Judicial District Court	09/18/12	658-661
23	Transcript of Hearing	Court Reporter	01/07/15	4213-4267
7	Writ of Mandamus	Nevada Supreme Court	01/25/13	1371-1372

It is important to note that this letter is not intended to provide an exhaustive list of all of the unfinished and/or deferred infrastructure projects in Fernley, but rather to provide general information and highlight the types of problems that the community faces due to lack of General Fund money. The most relevant issue is that this lack of General Fund revenue directly and significantly impacts the quality of life for residents in Fernley, and subsequently poses substantial obstacles to economic and community development.

In the City of Fernley Community Assessment, a grant-funded project completed in 2011, the major themes that concerned hundreds of residents of Fernley included Image, Infrastructure, and Economic Development. Sub-categories under Image, Infrastructure and Economic Development included cleaning up the portals of entry, road repair and maintenance, and fiscal issues. As you can see in Figure 15, Pilot Road, next to Exit 46 (one of two community entrances off of I-80), captures in a photograph many of these concerns.



Figure 15
Pilot Road near I-80 Exit 46
February 1, 2014

On the 2007 Reconstruction Program Recommendations, the Pilot Road project was slated to be constructed in 2013, but has not even started design at this time. The estimated cost in 2007 was

\$321,742, but it will definitely cost more than this amount when construction finally begins. Conservatively assuming that construction costs will increase 2.5 to 3% per year, depending on economic conditions, this project could end up costing the City \$40,000 to \$70,000 more if it were completed this year. However, this project has not even been included on the City's Five Year CIP in several years due to funding availability, so repair of this roadway is nowhere in sight.

With regard to infrastructure, and roadways, in particular, the longer a project is deferred, the more it will cost government to repair the facility. This holds true for reconstruction, but also for maintenance. For example, best management practices indicate that the City of Fernley should be slurry-sealing roadways that are 5 to 7 years old. Today, many of the roadways that were constructed during the beginning of the building boom in Fernley are at the perfect age to slurry seal and actually extend the useful life of the pavement. However, the City has not slurry sealed a roadway since 2010. Many of these maintenance projects have been deferred so long that repair is no longer cost effective, and total reconstruction is or will be necessary.

The longer these projects are deferred, the more costly they become. For example, in 2007, Willow Way was proposed to be a rehabilitation project and was estimated to cost the City \$295,122. The condition of the roadway near Fernley Elementary School, is shown on Figure 16.



Figure 16
Willow Way near Curry Drive
February 1, 2014

Today, Willow Way has deteriorated to the point that the roadway must be reconstructed and will cost the City well over \$600,000 to complete. However, the project will not be completed in 2014, or

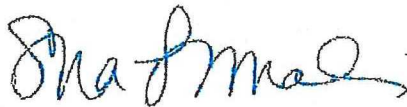
based on the Five Year CIP, for at least five years after, due to lack of funding. Therefore, it may end up costing the City of Fernley even more than two times the original engineer's estimate if and when Willow Way finally goes to design.

The lack of funding affects the City of Fernley's ability to provide basic services and an acceptable quality of life to residents of this community. The infrastructure examples included herein are not all inclusive, and there are many other roadways, retention basins, parks, and facilities that require immediate attention. The reality is that the City of Fernley simply cannot provide these services and complete these projects due to the severe lack of General Fund revenue.

I trust this letter provides you with an overview of the infrastructure issues facing Fernley as a result of lack of resources in the General Fund. Please contact me at your convenience if you have any questions or if you would like to discuss this matter in more detail.

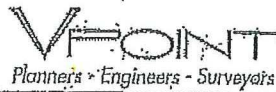
Sincerely,

Mystery Lake Engineering, Inc.



Shari L. Whalen, P.E.
President

Attachments: Exhibit A
Exhibit B



A **TRC** Company
Customer-Focused Solutions

W.O.#: 647-R493 Task 1120
January 19, 2007

Mr. Lowell Patton
Public Works Director
City of Fernley
595 Silver Lake Blvd.
Fernley, Nevada 89408

RE: **City of Fernley Five-Year Plan Reconstruction Program Projection**

Mr. Patton,

The attached Five-Year Plan Reconstruction Program Projection spreadsheet summarizes our recommendations for the future reconstruction of roadways within the City of Fernley. In addition, a Five-Year Plan Reconstruction Program Figure and project-specific cost estimates are included for your review in the Appendix. The following table summarizes the proposed projects and Budget Years:

CITY OF FERNLEY - PUBLIC WORKS BUDGET YEAR 2007/2008 5 YEAR STREET RECONSTRUCTION PROGRAM PROJECTION					
Project	Design		Construction		Total
	Budget Year	Cost	Budget Year	Cost	Cost
West Street and Dianhe Way Reconstruction	2006/2007	NA	2007/2008	\$ 404,628	\$ 404,628
Lyon Drive Phase 1 Reconstruction	2006/2007	NA	2007/2008	\$ 789,277	\$ 789,277
Rancho Sierra Improvements	2007/2008	\$ 58,900	2008/2009	\$ 677,352	\$ 736,252
Lyon Drive Phase 2 Reconstruction	2007/2008	\$ 72,251	2008/2009	\$ 830,882	\$ 903,133
Willow Wy, Curry Dr, Cedar St Reconstruction	2007/2008	\$ 112,043	2008/2009	\$ 700,267	\$ 812,310
Willow Way Rehabilitation	2008/2009	\$ 40,706	2009/2010	\$ 254,416	\$ 295,122
Hardie Lane Phase 1 Reconstruction	2008/2009	\$ 112,301	2009/2010	\$ 935,842	\$ 1,048,143
Hardie Lane Phase 2 Reconstruction	2009/2010	\$ 144,009	2010/2011	\$ 1,200,079	\$ 1,344,088
Shadow Lane	2010/2011	\$ 70,854	2011/2012	\$ 340,097	\$ 410,950
Palomino Dr	2010/2011	\$ 15,380	2011/2012	\$ 83,053	\$ 98,433
Sierra Street	2010/2011	\$ 18,547	2011/2012	\$ 100,153	\$ 118,700
Pioneer Court	2010/2011	\$ 16,315	2011/2012	\$ 88,102	\$ 104,417
6th Street	2011/2012	\$ 62,367	2012/2013	\$ 498,935	\$ 561,302
7th Street	2011/2012	\$ 50,580	2012/2013	\$ 404,639	\$ 455,219
G Street	2011/2012	\$ 35,366	2012/2013	\$ 282,932	\$ 318,298
Pilot Road	2012/2013	\$ 41,515	2013/2014	\$ 250,227	\$ 321,742
Stock Lane	2012/2013	\$ 35,446	2013/2014	\$ 230,402	\$ 265,848
Sage Street	2012/2013	\$ 137,248	2013/2014	\$ 789,178	\$ 926,426
Mull Lane	2012/2013	\$ 104,394	2013/2014	\$ 574,170	\$ 678,564

