The CONTRACTOR shall not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The affirmative action clause and the regulations contained in Title 41 of CFR Part 60-741 are incorporated in this contract by reference.

The CONTRACTOR shall not discriminate against any employee or applicant for employment begause he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The affirmative action clause and the regulations contained in Title 41 of CFR Part 60-250 are incorporated in this contract by reference.

1.14 PROPRIETARY INFORMATION

If CONTRACTOR transmits to the OWNER any information which CONTRACTOR considers confidential or proprietary, such information will be so designated. The QWNER will use such information exclusively in connection with ATS operation and maintenance; and, except as set forth as follows, the OWNER will not publish or otherwise disclose such information to third parties without the prior written permission of CONTRACTOR, except as required by law.

Notwithstanding the requirements set torth fiereith, OWNEH may disclose said confidential or proprietary information to a governmental authority to the extent required to secure or maintain governmental permits, licenses, or other authorizations with respect to the ATS, provided, however, that if such disclosure is required, OWNEH will give CONTRACTOR advance notice, which will be in writing if time permits, of such intended disclosure, so that both OWNER and CONTRACTOR may take all reasonable steps to secure protective treatment of the information against public disclosure by the governmental authority involved and that CONTRACTOR may participate in discussions with such governmental authority with regard to such protective treatment. In the event that efforts to secure protective treatment have become, after the exercise of all reasonable efforts, unsuccessful, CONTRACTOR will be afforded a reasonable opportunity to revise such confidential or proprietary information consistent with the, requirements of the governmental authority.

1.15 LAWS AND REGULATIONS

CONTRACTOR and its employees and representatives shall all times comply with all applicable laws, ordinances, statutes, rules or regulations.

If, during the term of this Contract, there are changes to existing taws or new laws, ordinances or regulations not pending at the time of signing this Contract which affect the cost or time of performance, CONTRACTOR shall immediately notify OWNER in writing and submit documentation of its effect on both time and cost. Upon concurrence by OWNER as to the effect of such changes an edjustment in the compensation and/or time of performance will be made.

If any discrepancy or inconsistency should be discovered between the Contract and any law, ordinance, regulation, order or decree, CONTRACTOR shall immediately report the name in writing to OWNER who will issue instructions as may be necessary.

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The following information is in regards to claims and disputes with the OWNER, and to provide the CONTRACTOR with the understanding on how to avoid and resolve contractual issues.

- Labor and materials not covered by the contract must be approved by the OWNER'S
 representative. The quote for additional work must include number of hours for labor and cost of
 parts.
- Work completed without prior approval shall not be authorized for payment.
- All claims must be submitted within thirty (30) calendar days. Claims submitted shall have all
 necessary documentation for charges sought. Fallure to submit claim within thirty (30) calendar
 days shall be considered void.
- All claims approved by OWNER shall be paid within sixty (60) calendar days.
- CONTRACTOR agrees that signing of this contract covers all areas of maintenance for the ATS.

If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the OWNER in the administration of this Contract, or by his failure to act within the time specified in this Contract (or if no time is specified, within a reasonable time), the OWNER will consider a claim for equitable adjustment for any increase in the cost of, or time required for performance of this Contract caused by such unreasonable suspension, delay, or interruption. However, no adjustments will be allowed under this clause for any suspension, delay, or interruption to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the CONTRACTOR or (2) for which an equitable adjustment is provided for or excluded under any other provision of this contract.

No claim under the preceding peragraphs of this clause will be allowed (1) for any costs incurred before the CONTRACTOR will have notified the CWNER in writing of the act or failure to act involved, and (2) unless the notification of claim is given and the claim filed in writing within thirty (80) days after termination of the delay. The CWNER's decision on all claims for equitable adjustment will be issued to the CONTRACTOR in writing. Claims that are approved by the OWNER will be reflected in a written modification to the contract.

Any dispute relating to this Contract will be resolved through good faith efforts upon the part of the CONTRACTOR and OWNER. At all times, CONTRACTOR will carry on the work and matriain the progress schedule in accordance with the requirements of the contract and the determination of the OWNER, pending resolution of any dispute, if the dispute is not resolved in ninety (90) days, either party may request arbitration in accordance with the following paragraphs.

Except as otherwise provided herein, all claims, disputes, or other questions that may arise between OWNER and CONTRACTOR concerning this contract which cannot otherwise be settled by negoliation, and which have not been waived by the making and acceptance of Final Payment, may be submitted to and be determined and settled by arbitration in the matter set forth in this paragraph. Either party, by written notice to the other received before litigation is commenced, may demand arbitration and may appoint an arbitrator. If litigation has been commenced prior to receipt of demand to arbitrate, arbitration will not be held. Within five (5) days after receipt of such notice, the other party will, by written notice to the former, appoint another arbitrator, and, in default of said second appointment, the arbitrator first appointed will be sole arbitrator and will proceed in the same manner as hereinafter provided for three arbitrators. When two arbitrators have been appointed, they will, if possible, agree upon a fixed arbitrator and will appoint the same by notice in writing, signed by both of them given to the OWNER and the CONTRACTOR. If litteen (15) days elapses after the appointment of the second arbitrator without notice of appointment of the third arbitrator being given, as aforesaid, then either party may, in writing, require

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that the American Arbitration Association or the Nevada Arbitration Association to appoint the third arbitrator. Upon appointment of the third arbitrator, the three arbitrators will meet without delay and will proceed to a determination of the dispute in accordance with the construction industry rules of the American Arbitration Association. Any costs of arbitration will be shared equally by both parties.

Either party may appeal the decision of the Board of Arbitrators to the District Court of the State of Newada, as provided for per NRS Chapter 38.

This Arbitration section will not apply to claims, disputes or other questions involving sums of money which exceed \$50,000. The CONTRACTOR will carry on the work and maintain the progress and OWNEH will continue to make payments on undisputed work during any dispute, arbitration or court proceedings, unless otherwise mutually agreed upon in writing.

If arbitration is commenced by either party under this section, then in this event the parties agree that during the period any such arbitration is being conducted, either party will have access to and the right to inspect, examine and make copies of any books, documents, papers, and records of the other involving transactions relative to the dispute which would have been discoverable had the matter been brought in the Nevada Courts. At the conclusion of the arbitration any such documents will be returned to the owning party.

1.17 NOTICE AND SERVICE THEREOF

Any notice to the CONTRACTOR from the OWNER or to the OWNER from the CONTRACTOR relative to any part of the contract shall be submitted in writing. Forwarding a notice may be accomplished by sending it by certified / registered mail, or hand delivered to the authorized representative at their work site.

1.18 WARRANTY

CONTRACTOR warrants that the ATS maintenance services performed by its personnel and the parts, equipment and services supplied by it in connection with such ATS operation and maintenance services will be provided in a manner such that the ATS will achieve a montally system availability (SA), as defined and calculated in accordance with provisions of paragraph 1.3.4, of 99.65%, it the ATS tails to achieve the warranted montally System Availability, due to the maintenance services provided by CONTRACTOR, payment for such services will be adjusted downward in accordance with the provisions of paragraph 1.3.4.

The only warranty made by CONTRACTOR is that expressly enumerated in this provision. Any other statements of fact or descriptions expressed in the contract, or any attachments hereto, will not be deemed to constitute a warranty of the work or any part thereof. THE WARRANTY SET FORTH IN THIS PROVISION (S EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING AND USAGE OF TRADE). The remedy provided above is the OWNER's sole remedy for any failure of CONTRACTOR to comply with its warranty obligations.

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The CONTRACTOR will record all tasks performed by operations and maintenance personnel in fulfilliment of warranty obligations under Contract and will record the time expended by such operations and maintenance personnel in performing such warranty tasks. Written reports will be sebmitted to the OWNER each month detailing the CONTRACTOR's use of operations and maintenance personnel in connection with warranty efforts performed during the prior month. This replacement of work hours will be at a mutually agreeable negotiated rate.

1.19 MISCELLANEOUS PROVISIONS

Third Party Beneficiaries. The provisions of this contract are only for the benefit of the parties hereto and not for any other person, except as specifically provided herein with respect to CONTRACTOR's suppliers. CONTRACTOR and OWNER agree to appear and to assist in the defense of any claim by a third party (other than a CONTRACTOR supplier) which alleges an interest in the subject matter of this

Modification: No waiver, modification, or amendment of any of the provisions of this contract will be binding unless it is in withing and signed by a duly authorized representative of the party to be bound thereby.

Survival: The provisions of the paragraphs contained herein and filled iNDEMNIFICATION, INSURANCE, PATENT INDEMNITY AND PROPRIETARY INFORMATION, will apply notwithstanding any other provision of this contract and will survive termination, cancellation, or expiration of this contract.

Assignment: This contract will not be assigned by either party without the prior written consent of the other party, which consent will not be unreasonably withheld; provided, however, that CONTRACTOR may assign any or all of its rights or obligations under this Contract to a wholly owned subsidiary.

AIRPORT SECURITY

a. OWNER Property

For security purposes, OWNER property is divided into three (3) estagories as follows:

The non-secure portion of the Airport,

Airside:

The Secured Area / Security Identification Display Area (SIDA); and

The parts of the ferminal buildings that required access through a security check 3. Sterile Areas: point. Note: This is a part of the SIDA.

All CONTRACTOR's personnel working on OWNER property, Landside, Airside or Sterlle Areas, must be badged for identification purposes.

b. Federal Regulations

1. 49 Code of Federal Regulation (CFR), Part 1542, governing US Commercial Airport Security Program requires that security of the Secured Area / SIDA at McCarran International Airport be maintained at all times. This regulation has a provision for enforcement by the Transportation Security Administration (TSA), which may assess substantial fines (\$10,000.00 per occurrence) for potential security breaches or violations or actual security breaches and violations by authorized and unauthorized persons and vehicles entering the Secured Area / SIDA on LAS. OWNER will be reimbursed by CONTRACTOR for any fines levied for breaches or violations of security due to CONTRACTOR or those of any tier subcontractor. When working at Airport, regardless of location, CONTRACTOR's personnel must visibly display at waist level or above on their culermost garment the appropriate McCarran International Airport security identification badge at all times.

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- CONTRACTOR acknowledges that McCerran International Airport reserves the right to refuse identification badges to any person with a record of arrests and convictions, or poses a safety or security risk to the airport, which in its sole judgment would render that person an unacceptable risk to the security of the Airport.
- CONTRACTOR agrees to accept and reimburse OWNER for any fines levied on OWNER by TSA for any violation of any TSA Security Regulations and Rules by CONTRACTOR and its employees or any of CONTRACTOR's subcontractors, vendors, suppliers and agents and ineir employees.

c. Access to the Airport Secured Area / SIDA

Access to the Almort Sectired Area/SIDA can be gained by personnel displaying a Maroon or Green badge. Personnel with a Tan Badge are only allowed access to and within the McCarran Sterile Areas and Landside/Public Areas. CONTRACTOR will be allowed access to only those areas necessary to complete the work.

d. Airport Secured Area / SIDA

if a Maroon of Green badge holder enters a part of the Airport Secured / SIDA for which access has not been authorized, CONTRACTOR may be subject to a fine as detailed in Section 1.21.b., and personnel may be subject to immediate and permanent removal, to include security identification badge revocation, from the Airport by OWNER.

a. Landside / Public Work Areas

CONTRACTOR's personnel with a Tan budge can gain access to Landelde / Public or Sterile Area work areas without escort. If a Tan budge holder enters an Airport Secured Area / SIDA, CONTRACTOR may be subject to a fine as detailed in Section 1.21,b., and personnel may be subject to immediate and permanent removel from the Airport by CWNER. Personnel with Tan budges do not have the authority to escort and must be screened through the TSA passenger security checkpoint prior to entering Airport Sterile Areas.

SECURITY PROCEDURES AND BADGING

- a. CONTRACTOR may apply for either a Marcon, Green or Yan badge for its personnel as applicable. The security identification badge shall be specific to the awarded contract, for which its personnel are assigned. All security badges are obtainable after receipt of Notice of Award and personnel's successful completion of US Customs & Border Protection (CEP) Access Seal background check (if applicable), TSA required criminal history records check and security threat assessment and successful completion of the Airport Security Training Class.
- b. Airport Badging Office hours are between 6am 6pm, Monday through Friday, excluding special events and holidays. The Airport Badging Office telephone number is (702) 261-5652. The Airport Fingerprint Office hours are between 7:00 a.m. 12:00 noon and 1:00 p.m. 3:45 p.m., Monday through Friday, excluding special events and holidays. The Airport Fingerprinting Office telephone number is (702) 261-5886.

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- c. CONTRACTOR's personnel requiring a Maroon, Green or Tan badge shall undergo a CBP access seal background check (if applicable) of which it may take up to five (5) business days for CBP to provide results. Once CBP check is complete (if applicable), personnel must be ingerprinted, as required by 49 Code of Federal Regulation (CFR), Part 1542. It may take up to fourtien (14) calendar days to receive the results of this Criminal History Records Check, Further, as required by Part 1542, individuals must submit necessary documentation and data for TSA to conduct a security threat assessment. Security Threat Assessment results may also take up to fourteen (14) calendar days to be received. Once Airport has received all results, the employee must attend the Airport Security Training Class, All badges expire on an annual basis, if the term of the contract is longer than twelve (12) months, then CONTRACTOR is required to re-badge all employees assigned to the contract. CONTRACTOR employees may renew badges beginning thirty (30)-days prior to date of expiration. Please note expiration date is date of employee's birthday.
- d. A Marcon or Green badge provides access to the Airport Secured Area/SIDA, as stipulated by OWNER and is required when CONTRACTOR has to provide pedestrian escort to Airport Secured Area/SiDA or has to guard a door or gate that allows access to Airport Secured Area/SIDA. Personnel with a Marcon or Green badge may act as escort for persons (visual control) at worksite only and are not authorized to escort vehicles.
- e. A Tan badge is authorized by and signed for by OWNER. This badge is required for all other personnel who do not have a Marcon or Green badge. A Tan badge provides access to Landside/Public/Sterile Areas as stipulated by OWNER. Tan badge holders may not be escorted into the Airport Secured Area/SiDA, nor do Tan badge holders have authority to escort and must be screened through the TSA passenger security screening checkpoints prior to entering Airport Sterile
- f. CONTRACTOR will provide OWNER with information on the specific doors/points of entry through which access is required. OWNER will relay access requests to the Airport Badging Office for card readers (Maroon or Green badged personnel only) and to the Facilities Division for keyed doors. Access will be removed after contract completion.
- g. Any toolbox, and tools contained within, for work/project duties only, may be brought into the Airport Sterile and Secured Area/SIDA, however, it is subject to search by the Airport and the TSA and must be controlled/secured. Toolboxes may not be taken through the TSA passenger security screening checkpoints.
- h. "Airport personne? includes any and all personnel of the Airport, operator, concessionaires, vendors, confractors, and subcontractors. All of these personnel using tools of the trade (knives and any cutting instrument/tool of any kind) within the Sterile and Secured Area/SIDA must have an Airport Issued Security Identification badge. Non-badged personnel may use necessary tools of the trade in sterile areas under visual supervision and escort of a properly badged person. Tan badged are prohibited from escorted non-badged personnel. Tools not under direct visual supervision must be secured from public access.

APPLICATION/DOCUMENTATION.

- a. CONTRACTOR through the OWNER's representative must obtain a fingerprint and badging application package from the Airport Badging Office. Upon completion, CONTRACTOR shall submit the application package to the Airport Badging Office. NOTE: If applicable, CONTRACTOR must first obtain applications for CBP Access Seal and complete necessary process and background checks for all of its personnel prior to requesting Airport Security Identification Badge.
- b. Applications for picture badges must be processed through the Las Vegas Metropolitan Police Department (METRO). Two (2) forms of personal identification are required prior to submitting the application to the Airport Badging Office, one of which must be a government-issued picture I.D.
- c. Owner will provide the Airport Badging Office with confirmation of the Notice of Award for each contract; including any renewals and/or extension dates and notice of contract completion.

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BADGING AND FINGERPRINTING COST

a. The badging and fingerprinting costs shall be paid by the OWNER. The initial cost for badging is \$10 per badge and \$27 for fingerprinting per individual. The cost for the first replacement badge is \$50, and \$100 for the second replacement, and \$200 for the third replacement (to be paid to the Airport Badging Office at the time the badge is issued), if the badge is lost for the fourth time, no badge will be issued. Badges re-issued after expiration will be issued at no cost. If a badge is reported stolen, there will be no charge if a copy of a police report is provided. Refunds will not be issued for replacement badges/lost badges.

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LOST BADGES

- a. CONTRACTOR shall immediately file a report of lost of missing badges with the Airport Control Center at (702) 261-5125. If a lost identification badge is recovered, it must immediately be returned to the Airport Badging Office.
- CONTRACTOR shall immediately notify the Airport Badging Office of any employee or subcontractor of CONTRACTOR working on the contract that is terminated or is released from work and return badge.

VEHICLE ESCORTS

- e. All vehicles without decals must be escorted.
- b. No private vehicles, (registered to an individual) are authorized on the airfield.
- c. All CONTHACTOR's subcontractors and vendor vehicles that are to be escorted will be required to provide a copy of vehicle registration (company) and insurance at the designated point of entry into the Airport Secured Area/SiDA. Said escorted vehicles are also required to display their company logo on both sides of each vehicle which must be visible from a reasonable distance with lettering a minimum of 3" high. Logos will be checked at the designated point of entry into the Airport Secured Area/SiDA.
- d. All vehicles and personnel are subject to search and inspections.
- CONTRACTOR shall submit a request for escorts no later than 1:00 pm on the day prior to the requirement.

CONTRACTOR'S RESPONSIBILITY

- a. CONTRACTOR shall be responsible for all personnel engaged in the work to ensure that said personnel comply with all security requirements imposed by CWNER. It shall be CONTRACTOR's responsibility to ensure that all equipment and workmen do not enter Airport Secured Area/SiDA except as required during the progress of the work. CONTRACTOR shall follow the directions given by OWNER concerning the security policies, procedures, rules, ragulations, and methods of access and any other restrictions applicable to work within Airport Secured Area/SiDA. CONTRACTOR's operations, vehicles and personnel shall be prevented from encroaching into aircraft operational areas by means of barricades, or as directed by OWNER.
- b. CONTRACTOR, upon completion of the contract or when badges are no longer required, shall immediately return all badges to the Airport Badging Office. Failure to do so will result in monies being held from the last payment.

1.21 OWNER/CONTRACTOR COOPERATION

During the term of this contract, OWNER may let other contracts with CONTRACTOR or others to modify, expand or otherwise enhance the ATS. In such events, OWNER and CONTRACTOR agree to cooperate fully during such activity to minimize any Interference with ATS operation.

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OWNER agrees to place a similar provision in contracts it lets, and to coordinate the efforts of its CONTRACTOR's within the work area or in close proximity to the same. The OWNER and CONTRACTOR will meet monthly to review maintenance procedures and approve CONTRACTOR invoices.

1,22 CHANGES

The OWNER, without invalidating the CONTRACTOR, may in writing order extra work (for example, due to an increase in the number of vehicles or operating hours) or make other changes by altering, adding to the work and the contract fixed cost, time for completion of the work and other affected terms and conditions are to be adjusted accordingly. All such work will be executed in accordance with the applicable terms and conditions of the Contract as adjusted as a result of the Extra Work or other changes. The adjustments in schedule and other affected terms and conditions required by the change or Extra Work will be resolved insofar as practical at the time of ordering such change or extra work.

Payment for any such change or extra work will be made as provided herein. The CONTRACTOR will supply price quotations for the proposed change or extra work no later than thirty (30) calendar days from date of receipt of notification. The CONTRACTOR's price quotation will include all costs for such change or extra work, including where appropriate the costs of impact, disruption and delay. The parties will agree in writing upon a price and payment schedule for the extra work or change before said extra work or change is commenced.

1.23 ENTIRE CONTRACT

This contract embodies the entire contract between OWNER and CONTRACTOR. The parties will not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. No changes, amendments or modifications of any of the terms or conditions of the Contract will be valid unless reduced to writing and signed by both parties.

2.0 MAINTENANCE REQUIREMENTS

Operation of the ATS, including staffing of the Control Center Facility, will be performed by the OWNER as described herein. The CONTRACTOR will provide all required labor and materials, and will maintain the ATS as specified herein.

2.1 GENERAL

2.1.1 OWNER'S OPERATION

Operation of the ATS, including staffing of the Control Center Facility, will be performed by the OWNER. Responsibilities of the OWNER will include:

- Selecting the operational mode for the ATS;
- Monitoring system operations at Central Control and notifying CONTRACTOR of system mailtunotions;
- Observing passenger activities via the CCTV monitors at Central Control;
- Responding to passenger inquiries via the vehicle radio;
- Directing all emergency procedures involving passengers and/or employees;
- Directing the removal of disabled vehicles from service;

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- Coordinating with the CONTRACTOR's maintenance representative regarding performance of ATS maintenance activities.
- Providing contractual direction to the CONTRACTOR's maintenance representative under circumstances (emergency or otherwise) not covered in this contract.

For purposes of communicating with the CONTRACTOR's site manager, the OWNER will designate a representative to be at the airport at all times when the system is in operation, to serve as the OWNER's ATS representative. All OWNER communications to the CONTRACTOR regarding the operation of the ATS system will be through the CONTRACTOR's site manager.

2.1.2 OWNER PROVIDED WORK AND SERVICES

2.1.2.1 GUIDEWAY AND FACILITY MAINTENANCE

The OWNER will provide and maintain the maintenance shop, office and equipment room space to the CONTRACTOR; however, the CONTRACTOR will do general housekeeping of these areas.

The OWNER will provide and maintain the guide way structures, including the running surface, and coordinate this with CONTRACTOR's operations of the ATS System.

The OWNER will also maintain the passenger station finish and uncontrolled directional signs.

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. 2.1.2.2 SERVICES

The OWNER will provide the following services to the CONTRACTOR at the OWNER's expense:

- All utilities (electric, heat, water, and sewage) used in the operation and maintenance of the ATS and in the CONTRACTOR's administration of its activities at the airport;
- Employee and job related vehicle parking for CONTRACTOR's employees at the airport and for all vehicles required for operation and maintenance of the ATS; and
- Airport identification badges for all of CONTRACTOR's employees at the Airport.
- Maintenance radios and base station

2.1.3 EXTENT OF THE WORK

The work under this contract shall include furnishing all labor and material necessary to accomplish the inspection, cleaning, adjustment, preventive maintenance, lubrication, repair, teating, replacement of worn parts, replacement of spare equipment and repair of spare equipment for the ATS, as hereinafter defined.

The equipment to be maintained hereunder is defined as equipment (excluding power distribution equipment but including the U.P.S.) supplied by the CONTRACTOR or pursuant to the ATS Contract ("C" Trains = 4 vehicles, "D" Trains = 6 Vehicles, and T3 (when system is placed into service) = 8 vehicles and associated components of all trains) between the CONTRACTOR and OWNER, except as specifically identified hereinaiter. Maintenance of OWNER-supplied equipment or facilities which were not a part of the ATS Contract between the CONTRACTOR and OWNER is not included under this contract.

The CONTRACTOR will provide, train, and supervise all maintenance personnel and provide all materials and equipment required to accomplish the task specified herein, to assure that ATS provides sale and reliable service for passengers.

As spare parts are used by CONTRACTOR from the OWNER's spare parts stock, CONTRACTOR will replace such spares with new or rebuilt replacement spares at no additional cost to the OWNER. The quantity and quality of each item may be varied at CONTRACTOR's discretion if the system safety and performance are not reduced. CONTRACTOR, with OWNER's approval, may also change the spare parts mix as long as the initial value of the stock is not reduced.

2.1.4 CONTRACTOR'S PERSONNEL

The CONTRACTOR will assign a qualified and experienced person, who will be directly employed by the CONTRACTOR, to be at the Airport at all times when the system is in operation. This person will be designated as the CONTRACTOR's maintenance representative for purposes of coordination and communication with the OWNER's operations personnel in accomplishing the orderly operation and maintenance of the ATS.

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2.1.5 MAINTENANCE PLAN AND PROCEDURES

All maintenance work on the ATS will be performed in accordance with the approved maintenance plan and manuals.

ATS maintenance will be scheduled by the CONTRACTOR in such a way that the interference with, or effect upon the operation of the ATS systam is minimized. To minimize operational impact, maintenance of equipment may necessarily have to be done at night, or in the off-peak periods. Maintenance practices or procedures which may compromise or degrade the operation must be approved by the OWNER in advance of their initiation, either on an individual basis, or as part of the approved maintenance plan.

2.1.5 MANUAL VEHICLE MOVEMENTS

When directed by the OWNER's authorized ATS representative, the CONTRACTOR will accomplish all manual vehicle movements associated with operation and maintenance of the ATS.

Whenever ATS vehicles stall, restoration of service is of paramount concern. Restoration of service and/or recovery of stalled vehicles will be accomplished by the following actions:

- The Control Center operator will attempt to restart the stalled vehicle remotely by issuing a command from Control Center,
- A maintenance person will be dispatched to the stalled vehicle. The maintenance person will thoroughly check the vehicle, and attempt to restart it using onboard reset devices.
- If the vehicle cannot be restored to automatic operations, the maintenance person will manually drive
 the vehicle to the hearest station, using the onboard controls provided for that purpose. At the station,
 passengers will be allowed to deboard the vehicle.
- If it is not possible to manually advance the vehicle to the station, passengers will be evacuated to the emergency walkway where, under the supervision of OWNER's personnel, they will walk to the nearest station. CONTRACTOR's personnel will assist OWNER as requested. OWNER's response time will be such as not to impact contract availability requirements.

Movement of vehicles under manual control will be accomplished only by qualified CONTRACTOR personnel, and only under rules and procedures established jointly by the CONTRACTOR and the COWNER to ensure personnel safety and equipment security.