Pavement condition index (PCI) values have been assigned to all roadways in Fernley, utilizing the Micro-Paver program and our previously completed pavement condition surveys. For purposes of developing the Five-Year Plan Reconstruction Program, VPOINT focused on addressing roadways with a PCI of 45 or less for the first five years.

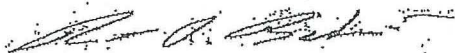
The roadway construction projects have all been separated into two stages, with the engineering design cost estimates outlined during the first year, and the construction and construction administration cost estimates outlined during the subsequent year. The proposed construction projects during the 2007/2008 Budget Year were scoped for design during the 2006/2007 Budget

CITY OF FERNLEY
v. STATE OF NEVADA

Year, therefore, the design costs for these projects are not shown on the attached spreadsheet.

If you have any questions, or if you would like additional information, VPOINT is available to meet at your convenience.

Sincerely,
VPOINT, A TRO Company



Robert R. Bidart, P.E.
Project Manager

RRB/rjb

cc: Mike R. Bidart, P.E., VPOINT
Shari Whalen, VPOINT

Engineering\proj\647\STREETS\6-Year Plans\LO70110-5yr Regen Rec.dwg



CITY OF FERNNLEY - PUBLIC WORKS
BUDGET YEAR 2007/2008
5 YEAR PLAN RECONSTRUCTION PROGRAM PROJECTION

Budget Year	Project	Project Location	Construction Cost	Force Account	Engineering Design	Construction Admin	Total Project Cost	Total Budget Year Cost
2007/2008 Budget Year Total Project Costs	West Street and Diana Way Reconstruction	West Street Beginning of Improvements to S/E US HWY 400 Diana Way E/E Hardie Lane to W/E Curry Drive	\$288,754	\$57,454		\$64,723	\$409,931	\$409,931
	Curry Drive Phase 1 Reconstruction	End of C&G to Newlands Drive East	\$587,250	\$117,452		\$84,585	\$789,287	\$789,287
	Palomares Phase 2 Reconstruction	Palomares W/E Ely Ln. and Raven Way			\$55,900		\$55,900	\$55,900
	Willow Way, Curry Dr., Cedar St. Reconstruction	Willow Way Hardie Lane to C&G Improvements			\$72,251		\$72,251	\$72,251
		Curry Drive N/E Willow Way to S/E Cedar Street E/E			\$112,045		\$112,045	\$112,045
		Cedar Street E/E of Hardie Lane to E/E Old Apartments						
2007/2008 Budget Year Total Project Costs			\$875,004	\$174,906	\$243,196	\$159,308	\$1,452,414	\$1,452,414
2008/2009 Budget Year Total Project Costs								
	Palomares Phase 2 Reconstruction	Palomares W/E Ely Ln. and Raven Way	\$490,835	\$58,157		\$88,350	\$637,342	\$637,342
	Curry Drive Phase 2 Reconstruction	Industrial Dr. to end of C&G	\$502,088	\$120,418		\$100,870	\$723,376	\$723,376
	Willow Way, Curry Dr., Cedar St. Reconstruction	Willow Way Hardie Lane to C&G Improvements	\$465,845	\$53,389		\$140,053	\$659,287	\$659,287
	Willow Way Reconstruction	Curry Drive N/E Willow Way to S/E Cedar Street E/E						
	Hardie Lane Phase 2 Reconstruction	Cedar Street E/E of Hardie Lane to E/E Old Apartments			\$40,705		\$40,705	\$40,705
		Improvements (C&G) to W/E Silver Lane Boulevard			\$142,301		\$142,301	\$142,301
		S/E Diana Way to S/E Main St.	\$455,760	\$57,154	\$163,916	\$316,710	\$993,540	\$993,540
2008/2009 Budget Year Total Project Costs			\$1,453,688	\$248,711	\$364,032	\$457,573	\$2,523,404	\$2,523,404
2009/2010 Budget Year Total Project Costs								
	Hardie Lane Phase 2 Reconstruction	Improvements (C&G) to W/E Silver Lane Boulevard	\$163,640	\$33,522		\$50,885	\$248,047	\$248,047
	Palomares Phase 2 Reconstruction	S/E Diana Way to S/E Main St.	\$523,835	\$124,479		\$177,159	\$825,473	\$825,473
	Willow Way Reconstruction	S/E Rachel St. to S/E Diana Way			\$144,009		\$144,009	\$144,009
2009/2010 Budget Year Total Project Costs			\$687,475	\$157,991	\$344,009	\$168,044	\$1,347,519	\$1,347,519
2010/2011 Budget Year Total Project Costs								
	Hardie Lane Phase 2 Reconstruction	S/E Rachel St. to S/E Diana Way	\$800,052	\$160,010		\$240,015	\$1,200,077	\$1,200,077
	Palomares Phase 2 Reconstruction	E/E Hardie Lane to Construction Joint West of Rte 488			\$70,354		\$70,354	\$70,354
	Willow Way Reconstruction	Shallow Lane to Apartments W/E			\$15,380		\$15,380	\$15,380
	Palomares Phase 2 Reconstruction	Palomares W/E Ely Ln. and Raven Way			\$18,547		\$18,547	\$18,547
	Willow Way Reconstruction	N/E Palomares Way to Old Da. St.			\$15,315		\$15,315	\$15,315
2010/2011 Budget Year Total Project Costs			\$800,052	\$176,010	\$129,596	\$274,010	\$1,379,668	\$1,379,668