2.1.7 RECORDS

The CONTRACTOR will keep delailed records and inveniory data to permit the OWNER to ascertain the CONTRACTOR's compliance with the requirements of this contract and will furnish the OWNER copies of such documents upon request. The procedures and forms for such record-keeping will be submitted for approval by the OWNER. All records and data will become the property of the OWNER at the conclusion of this contract.

2.1.8 SUBCONTRACTS

The CONTRACTOR will have the right to subcontract portions of the maintenance work to qualified SUBCONTRACTOR's or service shops, provided the subcontracted service compiles in every way with the requirements of this contract, in such cases, the CONTRACTOR will be responsible for the training of all subcontractor personnel.

2.2 SUBSYSTEM MAINTENANCE

The CONTRACTOR will maintain the ATS subsystems as specified in the following paragraphs. For each of the ATS subsystems, the following types of maintenance will be performed.

Routine Maintenance - Activities designed to provide a clean and aesthetically pleasing system for public use, as well as routine inspections and test designed to identify any unusual or abnormal equipment conditions. Routine maintenance activities will be included in the CONTRACTOR's Maintenance Plan.

Scheduled Maintenance - Activities designed to keep the ATS operating at prescribed levels of safety and reliability, which are performed on a recurring basis, at specified intervals. Scheduled maintenance activities will be included in the CONTRACTOR's maintenance plan.

Non-Scheduled Maintenance - Any corrective measure or repair required by an inspection, a failure, or unusual circumstances adversely affecting the normal ATS operation. Non-scheduled maintenance activities need not be included in the CONTRACTOR's Maintenance Plan, but, when required, should be performed on a priority basis.

The maintenance work performed by the CONTRACTOR will be sufficient to maintain system performance characteristics at the levels specified in the ATS Contract. CONTRACTOR and OWNER will mutually develop and agree on a data form to permit CONTRACTOR to Input maintenance information into the OWNER's Maintenance Management Program.

2.2.1 VEHICLE MAINTENANCE

The CONTRACTOR will service and maintain the entire ATS vehicles, including, but not limited to: wheels, vehicle frame, structural members, vehicle body, seats, windows, panels, doors, suspension equipment, propulsion and braking equipment, vehicle control equipment, eccessory equipment, door mechanisms, graphic, and air conditioning equipment.

As a minimum, the CONTRACTOR will perform the mainlenance activities outlined below.

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2.2.1.1 ROUTINE VEHICLE MAINTENANCE

Daily Cleaning of All Vehicles

- Visual examination for damage
- Wiping and dusting of exterior and interior surfaces
- Vacuuming of floors
- Removal of litter, debris, and gralfiti
- Washing of floors, seats and windows
- Washing of exterior body and chassis (weekly or as-required*)
- Vehicle glass once per week**
- *Any "as-required" needs shall be negotiated separately between OWNER and CONTRACTOR and then added to base contract.
- "If frequency of glass cleaning is required to be increased by OWNER, then CONTRACTOR'S
 SDC manager and OWNER's Representative will negotiate in good faith and mutually agree upon
 additional price to perform the work.

Inspection

- eriofisalimage isusiV
- Equipment operational checks
- Diagnostic equipment-assisted checks

Service Tests

Tests of vehicle subsystems as necessary to assure sale and reliable operation

2.2.1.2 SCHEDULED VEHICLE MAINTENANCE

Minor Maintenance

- Changing or adding lubricants
- Performing equipment adjustments
- Replacing components
- Performing minor repairs
- CCTV inspection

Major Maintenance (excluding work covered under Paragraph 2.2.6)

- Replacing major repairable units
- Performing major repairs
- Rebuilding and overhauling major components
- Repairing spare equipment

2.2,1.3 NON-SCHEDULED VEHICLE, MAINTENANCE

Non-scheduled vehicle maintenance may be required because of unsatisfactory conditions discovered during an inspection, or because of an operational failure. When required, non-scheduled vehicle maintenance will be performed on a priority basis.

2.2.2 GUIDEWAY EQUIPMENT MAINTENANCE

The CONTRACTOR will align, adjust and otherwise maintain guideway and vehicle guidance devices as required to maintain the specified ride quality of the system. Also, the CONTRACTOR will clean and paint the CONTRACTOR supplied guideway equipment as required to prevent corrosion. As a minimum, the CONTRACTOR will perform the maintenance activities cultined below.

2.2.2.1 ROUTINE GUIDEWAY EQUIPMENT MAINTENANCE

Cleaning

- Sweeping the vehicle running surfaces
- Removal of debris and litter from the guideway
- Disposal of collected dirt and debris
- Periodic washing of the guideway with high pressure water

inspection

- Visual examination of guideway equipment for deterioration or damage
- Equipment operational checks
- Diagnostic equipment-essisted check

2.222 SCHEDULED GUIDEWAY EQUIPMENT MAINTENANCE

Minor Maintenance

- Touch-up painting of exposed surfaces
 - Alignment of guidance devices

2.2.2.3 NON-SCHEDULED GUIDEWAY EQUIPMENT MAINTENANCE

Non-scheduled guideway equipment maintenance may be required because of unsatisfactory conditions discovered during an inspection, or because of an operational failure. When required, non-scheduled maintenance of guideway equipment will be performed on a priority basis.

2.23 STATION EQUIPMENT MAINTENANCE

The CONTRACTOR will service and maintain all electrical, electronic and mechanical equipment, windows, and door panels associated with station doors. Also, the CONTRACTOR will service and maintain all passenger controls and displays located at the stations.

As a minimum, the CONTRACTOR will perform the following station equipment maintenance activities:

2.23.1 ROUTINE STATION EQUIPMENT MAINTENANCE

Cleaning

- Cleaning of all station windows (on the guideway side only)

Inspection

- Visual examination of station equipment, doors, ATS graphics, and station occupancy detectors
- Equipment operation checks
- Diagnostic equipment-assisted checks

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Sambarder Trans. Automated Transit System Equipment Cate-see

2.2.3.2 SCHEDULED STATION EQUIPMENT MAINTENANCE

Minor Maintenance

- : Station door adjustments and repairs
- Graphics repairs (excluding built replacement)
- Occupancy detector adjustments and repairs

2.2.3.3 NON-SCHEDULED STATION EQUIPMENT MAINTENANCE

Non-scheduled station equipment maintenance may be required because of unsatisfactory conditions discovered during an inspection, or because of an operational failure. When required, non-scheduled maintenance of station equipment will be performed on a priority basis.

2.2.4 POWER DISTRIBUTION EQUIPMENT MAINTENANCE

The CWNER will maintain all traction power distribution equipment up to the power rails. This will include, but not be limited to: metering equipment; power circuit breakers, lightning proteotion equipment power transformers, power cables and the Diesel Generator set.

As a minimum, the OWNER will perform the maintenance activities outlined below.

2.2.4.1 ROUTINE POWER DISTRIBUTION EQUIPMENT MAINTENANCE

Cleaning

- Cleaning and sweeping of substation areas
- Cleaning of power equipment cabinets

Inspection

- Visual examinations
- Equipment operational checks
- Diagnostic equipment-assisted checks

2.24.2 SCHEDULED FOWER DISTRIBUTION EQUIPMENT MAINTENANCE

Minor Maintenance

- Adjustment and testing of power transformers and switch gear
- Repair and replacement of contactors and isolation switches:
- Regularly scheduled diagnostic checks of equipment operation

Major Maintenance (excluding work covered under Section 2.2.6)

- Repair or replacement of failed equipment or components

2.2.4.3 NON-SCHEDULED POWER DISTRIBUTION EQUIPMENT MAINTENANCE

Non-scheduled power distribution equipment maintenance may be required because of unsalisfactory conditions discovered during an inspection, or because of an operation failure. When required, non-scheduled maintenance of power distribution equipment will be performed on a priority basis.

The CONTRACTOR will perform maintenance activities on the U.P.S., power rails and surge protection equipment. This task also includes the alignment and artiustment of the power rails on the guideway.

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2.25 AUTOMATIC THAIN CONTROL EQUIPMENT MAINTENANCE

The CONTRACTOR will service and maintain all automatic vehicle control (ATC) and associated equipment, including the ATS Control center equipment.

As a minimum, the CONTRACTOR will perform the maintenance activities outlined below.

2.2.5.1 ROUTINE MAINTENANCE OF AUTOMATIC TRAIN CONTROL EQUIPMENT

Cleaning

Cleaning of ATC equipment cabinets

inspection

- Visual examination
- Equipment operational checks
- Diagnostic equipment-assisted checks

Verification

- Periodic verification of the proper and sale operation of all ATC equipment

2252 SCHEDULED MAINTENANCE OF AUTOMATIC TRAIN CONTROL EQUIPMENT

Minor Maintenance

- Operation of diagnostic programs
- Test operation of redundant equipment
- Component operational checks
- Preventive maintenance on all control equipment (such as lubrication, adjustments and cleaning)
- Scheduled replacement or repair of components

Major Maintanance (excluding work covered under Section 2.2.6)

- Repair or replacement of failed equipment or components

2253 NON-SCHEDULED MAINTENANCE OF AUTOMÁTIC THAIN CONTROL EQUIPMENT

Non-scheduled automatic vehicle control equipment maintanance may be required because of unsatisfactory conditions discovered during an inspection, or because of operational failures. When required, non-scheduled maintenance of AVC equipment will be performed on a priority basis.

226 UPGRADES AND ENHANCEMENTS

In accordance with Bombardier recommended upgrades and enhancement practices, at the beginning of each year of the maintenance service to be provided hereunder, the CONTRACTOR will submit for CWNER approval proposals for upgrades and/or enhancements required to be accomplished in the pending contract year. The proposal will include CONTRACTOR's justification for the work, the work-acope definition, estimate of time required and a fixed cost proposal for performing each task which will be reviewed by the OWNER. Any upgrades or enhancements performed by the CONTRACTOR will be subject to the covenants, terms and conditions of the contract.

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Under no circumstances will the CONTRACTOR perform any of the proposed upgrades or enhancements or heavy maintenance and overhaul tasks without formal written approval from the OWNER.

In the event a requested upgrade or enhancement is rejected by the OWNER and subsequently a malfunction occurs which would not have occurred had the upgrade or enhancement been performed, any downtime resulting from such a malfunction and its repair will not be included in the System Availability calculation for the system nor will Contractor be deemed in violation of this contract.

22.6.1 HEAVY MAINTENANCE AND OVERHAUL

In accordance with Bomberdier recommended Heavy Maintenance and Overhaul practices, and prior to the execution of the contract, and annually thereafter, the CONTRACTOR will submit for OWNER approval a schedule of heavy maintenance and overhaul tasks to be accomplished in the pending contract year. The schedule will include CONTRACTOR's justification for the work, the work-scope definition, estimate of time required and a fixed cost proposal for performing each task which will be reviewed by the OWNER. Any heavy maintenance or overhead tasks performed by CONTRACTOR will be subject to the covenants, terms and conditions of the contract.

Under no circumstances will the CONTRACTOR perform any heavy maintenance and overhaut tasks, except for those that have been scheduled as specified above, without formal written approval from the OWNER.

Heavy maintenance and overhaul tasks will include, but are not necessarily limited to, the following:

Vehicles

- Propulsion motor overhaul
- Axle differential and planetary gear overhaul
- Air-conditioning compressor overhaul
- Replacement of bogie pivot bearing
- Exterior body waxing
- Replacement of carpet
- Vehicle Interior Refurbishment
- UPS System

Guideway

- Guideway painting excluding repair or touch-up painting
- Running suitace repair excluding local patch work

Notwithstanding any of the above, the performance of any heavy maintenance and/or overhaul task that necessitates a disruption to normal scheduled operations will require written approval from the OWNER and coordination with the OWNER before it is performed.

In the event a requested fleavy maintenance or overhaultiern is rejected by OWNER and subsequently a failure occurs due to the rejection of the heavy maintenance or overhaultiern, downtime for the purposes of calculating vehicle availability will be excluded and Contractor will not be deemed in violation of this contract.

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Automated Triensi System Equipment
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2.2.7 MAINTENANCE EQUIPMENT/TOOLS AND JANITORIAL

The OWNER's inventory of maintenance equipment, tools, office and shop furniture and office equipment will be maintained by CONTRACTOR in good working condition for their intended use and stored and protected from harmful environments.

2.2,8 MAINTENANCE ADMINISTRATION

The CONTRACTOR will provide all required personnel, supplies and materials, and will perform the administration of the ATS maintenance program. Maintenance administration includes maintenance management, personnel training inventory control and contribution of hard copy repens to OWNER's Maintenance Management Program (MAXIMO).

During the term of this contract period, it is envisioned that the OWNER and CONTRACTOR will work together for the purposes of transferring the CONTRACTOR's current Management Information System (SIMS) over to the OWNER'S Maintenance Management Program (MAXIMO). This work will be funded by the OWNER under separate Purchase Order to be issued to CONTRACTOR by OWNER.

2.2.8.1 MAINTENANCE MANAGEMENT

For the purposes of OWNER/CONTRACTOR relations, Contractor's Service Delivery Center (SDC) Manager will be the single-point of contact to the OWNER.

Maintenance management comprises all of the functions required to efficiently manage the maintenance activities, including:

- Supervision and cierical support
- Preparing and updating maintenance records
- Personnel administration
- Maintenance scheduling

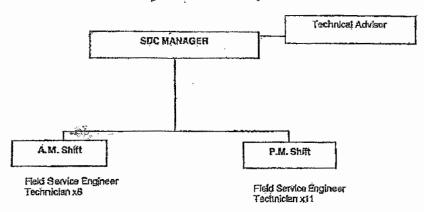
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2.2.8.2 PERSONNEL TRAINING

Personnel training includes all functions needed to train all CONTRACTOR ATS maintenance personnel.

O & M - Las Vegas APM Service Delivery Center



2,2,8,3 INVENTORY CONTROL

Inventory Control includes all activities required to maintain an adequate supply, of materials, supplies and equipment required to maintain the ATS. Included are such functions as purchasing and disbursement, receiving, cataloging, storage and requisition control. The CONTRACTOR will maintain inventory records which include equipment listings, required quantities and reorder points. Such records will be updated annually and submitted to OWNER thirty (30) days prior to the anniversary of the contract signature date.

2.2.8.4 OBSOLESCENCE

It any component, spare part, or subsystem of the ATS has been confirmed to be obsolete, or cannot be acquired or manufactured, the CONTRACTOR will advise the OWNER in a timely fashion of such obsolete component, spare part or subsystem. CONTRACTOR will work with the CWNER and recommend it possible, such parts that are equal or better in quality and operation, than original parts at no additional cost to the OWNER. However, in no event shall the CONTRACTOR be itable for losses or damages, including need for additional Services and/or Material/Equipment, arising out of or related to obsolescence of the ATS due to reasons out of the CONTRACTOR's control.

2.3 ANNUAL DETERMINATION

The CONTRACTOR will make an annual determination of spare parts inventory requirements versus actual inventory and report the results with recommendations to the OWNER along with submitted of the annual inventory. Any parts deemed obsolete by the CONTRACTOR or OWNER will be delivered to the OWNER, and the part(s) with the removed from the inventory list.

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EXHIBIT "A"

ATS MAINTENANCE AGREEMENT

A1.0 SERVICE DEPENDABILITY

Service dependability is the measure of the ATS system's effectiveness both in providing operating vehicles in a timely manner to all patrons and in transporting these patrons to their destinations with minimum delays. The approach outlined herein does not attempt to quantify dependability by means of a single number, but rather to indicate dependability through three readily measurable quantities. These quantities are downtime, system availability, and schedule adherence, which taken together provide a measure of the degree to which the System provides service when subjected to dynamic and static system failures.

A1.1 DOWNTIME EVENT

A downtime event is defined as one or more system related problems which cause unscrieduled stoppage of one or more on any portion of the guideway. (Inability to dispatch from a station is also considered an unscheduled stoppage). Stoppage resulting from causes listed as exclusions in Paragraph A1.5 will not be counted as downtime events.

A1.2 DOWNTIME AND DOWNTIME LIMITS

Downtime is the accumulated time (in minutes) of all downtime events as defined in Paragraph A1.1, downtime for an event during synchronized on-call, single lane on-call or single lane shuttle operation will include all time from when train movement is interrupted, and the CONTRACTOR's on-duty maintenance representative has been notified of the event, until all trains stopped by the event have restarted. Downtime will be accumulated separately for each guideway.

Downtime for an event during synchronized double shuttle operation will be computed as follows:

- When movement of only one train is affected, downtime for the event will include half the time from
 when train movement is interrupted and the CONTRACTOR's on duty maintenance representative is
 notified of the event, until the train stopped by the event has been restarted.
- When the movement of both trains is affected, downtime for the event will include all time from when
 trains movement is interrupted and the CONTRACTOR's on duty maintenance representative is
 notified of the event, until all trains stopped by the event have been restarted.

A13 SYSTEM AVAILABILITY AND EQUIPMENT HISTORY

Performance reports of system availability and equipment history will be made available to the OWNER immediately upon request.

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A1.4 SYSTEM AVAILABILITY (SA)

This is the actual time (in minutes) in which the system provides normal service and is equal to the number of scheduled operating minutes less the total downtime resulting from downtime events. Availability will be separately calculated for each guideway.

Guideway availability is measured by the relationship:

GA = <u>system operating time</u> system scheduled operating time

System availability (SA) will be the average of the sum of the guideway availabilities (GA).

A1.5 EXCLUSIONS

Certain events may cause stoppage of the system but are not considered downtime events. The following are considered exclusions for the purpose of determining downtime and system availability:

- Willful passenger-induced system interruptions
- Interruptions caused by unauthorized intrusions of persons or animate or manimate objects into the system
- Interruptions caused by non-system induced loss of service
- Periods of normal operating time when the specified environmental limits are exceeded
- Interruptions that result in stoppages equal to or less than three (3) minutes for the Safellite C
 ATS or five (5) injustes for the Satellite D ATS during which time corrective action effectively restores the vehicle(s) to service
- Acts of vandalism causing system interruptions .

A1.5 SYSTEM OPERATING SCHEDULE

The ATS is designed for 24 hours a day operation. The estimated operating times and modes are as follows:

- 17 hours Synctronized Double Shuitle
- Thours Single Lane Shuttle

The OWNER may after this schedule to accommodate periodic, short term highliow demand fluctuations in airport operations. Permanent changes to the operating schedule, if required, will be developed in consultations with the CONTRACTOR.

FORM Á INSURANCE REQUIREMENTS

CONTRACT FOR MAINTENANCE OF AUTOMATED TRANSIT SYSTEM EQUIPMENT

OBE-552

TO ENSURE COMPLIANCE WITH THE CONTRACT, CONTRACTOR SHOULD FORWARD THE FULLOWING INSURANCE CLAUSE AND SAMPLE INSURANCE FORM TO THEIR INSURANCE AGENT PRIOR TO CONTRACT APPROVAL.

- Format/Time: The CONTRACTOR: shall provide Owner with Certificates of Insurance, and endorsements affecting
 coverage per prolosed sample formats as required by this Agreement within ten (10) catendar days after the award
 by the Owner. All policy endorsements shall be signed by a person authorized by that insurer and who is licensed by
 the State of Nevada in accordance with NRS 680A.300. All required aggregate limits shall be disclosed and amounts
 entered on the Certificate of Insurance, and shall be maintained for the direction of the contract and any renewal
 periods.
- Best Key Rating: The Owner requires insurance carriers to maintain during the contract term, a <u>Best Key Rating of</u>
 A—Viil or higher, which shall be fully disclosed and entered on the Certificate of Insurance, (see sample form)
- Owner Coverage: The Owner, its officer's employees, agents, and volunteers must be expressly covered as
 additional insured's except on workers' compensation and professional Hability coverage. The CONTRACTOR's
 insurance shall be primary as respects the Owner, its officers, employees, agents, and volunteers.
- 4. Endorsement/Cancellation: The CONTRACTOR's peneral and automobile Rability Insurance policies shall be endorsed to recognize specifically the CONTRACTOR's contractual obligation of additional insured to Owner and must note that the Owner will be given thirty (30) calendar days advance notice by cartified mail frebum receipt requested of any policy changes, cancellations, or any erosion of insurance limits.
- <u>Deductibles</u>: All deductibles and self-insured retentions shall be fully disclosed on the Certificates of Insurance and may not exceed \$10,000 without the express written permission of the Owner.
- Aggregate Limits: If aggregate limits are imposed on bodily injury and property damage, then the amount of such limits must not be less than \$2,000,000.
- 7. <u>Commercial General Liability</u>. Subject to paragraph 6 of this attachment, the <u>CONTRACTOR</u> shell meintain limits of no less than \$1,000,000 combined single limit per occurrence for bodily injury (including death), personal injury and properly damages. Commercial general liability covarage shall be on a "per occurrence" basis only, not "claims made," and be provided either on a Commercial General Liability or a Broad Form Comprehensive General Liability (including a Broad Form CGL and ordered) insurance form.
- 3. Automobile Liability: Subject to paragraph 6 of this attachment, <u>CONTRACTOR</u> shall maintain limits of no less than \$5,000,000 combined slage limit per occurrence for bodily thinty and property damage, to include, but not be limited to, coverage against all insurance claims for injuries to persons of damages to property which may arise from services rendered by <u>CONTRACTOR</u> and <u>any auto</u> used for the performance of services under this contract.
- 9 Environmental and Clean-up Liability. Environmental insurance shall not be less than \$1,000,000 aggregate for the curation of this contract.
- 10. Waters' Concensation: The CONTRACTOR shall obtain and maintain for the duration of this contract, a work cartificate and/or a certificate issued by an insurer qualified to underwrite workers' compensation insurance in the State of Nevada, in accordance with Nevada Revised Statutes Chapters 616A-615D, inclusive, provided, <u>however, a CONTRACTOR who is a Spie Proprietor shall be required to submit an afficient (Attachment 1) Indicating that the CONTRACTOR has elected not to be included in the terms, conditions and provisions of Chapters 616A-615D, inclusive, and is otherwise in compliance with those terms, conditions and provisions.</u>
- 11. Fallure To Maintain Coverege: If the CONTRACTOR leils to maintain any of the insurance coverage as required ferrain. Owner may withhold payment, order the /TYPE/I to stop the work, declare the CONTRACTOR in breach, suspend or terminate the contract, assess liquidated damages as defined herein.
- Damages: The CONTRACTOR is required to remedy all injuries to persons and derrage or loss to any property of Owner, caused in whole or in part by the CONTRACTOR, their subcontractors or anyone employed, directed or supervised by CONTRACTOR.
- Cost: The CONTRACTOR shall pay all associated costs for the specified insurance. The cost shall be included in the contrast price(s).

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- 14, Insurance Submittal Address: All Insurance Certificates requested shall be sent to the Clark County Department of Aviation, Purchasing, 3rd Picor, Attention; Settlor Financial Office Specialist, 5757 Wayne Nawton Boulevard, P.O. Box 11005, Las Vegas, NV 89111-1005,
- Insurance Form Instructions: the CONTRACTOR's Insurance Company representative must fill in the following 15. information:
 - 1. Insurance Broker's name, complete address, phone and lex numbers.
 - 2. CONTRACTOR's name, complete address, phone and fax numbers.
 - 3. Insurance Company's Best Key Rating, A (minus). VIII leight or higher must be shown on certificate
 - 4. Commercial General Liability (Por Occurrence)

 - Commercial General Labitay (Por Occurrence)
 (A) Policy Number
 (B) Policy Effective Date
 (C) Policy Expiration Date
 (D) General Aggregate (\$2,000,000)
 (E) Products-Completed Operations Aggregate (\$2,000,000)
 (F) Personal & Advertising Injury (\$1,000,000)
 (G) Each Occurrence (\$1,000,000)
 (H) Farmanu (\$50,000,000)

 - (H) Fire Damage (\$50,000) (I) Medical Expenses (\$5,000)
 - Automobile Liability (Any Auto)
 (A) Policy Number
 (B) Policy Effective Date
 - - (C) Policy Expiration Data (D) Combined Single Limit (\$5,000,000)
 - 6. Worker's Compensation
 - 7. Description: Gid Number and Name of Contract (must be identified on the Initial Insurance form and each renewal form).
 - 8. Certificate Holder:
 - Clark County clo Department of Aviation-Purchasing 3rd Floor
 - 5757 Wayne Newton Boulevard
 - P.O. Box 11005
 - 9. Authorized Agent Signature

Cizá County Department of Aviation - S/12/2008

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	NAVED (VISURED:					
-	POLICY PERIOD:		70		EXPORSEMENT EFFECTIVE	
	THIS ENDOR	SEMENT CHAN	GES	S THE POLIC	Y. PLEASE READ	IT CAREFULLY
A.	DOITIONAL INSU	BED:			`	
	CLARK C	OUNTY, ITS OF	ACE	rs, employ	ees, agents, ani	OVOLUNTEERS
ť	HIS ENDORSEME	NT MODIFIES INS	URA	NCE PHOVIDED	UNDER THE FOLLO	WING:
ΑI	utomobile Liability	- (\$5,000,000)			Policy No). .
	General Liebilit	/~ (\$1,000,000)			Policy No	D. :
4	Name of Perso	equired) in or Organization		2		
	Locations and	Description of Co	<u>inple</u>	ted Operations	i.	
(I	lf oo entry appears a	bove, information rec	psriu	to somplete this e	ndotsement will be show	n in the declarations
a	s applicable to this s	endorsement.)				
	Section II	anded to include as a	nirsi	neq que baisou di	organization shown in the	s Schedule, but only with respect to
ŧ	iability arising our of hat insured and Incli	your work at the toc ided in the "products-	comp	designated and da leted operations ha	schood in the schoolie o Hard'.	filis endorsement performed for

Clark County Department of Aviation - \$112/2008

Authorized Agent (print name)

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FORM B

CONTRACT FOR MAINTENANCE OF AUTOMATED TRANSIT SYSTEM EQUIPMENT CBE-552

BUSINESS DESIGNATION

FOR INFORMATIONAL PURPOSES ONLY:

The above referenced firm is a DMBE DWBE DPBE DSBE DNBE DLBE as defined below.

STATE OF NEVADA BUSINESSES

MENORITY CWNEO BUSINESS ENTERPRISE (MBE): An independent and continuing Nevada business for profit which performs a commercially useful function and is at least fifty-one (51%) percent owned and controlled by one or more minority persons of Black American, Hispanic American, Asign-Pacific American of Native American atthicity.

WCMEN OWNED BUSINESS ENTERPRISE (WBE): An independent end continuing Nevada business for profit that performs a commercially useful function and is at least fifty-one (51%) percent owned and controlled by one or more women.

PHYSICALLY-CHALLENGED BUSINESS ENTERPRISE (PBS): An independent and continuing Nevada business for profit which performs a commercially useful function and is at least lifty-one (51%) percent owned and controlled by one or more disabled individuals pursuent to the federal Americans with Disabilities Act.

SMALL BUSINESS ENTERPRISE (SBE): An independent and continuing Nevada business for profit which performs a commercially useful function, is not owned and controlled by individuals designated as minority, women, or physically-challenged, and where gross annual sales does not exceed two million dellars (\$2,000,000).

NEVADA BUSINESS ENTERPRISE (NBE): Any Nevada business that has the resources necessary to sufficiently perform identified County projects, and is owned or controlled by individuals that are not designated as socially or contomically disadvantaged.

BUSINESSES IN OTHER STATES

LARGE BUSINESS ENTERPRISE (LBE): An independent and continuing business for profit, which performs a commercially useful function and is not located in Nevada.

Clark County Department of Aviation - 5/12/2008

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FORM C

CONTRACT FOR MAINTENANCE OF AUTOMATED TRANSIT SYSTEM EQUIPMENT CBE-552

SUBCONTRACTOR INFORMATION

lt is o	or intent to utilize the following MBE, WBE, PBE, SBE, and NBE subcontractors in association with this Contract
1.	Subconfractor Name: Confact Person: Telephone Number
	Description of Work:
	Estimated Parcehtage of Total Dollars:
	Business Enterprise Type: TMBE TWBE TPBE TSBE TNBE
	Ethnicity: Asian Glack Caucasian Hispanic Native American Other
2.	Subcontractor Names
	Contact Person:
	Description of Work:
	Estimated Percentage of Total Oollars:
	Business Enterprise Type: MBE CMBE CMBE CMBE CMBE
	Ethnicity: Aslan Black Caucasian Etispanic Native American Other:
	· · · · · · · · · · · · · · · · · · ·
3.	Subcontractor Name: Contact Person: Telephone Number
	Contact Person:Telephone Number
	Description of Work:
	Estimated Percentage of Total Dollars;
	Business Enterprise Type:MBEWBELPBE
	Ethnicity: 🔲 Asian 🔲 Black 🔲 Caucasian 🗀 Hispanic 🗆 Native American 🗇 Other:
4.	Subcontractor Name: Contact Person: Telephore Number
	Contact Person: Telephone Number
	Description of Work:
	Estimated Percentage of Total Dollars:
	Business Enterprise Type:IMBEIWAEIPBEISBEINBE
	Emploity: Astan Black Caucaston Offispanic Mative American Other:
5.	Side in locates the one
<i>5</i> ,	Subcontractor Name: Contact Person: Telephone Number
	Description of Work:
	Estimated Percentage of Total Dollars:
	Business Enterprise Type: THEE TWBE TPBE TSBE TINBE
	Ethnicity:
	Printed St. Marie Consequent Contraction of the Con
€.	Subcontractor Name:
	Subcontractor Name:
	Description of Walk:
	Estimated Percentage of Total Collars:
	Business Entarphse Type: ☐MBE ☐WBE ☐PBE ☐SBE ☐MSE
	Ethnicity: Dasian (18tack Caucasian Hispanic Infative American Other:
	No MBE, WBE, PBE, SPE, nor NBE subcontractors will be used.

Class County Department of Aviotion - 3/12/2008

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FORM D

CONTRACT FOR MAINTENANCE OF AUTOMATED TRANSIT SYSTEM EQUIPMENT CBE-552

AFFIDAVIT

1,		on behalf of my company,		being
		Sofe Proprietor)	(Legal Name of Company)	
duly s	wom, đe	spose and declare:		
	1.	I am a Sole Proprietor;		
	2,	i will not use the services of any employees as Bid No/RFP No/RFP No	/CBE No.	entified
	3.	I have elected to not be included in the Chapters 616A-616D, inclusive; and	terms, conditions, and provisions	of NRS
	4.	1 am otherwise in compliance with the Chapters 616A-616D, inclusive.	terms, conditions, and provisions of	NAS
ì relea perfor	ise Clar mance	ic County from all liability associated with clai of this contract, that relate to compliance with	ms made against me and my compan NRS Chapters 616A-616D, inclusive.	y, in the
Signe	d this _	day of	<u></u>	
Sīgna	ture			
	of Neva ly of Cla			
On th	is	day of	, before the unde	rsigned
Notar perso	y Public m(s) wh	day of	ving proved on a satisfactory basis to ribed to this instrument, and acknowled	be the dge that
Witne	ess my i	nand and official seal,	•	
Nota	ry's Sig	rature		
			,	

Clark County Department of Aviation - 5/12/2003

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FORM E DISCLOSURE OF OWNERSHIP / PRINCIPALS CONTRACT FOR MAINTENANCE OF AUTOMATED TRANSIT SYSTEM EQUIPMENT CBE-552

Type of Business:	
☐Individual ☐Partnership ☐Limited Liabili	ly Company Corporation Trust Cher
Business Name (include d.b.a., if applicable):	
Business Address:	
Business Telephone:	
tive percent (5%) ownership or financial interest. Business entities "include all business associatives and Revised Statutes, including but not limite corporations, limited liability companies, part corporations. Corporate entities shall list all Codisclosing the names of individuals with ownership applied to land-use transactions, extends to the applied to land-use transactions, extends to the applied to land-use transactions, extends to the applied to land-use transactions.	must list the names of individuals holding more than in the business entity appearing before the Board. ations organized under or governed by Title 7 of the d to private corporations, close corporations, foreign nerships, limited partnerships, and professional proporate Officers and Board of Directors in fieu of or financial interest. The disclosure requirement, as plicant and the landowner.
FULL NAME	MILE
f certify under penalty of perjury, that all of the information understand that the Board will not take any action on land-us without the completed disclosure form.	provided herein is current, complete and accurate. I also se approvals, contract approvals, land sales, leases or exchanges
	•
Signature/Capacity	Prárit Name
	Date

Clark County Department of Aviation - 5/12/2005

ATTACHMENT 4 DISCLOSURE OF OWNERSHIP/PRINCIPALS

eituerepib [[fimited Fiabilit	y Company XX	Corporation []Trus	st []Other
			<u>n</u>
1501 Lebanon Churc	h Road	•	
Pietsburgh, PA 15:	36		
			*
(412) 655-5700			
*		,- 1 - 1	بسيئت مثبس
vnechip or financial interest i incluse all business associate tutes, including but not limited liability companies, parlnerships all list all Comprate Officers and	n the business or ins organized und to private corpor i, ilmited partnersh i Board of Director	ntity appearing befor ier of governed by 1 abons, close corpore ips, and professional s in fieu of disclosina	e the Board. fills 7 of the tions, foreign corporations: the names of
to the applicant and the landow	MOR.	(deminate) es shibited	
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to the applicant and the landov FULL NAME late. Owner of Bombai	mer. diêr Trans	TITLE	O Parto-050
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	1501 Lebanon Church Pittsburgh, PA 152 (412) 655-5700 rships of corporate business entities a vership or financial interest include all business associated totals, including but not limited liability companies, partnerships all list all Corporate Officers and	nclude d.b.a., if applicable); Bombardier. (Holdings) ! 1501 Lebanon Church Road Pittsburgh, PA 15236 (412) 655-5700 rehips d corporate business entites must list the name whership or financial interest in the business entitles will business entitles, including but not limited to private corporate business, partnerships, limited partnerships libility companies, partnerships, limited partnershall list all Corporate Officers and Scard of Director	Pittsburgh, PA 15236 (412) 655-5700

EXHIBIT 2

THE GIBBONS

CORRESPONDED

MICHAEL TANCHER State Leber Commissioner STATE OF NEVADA



REPLY TO:

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DEPARTMENT OF BUSINESS AND INDUSTRY OFFICE OF THE LABOR COMMISSIONER

http://www.LeborCommissioner.com

October 13, 2009

Susan Hobbes, Airport Construction Compliance Manager Department of Aviation P.O. Box 11005 Las Vegas, NV 89111-1005

> Re: NOTICE OF PREVAILING WAGE CLAIM/COMPLAINT Contract CBB-552

Dear Ma Hobbes:

PLEASE TAKE NOTICE THAT A PREVAILING WAGE CLAIM/COMPLAINT HAS BEEN FILED BY:

INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS

Against

BOMBARDIER TRANSPORTATION (HOLDINGS) USA, INC.

on tite above referenced project.

Pursuant to Nevada Revised Statutes (NRS) 338.070(1), any public body and its officers or agents awarding a contract shall:

(a) Investigate possible violations of the provisions of NRS 333.010 to 338.090, inclusive, committed in the course of the execution of the contract and determine whether a violation has been committed and inform the Labor Commissioner of any such violations.

Pursuant to Nevada Administrative Code (NAC) 338, Section 14:

(1) On its own initiative or upon notice of a possible violation, an awarding body shall cause such an investigation to be made as may be necessary to determine whether a violation of NRS 338.010 to 338.090, inclusive, or NAC 338.005 to

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NEVADA STATE LABOR COMP SIGNER

338.125, inclusive, was committed in the course of the execution of a contract for a public work that was awarded by the awarding body...Such an investigation must commence and conclude within a reasonable time, except that the investigation must not exceed 30 days unless an additional period of time is approved by the labor commissioner.

(4) Upon the conclusion of its investigation, an awarding body shall issue, in writing, its determination of whether a contractor or subcontractor violated NRS 338,010 to 338,090, inclusive, or NAC 338,005 to 338,125, inclusive, and shall transmit a copy of the determination to the labor commissioner, the contractor and, if the contractor is a subcontractor, then to the prime contractor and any intermediate subcontractors, and any person who filed a claim or complaint with the labor commissioner relating to the investigation.

Please do not hesitate to contact me for assistance with this matter, including participating in discussions the claimant, respondent and your office. If you have any questions or require assistance, please call ine at (702) 486-2654.

Sincerely

Korth Sakeinide

Deputy Labor Commissioner

cc: Bombardier Transportation (Holdings) USA, Inc. (w/encl.) William H. Stanley, IUEC (w/o encl.)

Encl

EXHIBIT 3



Department of Aviation

iandall H. Walker

HOSEMARY A, VARSILIADIS

POSTAL BOX 11005 LABVERAE, NEVADA 68111-1005 FOOZERS - 5811 FAXURCE EST-8583

VIA FACSIMILE AND MAIL

November 24, 2009

Mr. Michael Tanchek Labor Commissioner State of Nevada 555 B. Washington Avenue, Suite 4100 Las Vegas, Nevada 89101

Project: Subject ATS Maintenance Contract CBE-552

Hombardier Transportation Holdings USA, Inc. - IUEC Alleged incorrect

payment of prevailing wages for a public work project

Dear Mr. Tapchekt

Pursuant to Nevada Revised Statutes (NRS) 338.070(1) any public body and its officers or agents awarding a contract shall: (a) Investigate possible violations of the provisions of NRS 338.010 to 338.090, inclusive, committed in the course of the execution of the contract, and determine whether a violation has been committed and inform the labor commissioner of any such violations; (b) When making payments to the contract of money becoming due under the contract, withhold and retain all sums forfeited pursuant to the provisions of NRS 338.010 to 338.090, inclusive or NAC 338.005 to 338.125 inclusive.

An investigation was initiated when the Clark County Department of Aviation received a copy of the Complaint filed by William H. Stanley, Organizing Director for the International Union of Elevator Contractors ("IUEC") from Deputy Labor Commissioner Keith Sakelhide. The Complaint submitted by Mr. Stanley identified the contract listed above and alleged that the employees of Bombardier Transportation Holdings (Bombardier) were performing work for a public work project and not being paid the prevailing wage related to a public work project.

The Clark County Department of Aviation has several significant maintenance contracts for the care of Airport Facilities that test under the Department's Facilities area of responsibility. Per past practices and our District Attorney's Office interpretation with regard to such maintenance contracts, NRS 338.011 exempts contracts directly related to the normal operation of the county or the normal maintenance of its property. This law



Clark County Board of Commissioners
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Mr. Michael Tanchek Labor Commissioner November 24, 2009 Page 2

was passed in 1981 after the Labor Commissioner was applying Chapter 338,010's inclusion of the word "repair" in the definition of public works to require all of the contracts for services entered into under Chapter 332 which had any "repair" component to have to comply with the provisions of Chapter 338. The Attorney General had issued an opinion that maintenance and repair were synonymous.

NRS 338.011 states the legislature's intention to recognize that Chapter 332 has its own requirements and that maintenance contracts entered into under that chapter are not subject to the public works requirements of Chapter 338 even though they include repair as one of the services being provided. NRS 332.115(1)(c) specifically refers to contracts for "additions to and repairs and maintenance," which further demonstrates legislative intent for maintenance contracts to be able to include repairs as part of the scope of work without making the contract subject to the public works project requirements in NRS Chapter 338.

The purpose of maintenance is to care for, preserve and keep in proper condition. It is obvious that maintenance work requires the inclusion of repairs in order to keep things operating and in proper condition. Windows need replacing. Lights need to be kept working, Sprinklers need repair. County vehicles need new brakes and the ATS System needs to be kept in operating condition. This is the case with this maintenance contract. It should be noted that the rehabilitation work needed for this equipment was handled under a separate contract, referred to as Contract 2305, ATS Modernization Project, that was addressed separately from this investigation. With this being said, the individual points outlined in the IUEC complaint are not valid because prevailing wages do not apply to a maintenance contract of this nature.

Further research on other maintenance contracts within the Clark County Department of Aviation and other local government entities has reinforced that this type of contract for maintenance and repair is not a public work.

It is the opinion of the District Attorney's office, Clark County Department of Aviation Purchasing Administration, and myself that this contract is a maintenance and repair

Mr. Michael Tanchek Labor Commissioner November 24, 2009 Page 3

contract governed by NRS Chapter 332 and not a public work project subject to prevailing wage under NRS Chapter 338.

Sincerely.

Bob Kingston

Assistant Director, Facilities

Keith Sakelhide, Deputy Labor Commissioner
William H. Stanley, Director of Organizing, International Union of Elevator Constructors
Michael Felsko, President, Bombardier Transportation Heldings USA, Inc.
B. Lee Thomson, Chief Deputy District Attorney, Clark County District Attorney's Office Randall Walker, Director, Department of Aviation
Rosemary Vassiliadis, Deputy Director, Department of Aviation
Steven Jay, Airport Engineer, Department of Aviation
Edward Munzing, Purchasing Administrator, Department of Aviation

EXHIBIT 4

December 17, 2009

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TO: Michael Tanchek, Labor Commissioner

FROM: William Stanley, IUEC

RE: Appeal from Decision of Clark County Dept, of Aviation re Bornbardier

Contract CBE 552: Supplement to Appeal on Contract 2252

We hereby appeal from the Department of Aviation's ("DOA") determination that none of the work covered by Contract CBE-552 is covered by prevailing wage law, but instead are all within the "maintenance" exception.

The author of the determination recites the legislative mandate placed on awarding agencies by NRS 338.070(1) to investigate possible violations of the provisions of NRS 338.010 to 338.090, and sought an opinion from the District Attorney's office, therefore, we can only assume the author understood this mandate. Yet, no investigation took place. Not a single employee was interviewed, and not a single work log was reviewed. The DOA sought an extension of time to respond to the complaint in a November 12, 2009 letter from Bob Kingston to Deputy Labor Commissioner Keith Sakelhide. Despite this extension, the author only offered a legal opinion that could have been drafted by someone in a law office in about 2 hours that was devoid of actual facts about this contract.

DOA and the deputy District Attorney involved have been all over the map trying to protect Bombardier from compensating employees employed at McCarran Airport in accordance to Nevada's prevailing wage laws. They originally told me Bombardier was exempt as a supplier. Now that they realized this excuse would not work (see new language in NRS 338.010), they are trying the "maintenance" argument. However, if some of the work done on Contract 2305 is covered as DOA itself has admitted in its prior determination, then some of the work on CHE 552 also must be covered, because the nature of the work is not significantly different. DOA's July 14, 2009 letter from James Ryan to Keith Sakelhide (copy enclosed) states the following regarding

Hombardier employees employed on County Contract 2305: 1) "the work knowledge and tasks are the same as those held and utilized on a doily basis by the maintenance staff."

2) "For the installation and testing of the equipment as described above, the cognizant Bombardier Transit Technicians and engineers utilized the same tools and techniques utilized by the Transit Technicians on the O&M Contract." 3) "The work performed by the Transit Technicians under Contract 2305 did not differ from the work tasks performed under the O&M contract, and the workers have been appropriately compensated for that work."

(1)

Now that work completed by Humbardier employees on Contract 2305 has been determined by all parties to be covered by prevailing wages, Bombardier employees employed on the O&M contract #552 performing the same work and tasks, applying the same working knowledge, and applying the same test equipment and tools as the Bombardier employees employed on Contract 2305, should also be compensated under Nevada Prevailing Wage Laws.

We are not dealing with a de minimis amount of repairing that might be seen as within the "maintenance" exception. The Legislature clearly did not intend that prevailing wage could be avoided by mixing a tiny bit of maintenance into a contract that is primarily about doing major repairs, for that would allow the exception to awallow the rule.

Bombardler workers report that under CBE 552 about 75-80% of their work was repairing, replacing structures and parts, with new and reconditioned parts and structures with only 28-25% being diagnostics and maintenance.

The contract language itself specifically delineates three kinds of so-called maintenance tasks in section 2.2.1, and the third category of "Major Maintenance" is far from any common-sense notion of ordinary maintenance: "Replacing major repairable unit; Performing major repairs; Rebuilding and overhauting major components; Repairing spare equipment".

In addition, the contract provides a specially-paid category of work in section 2,2,6 called "heavy maintenance and overhoul" which included:

Vehicles

- Propulsion Motor Overhaul
- Axle differential and planetary gear overhaul
- Air Conditioning overhaul
- Replacement of bogic pivot bearing
- Exterior body waxing
- Replacement of carpet
- Vehicle Interior Refurbishment
- UPS System

Guideway

- -Guideway Painting-excluding repair or touchup painting.
- -Running Surface Repair excluding local patch work

These tasks must be deemed covered, for prevailing-wage tradesmen in several listed job classes would be largely put out of work in this State if you accepted the argument that the above tasks are mere ordinary maintenance; such as Elevator Constructors when they replace drive system components including drive motors, Floor Coverers and Painters. Prevailing-wage carpenters would also have very little work left if "interior refurbishments" were exempt from prevailing wage law. Similarly, "air conditioning, chiller and boiler overhauls" are much of the work of prevailing-wage Sheet Metal. Workers and Plumbers and Pipefitters.

While the various tasks listed above are normally done by Elevator Constructors in the context of elevators (including automated people movers), if you accept DOA's claim that such job class does not apply here, then the Bombardier technicians here should have been paid at least the corresponding specialty craft wage of Painter, Carpenter, Floor Coverer, Sheet Metal Worker and Heavy Equipment Mechanic, which from my own experience in the field I know correspond to what the Bombardier Techs did,

A number of such tasks were also done under Contract 2305, so please accept this letter as a supplement to our appeal over DOA's determination on that contract.

Maintenance exceptions to prevailing wage laws have been held not to encompass heavy repairs. Borough of Youngwood v. Pennsylvania Prevailing Wage Appeals Bd., 947 A.2d 724 (Pa. 2008); City of Spokane v. State, Dept. of Labor and Industries, 998 P.2d 913 (Wash App. 2000). The same approach should be followed by the Commissioner here. State prevailing wage laws are remedial statutes construed in favor of workers. Bridgestone/Firestone, Inc. v. Hartnett, 572 N.Y.S.2d 770, 772 (N.Y.A.D. 1991) (holding replacements of warranted products by manufacturer a public works project covered by prevailing wage law, noting "The Labor Law's prevailing wage requirement reflects a strong public policy in this State and the statute is to be liberally construed to effectuate its beneficent purposes."); D.W. Closa Ca., Inc. v. Washington State Dept. of Labor and Industries, 177 P.3d 143, 152 (Wash App. 2008) ("the Prevailing Wage statute is remedial and should be liberally construed to affect its purpose."); Walker v. County of Las Angeles (1961) 55 Cal.2d 626, 634-35; McIntosh v. Aubrey (1993) 14 Cal.App.4th 1576, 1589.

The DOA relies on NRS 332.015, but that only provides an exception to competitive bidding requirements and only in situations where only one supplier can supply a particular product, which is not the case here: at least 6 other companies provide automatic people movers. More importantly, NRS 332.015 does not provide an exception to prevailing wage laws.

DOA's argument per past practice and legal opinions offered by this deputy DA regarding other contracts has no relevancy in this determination, because this contract is fundamentally different from the others due to the predominance of heavy repair, and because there is no evidence that DOA or the deputy DA consulted the Commissioner's office or courts in establishing the alleged practice.

If this information is not sufficient for your office to grant the appeal, we invoke our right to hearing pursuant to Baldonado decision.

I declare under penalty of perjury of the laws of Novada that the foregoing factual stalements are true and correct. Executed this 17 day of December 2009.

William Stanley

EXHIBIT 5

JIM GEBONS

DANNE CORNWALL

MICHAEL, TANCHER

STATE OF NEVADA



FEPLY-TO:

- !? Office of the lande commissioner.

 13 E. Washerdton Avenue, sinte 4108LUS VERIE HENDE FROI
 PHORE DEG 188-2128

 FAX. (702) 458-2680
- 13 CEFFICE OF THE LABOR COMMISSIONERS OTS FAMILIEN OFFICE SUITE 228 CARSONE CITY, FORMOR, SELECT PHONES, DTS, SEP-SION FAX: 1773, SEP-SION

DEPARTMENT OF BUSINESS AND INDUSTRY

OFFICE OF THE LABOR COMMISSIONER

http://www.LaborCommissioner.com

December 31, 2009

Bob Kingston, Assistant Director, Facilities Department of Aviation P.O. Box 11005 Las Vegas, NV 89111-1005

> IUEC v. Bombardier Transportation Holdings, USA, Inc. Contract CBE-552

Dear Mr. Kingston:

Enclosed, please find an objection filed by the IUEC with regard to the determination submitted by your office on Nevember 24, 2009 concerning the above entitled action. Please review this objection and respond accordingly.

Without commenting on the objection filed by the IUEC, I find that you your November 24, 2009 Determination failed to address many key elements that should have been part of your investigation and addressed in your findings. It appears to be your position that since you "identified" this contract as a maintenance contract, then there are no further questions to address.

I trust that you now understand that your review must go much further. You must delve into the scope of the contract to clearly identify whether the work performed fails into that exception created by NRS 338.011. In simple terms, utilizing the contract provisions does the scope of work fall into what would be considered normal maintenance, or would the work be considered a modernization, an upgrade, a remodel, etc., and therefore subject to the provisions of NRS Chapter 338.

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NEVADA STATE LABOR COMMISSIONER

If you have any questions, please call my office at (702) 486-2654. Please ensure that all correspondence is sent to my attention.

Sincerely.

Keith Sakelhide
Deputy Labor Commissioner

ce: Susan Hobbes, Airport Construction Compliance Manager (w/encl.)

Encl.

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EXHIBIT 6

Department of Aviation

PANDALL H. WALKER

HOSEMARY A. VARBIELADIS

Marcia 30, 2010

Michael Tanchek
Nevada Labor Commissioner
Office of the Lafor Commissioner
Department of Business and industry
State of Nevada
555 E. Washington Avenue, State 4100
Las Vegas, NV 89101-1069

Project: ATS Maintenance Contract, Comract #CBE-552

Subject: Bombardier Transportation Holdings USA, Inc. - Alleged Non-Payment of

Prevailing Wages, Revised Determination

Pursuant to Nevada Revised Statute (NRS) 338 070(1) any public body and its officers or agents awarding a contract shall: (a) investigate possible violations of the provisions of NRS 338,010 to 338,090, inclusive, committed in the course of the execution of the contract; and determine whether a violation has been committed and inform the labor commissioner of any such violations; (b) When making payments to the contractor of money becoming due under the contract, withhold and retain all sums forfeited pursuant to the provisions of NRS 338.010 to 338.090, inclusive.

In as much as this contract was awarded under NRS 332 and not NRS 338, the Clark County Department of Aviation (CCDOA), as a courtesy to the Labor Commissioner conducted an investigation after the CCDOA received a copy of the Complaint filed by William H. Stanley, Organizing Director for the International Union of Elevator Constitutors (IUEC) from Deputy Labor Commissioner Keith Sakelhide. The Complaint submitted by Mr. Stanley identified the project listed above and the employees of Bombardier Transportation Holdings (Bombardier) performing work for an alleged prevailing wage project and not being paid the prevailing wage. Additionally, all references cited by Mr. Stanley were legal precedents set outside the state of Nevada and have no bearing on the Nevada Revised Statutes governing Public Works.

A subsequent investigation ensued beginning with a review of the contrast issued on July 1, 2008 for Maintenance of Automated Transit System Equipment.



Clark County Board of Commissioners

Roy Red, Chair • Chy Madell, Vice Chair

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Additionally, interviews were conducted with Bombardier on site managers as well as most of the Bombardier employees performing the work at McCarren International Amport.