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CITY OF FERNNLEY
Case No. 1833
v. STATE OF NEVADA
1833
6343

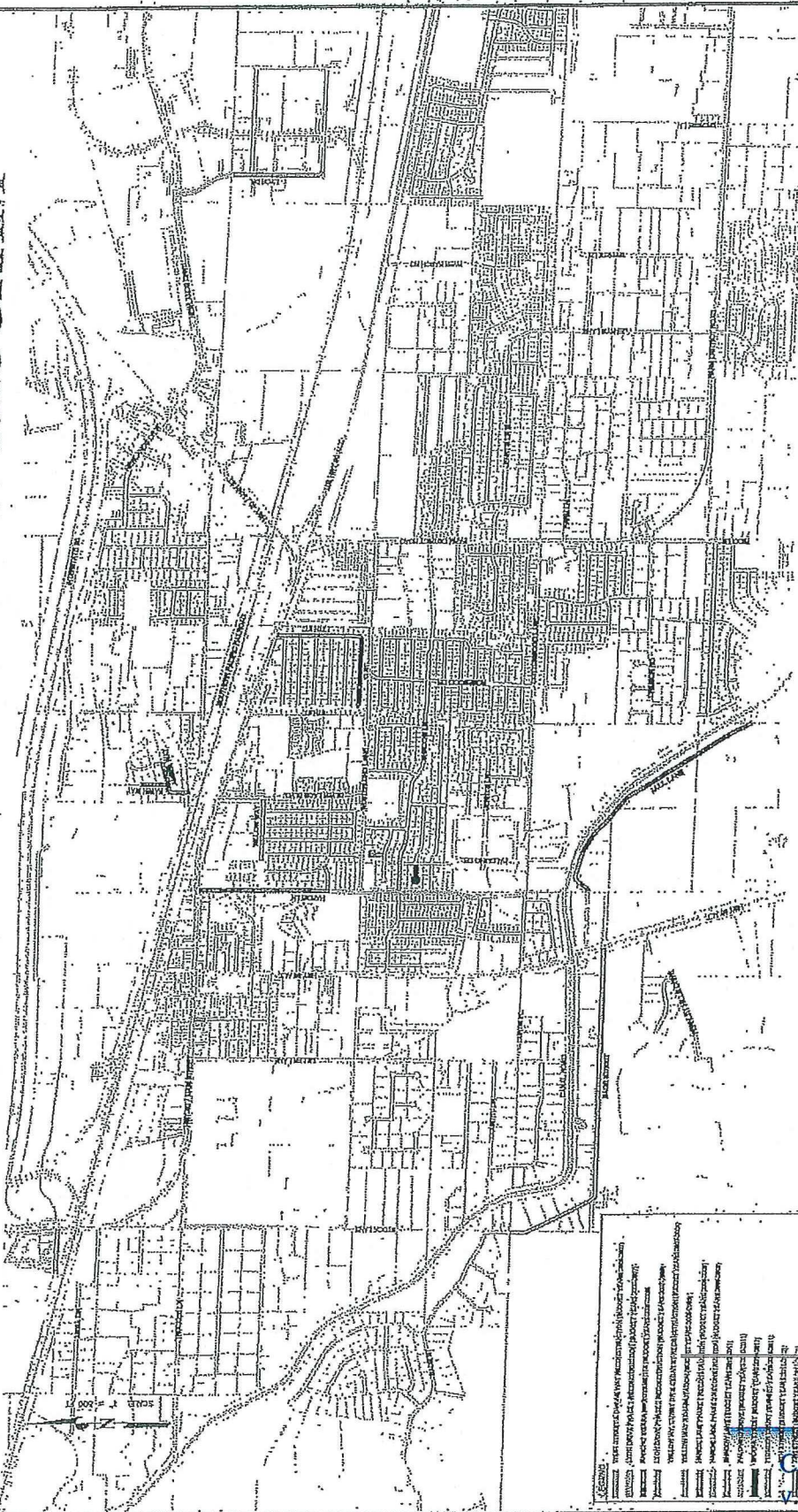
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11/15/2007 10:07:20 AM By: R1007101111111111

Appendix

CITY OF FERNLEY
5-YEAR PLAN RECONSTRUCTION PROGRAM PROTECTION

WFOINT



1. What is the purpose of the document?
The purpose of the document is to provide a detailed description of the project and its objectives.

2. What are the main objectives of the project?
The main objectives of the project are to develop a new product, improve the existing one, and increase the market share.

3. What are the key milestones and deadlines?
The key milestones and deadlines are as follows:

- 1. Project Initiation: 1st of January 2024
- 2. Project Planning: 1st of February 2024
- 3. Project Execution: 1st of March 2024
- 4. Project Monitoring: 1st of April 2024
- 5. Project Closure: 1st of May 2024

4. What are the risks and challenges?
The risks and challenges of the project are as follows:

- 1. Resource Allocation: Limited resources may affect the project progress.
- 2. Time Constraints: Tight deadlines may lead to delays.
- 3. Communication: Poor communication may result in misunderstandings.
- 4. Scope Creep: Changes in requirements may lead to project delays.

5. What are the next steps?
The next steps of the project are as follows:

- 1. Project Initiation: 1st of January 2024
- 2. Project Planning: 1st of February 2024
- 3. Project Execution: 1st of March 2024
- 4. Project Monitoring: 1st of April 2024
- 5. Project Closure: 1st of May 2024

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF FERNLEY, NEVADA, a
Nevada municipal corporation,

Appellant,

vs.

THE STATE OF NEVADA ex rel.
DEPARTMENT OF TAXATION;
THE HONORABLE DAN
SCHWARTZ, in his official capacity
as TREASURER OF THE STATE OF
NEVADA; and THE LEGISLATURE
OF THE STATE OF NEVADA,

Respondents.

Electronically Filed
May 20 2015 10:30 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

Supreme Court No.: 66851

District Court Case No.: 12 OC 00168 1B

JOINT APPENDIX

VOLUME 16 PART 1

Filed By:

Joshua J. Hicks, Esq.
Nevada Bar No. 6678
BROWNSTEIN HYATT
FARBER SCHRECK, LLP
50 West Liberty Street, Suite 1030
Reno, Nevada 89501
Telephone: (775) 622-9450
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*Attorneys for Appellant City of Fernley,
Nevada*

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1	Affidavit of Service Taxation	City of Fernley	07/02/12	17
1	Affidavit of Service Treasurer	City of Fernley	06/20/12	13-16
23	Amended Memorandum of Costs and Disbursements	State of Nevada/Dept Taxation	10/09/15	4058-4177
7	Answer	State of Nevada/Dept Tax/ Treasurer	02/01/13	1384-1389
7	Answer to Plaintiff's Complaint	Nevada Legislature	01/29/13	1378-1383
23	Case Appeal Statement	City of Fernley	11/07/14	4208-4212
1	Complaint	City of Fernley	06/06/12	1-12
21	Defendant Nevada Legislature's Reply in Support of its Motion for Summary Judgment	Nevada Legislature	07/25/14	3747-3768
21	Defendant's Opposition to Motion to Retax Costs and Reply to Opposition to Motion for Costs	State of Nevada/Dept Taxation	10/03/14	3863-3928
22	Defendant's Opposition to Motion to Retax Costs and Reply to Opposition to Motion for Costs (Cont.)	State of Nevada/Dept Taxation	10/03/14	3929-3947
1	Exhibits to Joinder in Motion to Dismiss	Nevada Legislature	08/16/12	104-220
2	Exhibits to Joinder in Motion to Dismiss (Cont.)	Nevada Legislature	08/16/12	221-332
1	Joinder in Motion to Dismiss	Nevada Legislature	08/16/12	62-103
7	Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	Nevada Legislature	05/06/14	1421-1423
21	Memorandum of Costs and Disbursements	State of Nevada/Dept Taxation	09/19/14	3788-3793
21	Motion for Costs	State of Nevada/Dept Taxation	09/19/14	3776-3788
12	Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order	City of Fernley	06/18/14	2005-2045
7	Motion for Summary Judgment	City of Fernley	06/13/14	1458-1512
8	Motion for Summary Judgment (Cont.)	City of Fernley	06/13/14	1513-1732
9	Motion for Summary Judgment (Cont.)	City of Fernley	06/13/14	1733-1916
10	Motion for Summary Judgment (Cont.)	City of Fernley	06/13/14	1917-1948
11	Motion for Summary Judgment (Cont.)	City of Fernley	06/13/14	1949-2004
1	Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	08/03/12	41-58
1	Motion to Intervene	Nevada Legislature	08/03/12	18-40
21	Motion to Retax Costs and Opposition to Motion for Costs	City of Fernley	09/24/14	3794-3845
7	Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	05/05/14	1414-1420
7	Nevada Department of Taxation and Nevada Treasurer's Reply to Response to Renewal of Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	05/23/14	1433-1437
12	Nevada Department of Taxation's Opposition to Plaintiff's Motion for Summary Judgment	State of Nevada/Dept Taxation	07/11/14	2053-2224
13	Nevada Department of Taxation's Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	State of Nevada/Dept Taxation	07/11/14	2225-2353

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23	Notice of Appeal	City of Fernley	11/07/14	4205-4207
22	Notice of Entry of Order	Nevada Legislature	10/08/14	4001-4057
23	Notice of Entry of Order	State of Nevada/Dept	10/17/14	4195-4204
7	Notice of Entry of Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012	State of Nevada/Dept Tax/ Treasurer	12/19/12	1364-1370
7	Notice of Entry of Order Granting A Continuance to Complete Discovery	City of Fernley	10/19/12	1344-1350
3	Notice of Entry of Order Granting Nevada Legislature's Motion to Intervene	Nevada Legislature	09/04/12	651-657
7	Notice of Entry of Order on Defendant's Motion for Extensions of Time to File Answer	State of Nevada/Dept Tax/ Treasurer	11/15/12	1354-1360
1	Notice of Non-Opposition to Legislature's Motion to Intervene	State of Nevada/Dept Tax/ Treasurer	08/06/12	59-61
2	Opposition to Motion to Dismiss and Motion for Continuance Pursuant to NRCP 56(F)	City of Fernley	08/20/12	331-441
3	Opposition to Motion to Dismiss and Motion for Continuance Pursuant to NRCP 56(F) (Cont.)	City of Fernley	08/20/12	442-625
2	Opposition to Motion to Nevada Legislature's Motion to Intervene	City of Fernley	08/20/12	324-330
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6	Opposition to Nevada Legislature's Joinder in Motion to Dismiss (Cont.)	City of Fernley	09/28/12	1102-1316
17	Opposition to Nevada Legislature's Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	City of Fernley	07/11/14	2900-2941
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17	Opposition to Plaintiff's Motion for Summary Judgment	Nevada Legislature	07/11/14	2942-3071
18	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3072-3292
19	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3292-3512
20	Opposition to Plaintiff's Motion for Summary Judgment (Cont.)	Nevada Legislature	07/11/14	3515-3567
7	Order (Converting Motion to Dismiss to Motion for Summary Judgment, Setting Briefing Schedule and Dismissing Treasurer)	First Judicial District Court	06/06/14	1451-1457
22	Order and Judgment	First Judicial District Court	10/06/14	3948-4000
7	Order Denying City of Fernley's Motion for Reconsideration of Order Dated November 13, 2012	First Judicial District Court	12/17/12	1361-1363
7	Order Granting A Continuance to Complete Discovery	First Judicial District Court	10/15/12	1341-1343
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23	Order Granting Nevada Department of Taxation's Motion for Costs	First Judicial District Court	10/15/14	4190-4194
3	Order Granting Nevada Legislature's Motion to Intervene	First Judicial District Court	08/30/12	648-650
7	Order on Defendant's Motion for Extensions of Time to File Answer	First Judicial District Court	11/13/12	1351-1353
7	Order Pursuant to Writ of Mandamus	First Judicial District Court	02/22/13	1390-1392
21	Order Vacating Trial	First Judicial District Court	09/03/14	3773-3775
23	Plaintiff's Motion to Strike, or Alternatively, Motion to Retax Costs	City of Fernley	10/14/14	4178-4189
21	Plaintiff's Objections to Nevada Legislature's Proposed Order and Request to Submit Proposed Order and Judgment	City of Fernley	10/02/14	3846-3862
7	Pretrial Order	First Judicial District Court	10/10/13	1393-1399
7	Reply Concerning Joinder in Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	Nevada Legislature	05/27/14	1438-1450
7	Reply in Support of Joinder in Motion to Dismiss	Nevada Legislature	10/08/12	1317-1340
3	Reply in Support of Motion to Intervene	Nevada Legislature	08/24/12	626-635
21	Reply in Support of Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order as to Defendant Nevada Legislature	City of Fernley	07/25/14	3709-3746