This contract identifies various stages of maintenance and subsequent repairs on the

equipment and vehicle control equipment. It is noted that all equipment from the vehicles themselves to parts, spares and tools belong to McCarran International Airport.

This contract is designed to provide minimum down time of the equipment thereby

This confrict is designed to provide iniminum down time of the equipment thereby maximizing the safety and availability of the ATS to the airport customers.

The confract identifies fixtent of the Work: The work under this contract shall include fundshing all labor and materials necessary to accomplish the inspection, cleaning, adjustment, proventative maintenance, hibrication, repair, testing, replacement of worn pairs and repair of spare equipment for the ATS. This was verified by both Bombardier, managers and employees.

Varieties of tasks are involved with this maintenance and repair contract. The preventative maintenance schedules are followed as time is allotted and many of the

preventative maintenance schedules and followed as time is allotted and many of the repair items are noted during these scheduled inspections and maintenance tasks. These repairs are attended to besed on severity and time constraints. Other items are identified during normal operations of the trans when a situation occurs that needs immediate attention to ensure safe and continuous operations of these trains.

Throughout the investigation process none of the work appeared to be modernization.

upgrades, remodels, sid... All of the work that was identified through interviews and observations was maintenance of the existing equipment and therefore not subject to the observations was manufestative vi the existing equipment and precedence not simple to the provisions of NRS 338.

Pursuant to Nevada Administrative Code (NAC) 338.110, a person who has been served

a copy of a determination pursuant to subsection 1 and who is aggreed by the determination may file a written objection with the labor commissioner within 15 days. affer the date of service of this determination. Such an objection must be accompanied by: a short statement of the grounds for the objection and evidence substantiating the objection. Your objection letter and attachments must be received by the Labor Commissioner within 15 days of receipt of this letter. Mail your objection package directly to:

Labor Commissioner Office of the Labor Commissioner 555 E. Washington Ave., Ste 4100 Las Vegas, NV 89101

Michael Tanchek, Labor Commissioner Page 3 of 3

March 30, 2010

If an objection to this determination is not received by the due date; the Labor Commissioner will issue an Order Affirming the Determination:

Sincerely

Bob Kingston

Assistant Director, Facilities

Affachments

Keith Sakelliide, Dejuty Labor Commissioner
William H. Stanley. Director of Organizing, International Union of Elevator Constructors
Susan Hobbes, Contracts Manager, Clark County Department of Aviation
B. Lee Thomson, Chief Deputy District Atterney, Clark County District Atterney's Office
Randall, Walker, Director, Department of Aviation
Rosemary Vassilladis, Dejuty Director, Department of Aviation
Steven Jay, Arport Engineer, Department of Aviation
Edward Munzing, Forchasing Administrator, Department of Aviation
Mike Moran, Bechtel Infrastructure Corporation

EXHIBIT 7

BEFORE THE NEVADA STATE LABOR COMMISSIONER

CARSON CITY, NEVADA

FILED

IN THE MATTER OF:
INTERNATIONAL UNION OF ELEVATOR

CONSTRUCTORS, Claimant

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23 24 BOMBARDIER TRANSPORTATION (HOLDINGS) USA, INC., Respondent

Clark County Department of Aviation Automated Transit Systems Equipment DOA Contract CBE-552 JUN 7 2011

NEVADA Labor Coarassioner - Ca

INTERIM ORDER

Pursuant to the Labor Commissioner's Briefing Order of November 16, 2010 in the above matter, the Parties submitted briefs addressing the issues set out in the Order. The International Union of Elevator Constructors (the Union) filed its Brief on January 3, 2011. Bombardier Transportation (Holdings) USA, Inc. (Bombardier) filed its Brief on January 10, 2011. The Union and Bombardier filed Reply Briefs on January 21 and January 26, 2011, respectively. On February 7, 2011, the Clark County Department of Aviation (the County) filed its Response Brief. Finally, the Union filed a Reply to the County's Response Brief on February 17, 2011.

DISCUSSION

Nevada Revised Statutes 338.015 establishes the authority of the Labor Commissioner to enforce the provisions of NRS 338.010 through 338.130, inclusive. Thus, this matter is properly before the Labor Commissioner.

Ultimately, the question that needs to be decided in this case is what work, if any, that was performed under the Clark County Department of Aviation's (the Airport) Contract for Maintenance of Automated Transit System Equipment CBE-552 required the payment of prevailing wages. CBE-552 contains provisions that call for a variety of work to be performed. Generally, this work falls into the extegories of maintenance for the vehicles, guideways.

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24 25 stations, power distribution, and automatic train controls. Within each of those categories are tasks associated with routine maintenance, scheduled maintenance, and non-scheduled maintenance. In addition, there are provisions for "upgrades and enhancements" and "heavy maintenance and overhaul."

In pertinent part, NRS 338.020(1) states that:

Every contract to which a public body of this State is a party, requiring the employment of skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers or unskilled labor in the performance of public work, must contain in express terms the hourly and daily rate of wages to be paid each of the classes of mechanics and workers.

Clearly this is a contract to which a public body of this State, the County, is a party. Furthermore, the terms of the contract specifically require that Bombardier provide the workmen needed to perform the work. If the contract is for a "public work," then those workers must be paid prevailing wages unless there is some exemption from that requirement. This brings us to the first issue in dispute, whether the work required by the contract is a public work.

Should the complaint filed under DOA Contract 552 be dismissed because the contract does not concern "public work" for the purposes of NRS 338.010?

NRS 338.010(15)(a) defines a public work:

15. "Public work" means any project for the new construction, repair or reconstruction of:

(a) A project financed in whole or in part from public money for:

Public buildings;
 Jails and prisons;

(3) Public roads; (4) Public highways;

(5) Public streets and alleys;

(6) Public utilities;

(7) Publicly owned water mains and sewers;

(8) Public parks and playgrounds;

(9) Public convention facilities which are financed at least in part with public money; and

(10) All other publicly owned works and property.

The contract makes it quite clear that the County is the owner of the Automated Transit System (ATS). However, even though subsection 10 appears to provide an expansive definition of publicly owned works and property, subsections 1 through 9 provide specific examples of the types of projects contemplated in the statute. A common characteristic shared by the specific examples is that they are all fixed works. While the guideways, stations, power distribution systems and automatic train control systems are commonly considered fixed works, expanding that definition to include mobile equipment like the ATS cars or fire trucks, police cars, snow plows and husses goes beyond the scope of the statute.

Nevada prevailing wage rates include provisions for work on mobile equipment such as heavy machinery mechanics and equipment greasers under the Operating Engineers classification. However, those classifications pertain to workers who maintain the construction contractors' equipment in order avoid equipment problems that could interfere with construction. The ATS cars are distinguishable because they are not used in the construction process.

Work involving the guideways, stations, and power distribution and automatic train control systems, as "fixed works," is fairly construed as being the type of public work contemplated in the statutes. Work performed on the ATS cars is not.

Should the complaint filed under DOA Contract 552 be dismissed because work performed under that contract is exempt pursuant to the provisions of NRS 338.011, as work directly related to the normal operations or normal maintenance of the airport?

The County argues that prevailing wage issues arising from contracts issued pursuant to NRS Chapter 332 are beyond the jurisdiction of the Labor Commissioner. The County is free to use whatever legal process it has at its disposal to enter into agreements with contractors to perform work or provide services, including NRS Chapter 332. However, placing the statute concerning the exemption squarely within those statutes enforced by the Labor Commissioner

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 requires the Labor Commissioner to determine when and under what circumstances the exemption will apply, even if that contract is entered into pursuant to NRS Chapter 332. This is one of the reasons that NRS 338.013(1) states:

A public body that undertakes a public work shall request from the Labor Commissioner, and include in any advertisement or other type of solicitation, an identifying number with a designation of the work. That number must be included in any bid or other document submitted in response to the advertisement or other type of solicitation. (emphasis added)

It is irrelevant what kind of procurement process the public body uses to enter into a contract to undertake a public work.

The general rule under NRS 338.020 is that prevailing wages must be paid on every contract entered into by a public body that requires workers to under take new construction, repair or reconstruction on a public work. There are no exceptions embedded within that statutory provision. However, the Legislature determined that not all projects that might otherwise qualify as public works should be subject to prevailing wages and established some exceptions. The exemption that pertains to NRS Chapter 332 is found at NRS 338.011, which states:

The requirements of this chapter do not apply to a contract:

1. Awarded in compliance with chapter 332 or 333 of NRS which is directly related to the normal operation of the public body or the normal maintenance of its property, (emphasis added)

One of the points raised by the parties concerns whether there is a distinction between "normal operation" and "normal maintenance." There is, but it is not of any particular significance in this matter even though they are addressed separately in the statute. The normal operation of the McCarran Airport is a complex operation. It involves a vast array of tasks, the majority of which have no relationship to the requirement to pay prevailing wages. There are many aspects of the day-to-day business of the airport that do not involve maintenance.

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 To say that any contract that is somehow related to the normal operation of a public facility fully exempts the owner from requiring the payment of prevailing wages creates an exemption that consumes the general rule. By way of example, safe and serviceable runways are necessary for the normal operation of an airport. Concluding that that building a new runway or undertaking major structural repairs on existing runways would be exempt from prevailing wages as being related to the "normal operation" of the airport would undermine and frustrate the intent of the prevailing wage statutes. It would not be a reasonable conclusion. Such is the case with the ATS.

Normal maintenance can reasonably be expected to be included as part of the facility's normal operations, but are more narrowly focused and is best viewed as a subset of the normal operations of the airport. A maintenance contract is more likely to trigger a prevailing wage when some of the work involved in maintaining the facility can be characterized as new construction, repair or reconstruction of the airport's infrastructure.

Some parties appear to believe that applying prevailing wage requirements to what is ostensibly denominated as a "maintenance" contract is an all or nothing proposition; either it is all subject to prevailing wages or none of it is. Such is not the case for at least two reasons.

First of all, there is a wide range of activities that are undertaken in the course of maintenance. The contract, for example, mentions such things as the "periodic washing of the guideway," the lubrication, adjustment, and cleaning of control equipment, and "station door adjustments." None of those items would be subject to prevailing wages because they are not new construction, reconstruction or repair. On the other hand, something like "running surface repair-excluding local patch work" could require extensive and expensive repairs.

A second reason is that, maintenance contracts, by their nature, have a degree of uncertainty when it comes to repairs. For example, during the term of the maintenance

contract it could turn out that nothing needed to be repaired or reconstructed. In that case, there wouldn't be an issue because no work that was subject to prevailing wage was undertaken.

In interpreting the statute, the Labor Commissioner's Office takes the position that there is a third way. Some work that is performed under a maintenance contract is subject to prevailing wage and some is not. It depends on the circumstances. It would not be unusual for a problem requiring repairs to be discovered in the course of normal maintenance. In those cases, it is the long-established practice of the Labor Commissioner to analyze the repair that is being made. In many cases where a maintenance agreement or contract is involved, the repairs tend to be minor in that the total cost of making the repair is less than \$100,000. (See NRS 338.080)

It is clear from the statutes that the Legislature intended to give public bodies some flexibility and relief from the paying prevailing wages on routine maintenance. At the same time, the Legislature clearly intended that repairs costing more than \$100,000 would be subject to the payment of prevailing wages.

Should the complaint filed under DOA Contract 552 be dismissed because Bombardier Transportation (Holdings) USA, Inc. is a railroad company within the meaning of NRS 338.080, and therefore exempt from NRS Chapter 338's prevailing wage requirements?

Bombardier and the County also argue that the work is exempt under the railroad company exemption found at NRS 338.080(1). This exemption permits railroad companies to perform work on publicly owned property using their own crews and building to their own standards without triggering the prevailing wage requirements. This is related to activities such as upgrading rail crossings.

By way of disclosure, the Labor Commissioner has ridden the ATS serving Terminals C and D on numerous occasions. Furthermore, he spent five years as the Assistant Staff Counsel at the Nevada Public Service Commission with the primary responsibility for regulating

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railroads pursuant to NRS Chapter 705. In addition, he spent a year and half on the legal staff of Washington Corporations, the predecessor to the URS (aka Washington Group International) referred to in the Union's Reply Brief and owner of Montana Rail Link. The Labor Commissioner is well aware of what a railroad is and the ATS is not one. The exemption for railroad companies is not applicable in this case.

While the ATS does share some of the characteristics of a "monorail," the definition of a monorail in NRS 705.650(2) specifically states that the definition "[D]oes not include a system to transport passengers between two end points with no intermediate stops." Thus, the monorail exemption in NRS 705.690(1) would not apply to the ATS, which have no intermediate stops.

Can the Labor Commissioner consider the Union's contention that the employees are entitled to be compensated at the elevator constructor rate, or is he barred from doing so in the context of this contested case because it would require a substantial modification of the application of that wage classification?

Prevailing wages are paid based on the type of work that is being performed on the project. If the work is properly construed as falling into the elevator constructor classification, then that is the rate that should be paid. On the other hand, if the work being performed properly falls into another classification, then that is the rate to be paid.

This can be illustrated hypothetically. During the course of a routine inspection, it is discovered that a concrete pillar supporting the guideway is defective and needs be replaced. The construction of the pillar may require the use of carpenters to build the forms, iron workers to tie the rebar, cement masons to handle to concrete work, and laborers to provide assistance where necessary. In that case, the prevailing wage rates to be paid would be based on those classifications since those are the classifications that routinely used perform those tasks.

CONCLUSION

The Airport and Bombardier have entered into a contract for maintaining the ATS at the McCarran Airport in Las Vegas, Nevada. Some provisions in the contract include the repair of "public works" such as the guideway, while other provisions include repair of items that are not "public works" such as the vehicles. In some cases, the cost of the repair to the "public works" may be anticipated to exceed \$100,000. As that work is performed, the rates that need to be paid would be those that are associated with the specific type of work that is being undertaken.

THEREFORE, it is Ordered that the Clark County Department of Aviation reopen their investigation, and assess the work performed under DOA Contract CBE-552 in a manner consistent with the findings set forth in this Order and upon concluding that investigation, the Clark County Department of Aviation shall issue a revised Determination.

DATED THIS 7th DAY OF JUNE 2011.

ð,

MICHAEL TÄNCHEK Labor Commissioner

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this date, I deposited into the U.S. Mail, postage prepaid

thereon, a copy of the foregoing <u>ORDER</u> to the persons listed below at their last known addresses:

Eldon Lee Thomson, Esquire Clark County District Attorney's Office 500 S. Grand central Pkwy., Ste. 5075 Las Vegas, NV 89106

Bob Kingston, Assistant Director, Facilities
Department of Aviation
P.O. Box 11005
Las Vegas, NV 89111-1005

11 Andrew J. Kahn, Esquire
McCracken, Stemerman & Holsberry
12 1630 S. Commerce, Suite A-1
Las Veges, NV 89102

William H. Stanley
IUEC Organizing Director
5340 Campbell Road
Las Vegas, NV 89149

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23 24 25 Gary C. Moss, Esquire Jackson Lewis LLP 3960 Howard Hughes Parkway, Suite 450 Las Vegas, NV 89169

Bombardier Transportation (Holdings) USA, Inc.
19
1501 Lebauon Church Road
Pittsburgh, PA 15236

DATED this 7 day of June, 2011

An Employee of the Nevada State Labor Commissioner

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EXHIBIT 8

Electronically Filed 08/09/2011 02:50:06 PM STIP 1 Gary C. Moss, Bar Number 4340 mossg@iacksonlewis.com CLERK OF THE COURT 2 Paul T. Trimmer, Bar Number 9291 trimmero@iacksonlewis.com JACKSON LEWIS LLP 3 3960 Howard Hughes Parkway, Suite 450 Las Vegas, Nevada 89169 4 Telephone: (702) 921-2460 5 Facsimile: (702) 921-2461 Attorneys for Bombardier Transportation (Holdings) б USA, Inc. 7 EIGHTH JUDICIAL DISTRICT COURT 8 CLARK COUNTY, NEVADA 9 BOMBARDIER TRANSPORTATION 10 (HOLDINGS) USA, INC., Case No.: A-11-644596-J Dept. No.: XXXII 11 Petitioner. 12 ٧. 13 NEVADA LABOR COMMISSIONER, à Nevada Administrative Agency; THE INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS, an unincorporated association; CLARK COUNTY, a political subdivision of the State of Nevada, Respondent. STIPULATION TO DISMISS WITHOUT PREJUDICE AND [PROPOSED] ORDER PET STATE OF 20 INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS, Case No.: A-11-644400-1 Petitioner-Plaintiff, Dept. No.: XXXII ٧. LABOR COMMISSIONER, STATE OF NEVADA; BOMBARDIER <u>rē</u> 9 TRANSPORTATION (HOLDINGS) USA, INC.; COUNTY OF CLARK, to topology (self to DEPARTMENT OF AVIATION, Defendants. Bombardier Transportation (Holdings) USA, Inc. ("Bombardier"), the International Union 27 of Elevator Constructions ("IJEC"), Clark County, Nevada ("Clark County") and the Nevada 28 JACKSON LEWIS LEP びなでじょう もっしょう 二二 おしゃぶ LAS VECAS

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Labor Commissioner ("Labor Commissioner") (collectively the "Parties") are parties in two different actions filed in the Eighth Judicial District Court. Both actions are pending before Department XXXII, and both are captioned as Petitions for Judicial Review or, in the Alternative, Requests for Writs of Mandamus. The action filed by Bombardier is Case No. A-11-644596-J. The action filed by the IUEC is Case No. A-11-644400-J (collectively the "Actions").

In accordance with the provisions below, the Parties hereby stipulate to dismiss the Actions without prejudice.

- 1. On June 7, 2011, the Labor Commissioner issued an Interim Order for the purpose of resolving a number of disputed issues in a pending administrative action entitled: "In the Matter of: International Union of Elevator Constructors, Claimant, vs. Bombardier Transportation (Holdings) USA, Inc., Respondent, Re: Clark County Department of Aviation Automated Transit System Equipment DOA Contract CBE-552."
- The IUEC filed a Petition for Reconsideration of the Interim Order with the Labor Commissioner on June 20, 2011.
- Bombardier filed a Request for Clarification of the Interior Order on June 20,
- 4. Both documents sought clarification of a number of issues including, among other things, whether the Interim Order constituted a final decision for purposes of judicial review under the Nevada Administrative Procedure Act, NRS Chapter 233B, whether the Interim Order prohibited the parties from continuing to maintain certain positions during the administrative action, and whether the Interim Order could otherwise be considered final and subject to appeal under Nevada law.
- 5. The Labor Commissioner did not rule and, to this date, has not ruled, on either the IUEC's Petition for Reconsideration or Bombardier's Request for Clarification.

Jacksun Lewis LLP Las Vegas

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6. As a result, both Bombardier and the IUEC sought review of the Interim Order. The IUEC filed Case No. A-11-644400-J on July 5, 2011. Bombardier filed Case No. A-11-644596-J, on July 7, 2011.

7. Both Actions were filed, in part, out of concern that the Interim Order constituted a final decision pursuant to NRS 233B,130, and therefore, an aggrieved party was obligated to seek judicial review within 30 days of the Interim Order or be barred from doing so in the future.

- 8. The Labor Commissioner, through his counsel, the Nevada Attorney General, represents that the Interim Order is not a final decision for purposes of NRS 233B.130 and forther represents that the Labor Commissioner will not argue that the Interim Order is otherwise final under Nevada law.
- 9. For those reasons, the Parties represent and agree that they will not contend in the future the Interim Order is a final decision for purposes of NRS 233B.130 or otherwise final under Nevada law, nor will a Party contend that any other Party is barred from appealing or seeking review of any of the apparent determinations set forth in the Interim Order because that Party or one or more of the other Parties failed to pursue judicial review of the Interim Order at this time.
- 10. The Parties further agree that in the event further administrative proceedings regarding the underlying administrative action are required, including, but not limited to, an administrative hearing, neither Bombardier, Clark County, nor the IUEC will be barred from asserting the arguments or presenting evidence in support of the arguments and contentions addressed in the Interior Order.
- 11. Accordingly, the Parties stipulate to dismiss the Actions without prejudice, returning this matter to the Labor Commissioner for final resolution.

Jackson Leve ILP Las Vegas

Dated this 29th day of July, 2011. 2 JACKSON LEWIS LLP McCRACKEN, STEMERMAN & HOLSBERRY 3 4 Gary C. Moss Andrew J. Kahn Paul T. Trimmer 1630 South Commorce Street . 5 3960 Howard Hughes Parkway Suite A-1 6 Suite 450 Las Vegas, Nevada 89102 Las Vegas, Nevada 89169 Attorneys for IUEC 7 Attorneys for Bombardier 8 NEVADA LABOR COMMISSIONER CLARK COUNTY, NEVADA 9 10 David Roger Catherine Cortez Masto E. Les Thomson Michael D. Wymer 1.1 Office of the Attorney General Office of the District Attorney 555 East Washington Avenue 500 S. Grand Central Parkway 12 P. O. Box 552215 Suite 3900 Las Vegas, Nevada 89155-2215 Las Vegas, Nevada 89101 13 Attorneys for Clark County, Nevada Attorneys for Nevado Labor Commissioner 14 15 ORDER 16 YT IS HEREBY ORDERED that the Parties' Stipulation to Dismiss Without Prejudice 17 in the above-captioned matters is GRANTED. 18 Dated this f day of July; 2011. 19 20 District Court Judge, Department XXXII 21 ROB BARE - COURT, DEPARTMENT 92 LUDGE, DISTRICT COURT, DEPARTMENT 32 Respectfully submitted by: 22 23 24 Gary C. Moss 25 Paul T. Trimmer 3960 Howard Hughes Parkway 26 Suite 450 Las Vegas, Nevada 89169 27 Attorneys for Bombardier Transportation (Holdings) USA, Inc. 28 MCKSON LEWIS LLF

LAS VERAS

EXHIBIT 9

Department of Aviation

MANDALL H. WALKER

ROSEMARY A, VASSILIADIS

POSTAL BOX 41003 LAG VGBAS, NEVADA BE111-4008 (708) 251-5511 SAX(708) 257-95(5) 54/141-wishrabarana



July 25, 2011

Michael Tanchek
Nevada labor Commissioner
Office of the Labor Commissioner
Department of Business and industry
State of Nevada
675 Fairview Drive, Suite 226
Carson City, NV 89701

Project: ATS Maintenance Contract; Contract #CBB-552

Subject: Bombardier Transportation Holdings USA, Inc. - Alleged Non-Payment of

Prevailing Wages Determination Revision Number 2

Pursuant to Nevada Revised Statute (NRS) 338.070(1) any public body and its officers or agents awarding a contract shall: (a) investigate possible violations of the provisions of NRS 338.010 to 338.090, inclusive, committed in the course of the execution of the contract, and determine whether a violation has been committed and inform the labor commissioner of any such violations; (b) When making payments to the contractor of money becoming due under the contract, withhold and retain all sums forfeited pursuant to the provisions of NRS 338.010 to 338.090, inclusive.

This second revised determination is filed in response to your Interim Order issued on June 7, 2011. This determination is a culmination of an extensive review of previously filed determinations as well as an exhaustive examination of all work done under this contract to the fixed assets defined in the Interim Order.

The previous determinations were focused mainly on the maintenance of the Trans or the "Non-Fixed" aspect of the contract. This was also the main focus of the International Union of Elevator Constructors (IUEC) complaint regarding this contract. The previous investigation and subsequent interviews with Bombardier employees also focused on the vehicle maintenance with very little emphasis on the fixed assets.

This current investigation focused on the "fixed" assets as identified in the Interim Order. Bombardier employees did perform routine maintenance such as cleaning, hubrication, repairs, replacements and minor adjustments on the station or wayside doors (see attached spreadsheet), they also made minor adjustments to the power rail for the tracks



Clark County Board of Commissioners
Roy Reid, Chair • Crip Macheld, Vice Chair
Susen Breger • Tem Collas • Chris Gunchighni • Laurence Weckly • Enuce Woodbury

Page 2 of 3

July 25, 2011

that guided the vehicles: Additionally, Bombardier employees swapped computer boards and performed some programming on the automatic train control systems.

All other maintenance to the power distribution systems, guideways and rails were performed by other contractors using purchase orders independent of contract CBE-552 which were paid directly to those contractors by the Department of Aviation. To date, these purchase orders collectively have not exceeded the \$100,000.00 limitation as stipulated in NRS 338.080. Additionally, as each purchase order was issued independent of the contract and the other purchase orders, they might be considered as separate contracts (see attached spreadsheet). In any event, the work was not performed by Bombardier's employees.

Additionally, under the Department of Aviation Contract Number 2305, the wayside station does were upgraded by Stanley Access Technologies. Because of the upgrades to both the Trams themselves and the wayside doors there was a one year warranty on both the trams and the wayside doors that was in effect during the duration of the CBE-552 Maintenance Contract. Any work performed under the warranty period is considered post construction and is not cover under NRS 338. This information is included in the attached spreadsheet.

Based on the reassessment of the work performed under DOA Contract CBE-552, as stipulated in the Interim Order from the Office of the Labor Commissioner dated June 7, 2011, it is the determination of the CCDOA that this complaint be dismissed.

Pursuant to Nevada Administrative Code (NAC) 338.110, a person who has been served a copy of a determination pursuant to subsection 1 and who is aggrieved by the determination may file a written objection with the labor commissioner within 15 days after the date of service of this determination. Such an objection must be accompanied by a short statement of the grounds for the objection and evidence substantiating the objection. Your objection letter and attachments must be received by the Labor Commissioner within 15 days of receipt of this letter. Mail your objection package directly to:

Labor Commissioner Office of the Labor Commissioner 675 Fairview Drive, Suite 226 Carson City, NV 89701

Mongayment of Prevailing Wage Revision 2 Hombardier Transportation Holding USA, Inc. 7022615025

DOA Facilities

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Page 3 of 3

July 25, 2011

If an objection to this determination is not received by the due date, the Labor Commissioner will issue an Order Affirming the Determination.