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20	Reply in Support of Plaintiff's Motion for Summary Judgment Against Defendants Nevada Department of Taxation and Nevada Treasurer	City of Fernley	07/25/14	3674-3708
20	Reply in Support of Plaintiff's Motion for Partial Reconsideration and Rehearing of the Court's June 6, 2014 Order as to Defendant's Nevada Department of Taxation and Nevada Treasurer; Plaintiff's Opposition to Countermotion for Order Dismissing Nevada Department of Taxation	City of Fernley	07/25/14	3641-3673
20	Reply in Support of Plaintiff's Motion for Summary Judgment Against Defendant Nevada Legislature	City of Fernley	07/25/14	3606-3640
21	Reply to Opposition to Countermotion for Order Dismissing Nevada Department of Taxation	State of Nevada/Dept Taxation	08/01/14	3769-3772
3	Reply to Opposition to Motion to Dismiss	State of Nevada/Dept Tax/ Treasurer	08/27/12	636-647
20	Reply to Plaintiff's Opposition to Nevada Department of Taxation and Nevada Treasurer's Renewal of Motion to Dismiss	State of Nevada/Dept Taxation	07/25/14	3583-3605
7	Response to Nevada Department of Taxation	City of Fernley	05/16/14	1424-1432
7	Second Stipulation and Order Regarding Change of Briefing Schedule	Parties/First Judicial District Court	03/17/14	1406-1409
7	Stipulation and Order for an Extension of Time to File Responses to Discovery Requests; Extend Certain Discovery Deadlines and Extend Time to File Dispositive Motions	Parties/First Judicial District Court	04/11/14	1410-1413
7	Stipulation and Order Regarding Change of Briefing Schedule and Plaintiff's Response to Defendant's Motion to Strike Plaintiff's Jury Demand	Parties/First Judicial District Court	02/19/14	1403-1405
12	Stipulation and Order Regarding Change of Briefing Schedule and Setting Hearing for Oral Argument	Parties/First Judicial District Court	06/25/14	2046-2048
7	Stipulation and Order Regarding Defendant's Motion to Strike Plaintiff's Jury Demand	Parties/First Judicial District Court	10/23/13	1400-1402
3	Stipulation and Order Regarding Joinder to Motion to Dismiss	Parties/First Judicial District Court	09/18/12	658-661
23	Transcript of Hearing	Court Reporter	01/07/15	4213-4267
7	Writ of Mandamus	Nevada Supreme Court	01/25/13	1371-1372



Figure 8
Silverland Retention Basin
February 1, 2014

The City of Fernley needs to accept private residential retention basins in order to properly operate and maintain the community-wide storm drain system, but there is simply no funding available to accomplish this task. At this juncture, cost estimates for operation and maintenance of these facilities have not been prepared. It is clear, however, that the four-man crew in the Streets and Storm Drains Division cannot maintain 37 residential retention basins in addition to four City of Fernley retention basins, 128 miles of roadway, 45 miles of storm drain piping and associated inlets, and several miles of drainage ditches.

By far the most concerning infrastructure deficit in Fernley is the street system. In order to illustrate that the lack of General Fund revenue has had on the City of Fernley streets system, I have included the City of Fernley Five-Year Plan Reconstruction Program Recommendations submitted by VPoint/TRC on January 19, 2007 and July 22, 2008. These documents are attached as Exhibit A and Exhibit B, respectively.

Of the 19 projects that were recommended to be completed in the Five-Year Reconstruction Program Recommendations for 2007 to 2013, only the first three projects were completed. Between 2009 and

2013, only one roadway reconstruction project, Lyon Drive Phase 1, was completed. This is a painfully small accomplishment, as Lyon Drive Phase 1 consisted of reconstruction of 900 lineal feet of roadway – not even a quarter mile of road has been rebuilt in the last four years.

This not only means that there are 16 additional projects that should have been completed by now, but also that there are at least that many more that would need to be included on a current list. To make matters worse, the reconstruction recommendations are directly tied to available RTC funding, so significant roadway reconstruction projects were either recommended to be completed in small segments, like Lyon Drive Phased 1, or they are not recommended at all, like Newland Drive and Nevada Pacific Parkway (discussed later). Based on these assumptions, and the cost of completion of Lyon Drive, I would estimate that there are at least \$16 to \$20 million in essential roadway reconstruction projects in Fernley at this time.