Sincerely,

Beb-Kingston

Assistant Director, Facilities

Keith Sakelhide, Deputy Labor Commissioner

William H. Stanley, Director of Organizing, International Union of Elevator Constructors E. Lee Thomson, Chief Deputy District Attorney, Clark County District Attorney's Office

Randall Walker, Director, Department of Aviation Rosemary Vassiliadis, Deputy Director, Department of Aviation Andrew J. Kalin, Haquire, McCraken, Stemerman & Holsbery

Gary C. Moss, Esquire, Jackson Lewis LLP

Nonpayment of Prevailing Wage Revision 2 Bombardier Transportation Holding USA, Inc.

Bombardier-Transportation (Holdings) USA, Inc.

Attachment: Contract CBE-552 Maintenance and Repair of Pixed Assets

Bombardier Transportation Holdings USA, Inc. Contract CBE-552 Maintenance of Automated Transit System Equipment Employee Classifications and Pay Rates		2011	Hourly Handkoution Rate	\$29.82 N/A	\$18.68 C.Twoli	24.48	£27.71 A Tech	\$25.42 N/A	\$26.44 B Tcolt	sch \$21,25 C Tech \$21,25	\$23.80	\$23.26 C Tech	\$18.46 C Tech	\$26,44 B Teak	ralt \$19.80 C Took \$19.80	\$13.63 CTech	\$21,39 CTesh	18.00 C Tech	\$ 18.00 C Tech	NA S	S . N/A	34/A \$. 8 . WA . 8 .	NA S -	
		2	Hourly Obsessession	\$29.82 A Tech			\$27.71 A Tech	\$25,42 CTcch	\$26,44 B Toch	\$21.25 Cresh		\$23,26 C Toch	\$18,46 CTcoh	\$26.44 B Tech	\$19,80 C.Tealt	\$18,68 C'Tech	\$21,39 C Toch	N/A. CTech	N/A C'Tech	\$ 18.00 N/A	18,00 N/A	18.00 N/A	18.00	18.00 N/A	, MA
	2009	2009		A Tech		-	-		B Tech	C Tech			C Teat	B Tech \$	C Tech 5			N/A	N/A	1	C Tech \$	C Tooth \$	C Tooh \$	C Yech \$	N/A
	Emplo		Hourly	620 82 820 82	\$14.68	24.48	\$27.71	\$25,42	\$26.44	\$21.25	\$23.80	\$23.26	\$18.46	\$26.44	\$19,80	\$18,68	\$21.39	N/A	N/A	\$ 18:00	\$ 18.00	\$ 18,00	\$ 18,00	8 18.00	£ 19.05
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		Name		First Name	Nicholas	Kenneth	Danlel	David	Robert	Vernou	Mutthew	Mark	Crafg	Anthony	Potor	Auron	Ricky	Mika	Prk	Andrew	Garrett	Ivan	Bric	Demla	Defers
		N		Last Name	Rangs	DePloro	Estrada	Karpa	Kgoran	MoClain	McCullongh	McGheo	Rasmussen	Schneider	Thomas	Urblisa	Valentine	Johnson	Krauch	Corwin	Smith	Custodio	Dabilia	Rodnieuez	1

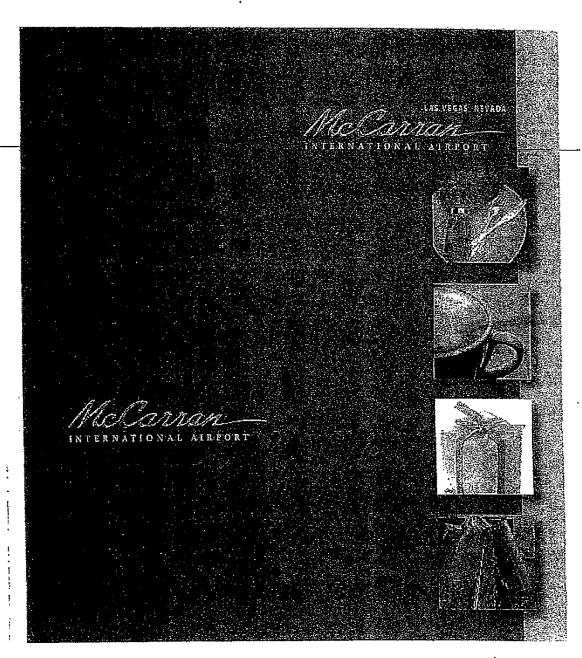
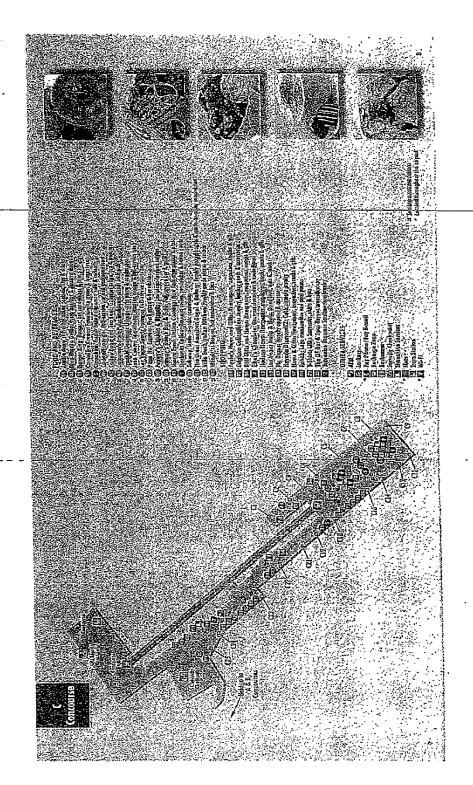


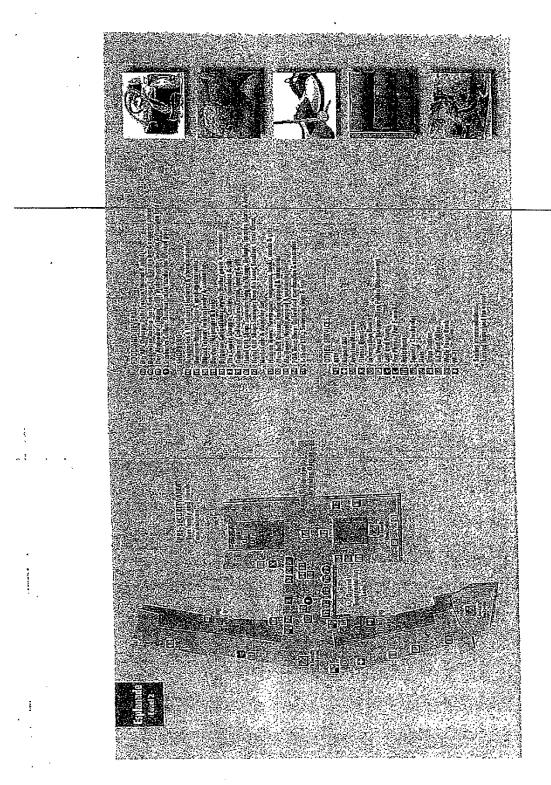
Exhibit No.
Witness Walker
Date 1/24/12

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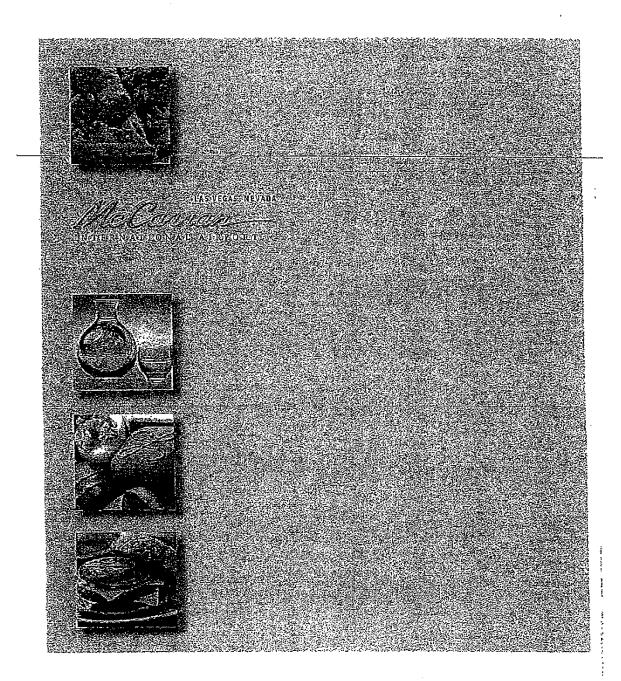


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Department of Aviation

RANDALL H. WALKER

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October 16, 2009

Via facsimile: 702-486-1190

Ms. Margi Grein.
Executive Officer
Nevada State Contractor's Board
2310 Corporate Circle, Suite 200
Henderson, NV 89074

Re: Application for License - Bombardier Transportation (Holdings) USA, inc.

Dear Ms. Grein:

I understand that the Nevada State Contractor's Board will consider Bombardier Transportation (Holdings) USA, Inc.'s (Bombardier) application for license at its October 22, 2009 meeting. The Department of Aviation supports Bombardier's application and urges the Board to promptly issue the A22 license to Bombardier.

Please understand that Bombardier was the original equipment manufacturer for the antomated transit systems (ATS) at McCarran Airport and currently maintains those systems. Bombardier has recently modernized the current C and D gate systems and is, the selected vendor for the supply and installation of a new automated people mover system (APM) for Terminal 3. The ongoing maintenance of our existing systems and the timely installation of the new system for Terminal 3 are vital and integral to the airport's operation and success. Delay in granting a license will only serve to disrupt the smooth operation of the ATS and the work necessary to complete the C & D modernization and the Terminal 3 project. Such disruption is not in the best interests of the Department of Aviation, the community, and the traveling public.

We respectfully request the Board to expedite the approval of Bombardier's application

Sincerely

RANDALLH. WALKER Director of Aviation



Clark County Board of Commissioners

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EXHIBIT 13

CLARK COUNTY BOARD OF COMMISSIONERS AGENDA ITEM

Issue;	Approval of Maintenance Agreement	Hack-up:
Pelitioner:	Randall H. Walker, Director of Aviation	Clerk Ref, #
Recommendation:		400 west determined to

That the Board of County Commissioners approve and authorize the Director of Aviation to sign the Maintenance Agreement (CBE-552) between Clark County and Bombardier Transportation (Holdings) USA Inc. (Edward A. Gordon, Vice President APM Marketing and Keith Orton, Vice President, Finance).

FISCAL IMPACT:

Funds in the amount of \$3,139,037.00 for contract year one, \$3,225,250,00 for year two, \$3,897,658.00 for year three, \$4,700,600.00 for year four, and \$5,027,063.00 for year five are available in the Airport Budget Fund (5201.701).

BACKGROUND:

Bombardier Transportation (Holdings) USA Inc. has maintained the Automated Transit System (ATS) since October 16, 2001. The ATS provides public transportation between McCarran International Airport's main terminal building and the C and D gates. Bombardier Transportation (Holdings) USA Inc. and Clark County Department of Aviation have reached a mutual agreement on the terms and conditions of the ettached contract for continued ATS service and maintenance. During this contract, the ATS for Terminal 3 will become operational. The exact date when operations will commence has yet to be determined, however, the necessary funding has been included in the above amounts for contract year three, year four, and year five. The term of this contract is for the five (5) year period beginning July 1, 2008 through June 30, 2013.

In accordance with NRS 332.115.1 (c), the competitive hidding process is not recommended because the maintenance of the equipment can be performed more efficiently by a certain company and in accordance with MRS 332.115.1 (a), Bombardier Transportation (Holdings) USA Inc. is the only firm that can supply maintenance services for their product.

The agreement has been reviewed and approved as to form by the District Attorney's office.

Respectfully submitted,

RANDALLH WALKER Director of Avietion

KWD CCR# 711

Witness

6/3/2008

Agenda Rom #

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EXHIBIT 14

CLARK COUNTY BOARD OF COMMISSIONERS AGENDA ITEM

Issue:	Award of Bid	Back-up:
Petitioner:	Randall H. Walker, Director of Aviation	Cléria Ref. ₽

Recommendation:

That the Board of County Commissioners approve the award of Bid No. 10-601989, Annual Requirements Contract for Shuttle Services to the lowest responsive and responsible bidder. Staff recommends award to Jacob Transportation Services, LLC dba Executive Las Vegas (James J. Jimmerson, Managing Member/Owner); or take other action as appropriate.

FISCAL IMPACT:

Fund #: 5201.701 Fund #: 5201.703 Fund Name: McCarran Umestricted Ops Fund Name: Henderson Unrestricted Ops

Fund Center: 2200600020 Fund Center: 2200900020 Fund Program/Grant: N/A

Description: Annual Requirements Contract for Shottle Services

Amount: \$1,019,950.00

Added Comments: N/A

BACKGROUND;

BIDDER	BID AMOUNT	CORRECTION	CORRECTED AMOUNT
Jacob Transportation Services, LLC (NBE)	\$1,019,950.00		
dba Executive Las Vegas			
Celebrity Coaches of America, Inc. (WBE)	\$1,034,782.00 (1))	
dba Celebrity Coaches			
CLS Nevada, LLC (NBE)	\$1,042,650.00		
dba CLS Transportation, Las-Vegas			
Lucky Cab Company of Nevada (NBE)	\$1,131,800,00 (2	·)	
dba Lucky Limousine and Lucky Trans			
On Demand Sedan Services, Inc. (NBE)	\$1,192,600.00	(- \$23 ,832.00)	\$1,168,748.00
dba ODS Chauffeured Transportation, ODS Limous	nes		
Bell Trans (NBE) \$1.174,			
Ryan's Express Transportation Services, Inc. (NBE)	\$1,204,472.00		
dha Ryan's Express			
CUSA K-TCS, LLC (NBE)	\$1,242,840.00	(+\$3,000,00)	\$1,220,923.20 (1) (3)
dba Coach America, Grayline			
Alan Waxler Group Charter Services, LLC (NBE)	\$1,241,000.00	(+\$3,000.00)	\$1,244,000.00 (3)
dba AWG Charter Services			
First Transit, Inc. (LBE)	\$1,359,723.84	(+\$106.16)	\$1,359,830.00 (3)

Cleared for Agenda

Agenda ltem ≇

 BIDDER
 CORRECTED AMOUNT

 MV Transportation, Inc. (LBE)
 \$1,440,641.00 (-\$19.00)
 \$1,440,622.00 (3)

 Afriline Limousine Corporation (WBE)
 \$1,478,560.00
 \$1,837,250.00 (4)

 4 Grand Canyon West Express
 \$1,837,250.00 (4)
 \$1,837,250.00 (4)

- (1) 2% Net 30 discount applied.
- (2) Bid not signed, rejected.
- (3) Bid amount corrected.
- (4) Bidder did not bid all items, rejected.

This request is for shuttle service provided by Henderson Executive Airport and round trip shuttle services provided for passengers parked at McCarran International Airport remote parking facilities. This bid was advertised and sent to 37 suppliers. Thirteen bids were received.

The pertinent provisions of this annual requirements contract are as follows:

- Term of the contract is from December 8, 2010 through June 30, 2011 with the option to renew for four (4) one year periods.
- Contract is based on estimates and allows the option to increase current contract amount and contract renewals by 20% subject to approved budget appropriations.
- Jacobs Transportation Services, LLC dba Executive Las Vegas currently holds a Clark County Business License.

Respectfully submitted,

RANDALL H. WALKER Director of Aviation

Page Number

SPECIAL CONDITIONS BID NO. 10-601989 SHUTTLE SERVICE

1. METHOD OF AWARD

Award will be made to the lowest responsive and responsible bidder on a grand total basis. Bidder must bid on all items to be considered responsive.

2. FAILURE TO PROVIDE SERVICE

in the event that the successful low Bidder fails to provide Bus Service in accordance with the terms and conditions of this Contract, Owner shall have the option to temporarily procure the Bus Service from another provider or terminate the contract within 30 days of notification.

3. ON-CALL BUS SERVICE

Awarded Supplier shall not provide a bus that exceeds 30 feet in length without OWNER's prior approval. Authorized use of a substituted bus will be invoiced at no extra charge.

4. HOURLY RATE

Hourly rate bid shall include the following but not limited to:

- a. Driver
- b. Fuel
- Lubricants
- d. Miscellaneous consumables
- Tow service
- Miscellaneous repairs
- Vandalism
- Insurance
- Clean vehicle
- Miscellaneous maintenance

NEVADA LAW

Awarded Bus Service providers shall be lawfully able to conduct business in the State of Nevada, County of Clark, in accordance with all State Statutes, Ordinances and Regulations.

6. DAMAGE TO OWNER'S PROPERTY

Bus Service provider shall be liable for any and all damages done to Owner's property caused by their Driver. Owner shall bill the Bus Service provider, if Bus Service provider fails to pay for damages Owner will deduct the amount owed from invoice due.

7. RETENTION OF RECORDS AND AUDIT

Awarded Bus Service providers shall retain logs, accounts, reports, files and any other records relating to this Bus Service contract for a period of three (3) years after completion of contract. These records are subject to audit and inspection by representatives of the Clark County and Department of Transportation.

8. ADVERTISEMENT

Buses shall not contain any type of advertisement inside or outside without prior authorization from the Owner's Representative.

9. DRIVER CONDUCT

- a. Clean and neatly dressed in uniform.
 b. Courteous nature and professional at all times (No vulgar language shall be spoken at any time).
- Oriver must remain calm and in control in all situations.
- No solicitation of any type of gratuity from their passengers.
- Assist passengers with baggage, children or elderly at all times when boarding or disembarking.
- Observant of passenger intention for pick up and drop off at specified locations (do not leave if passenger is hurrying to board).

Clark County Department of Aviation - 8/2/2019

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Interior of vehicle must be kept clean at all times.

Driver must complete the CWNER's shuttle sign-in sheet upon start and end of shift.

- Possess a valid State of Nevada Class 2 driver's license, no more than one (1) moving violation on a driving record within a two-year period.
- Driver's must be aware and monitor headway times. No congregating or lingering in any area is allowed. Regarding security, the Owner requests that Driver's monitor and report any suspicious activity or see other Issues as it may impact Airport security.

In regards to items "a" through "j" Owner has the right to request another driver because of misconduct or driver's license history, and/or request another bus/vehicle due to undeanliness. Owner's Representative will call and send an email describing the nature of the event for immediate response and resolution. Replacement of driver and or bus/vehicle shall be done within one hour of notification.

10. BUS ROUTE

The bus route shall be directed by the Owner's representative and provided with a map if necessary. A sign provided by the Owner shall be affixed to the bus in a location to show that the bus is in operation for the Owner.

All Bus Drivers must report at the designated location and sign the Airport Log when starting and finishing their Bus Service. At no time may any Bus Driver leave the route without the consent of the Owner's Representative.

12. CLIMATE CONTROL

All buses must have a fully functional heating and air conditioning system.

13. ROUTE INTERRUPTIONS

All Bus Drivers shall provide continuous service without interruption of lunch, breaks or restroom stops. Drivers shall inform Owner Representative of their personal need for instructions. Owner is not obligated to pay for breaks or lunch, Bus Service provider may be asked to provide a replacement driver for lunch and breaks at their expense.

14. COMMUNICATION

All buses provided shall have radio communications between other Bus Drivers and their dispatch. Owner will provide one hand held radio for Lead Bus Driver to communicate with Owner Representative. Lead Bus Driver will take instructions from Owner Representative and pass on instructions to their Bus other Bus Drivers. Lead Bus Driver will provide Owner other contact information, i.e. call sign number, call phone number, as well as any other pertinent information regarding the shuttle operation.

15. AUTOMATED VEHICLE IDENTIFICATION (AVI) FEES

All buses supplied to the airport for service shall be equipped with AVI Transponders. Bus supplier will be credited with AVI charges back to their account at the beginning of every month for previous month bus service under this contract use.

- a. Wheelchair Accessible Bus -- Successful Bidder shall provide one wheelchair accessible bus at all times while in service at the airport. The minimum capacity for a wheelchair accessible bus shall be 15 passengers plus one wheelchair station.
- b. Luggage Storage Space All buses shall have adequate luggage storage space. Roof top luggage space is not

17. LOST & FOUND

Any item left behind on shuttle will be taken to awarded service provider's Lost & Found location at the end of Driver shift. Lostfielt items or bags switched accidently by the Driver shall be the responsibility of the awarded service provider to correct at its expense. OWNER's Representative shall be informed of date and time of discovery along with the item description any name that may be attached for record. Should the passenger inquire of the missing item, the call will be forwarded to the awarded service provider.

18. SERVICE AND LOCATION

McCarran International Airport (MIA): Services to be provided are in and around the airport parking facility. The main use of vehicle service will be a 20-30 passenger bus

Clark County Department of Aviation - 8/2/2010

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CC 1334

Special Conditions Bid No. 10-601989 Shuttle Service

b. Henderson Executive Airport (HEA):

Transportation services provided shall pick-up passengers at the airport lobby and transport them to their destination which is mainly to the hotel of their choice. This service is one way only, no round trips. Type of vehicle shall be determined at the time of request.

19. FUEL SURCHARGE

Awarded Supplier(s) shall provide a current website copy of the "U.S. Retail Gasoline or Diesel Prices" for the "West Coast" located at www.eia.doe.gov. Fuel surcharge can be applied according to "Nevada Transportation Authority" Chapter 706 of the Nevada Administrative Code (NAC).

The Fuel Surcharge is a standardized price for all service providers and should not be included in the bid price.

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EXHIBIT 15

CLARK COUNTY BOARD OF COMMISSIONERS AGENDA ITEM

Tssue:	Approval of Contract	Kack-up:
Petitioner:	Randall H. Walker, Director of Aviation	Clerk Rof. #
	,	

Recommendation:

That the Board of County Commissioners approve and authorize the Director of Aviation to sign the contract (CBE-662) between Clark County and KONE Inc. (Jeffrey S. Blum, Senior Vice President West) to provide maintenance services for elevators, escalators, and moving walkways at various airport locations in accordance with Nevada Revised Statute 496.090; or take other action as appropriate. (For possible action)

FISCAL IMPACT:

Fund #: 5201.701 Fund Name: Airport - McCarran Unrestricted Operations

Fund Center: 2200200020 Fund Program/Grant: N/A

Description: Elevator, Escalator, and Moving Walkway Maintenance Services (MIA)
Amount: \$4,536,540.00 Added Comments: None

Fund #: 5255.875 Fund Name: Car Rental Facility
Fund Center: 2200400080 Fund Program/Grant; N/A
Description: Elevator, Escalator, and Moving Walkway Maintenance Services (CCRF)
Amount: \$656,640.00 Added Comments: None

Fund #: 5201.703 Fund Name: Airport - Henderson Unrestricted Operations

Fund Center: 2200900020 Fund Program/Grant: N/A
Description: Elevator, Escalator, and Moving Walkway Maintenance Services (HEA)
Amount: \$9,900.00 Added Comments: None

Fund #: 5201.702 Fund Name: Airport - NLV Uprestricted Operations

Fund Center: 2200900030 Fund Program/Grant: N/A
Description: Elevator, Escalator, and Moving Walkway Maintenance Services (VGT)
Amount: \$4,800.00 Added Comments: None

BACKGROUND:

On October 4, 2011, the Board of County Commissioners (BOCC) authorized negotiations and the advertisement of intent to enter into a contract with KONE Inc. to provide maintenance of elevators, escalators, and moving walkways at various Department of Aviation locations. Staff has completed negotiations for these services and is seeking BOCC approval of the negotiated contract.

The initial term of the contract shall be from date of award through June 30, 2012 with six (6) one-year renewal options. The annual contract amount shall not exceed \$5,207,880.00.

The contract has been reviewed and approved as to form by the District Attorney's office. Advertising has been completed in accordance with Nevada Revised Statute 496,090. KONE Inc. ourrently maintains a Clark County business license.

Respectfully submitted,

Cleared for Assaula

RANDALL H. WALKER
Director of Aviation

Agenda Item #

11/15/2011

CLARK COUNTY, NEVADA

CBE-662

CONTRACT FOR MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALK-WAYS (RFP 11-003)

NAME OF FIRM	KONE INC.
DESIGNATED CONTACT, NAME AND TITLE	JEFFREY S. BLUM SENIOR VICE PRESIDENT WEST
ADDRESS OF FIRM INCLUDING CITY, STATE AND ZIP CODE	2060 PAMA LANE LAS VEGAS NV 89119.
TELEPHONE NUMBER (include area code)	(702) 259-0919
FAX NUMBER (include area code)	(702) 269-0922
EMAIL ADDRESS	jeifrey.blum@kone.com

CRE 662 CONTRACT FOR MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALKWAYS (RFP NO. 11-003)

This Contract is made and entered into this ______ day of _______, 2011, by and between CLARK COUNTY, NEVADA, a political subdivision of the State of Nevada (hereinafter referred to as "OWNER"), and KONE Inc. (hereinafter referred to as CONTRACTOR), for Maintenance Services for Elevators, Escalators and Moving Walkways at various Airport locations (hereinafter referred to as "PROJECT").

WITNESSETH:

WHEREAS, the CONTRACTOR has the personnel and resources necessary to accomplish the PROJECT within the required schedule and with an estimated annual budgeted amount of \$5,207,880.00.

WHEREAS, the CONTRACTOR has the required licenses and/or authorizations pursuant to all Federal, State of Nevada and Local Laws in order to conduct business relative to this Contract.