Fernley's annual operating budget, without any Regional Transportation Commission (RTC) funded capital projects, was \$818,051 for FY 12/13. The gas tax money (non-RTC) that the City expects to receive from Lyon County in FY12/13 is \$296,196. This means that \$521,855 comes out of the General Fund (primarily from property tax revenues) to pay for the grossly underfunded operation and maintenance of streets and storm drains in Fernley and that no roadway reconstruction or major maintenance project is completed with any money other than RTC funding. With the amount of RTC revenue that is collected each year, completing even a mile of much needed roadway reconstruction annually is impossible with existing funding.

With Fernley's share of annual Regional Transportation Commission funding for roadway capital improvements at close to \$750,000 annually, if the City plans to spend \$250,000 on preventative maintenance projects (slurry seal), there is only \$500,000 for a reconstruction project. In general, this will repave about one-quarter mile of two lane roadway, as long as there are no extenuating circumstances. At a quarter mile per year, the City of Fernley cannot hope to maintain an acceptable pavement conditions for Fernley Roads.

American Society of Testing and Materials (ASTM) Test Method D6433-07, "Standard Practice for Roads and Parking Lots Pavement Condition Index Surveys" identifies that a Pavement Condition Index (PCI) of at least 70 is satisfactory (Figure 1). Historically, the City of Fernley has hoped to keep the average PCI for the roadway network at 70. Regionally, the City of Reno has also set a goal for an average (PCI) of at least 70, but Washoe County Regional Transportation Commission has recently indicated that their new goal is to have a PCI of 76 for all streets in their community.

The City of Fernley only considers roadway reconstruction for roadways with a PCI of less than 45. In 2008, the City of Fernley average PCI was just over 70, as outlined in the TRC 2008 Reconstruction Program Project Recommendations. However, TRC pointed out that several roadways north of Fremont Street and east of Main Street/US 95A were predicted to roll over to a PCI below 45 in 2009, which would drastically impact the average PCI of the Fernley road network. Also, TRC acknowledges that several roadways with a PCI of less than 45 were not included on the reconstruction schedule "solely due to budget constraints within the City of Fernley".

In 2008, TRC also warned that "as more and more of our roadways require reconstruction, and the reconstruction is pushed out due to a shortage of funding, the overall PCI rating will begin to drop drastically." Based on these cautionary statements, and the reality that there is a substantial backlog of these low-ranking roadways, it is reasonable to expect that the average PCI in Fernley is below 70 at this time and will only continue to decline.

The reality is that the City of Fernley has not had the resources to complete a system wide pavement condition survey in nearly five years. The last pavement condition survey was completed on approximately one-third of City-owned streets in Fiscal Year (FY) 09/10. This means that City staff do not even have all of the data required to be able to wholly understand and prioritize the roadway maintenance and reconstruction projects currently required within the City limits.

The City of Fernley has deferred the development of a Transportation Master Plan for at least three years, as well. This is partially due to lack of appropriate staffing levels to administer these programs, as well as the time consuming nature of finding and obtaining alternative funding, such as grants. The Transportation Master Plan is estimated to cost \$110,000, based on the Five Year Capital Improvement Plan included in the approved FY12/13 Budget.

Hardie Lane is another example of how lack of General Fund funding directly impacts quality of life in our community. Hardie Lane is one of only a few north-south collector streets in Fernley. It provides access to Fernley Elementary School and Fernley Intermediate School, as well as the Fernley Swimming Pool and the Fernley Post Office.

The roadway has been on the reconstruction list for several years, but funding availability dictates that reconstruction projects be completed in tiny sections. The roadway is approximately one mile long and the Reconstruction Program Recommendations included three separate phases to complete the project. The southernmost portion of Hardie Lane (approximately 750 feet of roadway) was reconstructed in 2006. In this high pedestrian traffic area, sidewalk was only constructed on one side of the road due to funding constraints.

The poor condition of the remainder of the roadway is shown on Figure 9. In order to reconstruct this segment of Hardie Lane, which is in design at this time, the City has had to garner over one million dollars of grant funding from three different grant application processes, and wait to accrue RTC funding for three years in order to have enough funding to complete the reconstruction project. Again, this is less than one mile of two lane asphalt roadway. This project will not go to construction until FY15/16 due to the RTC funding accrual issue, which unfortunately puts the grant funding in jeopardy. As you can see, trying to rebuild roadways in Fernley is an uphill battle.