NOW, THEREFORE, OWNER and CONTRACTOR agree as follows:

SECTION | RESPONSIBILITY OF CONTRACTOR

- A. It is understood that in the performance of the services herein provided for, CONTRACTOR shall be, and is, an independent contractor, and is not an agent or employee of OWNER and shall furnish such services in its own manner and method except as required by this Contract. Further, CONTRACTOR has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons employed by CONTRACTOR in the performance of the services hereunder. CONTRACTOR shall be solely responsible for, and shall indemnify, defend and save OWNER harmless from all matters relating to the payment of its employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever.
- B. In accordance with the Immigration Reform and Control Act of 1986, the CONTRACTOR agrees that it will not employ unauthorized attens in the performance of this Contract.
- C. The Board of County Commissioners (BCC) is committed to promoting full and equal business opportunity for all persons doing business in Clark County. The CONTRACTOR acknowledges that the OWNER has an obligation to ensure that public funds are not used to subsidizing private discrimination.
 - The CONTRACTOR shall not refuse to employ or to discharge from employment any person because of his race, color, creed, national origin, gender identity, gender expression, or age, or to discriminate against a person with respect to hire, tenure, advancement, compensation or other terms, conditions or privileges of employment because of his race, creed, color, national origin, sex, sexual orientation, gender identity, gender expression, or age.
 - In connection with the performance of work under this Contract, the CONTRACTOR agrees not to
 discriminate against any employee or applicant for employment because of race, creed, color, national
 origin, sex, sexual orientation, gender identity, gender expression, or age, including, without limitation, with
 regard to employment, upgrading, demotion or transfer recruitment advertising, layoff or termination, rates
 of pay or other forms of compensation.

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- D. CONTRACTOR acknowledges that CONTRACTOR and any subcontractors, agents or employees employed by CONTRACTOR shall not, under any circumstances, be considered employees of the OWNER, and that they shall not be emitted to any of the benefits or rights afforded employees of OWNER, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits.
 - OWNER will not provide or pay for any liability or medical insurance, retirement contributions or any other benefits for or on behalf of CONTRACTOR or any of its officers, employees or other agents.
- E. The CONTRACTOR shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by the CONTRACTOR, its subcontractors and its and their principals, officers, employees and agents under this Contract. In performing the specified services, CONTRACTOR shall follow practices consistent with generally accepted professional and technical standards.
- F. It shall be the duty of the CONTRACTOR to assure that all products of its effort are technically sound and in conformance with all pertinent Federal, State and Local statutes, codes, ordinances, resolutions and other regulations. CONTRACTOR will not produce a work product which violates or infringes on any copyright or patent rights. The CONTRACTOR shall, without additional compensation, correct or revise any errors or omissions in its work products. Permitted or required approval by the OWNER of any products or services furnished by CONTRACTOR shall not in any way relieve the CONTRACTOR of responsibility for the professional and technical accuracy and adequacy of its work. OWNER'S review, approval, acceptance, or payment for any of CONTRACTOR'S services herein shall not be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and CONTRACTOR shall be and remain liable in accordance with the terms of this Contract and applicable law for all damages to OWNER caused by CONTRACTOR'S performance or failures to perform under this Contract.
- G. CONTRACTOR shall appoint a Manager who will manage the performance of services. All of the services specified by this Contract shall be performed by the Manager, or by CONTRACTOR'S associates and employees under the personal supervision of the Manager. Should the Manager, or any employee of CONTRACTOR be unable to complete his or her responsibility for any reason, the CONTRACTOR will replace him or her with a qualified person and notify OWNER of replacement. If CONTRACTOR fails to make a required replacement within thirty (30) days, OWNER may ferminate this Contract for default.
- H. All materials, information, and documents, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by CONTRACTOR for OWNER relating to the services to be performed hereunder and not otherwise used or useful in connection with services previously rendered or services to be rendered by CONTRACTOR to parties other than OWNER shall become the property of OWNER and shall be delivered to OWNER'S representative upon completion or termination of this Contract, whichever comes first. CONTRACTOR shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by OWNER. OWNER shall have the right to regroduce all documentation supplied pursuant to this Contract.

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- I. Drawings and specifications remain the property of the CONTRACTOR. Copies of the drawings and specifications retained by the OWNER may be utilized only for its use and for occupying the PROJECT for which they were prepared, and not for the construction of any other project. A copy of all materials, information and documents, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by CONTRACTOR during the performance of services for which it has been compensated under this Contract, shall be delivered to OWNER'S representative upon completion or termination of this Contract, whichever occurs first. OWNER shall have the right to reproduce all documentation supplied pursuant to this Contract. CONTRACTOR shall furnish OWNER'S representative copies of all correspondence to regulatory agencies for review prior to mailing such correspondence.
- J. The CONTRACTOR agrees that its officers and employees will cooperate with the OWNER in the performance of services under this Contract and will be available for consultation with OWNER at such reasonable times with advance notice as to not conflict with their other responsibilities.
- K. The CONTRACTOR will follow OWNER'S standard procedures as followed by OWNER'S staff in regard to programming changes; testing; change control; and other similar activities.
- CONTRACTOR has or will retain such employees as it may need to perform the services required by this Contract. Such employees shall not be employed by the State of Nevada, the OWNER or any other political subdivision of the State of Nevada.

M. AIRPORT SECURITY

Owner Property

For security purposes, Owner property is divided into three (3) categories as follows:

a. Landside:

The non-secure portion of the Airport,

b. Airside:

The Secured Area/Security Identification Display Area (SIDA); and

c. Sterile Areas:

The parts of the terminal buildings that require access through a security check

All CONTRACTOR personnel working on Owner property, Landside, Airside or Sterile Areas, must be badged for identification purposes.

2. Federal Regulations

49 Code of Federal Regulation (CFR), Pert 1542, Airport Security requires that security of the Secured Area/SiDA at McCarran international Airport be maintained at all times. This regulation has a provision for enforcement by the Transportation Security Administration (TSA), which may assess substantial fines (\$10,000.00 per occurrence) for potential security breaches or security breaches by unauthorized persons and vehicles entering the Secured Area/SiDA on LAS. When working in the Secured Area/SiDA, CONTRACTOR personnel must visibly display at waist level or above on their outermost garment the appropriate McCarran International Airport Identification badge at all times.

CONTRACTOR agrees to accept and reimburse Owner for any fines levied on Owner by TSA for any violation of any TSA Security Regulations by CONTRACTOR and its employees or any of CONTRACTOR subcontractors, CONTRACTORs, suppliers and agents and their employees.

Clark County Department of Aviation October 31, 2011

CONTRACTOR will reimburse owner for any fines levied for breaches of security due to CONTRACTOR activities or those of any tier subcontractor. Upon award, Owner will determine the type of identification and training CONTRACTOR will be required to obtain. CONTRACTOR acknowledges that McCarran International Airport, reserves the right to refuse identification badges to any person with a record of arrests and convictions which in its sole judgment would render that person an unacceptable risk to the security of the Airport.

3. Access to the Airport secured Area/SIDA

Access to the Airport Secured Area/SIDA can be gained by personnel displaying a Maroon or Green badge. Personnel with a Tan badge are only allowed access to and within the McCarran Sterile Areas and Landside/Public Areas. Successful PROPOSER will be allowed access to only those areas necessary to complete the work.

4. Almort Secured Area/SIDA

If a Maroon or green badge holder enters a part of the Airport Secured/SIDA for which access has not been authorized, successful PROPOSER may be subject to a fine as detailed in Section M.2., and personnel may be subject to immediate and permanent removal, to include security identification badge revocation from the Airport by Owner.

5. Landside/Public Work Areas

Successful PROPOSER's personnel with a Tan badge can gain access to Landside/Public or Sterile Area work areas with escort. If a Tan badge holder enters an Airport Secured Area/SIDA, successful PROPOSER may be subject to immediate and permanent removal from the Airport by Owner. Personnel with Tan badges do not have the authority to escort and must be screened through the TSA passenger securify checkpoint prior to entering Airport Sterile Areas.

- N. The CONTRACTOR agrees to provide the information on the attached "Disclosure of Ownership/Principals" form EXHIBIT G prior to any contract award by the Board of County Commissioners.
- O. The rights and remedies of the OWNER provided for under this section are in addition to any other rights and remedies provided by law or under other sections of this Contract.

SECTION II RESPONSIBILITY OF OWNER

- A. The OWNER agrees that its officers and employees will cooperate with CONTRACTOR in the performance of services under this Contract and will be available for consultation with CONTRACTOR at such reasonable times with advance notice as to not conflict with their other responsibilities.
- B. The services performed by CONTRACTOR under this Contract shall be subject to review for compliance with the terms of this Contract by OWNER'S representative, Robert Kingston, Assistant Director of Aviation, Facilities/Maintenance, telephone number (702) 261-5140 or their designee. OWNER'S representative may delegate any or all of his responsibilities under this Contract to appropriate staff members, and shall so inform CONTRACTOR by written notice before the effective date of each such delegation.
- C. The review comments of OWNER'S representative may be reported in writing as needed to CONTRACTOR. It is understood that OWNER'S representatives review comments do not relieve CONTRACTOR from the responsibility for the professional and technical accuracy of all work delivered under this Contract.

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- D. OWNER shall, without charge, furnish to or make available for examination or use by CONTRACTOR as it may request, any data which OWNER has available, including as examples only and not as a limitation:
 - 1. Copies of reports, surveys, records, and other pertinent documents.
 - Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, regulations; other documents, and Information related to the services specified by this Contract.

CONTRACTOR shall return any original data provided by OWNER.

- E. OWNER shall assist CONTRACTOR in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Contract.
- CONTRACTOR will not be responsible for accuracy of information or data supplied by OWNER or other sources to the extent such information or data would be relied upon by a reasonably prudent CONTRACTOR.

SECTION III SCOPE OF WORK

Services to be performed by the CONTRACTOR for the PROJECT shall consist of the work described in the Scope of Work as set forth in EXHIBIT A of this Contract, attached hereto.

SECTION IV CHANGES TO SCOPE OF WORK

- A. The QWNER may at any time, by written order, make changes within the general scope of this Contract and in the services or work to be performed. If such changes cause an increase or decrease in the CONTRACTOR'S cost or time required for performance of any services under this Contract, an equitable adjustment limited to an amount within current unencumbered budgeted appropriations for the PROJECT shall be made and this Contract shall be modified in writing accordingly. Any claim of the CONTRACTOR for the adjustment under this clause must be asserted in writing within thirty (30) calendar days from the date of receipt by the CONTRACTOR of notification of change unless the OWNER grants a further period of time before the date of final payment under this Contract.
- B. No services for which additional compensation will be charged by the CONTRACTOR shall be furnished without the written authorization of the OWNER.

SECTION V COMPENSATION AND TERMS OF PAYMENT

A. Payments

- Payment of invoices will be made within thirty (30) calendar days after receipt of an accurate invoice
 that has been reviewed and approved by the OWNER'S representative.
- The OWNER'S representative shall notify the CONTRACTOR in writing within fourteen (14) calendar days of any disputed amount included on the invoice.
- No penalty will be imposed on OWNER if the OWNER falls to pay CONTRACTOR within thirty (30)
 calendar days after receipt of a properly documented invoice, and OWNER will receive no discount for
 payment within that period.

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- In the event that legal action is taken by the OWNER or the CONTRACTOR each party shall bear its own Attorney fees and costs.
- 5. All payments shall be due within thirty (30) calendar days after receipt of the invoice.
- 6. OWNER shall subtract from any payment made to CONTRACTOR all damages, costs and expenses caused by CONTRACTOR'S negligence, resulting from or arising out of errors or omissions in CONTRACTOR'S work products, which have not been previously paid to CONTRACTOR.
- Invoices for all locations shall be submitted to McCarran International Airport c/o Accounts Payable,
 P.O. Box 11005, Las Vegas, NV 89111-1005. Invoices to be billed to each purchase order separately.

B. OWNER'S Fiscal Limitations

- The content of this section shall apply to the entire Contract and shall take precedence over any conflicting ferms and conditions, and shall fimit the OWNER'S financial responsibility as indicated in Sections 2 and 3 below.
- Notwithstanding any other provisions of this Contract, this Contract shall terminate and OVNNER'S
 obligations under it shall be extinguished at the end of the fiscal year in which the BCC fails to
 appropriate monies for the ensuing fiscal year sufficient for the payment of all amounts which will then
 become due.
- OWNER'S total liability for all charges for services which may become due under this Contract is limited to the total maximum expenditure(s) authorized in OWNER'S purchase order(s) to the CONTRACTOR.

C. Responsibilities

It is expressly understood that the entire work defined in EXHIBIT A - SCOPE OF WORK must be done by the CONTRACTOR and it shall be the CONTRACTOR'S responsibility to ensure that hours and tasks are properly budgeted for the work to be performed under this CONTRACT.

SECTION VI SUBCONTRACTS

- A. Services specified by this Contract shall not be subcontracted by the CONTRACTOR, without prior written approval of OWNER.
- B. Approval by OWNER of CONTRACTOR'S request to subcontract or acceptance of or payment for subcontracted work by OWNER shall not in any way relieve CONTRACTOR of responsibility for the professional and technical accuracy and adequacy of the work. CONTRACTOR shall be and remain liable for all damages to OWNER caused by negligent performance or non-performance of work under this Contract by CONTRACTOR'S subcontractor or it's sub-subcontractor.
- C. The compensation due under Section V shall not be affected by OWNER'S approval of CONTRACTOR'S request to subcontract.

Clark County Department of Aviation October 31, 2011

SECTION VII MISCELLANEOUS PROVISIONS

A. Suspension

OWNER may suspend performance by CONTRACTOR under this Contract for such period of time as OWNER, at its sole discretion, may prescribe by providing written notice to CONTRACTOR at least ten (10) working days prior to the date on which OWNER wishes to suspend. Upon such suspension, OWNER shall pay CONTRACTOR its compensation, based on the percentage of the PROJECT completed and earned until the effective date of suspension, less all previous payments. CONTRACTOR shall not perform further work under this Contract after the effective date of suspension until receipt of written notice from OWNER to resume performance. In the event OWNER suspends performance by CONTRACTOR for any cause other than the error or omission of the CONTRACTOR, for an aggregate period in excess of thirty (30) days, CONTRACTOR shall be entitled to an equitable adjustment of the compensation payable to CONTRACTOR under this Contract to reimburse CONTRACTOR for additional costs occasioned as a result of such suspension of performance by OWNER based on appropriated funds and approval by the OWNER.

B. <u>Termination</u>

- 1. This Contract may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Contract through no fault of the terminating party; but only after the other party is given:
 - a. not less than ten (10) calendar days' written notice of intent to terminate; and
 - b. an opportunity for consultation with the terminating party prior to termination.
- This Contract may be terminated in whole or in part by the OWNER for its convenience; but only after the CONTRACTOR is given:
 - a. not less than ten (10) calendar days' written notice of intent to terminate; and
 - b. an opportunity for consultation with the OV/NER prior to termination.
- If termination for default is effected by the OWNER, the OWNER will pay CONTRACTOR that portion
 of the compensation which has been earned as of the effective date of termination but;
 - no amount shall be allowed for anticipated profit on performed or unperformed services or other work; and.
 - any payment due to the CONTRACTOR at the time of termination may be adjusted to the
 extent of any additional costs occasioned to the OWNER by reason of the CONTRACTOR'S
 default.
- 4. Upon receipt or delivery by CONTRACTOR of a termination notice, the CONTRACTOR shall promptly discontinue all services affected (unless the notice directs otherwise) and deliver or otherwise make available to the OWNER'S representative, copies of all deliverables as provided in Section 1.
- 5. Upon termination, the OWNER may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event the CONTRACTOR shall cease conducting business, the OWNER shall have the right to make an unsolicited offer of employment to any employees of the CONTRACTOR assigned to the performance of this Contract.

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 The rights and remedies of the OWNER provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

F. Insurance

The CONTRACTOR shall obtain and maintain the insurance coverage's required in EXHIBIT E; incorporated herein by this reference. The CONTRACTOR shall comply with the terms and conditions set forth in said EXHIBIT E, and shall include costs of such insurance coverage's in their prices.

G. Indemnity.

The CONTRACTOR does hereby agree, to defend, indemnify, and hold harmless the OWNER and the employee, officers and agents of the OWNER from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorney/s fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the CONTRACTOR or the employees or agents of the CONTRACTOR in the performance of this Contract.

H. Patent Indemnity

CONTRACTOR hereby indemnifies and shall defend and hold harmless OWNER, its officials, employees, volunteers, OWNER's Representative, Authorized Representatives and their employees respectively from and against all claims, losses, costs, damagés, and expenses, including attorney's fees, incurred by OWNER, its officials, employees, volunteers, OWNER's Representative, Authorized Representatives and their employees, respectively, and as a result of or in connection with any claims or actions based upon infringement or alleged infringement of any patent and arising out of the use of the equipment or materials furnished under the Contract by CONTRACTOR, or out of the processes or actions employed by, or on behalf of CONTRACTOR in connection with the performance of the Contract. CONTRACTOR shall, at its sold expense, promptly defend against any such claim or action unless directed otherwise by OWNER, its officials, employees, volunteers, OWNER's Representative, Authorized Representatives and their employees; provided OWNER, its officials, employees, volunteers, OWNER's Representative, Authorized Representatives and their employees shall have notified CONTRACTOR upon becoming aware of such claims or actions, and provided further that CONTRACTOR aforementioned obligations shall not apply to equipment, materials, or processes furnished or specified by OWNER or its representatives.

CONTRACTOR shall have the right, in order to avoid such claims or actions, to substitute at its expense noninfinging equipment, materials, or processes, or to modify such infinging equipment, materials and processes so they become non-infringing, or obtain the necessary licenses to use the infringing equipment, material or processes, provided that such substituted and modified equipment, materials and processes shall meet all the requirements and be subject to all the provisions of this Contract.

Subconfractor information

The CONTRACTOR shall provide a list of the Minority-Owned Business Enterprise (MBE), Women-Owned Business Enterprise (WBE), Physically-Challenged Business Enterprise (PBE), Small Business Enterprise (SBE), and Nevada Business Enterprise (NBE) subcontractors for this Contract utilizing the attached format (EXHIBIT F). The information provided in EXHIBIT F by the CONTRACTOR is for the OWNER information only.

Clark County Department of Aviation October 31, 2011

J. Audits

The performance of this contract by the CONTRACTOR is subject to review by the OWNER to insure contract compliance. The CONTRACTOR agrees to provide the OWNER any and all information requested that relates to the performance of this contract. All request for information shall be made in writing to the CONTRACTOR. Time is of the essence during the audit process. Failure to provide the information requested within the timeline provided in the written information request may be considered a material breach of contract and shall be cause for suspension and/or termination of the contract.

K. Covenant

The CONTRACTOR covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. CONTRACTOR further covenants, to its knowledge and ability, that in the performance of said services no person having any such interest shall be employed.

L. Assignment

Any attempt by CONTRACTOR to assign or otherwise transfer any interest in this Contract without the prior written consent of the OWNER shall be void.

M. Governing Law

Nevada law shall govern the interpretation of this Contract.

N. Required to Work on State of Nevada Legal Holidays

CONTRACTOR shall work on the State of Nevada Legal Holidays. There are ten (10) legal holidays and (11) when December 31st falls on Friday. However, the Governor of the State of Nevada does have the option to give two (2) other legal holidays. Usually he only allows one more holiday. The firm legal holidays the CONTRACTOR shall work are as follows:

Martin Luther King's Birthday

Presidents Day

Memorial Day

Independence Day

Labor Day

Nevada Admission Day

Veteran's Day

Thanksgiving Day and Friday After

Christmas Day

New Years Day

O. Term of Contract

OWNER agrees to retain CONTRACTOR from date of award through June 30, 2012, with the option to renew for six (6) – one-year periods, subject to the provisions of Sections V and VII herein. During this period, CONTRACTOR agrees to provide services as required by OWNER within the scope of this Contract.

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P. <u>Contract Extension</u>

OWNER reserves the option to temporarily extend this CONTRACT up to one hundred eighty (180) calendar days from its expiration date for any reason. CONTRACT pricing in effect shall apply to the CONTRACT extension term.

Q. Confidential Treatment of Information

CONTRACTOR shall preserve in strict confidence any information obtained, assembled or prepared in connection with the performance of this Contract.

R. ADA Requirements

All work performed or services rendered by CONTRACTOR shall comply with the Americans with Disabilities Act standards adopted by Clark County. All facilities built prior to January 26, 1992 must comply with the Uniform Federal Accessibility Standards; and all facilities completed after January 26, 1991 must comply with the Americans with Disabilities Act Accessibility Guidelines.

Clark County Department of Aviation October 31, 2011

MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALKWAYS (RFP 11-003) **EXHIBIT** A SCOPE OF WORK

PARTA - GENERAL

STATEMENT OF WORK 1.0

- 1.1 This CONTRACT is for operation and maintenance services for the Clark County Department of Aviation's (DOA) Elevators, Escalators, and Moving Walkway equipment. To ensure safe, consistent, and reliable operation, the CONTRACTOR shall furnish all required services including, but not limited to, operational inspections, preventive maintenance, repairs (corrective maintenance) and emergency services as herein described and subject to all of the conditions outlined under the General Conditions of the CONTRACT.
- 1.2 The OWNER shall begin the contract utilizing the 24/7 Service Option. The OWNER reserves the right to switch to 16/5 Full Service (Option 2 A or 2B) at any time. The OWNER will work with CONTRACTOR to determine revised pricing if such a change in service occurs.

2.0 **FACILITIES**

- The DOA has Elevators, Escalators and/or Moving Walkways at the following facilities. All elevator, 2,1 escalator and moving walkways installed in these facilities are part of this CONTRACT.
- 2.2 For the purposes of this CONTRACT, McCarran International Airport shall consist of the following:
 - 2.2.1 Terminal 1:
 - 2.2.1.1
 - Concourses A, B, C and D; Ticketing, Esplanade, Bridge Rotunda and Baggage Claim; 2.2.1.2
 - Gold Garage; 2.2.1.3
 - 2.2.1.4 C Annex;
 - 2.2.1.5 Sky Bridge;
 - 2.2.1.6 Central Plant;
 - 2.2.1.7 Baggage Handling System Nodes 3 and 4.
 - 2.2.2 Terminal 2:
 - 2221 Ticketing, Baggage Claim, International Arrivals;
 - Baggage Handling System Node 6. 2222
 - 2,2.3 Terminal 3 Central Plant.
 - 2.2.4 Terminal 3:
 - Ticketing, Baggage Claim, International Arrivals 2.2.4.1
 - Parking Garage 2.2.4.2
 - 2.2.5 North Las Vegas Airport:
 - 2251 Terminal Building.
 - Vision Building (2704 Airport Dr). 2.2.5.2
 - 2.2.6 Henderson Executive Airport:
 - 2,2.6,1 Terminal Building;
 - 2.2.6.2 Tower Building.
 - 2.2.7 McCarran Rental Car Facility:
 - 2.2.7.1 Customer Service Building;
 - 2.2.7.2 South QTA;
 - 2.2.7.3 West QTA;
 - 2.2.7.4 North QTA.

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3.0 ROLES AND RESPONSIBILITIES

- 3.1 Roles and responsibilities of each entity in regards to the operation, maintenance and service of the elevators, escalators and moving walkways are described as follows:
 - 3.1.1 DOA Facilities Division: The DOA Facilities Division, through their designated representative, shall administer this CONTRACT. The DOA Facilities Division, through their designated representative, shall be the primary contact for the CONTRACTOR and shall facilitate all communications between the CONTRACTOR and other DOA Divisions or other stakeholders as identified by the DOA in the future.
 - 3.1.2 DOA Airport Control Center: The DOA Airport Control Center personnel shall receive reports of equipment failures and/or requests for equipment start-up and shall report same directly to the CONTRACTOR'S staff. The DOA Airport Control Center personnel shall enter all requests for service into the DOA's CONTRACT Management reporting software and/or the DOA's internal Maximo-based Work Order System.
 - 3.1.3 CONTRACTOR'S Local Office: The CONTRACTOR'S Local Office shall be responsible for the execution and delivery of this CONTRACT. The Local Office shall respond to requests for proposals and budget pricing when requested only by the DOA Facilities Division, through their designated representative. The Local Office shall provide the DOA Facilities Division with system enhancements and operational improvements.

4.0 CONTRACTOR'S SERVICES AND RESPONSIBILITIES

- 4.1 The CONTRACTOR shall perform all work as necessary and defined within this CONTRACT;
 - 4.1.1 CONTRACTOR is responsible for all elements included in their work plan.
 - 4.1.2 Furnish own transportation to and from OWNER'S facility:
 - 4.1.3 Provide all materials and parts for repair at no additional cost to OWNER, except if the item falls under Part A. Section 11.0.
 - 4.1,4 Furnish own tools and equipment to make necessary repairs and adjustments.
 - 4.1.5 Provide necessary labor time to complete repairs, from start of repair to completion of operational unit at no additional cost to the OWNER.
 - 4.1.6 Perform all preventive maintenance as required by the manufacturer of the equipment including but not limited to, periodic inspections, physical servicing (cleaning, lubricating, adjusting, aligning), and operational testing (operation, accuracy, fault detection). At a minimum, the CONTRACTOR shall be responsible for maintaining the units in clean and safe operating condition. All equipment shall be kept to a standard of cleanliness as set by the state inspector and the OWNER. The maintenance routines shall include annual clean downs of all escalators. These clean downs shall include removal of steps, power cleaning of all steps, complete interior clean downs, etc. A schedule of these clean downs shall be submitted upon award of CONTRACT. The CONTRACTOR shall submit the preventive maintenance actions and schedules for each piece of equipment identified in EXHIBIT A for the OWNER'S review and approval.
 - 4.1.7 Perform all corrective and emergency maintenance and repairs.
 - 4.1.8 Clean all elevator pits, hoist ways and the top of all elevator cabs, as needed.
 - 4.1.9 Perform a major cleaning of all escalator steps and moving walkway pallets on a semi-annual basis. A major cleaning of an escalator shall consist of a minimum of the removal of all grease, dirt and debris from horizontal step treads and all vertical risers. A major cleaning of a moving walkway shall consist of a minimum of removal of grease, dirt and debris from the horizontal tread. All walk on plates shall be thoroughly scrubbed and cleaned with each semi-annual cleaning.