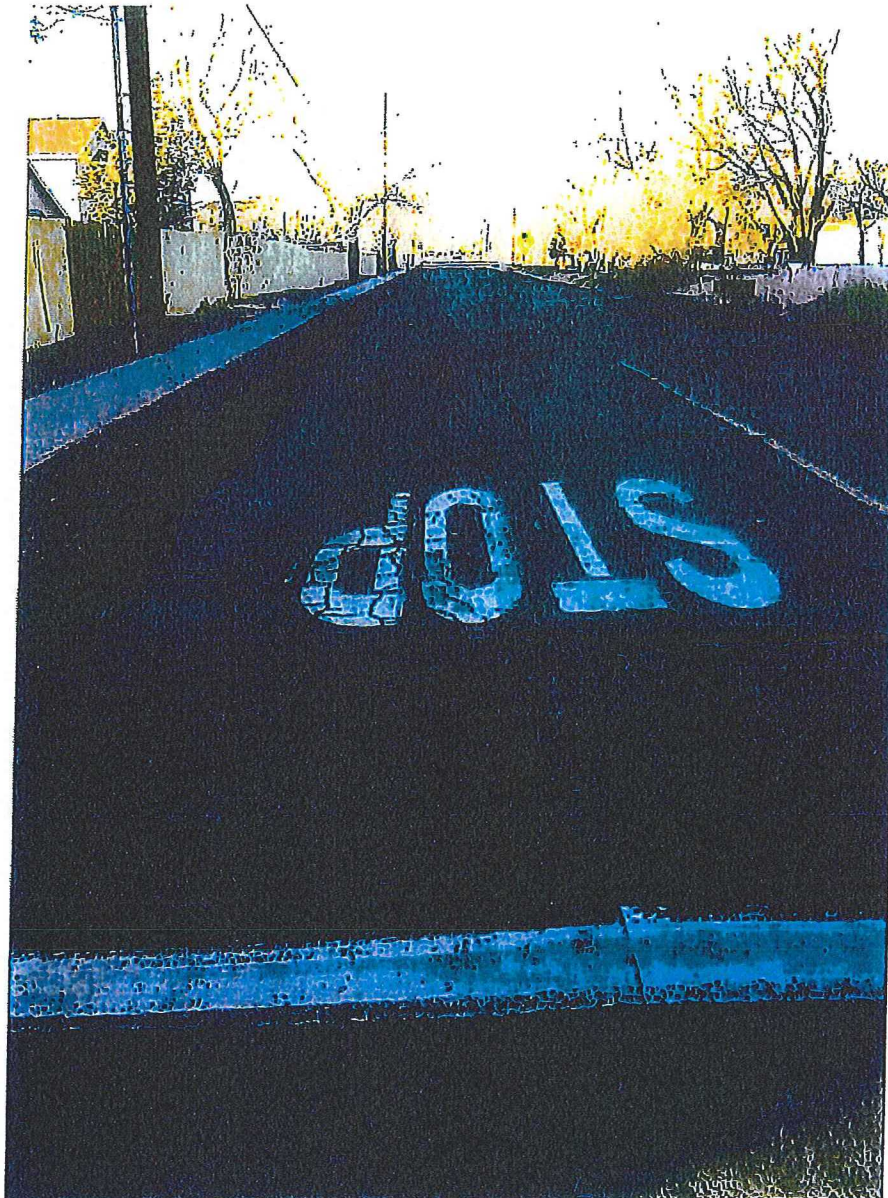


Figure 9
Hardie Lane near the intersection of Shadow Lane
February 1, 2014

Even worse off are the roadways that lead to the City's economic engine, our industrial center on Newlands Drive and Nevada Pacific Parkway. As you can see upon review of the 2007 and 2008 TRC Reconstruction Program Recommendations, these roadways are not even included on our Five-Year Roadway Reconstruction Program.

When the roadway was constructed in the 1980's a poor quality aggregate was used in the asphalt pavement. This resulted in extreme cracking across the entire roadway alignment. Attempts to saw

cut, crack seal or otherwise repair these cracks have been futile. Due to these absorptive aggregates, the cracks continue to grow. Figure 10 shows a typical crack along Newlands Drive.



Figure 10
Newlands Drive east of Lyon Drive
February 1, 2014

Figure 11 shows the cracking at the intersection of Newlands Drive and Nevada Pacific Parkway and Figure 12 illustrates the magnitude of cracking. The Lyon County Regional Transportation Commission toured the Newlands Drive and Nevada Pacific Parkway area in 2011 and commissioners commented that these cracks are the worst they've ever observed. A total reconstruction is necessary, and based on preliminary analysis completed by City of Fernley staff, this would cost an estimated \$6 million or more.



Figure 11
Nevada Pacific Parkway and Newlands Drive
February 1, 2014



Figure 12
Magnitude of cracking on Newlands Drive
February 1, 2014

Mission Way (Truck Inn Way) is another example of a roadway reconstruction project that has been completed in phases, with the worst sections not even making it to the Five-Year Reconstruction list. Figure 13 illustrates the condition of the roadway facing south, near Interstate 80 at Exit 48.