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4.1.10 A maximum number of equipment failures shall be:

4.1.10.1 Elevators: One per unit per every 2 months
4.1.10.2 Escalators: One per unit per every month
4.1.10.3 Moving Walkways: One per unit per every month.

4.1.11 A penalty of \$1,000.00 per occurrence shall be deducted from the CONTRACTOR'S monthly billing for each failure exceeding the above maximum numbers.

5.0 CONTACT & NOTIFICATION

- 5.1 The CONTRACTOR shall have established an on-site office which will be the primary point of contact. In addition, the CONTRACTOR shall have a local Las Vegas office with office hours during the regular business day to contact their service department, etc. 7:30 a.m. to 4:00 p.m. Monday thru Friday, except after hours, weekends and holidays.
- 5.2 CONTRACTOR shall provide a 24-hour person-to-person service center, with personnel trained to transle vertical transportation service calls. The answering service shall be capable of communicating the problems being reported. Upon receipt of the call, the service shall dispatch a Service Technician within 20 minutes. If after the 20 minute period, the Technician does not respond, a back up or second technician shall be contacted along with the maintenance supervisor. Once the call has been dispatched, but not longer than 30 minutes, the answering service shall be required to inform the OWNER'S designated representative the name of the technician dispatched, the supervisor contacted (if required) and the estimated time that the technician will arrive on the site.
- 5.3 All matters regarding this CONTRACT shall be coordinated with the QWNER'S Designated Representative in the Facilities Division at 261-5621.

6.0 WORK ORDER TRACKING SYSTEM AND REPORTS

6.1 The CONTRACTOR shall input and record all maintenance tasks including, but not limited to, preventive, corrective and emergency maintenance tasks and work orders, and shall input and record a comprehensive inventory of spare parts that are purchased under this CONTRACT and are owned by the DOA into the OWNER'S Maximo Work Order System. Upon award of CONTRACT, training will be provided to the CONTRACTOR by OWNER. If additional or new personnel are brought on to complete work assignments or as the service technicians after this initial training period, the CONTRACTOR shall be responsible for training these individuals on the procedures described herein. OWNER will run periodic reports to monitor the performance of the CONTRACTOR for compliance with this CONTRACT and make any necessary payment adjustments. Until this implementation is complete, the CONTRACTOR shall provide monthly reports to OWNER documenting all performance criteria contained herein.

7.0 INSPECTIONS & TESTS

- 7.1 OWNER'S designated representative reserves the right to make inspections and tests whenever nacessary to ascertain that the requirements of this CONTRACT are being fulfilled. Deficiencies noted shall be promptly corrected at CONTRACTOR'S expense.
- 7.2 The CONTRACTOR shall ensure that the equipment is maintained in compliance with, and make periodic tests as required by Elevator Codes AMSE/ANSI A17.1, A17.2 and IBC's latest version. The CONTRACTOR shall make adjustments and maintenance inspections of elevators as required by current applicable safety codes. The CONTRACTOR will use best efforts that no "Notices of Violation" will be issued at the time of inspection. The CONTRACTOR shall be required to perform all safety tests and inspections and accompany the "Nevada Department of Industrial Relations, Division of Occupational Safety and Health" at the time of the tests and inspections at no additional cost to the OWNIER. A report of tests made shall be submitted to the OWNIER within ten (10) calendar days of the test date. A penalty of \$1,000.00 per occurrence shall be deducted from the CONTRACTOR's monthly billing for each failure to provide the required report within the timeline specified.

8.0 COMPLIANCE WITH LAWS

8.1 In the performance of this CONTRACT, the CONTRACTOR agrees to abide by all existing laws, codes, rules and regulations set forth by all appropriate authorities having jurisdiction in the location where the work is performed.

9.0 MODIFICATION COMPLIANCE WITH LAWS

9.1 Under this CONTRACT, the CONTRACTOR shall not be required to install new attachments as may be recommended or directed by insurance companies, Federal, State, Municipal, or Governmental Authorities, unless compensation for such installation is authorized by the OWNER.

10.0 PARTS & LUBRICANTS

10.1 The CONTRACTOR agrees to provide only genuine parts provided by the original equipment manufacturer for replacement or repair, and to use only those lubricants obtained from or recommended by the original equipment manufacturer of the equipment. Equivalent parts or lubricants may be used if approved by the OWNER in writing. CONTRACTOR shall stock all common parts, including but not limited to, comb plates, tread plates, pushbuttons/lamps, to avoid shipping and associated repair delays. All comb plates shall be yetlow to improve visibility to the user.

11.0 EXCLUSION OF CONTRACT REPAIRS

- 11.1 The following repairs are excluded from this CONTRACT:
 - 11.1.1 Repairs as a result of vandalism. Vandalism is defined for the purposes of this CONTRACT as the willful and deliberate destruction of equipment. Vandalism does not include repairs such as but not limited to incidental comb teeth replacement, push button replacement and/or minor door re-adjustment due to the normal day to day operation of the airport.
 - 11.1.2 Repair or replacement of building items such as hoist way, hoist way entrance frames, doors and sills; machine room walls or floors, signal fixture face plates, underground hydraulic piping and buried jack cylinders.
 - 11.1.3 Mainline and auxiliary, disconnect switches, fuses and feeders to control ganels.
 - 11.1.4 Lamps for machine room illumination.

12.0 QUALIFIED SERVICE TECHNICIANS

- 12.1 Service Technicians assigned to this CONTRACT shall be skilled and experienced in the service, maintenance and testing of elevators, escalators and moving walkways and shall be directly employed and supervised by the CONTRACTOR.
- 12.2 CONTRACTOR shall provide resumes of Service Technicians to be assigned to perform the maintenance with a minimum of eight (8) years of experience in the elevator and escalator industry. Only the submitted qualified resumes of the CONTRACTOR'S employees shall be allowed to work under this CONTRACT. These resumes must be accompanied with the RFP. If a new hire is to be assigned to the Airport, at any time after award of CONTRACT, the CONTRACTOR must obtain prior authorization from the OWNER.
- 12.3 Unauthorized Service Technicians working under this CONTRACT will be considered in breech-of-CONTRACT. Should this be discovered, the OWNER shall receive a credit. The credit will be calculated as follows: Using the unit cost of the maintenance CONTRACT and the number of days the unauthorized individual was working on site, will be the total amount of the credit due the OWNER. A minimum charge of 3 days cost of the maintenance CONTRACT shall be applied and the Service Technician escorted off the Airport facility with the immediate replacement of the OWNER approved and authorized Service Technician.
- 12.4 The CONTRACTOR'S designated preventive maintenance team shall not be replaced or reassigned without the approval of the OWNER.

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13.0 CONTRACTOR'S REPRESENTATIVE

13.1 The CONTRACTOR shall appoint one full-time Mechanic In Charge to interface with the OWNER'S designated representative. The Mechanic In Charge shall be on site during normal business hours (7:00 a.m. – 4:00 p.m.) Monday through Friday and have the authority to assign maintenance tasks to the other technicians. The Mechanic in Charge shall also be responsible for meeting with the OWNER'S designated representative on a pre-determined schedule. This meeting will be approximately 1 to 2 hours long and during the meeting, items including but not limited to callbacks, problem areas, review of maintenance procedures accomplished, maintenance procedures planned, identification of units which will be removed from service for repairs or for standard maintenance procedures, etc. will be reviewed and discussed.

14.0 CHECK CHARTS

- 14.1 The CONTRACTOR shall provide and maintain a Check Chart, which outlines operations of preventive maintenance. Check Charts shall be documented with the following information.
 - 14.1.1 All Service Technicians shall hand write, print and initial their name.
 - 14.1.2 A Check Chart with boxes is recommended for quick sign-off, the chart shall outline continuous service, with dates and initials of Service Technician.
 - 14.1.3 The OWNER may require that Check Charts be incorporated into the OWNER'S Maximo Work Order System and treated as scheduled Preventive Maintenance Work Orders.

15.0 SUPPLIES

15.1 CONTRAGTOR shall maintain a supply of contacts, coils, leads, generator brushes, lubricants, wiping cloths and other mixor parts that shall be stored in a lockable cabinet in each machine room.

16.0 PRORATION

16.1 No proration of any equipment shall be allowed under the terms of this CONTRACT. If CONTRACTOR believes that any component of the equipment requires or will require repair during the term of the CONTRACT, CONTRACTOR shall include the cost of that repair or replacement under the terms of this CONTRACT.

17.0 LAWS & REGULATIONS

17.1 This CONTRACT shall be interpreted in accordance with the laws of the State of Nevada. The CONTRACTOR shall comply with ASME/ANSI A17:1, A17.2 and IBC's latest editions and supplements per the requirements of the National Elevator, Escalator and Moving Walk-Way Industry.

NOTE:

This CONTRACT shall pertain and conform to existing laws, codes, and regulations at the time of the RFP Opening. Should there be changes during the period of the CONTRACT or at the renewal option, the CONTRACTOR shall comply and abide by the new changes. Compensation to the CONTRACTOR may be adjusted to reflect the actual impact on costs.

18.0 ADDITION ANDIOR DELETION OF EQUIPMENT

- 18.1 New Equipment similar to the types outlined on EXHIBIT B, pursuant to other construction CONTRACTS, may be added to this maintenance CONTRACT upon expiration of warranties contained in that construction CONTRACT. Compensation for any units added to the CONTRACT shall reflect pricing commensurate with the per unit pricing under CONTRACT.
- 18.2 Existing Equipment identified on EXHIBIT B may be taken out of service by the OWNER for an extended period of time for any reason such as closing wings or entire buildings. Compensation for any units taken out of service shall be deducted from the CONTRACT as agreed to by both parties and pursuant to the level of maintenance performed while the units are out of service.

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19.0 STATE INSPECTORS REPORT

19.1 A Nevada State Inspector may visit the Airport and cite corrective actions; the OWNER will forward a copy of the report to the CONTRACTOR for immediate action to be completed within the time frames noted on the State Inspector report and if time frames for compliance are not indicated the items will be completed within thirty working days. The CONTRACTOR shall pay for all expedited freight charges, except for modifications regarding new faws. For each day after 30 days, the CONTRACTOR shall be assessed a \$1,000.00 per day non-performance penalty.

20.0 DELIVERY AND PROPOSER RELEASE

20.1 The CONTRACTOR shall be excused from performance hereunder, during the time and to the extent the CONTRACTOR is prevented from obtaining, delivering, or performing in the customary manner, by acts of God, fire, loss or lockout or commandeering of raw materials, products, plants or facilities due to restrictions imposed by the Government.

21.0 UNIFORMS

21.1 All Service Technicians shall be required to wear distinctive uniforms with the CONTRACTOR'S logo/patch. These uniforms must be identical in style and color for security measures. Uniforms shall be clean, neat, and present a positive professional image to the OWNER and the public.

22.0 KEYS

22.1 The CONTRACTOR shall be fully responsible for the protection of the keys furnished and shall be responsible to see that the building is properly locked upon completion of work (if such action is directed by the OWNER). Should the keys allotted to the CONTRACTOR become lost or stolen, OWNER reserves the right to have corresponding locks re-keyed, and a sufficient amount of keys reissued at the CONTRACTOR'S expense.

23.0 PERFORMANCE GUARANTEE

- 23.1 Any unit out of service without the OWNER'S approval for more than 72 hours, beginning at the time the unit is reported to the CONTRACTOR as out of service, shall be assessed \$1,000 a day non-performance penalty until the unit is operational. The OWNER shall receive credit on the next monthly billing. A written request stating the reason for additional time must be submitted to the OWNER before the 3rd working day. If the requested additional time is justified and approved by the OWNER the CONTRACTOR will not be penalized for non-performance, but shall credit the OWNER for each day (partial days count as a full day) the equipment is out of service.
- 23.2 Breakdowns and shuldowns shall not keep the respective unit out of service longer than 72 consecutive hours. This includes locating the trouble, procurement of parts, installation of these parts and placing the respective unit back into safe, uninterrupted operation. The CONTRACTOR must be equipped to meet the above conditions. The excuse of not being able to obtain parts, necessary technical and engineering advice, etc., will not be acceptable, and CONTRACTOR will be considered in default, giving sufficient justification to the OWNER to obtain these services from CONTRACTORS who can provide the OWNER with uninterrupted service. If a unit is stut down for more than 72 continuous hours, the monthly unit price for that unit (included in Base Compensation) shall be waived for the period the unit is out of service. The foregoing waiver is not a limitation upon any damage claim which OWNER may have resulting from the shutdown.
- 23.3 Shutdowns for emergency minor adjustment call-backs shall be minimized. Vertical shutdown frequency shall be maintained at:
 - 23.3.1 Elevators: Not to exceed five (5) per year.
 - 23.3.2 Escalators: Not to exceed six (6) per year.
 23.3.3 Moving Walkways: Not to exceed six (6) per year.

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RFP NO. 11-003 MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALKWAYS EXHIBIT B

*	EQUIPMENT AND LOCATIONS - ELEVATORS (MCCARRAN) * Preventive Maintenance on this unit shall be performed only between the hours of 1:00 a.m 5:30 a.m Monday									
	through Friday.									
	: J⊒rvator Desimalion				K#of S	Manufacturer	Style -	Equip Type		
1	T1-NC-EL\1	A-1	Terminal 1, A Concourse	3000	2	MCE	Micro P	HP		
2	T1-CB4-EL11	A-2	Terminal 1, Cluster Bidg. 4	4000	2	KÓNE	Mono	TP		
3	71-SC-EL11	3-2	Terminal 1, 8 Concourse	3000	2	KONE	HS	HP		
4	T1-SC-ELV2	8-1	Terminal 1, 8 Concourse	2000	2	MCE	Micro P	HP		
5	TI-SI-ELVI	C-1	Terminal 1, C Concourse	4500	2	Montgomery	MiProm	HF		
6	T1-S1-EL\2	C-2	Terminal 1, C Concourse	4000	2	Montgomery	MiProm	HP		
7	T1-S1-EL\3	C-3	Tenninal 1, C Concourse	3500	2	Monfgorgery	MiProm	ЧH		
8	T1-S1-ELW	C-4	Terminal 1. C Concourse	3500	2	Montgomery	MiProm	HP		
9	T1-S1-EL15	C-5	Terminal 1, C Concourse	3500	2	Montgomery	MiProm	HP		
10	T1-S1-EL\6	C-6	Terminal 1, C Concourse	3500	2	Montgomery	MiProm	HP		
11	T1-BR-EL11	CT-3	Terminal 1, Bridge Rotunda	6000	2	MCE.	(Micro P	HP		
12	T1-BR-EL12	CT-1	Terminai 1, Bridge Rotunda	2500	2	Dover	DMC	HP		
13	T1-BR-EL13	CT-2	Terminal 1, Bridge Rotunda	4500	2	MCE	Micro P	. HP		
14	T1-TBN-ELM	CT-4	Terminal 1, Ticketing North	2500	2	Daver	DMC	HP		
15	T1-T8S-ELM	CT-5	Terminal 1, Ticketing South	2500	2	Reliable	Relay	HP		
18	T1-TBC-ELM	CT-6	Terminal 1. Esplanade	4500	2	MCE	Holeiess.	HP		
17	T1-TBC-ELV2	CT-9	Tenninal 1, Esplanads	4500	6	KONE/Cover	Resolve 20	TP		
18	T1-TBC-EL/3	CT-8	Terminal 1, Esplanado	4500	S	MCE	Holeless	HP		
19	T1-TBC-ELV4	CT-7	Terminal 1, Esplanade	4500	2	KONE/Dover	Resolve 20	TP		
20	T1-TBC-EL\5	CT-10	Terminal 1, Esplanade	3000	7	Thyssen	Tac-50	TP TP		
21	T1-BCN-ELM	CT-15	Terminal 1, Beg Claim North	7000	5	Dover	Relay Logic	HP		
22	T1-BCN-ELIZ	CT-11	Terminal 1, Bag Claim North	7000	4	Dover	Relay Logic	HP		
23	T1-BCC-EL1	CT-12	Terminal 1, Bag Claim Center	4500	6	KONE/Dover	Resolve 20	TP		
24	T1-BCC-ELV2	CT-13	Terminal 1, Bág Claim Center	4500	6	KONE/Dover	Resolve 20	TP		
25	T1-BCC-EL/3	CT-17	Terminal 1, Bag Claim Center	4500°	7	KONE/Dover	Resolve 20	TP.		
26	T1-BCC-EL\4	CT-16	Terrainal 1. Bad Claim Center	4500	7	KONE/Dover	Resolve 20	TP		
27	T1-8CC-ELIS	CT-22	Terminal 1, Bag Claim Center	3500	7	Thyssen	Tac-50	· TP		
28	T1-BCC-EL\6	CT-23	Terminal 1, Bag Claim Center	3500	7	Thyssen	Tac-50	TP		
29	T1-BCC-EL\7	CT-24	Terminal 1, Bag Claim Center	3500	7	Thyssen	Tac-50	TP		
30	T1-BCS-ELM	CT-18	Terminal 1, Bag Claim South	7000	4	Dover	Relay Logic	HP		
31	T1-BCS-EL12	CT-19	Terminal 1, Bag Claim South	2500	2	Montgomery	Mi₽rom	HP		
32	T1-9CS-EL/3	CT-21	Terminal 1, Bag Claim South	12000	2	Dover	Retay Logic	HF		
33	T1-BCS-EL\4	CT-20	Terminal 1, Bag Claim South	3000	2	Dover	Relay Logic	HP		
34	T1-BCS-ELV5	CT-14	Terminal 1, Bag Claim South	7000	4	Dover	Relay Logic	HP		
35	S2-RA-EL\1	0.4	Terminal 1, O Concourse GH	5500	3	MCE	Traction	TP		
36	S2-RA-ELV2	0-2	Terminal 1, D Concourse GH	6000	2	MCE	Hydro	HP		
37		D-1	Terminal 1, D Concourse GH	6000	2	MCE	Hydro	HP		
38		D-3	Terminal 1, D Concourse GH	10000	4	MCE	Hydro	HF		
39	43	Q-5	Terminal 1, D Concourse GH	3500	2	MCE	l-fydro	HF		
40		D-6	Terminal 1, D Concourse GH	3500	2	MCE	Hydro	HP		
41		D-7	Terminal 1, D Concourse ERG	3500	4	Thyssen	Tac-50	TP		
42		DSE-1	Terminal 1, D Concourse SE	3500	2	MCE	Hydro	HP		
43		DSE-2	Terminal 1, D Concourse SE	3500	2	MCE	Hydro	HP		
44		DSE-3	Terminal 1, D Concourse SE	3500	2	MCE	Hydro	HP		
45		DSW-1	Terminal 1, D Concourse SW	3500	2	MCE	Hydro	HP		
46	S2-SW-ELIZ	DSW-2	Terminal 1. D Concourse SW	3500	3	MCE	Hydro	역위		
47		DSW-3		3500	3	MCE	Hydro	HP		
48	\$2-NE-EL11	DNE-3	Terminal 1, D Concourse NE	3500	2	Thyssen	Tec-20	HP		
49	S2-NE-EL\2	DNE-1	Terminal 1, D Concourse NE	3500	2	Thyssen	Tac-20	HP		
50	S2-NE-EL\3	DNE-2		3500		Thyssen	Tac-20	HP		
5	S2-NW-ELM	DNW-1			2	MCE	Hydro	HP		
50	SZ-NW-ELV2	DNW-2			2	MCE	Hydro	KP		
, ,	S2-NW-ELI3	DNW-3	Terminal 1, D Concourse NW	3500	1 2	MCE.	Hydro	HP.		

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CBE-662 MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALKWAYS EXHIBIT B

* Pre	EQUIPMENT AND LOCATIONS - ELEVATORS (MCCARRAN) (CONTINDUED) *Preventive Maintenance on this unit shall be performed only between the hours of 1:00 a.m 5:30 a.m Monday through									
	Friday.									
No	Elevator Designation	cola ID	Location	Gapacity		Mamuracture T		Equip Type		
54	S2-NW-ELV4	DNW-4	Terminal 1, D Concourse NW	3500	2	MCE	Hydro	HP		
55	T1-PK-GLD-ELM *	G-2	Terminal 1, Gold Garage	5000	9	MCE	System 12	TP		
56	T1-PK-GLD-EL\2 *	G-1	Terminal 1, Gold Garage	5000	9	MCE	System 12	ंश		
57.	T1-PK-GLD-EL13 *	G-4	Terminal 1, Gold Garage	5000	9	MCE	System 12	TP -		
58	T1-PK-GLD-EL\4 *	G-5	Terminal 1, Gold Garage	5000	9	MCE	System 12	TP		
59	T2-IAB-EL\1	CIT-1	Terminal 2	2500	2	MCE	Hydro	HP		
60	TZ-CIT-ELM	CIT-5	Terminal 2	4500	2	SURGE	Refay Logic	HF		
61	T2-CIT-ELV2	CIT-4	Terminai 2	3500	2.	SURGE	Relay Logic	HP		
62	TZ-CIT-EL13	CIT-3	Terminal 2	2500	2	MCE	Hydro	HP		
63	T2-CIT-ELM	CIT-2	Terminal 2	4000	2	MCE	Hydro	HP		
64	T1-CAX-ELVI	CAX-1	Yeminal 1, C Annex	4000	2	MCE	Micro P	HP		
55	T1-SKY-ELM	CAX-2	Terminal 1, Sky Bridge	5500	2	MCE	Micro P	HP		
66	T1-SKY-ELV2	CAX-3	Terminal 1, Sky Bridge	5500	2	MCE	Micro P	HP		
67	T1-CP-ELM	HR-1	Terminal 1, Central Plant	2100	2	Dover	Relay Logic	HP		
68	5750MASON-ELM	CUP-1	Terminal 3, Central Plant	3500	2	MCE	Hydra	HР		
69	T1-BHS-N3-EL11	N3-1	Terminal 1, BHS Node 3	4500	2	Otis	211	HP		
70	T1-BHS-N4-EL\1	N4-1	Terminal 1, BHS Node 4	4500	2	Otis	211	HP		
71	T2-BHS-N6-EL\1	CIT-6	Terminal 2, SHS Node 8	4500	2	Otis	211	HP		

	EQUIPMENT AND LOCATIONS - ELEVATORS (NORTH LAS VEGAS AIRPORT)							
Nos	Elevator - Designation -	Oldio	lio e ilon	Cadacity	# of Store	Manufacturers	Strile	famin Ivos
1	2730-EL\1	HP-1	North Las Vegas Terminal	2500	2	Dover	DMC	HP
2	Vertical Platform Lift	None	Vision Building - North Las Vegas (2704 Airport Dr)	750	1	Porch Lift	None	None

	EQUIPMENT AND LOCATIONS - ELEVATORS (HENDERSON EXECUTIVE AIRPORT)								
No	Elevator: Designation:	OldiD	Location	Capacity	e # of # e Stops	Manufacturer	Sivie	Faulo Tyrie	
1	HEA-ELM	HEA-2	Henderson Executive Terminal	2500	2	Clisi	211	HP	
2	HEA-EL\Z	HEA-1	Henderson Executive Terminal	2500	2	Olisi	211	HР	
3	HT-ELM	HT-1	Henderson Executive Tower	2100	2	Offs	211	HP	

	EQUIPMENT AND LOCATIONS - ELEVATORS (MCCARRAN RENT-A-CAR CENTER)								
No	Elevators Designation S	cold log	Location 6.1	Capacity	# of Stone	Manufacturer	SNI	Equip Type	
1	CSB-EL\20	EL-20	Customer Service Building	4500	4	Otis	211	HP	
2	CSB-ELV21	EL-21	Customer Service Bullding	4500	3	Otis	211	HP	
3.	CSB-EL\30	EL-30	Customer Service Building	4500	4	Otis	211	HP	
4	CS8-EL\31	ज्ञ-31	Customer Service Building	4500	4	Offis	211	HР	
5	CSB-ELV40	EL-40	Customer Service Building	4500	4	Otis	211	HP	
移	CSB-EL141	FL-41	Customer Service Building	4500	3	Otis	211	HP	
I	SQTA-EL\50	EL-50	South QTA	3000	2	Olis	211	HP	
8	SQTA-EL\51	EL-61	South QTA	3000	2	Otis	211	HP	
9	WQTA-EL\60	EL-60	West QTA	3000	2	Otis	211	HP	
10	WOTA-ELV61	EL-61	West QTA	3000	2	Otis	211	HP	
11	WQTA-EL\62	EL-62	West QTA	3000	2	Ctis	211	HP	
12	NQTA-ELV70	EL-70	North QTA	3000	2	Ctis	211	HP	
13	NQTA-ELV71	EL-71	North QTA	3000	2	Dlis	211	НР	

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GBE-662 MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALKWAYS EXHIBIT B