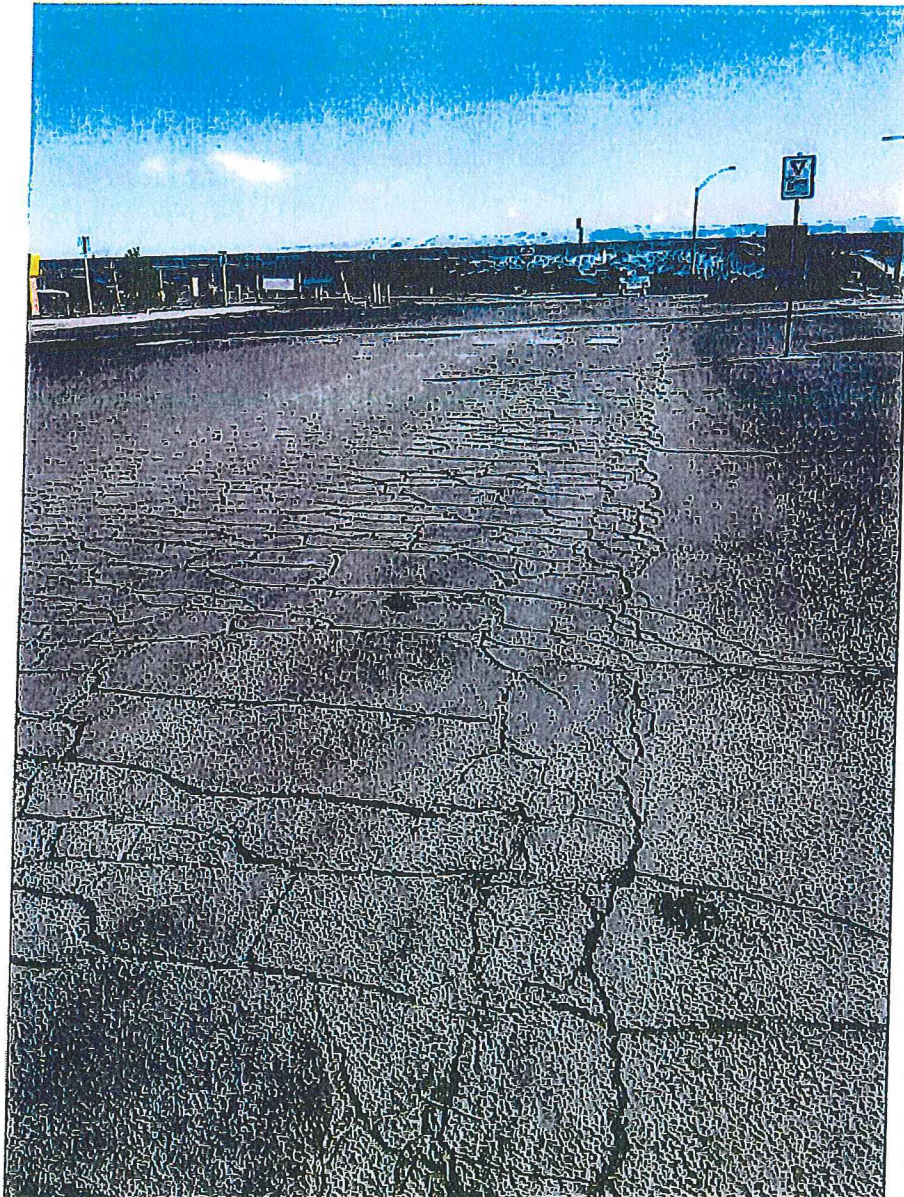


Figure 13
Mission Way (Truck Inn Way) north of I-80 Exit 48
February 1, 2014

Figure 14 illustrates the condition of Mission Way, facing north, towards the main access to the Northern Nevada Veteran's Cemetery.

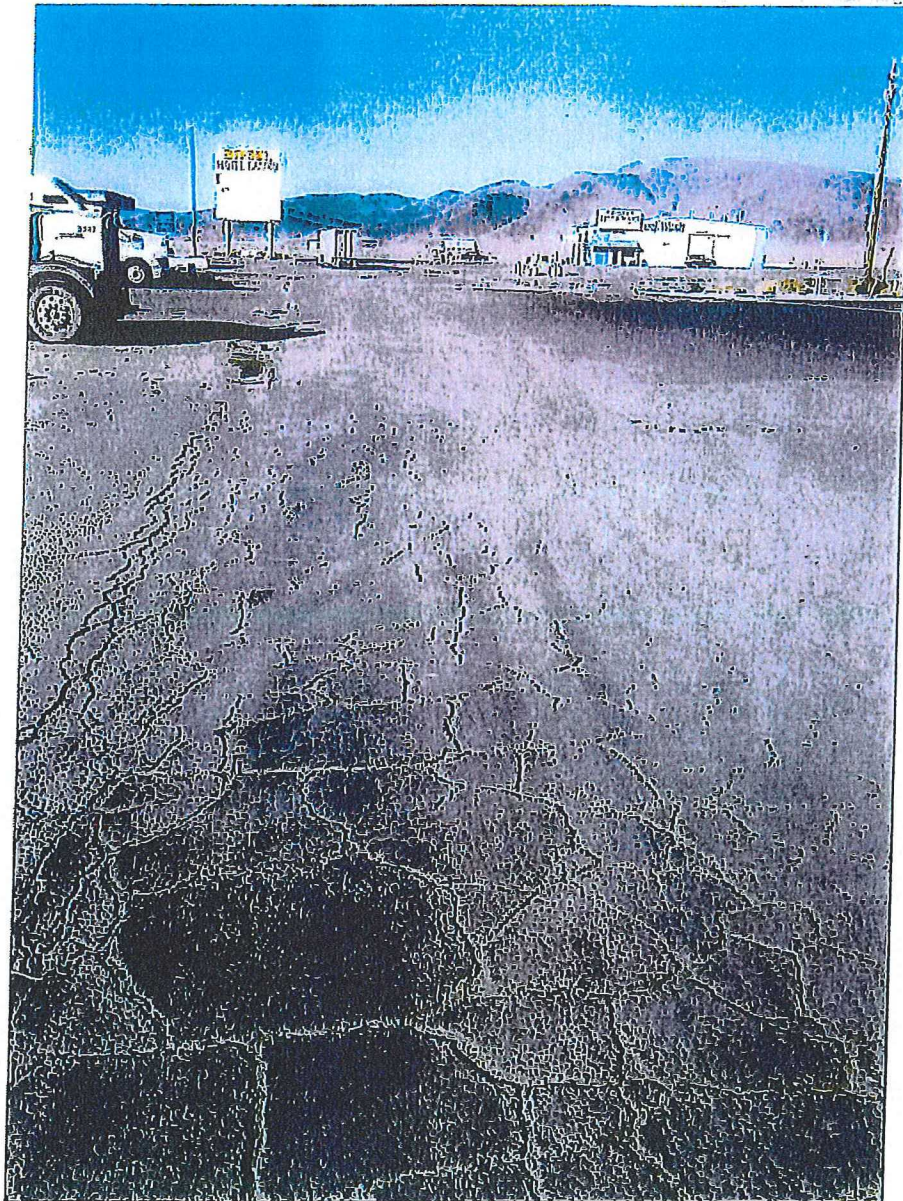


Figure 14
Mission Way (Truck Inn Way) north of I-80 Exit 48
February 1, 2014

The Northern Nevada Veteran's Cemetery is something that the community of Fernley is very proud to embrace. The only veteran's cemetery in the region, Fernley hosts dignitaries and families of fallen soldiers on a regular basis in order to lay their loved ones to rest. Although replacement of this short segment of roadway would probably cost less than \$750,000, there are many other roadways ahead of Mission Way in the queue. It is an embarrassment to our residents that this sacred place does not have a proper access, but it is a reality that the City of Fernley has to accept at this time.