		QUIPMEN	IT AND LOCATIONS - ELE	EVATORS (M	CARRAI	N NEW TERMINA	AL 3)	
	Elevator	61.06	Location		# of	Manufacturer		
1	T3-W-EL\1	EA01	Terminal 3. Wast	5500	<i>≋</i> 3.00µ3.≊ 3			3 Equip: Type
2	T3-W-ELV2	EA02	Terminal 3, West	6500	3	KONE KONE	Micro P	Traction
3	T3-W-EL\3	EA03	Terminal 3, West	6500		*	Micro P	Traction
4	T3-W-ELW	EA04	Terminal 3, West	6500	3	KONE KONE	Micro P	Traction
<u></u>	T3-W-EL\5	EA05	Terminal 3, West	The second secon			Micro P	Traction
5				6500	3	KONE	Micro P	Traction
6	T3-W-ELIG	EA06	Terminal 3, West	6500	3	KONE	Micro P	Traction
7	T3-C-EL\7	EA07	Terminal 3, Center	6500	3	KONE	Micro P	Traction
8	T3-C-EL\8	EA08	Terminal 3, Center	5500	3	KONE	Micro P	Traction
9	T3-C-EL19	EA09	Terminal 3, Center	5500	3	KONE	Micro P	Traction
10	T3-C-EL\10	EA10	Terminal 3, Center	6500	3	KONE	Macro P	Traction
11	T3-C-EL/11	£A11	Terminal 3, Center	8500	3	KONE	Micro P	Traction
12	T3-C-EL112	EA12	Terminal 3, Center	6500	3	KONE	Micro P	Traction
13	T3-E-EL\13	EA13	Terminal 3, East	6500	3	KONE	Micro P	Traction
14	T3-E-EL114	EA14	Terminal 3; East	6500	3	KONE	Micro P	Traction
15.	T3-E-EL115	EA15	Terminal 3, East	6500	3	KONE	Micro P	Traction
16	T3-E-EL\16	EA16	Terminal 3, East	6500	3	KONE	Micro P	Traction
17	T3-E-EL\17	EA17	Terminal 3, East	6500	3	KONE	Micro P	Traction
18	T3-E-EL\18	EA18	Terminal 3, East	6500	3	KONE	Micro P	Traction
19	T3-W-EL\19	EA19	Terminal 3, West	5000	3	KONE	Micro P	Traction
20	T3-W-EL/20	EA20	Terminal 3, West	5000	2	KONE	Micro P	Traction
21	T3-C-EL/21	EA21	Terminal 3, Center	4500	2	KONE	Micro P	Tráction
22	T3-CELV2	EÁ22	Terminal 3, Center	4500	2	KONE	Micro P	Traction
23	T3-C-ELV23	EA23	Terminal 3, Center	4500	2	KONE	Micro P	Traction
24	T3-C-EL\24	EA24	Terminal 3, Center	4609	2	KONE	Micro P	Traction
25	T3-E-EL\25	EA25	Terminal 3, East	5000	4	KONE	Micro P	Traction
26	T3-E-EL\26	EA26	Terminal 3, East	5000	2	KONE	Micro P	Traction
27	T3-E-EL\27	EA27	Terminal 3. East	5500	2	KONE	Micro P	Traction
28	T3-E-EL\28	EA28	Terminal 3, East	5500	2	KONE	Micro P	Traction
29	T3-E-ELV29	EA29	Terminal 3, East	5500	2	KONE	Micro P	Traction
30	T3-W-EL\30	EA30	Terminal 3, West	5000	4	KONE	Micro P	Traction
31	T3-E-EL\31	EA31	Terminal 3, East	5500	3	KONE	Micro P	
32	T3-E-EL\32	EA32	Terminal 3, East	5500	2	KONE	Micro P	Traction
33	T3-E-EL\33	EA33	Terminal 3, East	10000	4	KONE	Micro P	Traction Traction

* Pro	eventive Maintena	EQUIPM	ENT AND LOCATIONS - E s unit shall be performed (LEVATORS (MCCARR the hour	AN NEW GARAC	3E) 5:30 a.m., M	anday through
				Friday.				30.13.20.00.00.00.00
No	Designation	OldiD	Eocation	Capacity	# of # Stops:	Manufacturer	Style	Ecuio Type
1	T3-PK-EL\1*	Ī	Terminal 3 Garage	4000	8	KONE	Micro P	Traction
2	T3-PK-EL\2*	**	Terminal 3 Garage	4000		KONE	Micro P	Traction
3	T3-PK-ELI3*		Terminal 3 Garage	4000	8	KONE	Micro P	Traction
4	T3-FK-ELW*		Terminal 3 Garage	4008	8	KONE	Micro P	Traction
5	T3-PK-EUS*	_	Terminal 3 Garage.	4000	8	KONE	Micro P	Traction
- 8	TS-PK-EU6"		Terminal 3 Garage	4000	- 8	KONE	Micro P	Traction
7	T3-PK-EL17*		Terminal 3 Garage	4000	8.	KONE	Micro P	Traction
8	T3-PK-EL\8*	· -	Terminal 3 Garage	4000	8	KONE	Micro P	Traction

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CBE-662 MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALKWAYS EXHIBIT B

* Pre			LOCATIONS – ESCALAT			a.m 5:30
			.m., Monday through Fric			
	e estatatores ≘a	Same a				SEQUID:
No	Designation	Old ID*	Location	Manufacturer	Style	Type
1	T1-S1-ESC\1	C-105	Terminal 1, C Concourse	KONE		EG
2	T1-S1-ESC\2	C-106	Terminal 1, C Concourse	KONE		EG
3	T1-S1-ESC\3	C-107	Terminal 1, C Concourse	KONE		EG
4	T1-TBC-ESC\1 *	CT-104	Terminal 1, Ticketing Center	KONE		EG
5	T1-TEC-ESC\2 *	CT-103	Terminal 1, Ticketing Center	KONE		EG
6	T1-TBC-ESC/3 *	C7-102	Terminal 1, Ticketing Center	KONE		EG
7	T1-TBC-ESC\4"	CT-101	Terminal 1, Ticketing Center	KONE		EG
8	T1-BCC-ESC\1 *	CT-109	Terminal 1, Bag Claim Center	KONE		EG
g	T1-BCC-ESC\2 *	CT-107	Terminai 1, Bag Claim Center	KONE		EG
10.	T1-BCC-ESC\3*	CT-108	Terminal 1, Bag Claim Center	KONE		EG
11	T1-BCC-ESC\4 *	CT-106.	Terminal 1, Bag Claim Center	KONE		EG
12	T1-BCC-ESC\5*	CT-105	Terminal 1, Bag Claim Center	KONE		EG
13	T1-BCS-ESCAt	CT-117	Terminal 1, Bag Claim South	KONE		EG
14	T1-8C3-ESC\2	CT-116	Terminal 1, Bag Claim South	KONE		EG
15.	T1-BCS-ESCI3	CT-115	Terminal 1, Bag Claim South	KONE		EG
16	T1-BCS-ESCI4	CT-114	Terminal 1, Bag Claim South	KONE		EG
17	T1-BCS-ESC\u00ed5	CT-113	Terminal 1, Bag Claim South	KONE		EG
18	T1-BCS-ESC/B	CT-112	Terminal 1, Bag Claim South	KONE		EG
19	T1-BCS-ESC\7	CT-110	Terminal 1, Bag Claim South	KONE		EG
20	T1-BCS-ESC48	CT-111	Terminal 1, Bag Claim South	KONE		EG
21	S2-RA-ESC\1 *	D-101	Terminal 1, D Concourse GH	KONE		EG
22	S2-RA-ESC\2+	0-102	Terminal 1, D Concourse GH	KONE		EG
23	S2-RA-ESC\3*	D-103	Terminal 1, D Concourse GH	KONE	L	EG
24	S2-RA-ESC14 *	D-104	Terminal 1, D Concourse GH	KONE		EG
25	S2-RA-ESC\5 •	D-109	Terminal 1, D Concourse GH	Thyssen		EG
26	S2-RA-ESC\8*	D-110	Terminal 1, D Concourse GH	Thyssen		EG
27	T2-IAB-ESC\1	CIT-101	Terminal 2	KONE		EG
28	TZ-CIT-ESC\1	CIT-104	Terminal 2	Schindler	<u> </u>	EG
29	T2-CIT-ESC\2	CIT-105	Terminal 2	Schindler	1	EG
30	T2-CIT-ESC\3	CIT-102	Terminal 2	KONE		EG
31	T2-CIT-ESCV4	CIT-103	Terminal 2	KONE		EG
32	T1-CAX-ESC\1	CAX-101	Terminal 1, C Annex	KONE		EG
33	T1-CAX-ESC/2	CAX-102	Terminal 1. C Annax	KONE	J	EG

	EQUIPMENT AND	LOCATIO	NS - ESCALATORS (MCC	ARRAN RENT-A	-CAR CENT	ER)
No.	Se Escalator Designations	(Old ID	Location	Manufacturer	Style	Equip Type
1	CSB-ESCV20	ES-20	Customer Service Building	Offs	OCE521	EG
2	CSB-ESC\21	ES-21	Customer Service Building	Otis	OCE521	EG
3	GSE-ESCV22	ES-22	Customer Service Building	Otis	OCE521	. EG
4	CSB-ESCV3	ES-23	Customer Service Building	Otis	OCE521	EG
5	CSB-ESC/30	ES-30	Customer Service Building	Otis	OCE521	EG.
6	CSB-ESC/31	ES-31	Customer Service Building	Otis	OCE521	EG
7	CSB-ESC/32	ES-32	Customer Service Building	Otis	OCE521	EG
8	CSB-ESC\33	ES-33	Customer Service Building	Otis	OCE521	EG
9	CSB-ESCNO	€\$-40	Customer Service Building	Otis	OCE521	Ę Ģ
10	CSB-ESCW1	ES-41	Customer Service Building	Otis	OCE521	EG
11	CSB-ESCW2	ES-42	Customer Service Building	Otis	OCE521	EG
12	CSB-ESCH3	ES-43	Customer Service Building	Offis	OCE521	ξG

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CBE-662 MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALKWAYS EXHIBIT B

	EQUIPMENT.	AND LOC	ATIONS - ESCALATORS (M	ICCARRAN NEV	V TERMINAL:	3)
No.	Elevator a Designation	Oldibi	Location	Manutacturen	Style	Equip (
1	T3-W-ESC\1	ES01	Terminal 3, West	KONE	Trans180	Heavy Duty
2	T3-W-ESC\2	ES02	Terminal 3, West	KONE	Trans180.	Heavy Duty
3	T3-VY-ESCI3	ES03	Terminal 3, West	KONE	Trans160	Heavy Dútý
4	T3-W-ESCH	ES04	Terminal 3, West	KONE	Trans180	Heavy Duty
5	T3-C-ESC\5.	ES05	Terminal 3. Center	KONE	Trans180	Heavy Duty
6	T3-C-ESC/6	ES06	Terminal 3, Center	KONE	Trans180	Heavy Duty
7	T3-C-ESCV7	ES07	Terminal 3, Center	KONE	Trans180	Heavy Duty
3	T3-C-ESC\8	ES08	Terminal 3, Center	KONE	Trans180	Heavy Duty
g	T3-E-ESCI9	ES09	Terminal 3, East	KONE	Trans180	Heavy Duty
10	T3-E-ESCHO	ES10	Terminal 3, East	KONE	Trans180	Heavy Duty
11	T3-E-ESC\11	ES11	Terminal 3, East	KONE	Trans180	Heavy Duty
12	T3-E-ESC\12	ES12	Terminal 3, East	KONE	Trans180	Heavy Duty
13	T3-W-ESCH3	ES13	Terminal 3, West	KONE	Trans180	Heavy Duty
14	T2-W-ESC114	E514	Terminal 3, West	KONE	Trans 180	. Heavy Duty
15	T3-W-ESC\15	ES15	Terminai 3, West	KONE	Trans180	Heavy Duty
16	T3-W-ESC\18	£\$16	Terminal 3, Wést	KONE	Trans180	Heavy Dufy
17	T3-C- ESC/17	E\$17	Terminal 3, Center	KONE	Trans180	Heavy Duty
18	T3-C-ESC\18	ES18	Terminal 3, Center	KONE	Trans180	Heavy Duty
19	T3-C- ESC)19	ES19	Terminal 3, Center	KONE	Trans180	Heavy Duty
20	T3-C- ESC\20	ES20	Terminal 3, Center	KONE	Trans189	Heavy Duty
21	T3-E- ESC121	E321	Terminal 3, East	KONE.	Trans180	Heavy Duty
22	T3-E-ESC\22	ES22	Tenninal 3. East	KONE	Trans180	Reavy Duty
23	T3-E-ESC/23	ES23	Terminal 3, East	KONE	Trans180	Heavy Duty
24	T3-E- ESC\24	ES24	Terminal 3, East	KONE	Trans180	Heavy Duly
25	T3-E- ESC\25	ES25	Terminal 3, East	KONE	Trans180	Heavy Duty

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CBE-662 MAINTENANCE SERVICES FOR ELEVATORS, ESCÁLATORS AND MOVING WALKWAYS EXHIBIT B

	EQUIPMEN	NT AND LO	CATIONS - MOVING WA	LKWAYS (MCCA	(RRAN)	
	Moving Walkway Designation	Old D.	Location*	Manufacturer	Style	Equip 5
1	T1-NC-L2-MW1	A-102	Terminal 1, A Concourse	KONE		PS ⁻
2	T1-NC-L2-MW2	A-101	Terminal 1, A Concourse	KONE		PS
3	T1-NC-L2-MW3	A-104	Terminal 1, A Concourse	KONE		PS
4	T1-NC-L2-MWA	A-103	Terminal 1. A Concourse	KONE		PS
5	T1-SC-L2-MW1	B-102	Terminal 1, B Concourse	KONE		PS
5	T1-SC-L2-MW2	8-101	Terminal 1, B Concourse	KONE	·	PS .
7	T1-SC-L2-MW3	B-104	Terminal 1, 8 Cencourse	KONE		PS
8	T1-SC-L2-MW4	B-103	Terminal 1, 8 Concourse	KOME		PS
9	T1-S1-L2-MW1	Ç-102	Terminal 1, C Concourse	KONE		PS
10	T1-S1-L2-MW2	C-101	Terminal 1, C Concourse	KONE		PS
11	T1-S1-L2-WW3	C-104	Terminal 1, C Concourse	KONE		PS
12	T1-S1-L2-MW4	C-103	Terminal 1, C Concourse	KONE		PS
13	S2-SE-L2-MW1	D-105	Terminal 1, D Concourse SE	KONE		PG
14	S2-SE-L2-MW2	D-106	Terminal 1. D Concourse SE	KONE		PG
15	S2-SW-L2-MW1	D-107	Terminal 1, D Concourse SW	KONE		PG
16	S2-SW-L2-MW2	0-108	Terminal 1, D Concourse SW	KONE		PG
17	S2-NE-L2-MM1	0-112	Terminal 1, D Concourse NE	KONE		PG
18	S2-NE-L2-MW2	D-111	Terminal 1, D Concourse NE	KONE	<u></u>	PG .
13	T1-PK-GLD-L1-MW1	G-101	Terminal 1, Gold Garage	KONE		PG
20	T1-PK-GLD-L1-MW2	G-102	Terminal 1, Gold Garage	KONE]	PG
21	T1-PK-GLD-L2-MW1	G-104	Terrainel 1, Gold Garage	KONE		PG
22	T1-PK-GLD-L2-MW2	G-103	Terminal t, Gold Garage	KONE	1	PG
23	T1-SKY-L2-MWM	CAX-103	Terminal 1, Sky Bridge	KONE		PG
24	T1-SKY-L2-MW2	CAX-104	Terminal 1, Sky Bridge	KONE		PG
25	T1-SKY-L2-MW3	CAX-105	Terminal 1, Sky Bridge	KONE		FG
26	T1-SKY-L2-MW4	CAX-108	Terminal 1. Sky Bridge	KONE	1	PG

EQUIPMENT AND LOCATIONS - MOVING WALKWAYS (MCCARRAN NEW TERMINAL 3										
Noz	Moving Walkway Designation	Old ID	Location	Manufacturer		Equip 2 Type				
1	T3-W-L2-MWA1	MWO1	Terminal 3, West	KONE	Eco3000	Heavy Outy				
2	T3-W-L2-MW2	M/V/02	Terminal 3, West	KONE	Eca3000	Heavy Duty				
3	T3-E-L2-MW3	MW03	Terminal 3, East	KONE	Eco3000	Heavy Duty				
4	T3-E-L2-MW4	MW04	Teaninal 3, East	KONE	Eco3000	Heavy Duly				
5	T3-W-L1-MW6	MYV05	Tenninal 3, West	KONE	Eco3000	Heavy Duty				
6	T3-W-L1-MW8	MWOG	Terminal 3, West	KONE	Eco3000	Heavy Duty				
7	T3-C-L1-MW7	MVVO7	Tenninal 3, Center -	KON€	Eco3000	Heavy Duty				
8	T3-C-L1-MW8	MW08	Terminal 3, Center	KONE	Eco3000	Heavy Dufy				
9	T3-E-L1-MW/9	POWM	Terminal 3; East	KONE	Eco3000	Heavy Duty				
10	T3-E-L1-MW10	MW10	Terminal 3, East	KONE	Eco3000	Heavy Duty				
11	T3-E-L1-MW11	MWIT	Terminal 3, East	KONE	Eça3000	Heavy Duty				

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CBE-662 MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALKWAYS EXHIBIT C

		MINIMUM MAINTENANCE F	POUREMENTS		
				Minimum	Minimum PM
No	Elevator Designation	Location	Manufacturer	PM Hours* per Week	Hours per Month
1	T1-NC-ELM	Terminal 1. A Concourse	MCE	.75	3.25
Z	T1-CB4-ELM	Terminal 1, Cluster Bidg. 4	KONE	.75	3.25
3	T1-SC-ELVI	Terminal 1, 8 Concourse	KONE	.5	2,17
4	T1-SC-EL\2	Terminal 1, B Concourse	MCE	.75	3.25
5	T1-S(-EL)1	Terminal 1, C Concourse	Montgomery	.75	3.25
6	T1-S1-EL\2	Terminal 1, C Concourse	Montgomery	,75	3.25
7	T1-S1-EL\3	Terminal 1. C Concourse	Montgomery	.75	3.25
8	T1-S1-EL14	Terminal 1. C Concourse	Monigomery	.75	3,25
9	T1-S1-EL\5	Terminal 1. C Concourse	Montgomery	.75	3.25
10	T1-S1-ELV6	Terminal 1, C Concourse	Montgomery	.75	3.25
11	T1-BR-EL11	Terminal 1, Bridge Rotunda	MCE	,75	325
12	T1-BR-ELV2	Terminal 1, Bridge Rotunda	Dover	.75	3,25
13	T1-BR-EL/3	Terminal 1. Bridge Rotunda	MCE	.75	3.25
14	T1-TBN-EL/1	Terminal 1, Ticketing North	Dover	.75	3.25
15	T1-TBS-ELVI	Terminal 1. Ticketing South	Reliable	.75	3.25
16	T1-TBC-ELIT	Terminal 1, Esplanade	MCE	.75	3.25
17	T1-TBC-EL\2	Terminal 1, Esplanade	KONE/Dover	.75	3.25
18	T1-TBC-EL\3	Terminal 1, Esplanada	MCE	.75	3.25
19	T1-TBC-ELV4	Tennical 1, Esplanade	KONE/Dover	75	3.25
20	T1-TBC-ELIS	Terminal 1, Esplanade	Thyssen	.75	3.25
21	T1-BCN-EL\1	Terminal 1, Bag Claim North	Dover	.75	3,25
22 23	T1-BCN-EL\2	Terminal 1, Bag Claim North	Dover	.75	3.25
24	T1-8CC-EL11	Terminal 1, Bag Claim Center Terminal 1, Bag Claim Center	KONE/Dover	.75 .75	3.25 3.25
25	T1-BCC-EL\2	Terminal 1, Bac Claim Center	KONE/Dover KONE/Dover	.75	3.25
26	T1-BCC-ELI4	Terminal 1, Bad Claim Center	KONEIDover	,75	3.25
27	T1-BCC-EL15	Terminal 1, Bag Claim Center	Thyssen	.75	3.25
28	T1-BCC-EL/6	Terminal 1, Bag Claim Center	Thyssen	.75	3.25
29	T1-BCC-EL\7	Terminal 1, Bag Claim Center	Thyssen	.75	3.25
30	T1-8CS-ELM	Terminal 1, Bag Claim South	Dover	.75	3.25
31	T1-8CS-EL\2	Terminal 1. Bag Claim South	Monigomery	.75	3.25
32	T1-BCS-EL\3	Terminal 1. Bag Claim South	Dover	.75	3.25
33	T1-BCS-EL14	Terminal 1, Bag Claim South	Dover	.75	3.25
34	T1-BCS-EU5	Terminal 1. Bag Claim South	Dover	.75	3.25
35	S2-RA-ELIT	Terminal 1, D Concourse GH	MCE	.5	2.17
36	S2-RA-EL12	Terminal 1, D Concourse GH	MCE	.75	3.25
37	S2-RA-E1/3	Terminal 1. D Concourse GH	MCE	.75	3.25
38	S2-RA-EL14	Terminal 1. D Consourse GH	MCE	_5	2.17
39	S2-RA-EL\5	Terminal 1, D Concourse GH	MCE	.5	2.17
40	S2-RA-ELI6	Terminal 1, D Concourse GH	MCE	.5	2.17
41	S2-ERC-ELM	Terminal 1, D Concourse ERC	Thyssen	1.25	5,41
42	S2-SE-ELVI	Terminal 1, D Concourse SE	MCE	.75	3.25
43	S2-SE-EL\2	Terminal 1, D Concourse SE	MCE	.75	3.25
44	SZ-SE-EL\3	Terminal 1. D Concourse SE	MCE.	.5	2.17
45	S2-SW-ELM	Terminal 1, D Concourse SW	MCE	.75	3.25
46	S2-SW-ELV2	Terminal 1, D Concourse SW	MCE		3.25
48	S2-SW-EL\3 S2-NE-EL\1	Terminal 1, D Concourse SW	MCE	1.5	2.17
49	S2-NE-EL\(1)	Terminal 1, D Concourse NE Terminal 1, D Concourse NE	Thyssen Thyssen	.75 .75	3.25
50	S2-NE-EL/3	Tenninal 1, D Concourse NE	Thyssen	.5	3.25 2.17
51	S2-NW-ELM	Terminal 1. D Concourse NW	MCE	.75	3.25
52	S2-NW-EL1Z	Terminal 1, D Concourse NW	MCE	.75	3,25
53	S2-NW-ELI3	Terminal 1, D Concourse NW	MCE	5.5	2.17
L		The second secon	1 1904		1 4111

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				Minimum	Minimum PM
	Elevator			PM Hours	Hours per
No	Designation	Location	Manufacturer	per Week	Month.
54	S2-NW-EL14	Terminal 1, D Concourse NW	MCE	.75	3.25
55	T1-PK-GLD-EL\1 *	Terminal 1, Gold Garage	MCE	1.25	5.41
58	T1-PK-GLD-ELV2 *	Terminal 1, Gold Garage	MCE	1.25	5.41
57	T1-PK-GLD-ELI3*	Terminal 1, Gold Garage	MCE	1.25	5.41
58	T1-PK-GLD-ELV4*	Terminal 1; Gold Garage	MCE	1.25	5.41
59	T2-IAB-EL\1	Terminal 2	MCE	.75	3.25
60	T2-CIT-EL11	Terminal 2	SURGE.	.75	3.25
61	T2-CIT-EL12	Terminal 2	SURGE	.75	3.25
62	T2-CIT-EL13	Terminal 2	MCE	.75	3.26
63	T2-CIT-ELV4	Terminal 2	MCE	.75	3.25
64	T1-CAX-EL\1	Terminal 1, C Annex	MCE	.75	3.25
65	T1-SKY-ELVI	Terminal 1, Sky Bridge	MCE	.75	3.25
66	T1-SKY-EL\2	Terminal 1, Sky Bridge	MCE	.75	3.25
67	T1-CP-ELM	Terminal 1, Central Plant	Dover	.75	3.25
68	5750MASON-ELM	Terminal 3, Central Plant	MCE	.75	3.25
89	T1-BHS-N3-EL11	Terminal 1, BHS Node 3	Otis	.75	3.25
70	T1-BHS-N4-EU1	Terminal 1, BHS Node 4	Otis	.75	3.25
71	T2-8HS-N6-EL\1	Terminal 2, BHS Node 6	Otis	.75	3.25
			1	1	
1	2730-EL\1	North Las Vegas Terminal	Dover	.75	3.25
		Vision Building North Las Vegas			1
2'	Vertical Platform Lift	(2704 Airport Dr)	Porch Lift	.75	3.25
1	HEA-ELM	Henderson Executive Terminal	Otis	.75	3.25
2	HEA-EL12	Henderson Executive Terminal	Ofis	.75	3.25
3	HT-ELM	Henderson Executive Tower	Ojis	.75	3.25
. 1	CSB-EL120	Customer Service Building	Otis	.75	3.25
2	CSB-ELV21	Customer Service Building	Otis	.75	3.25
3	CSB-ELV30	Customer Service Building	Olis	.75	3.25
4	CSB-EL\31	Customer Service Suilding	Ofis	.75	3.25
5	CSB-EL\40	Customer Service Building	Otis	.75	3.25
6	CSB-EL\41	Customer Service Building	Otis	.75	3.25
7	SQTA-EL\50	South QTA	Otis	.75	3.25
8	SQTA-EL\51	South QTA	Otis	.75	3.25
9-	WQTA-EL\60	West QTA	Otis	.75	3.25
10	WQTA-EL\61	West QTA.	Olis	.75	3.25
11	WQTA-EL\62	West QTA	Otis	.75	3.25
12	NOTA-EL170	North GTA	Olis	.75	3,25
·13	NQTA-EL\71	North QTA	Offs	.75	3.25

CBE-662 MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALKWAYS EXHIBIT C

					Minimum PM	Minimum PM
	Elevator				Hours	T Hours per
No.	Designations	Old ID		Manufacturer		Month
1	T3-W-EL/I	EAD1	Terminal 3, West	KONE	,75	3.25
2	T3-W-EL12	EA02	Terminal 3, West	KONE	,75	3,25
3	T3-W-EL13	EA03	Terminal 3, West	KONE	.75	3,25
4	T3-W-ELW	EA04	Terminal 3, West	KONE	75	3.25
5	T3-W-EL15	EA05	Terminal 3, West	KONE	,75	3.25
6	T3-W-ELI6	EA06	Tenninal 3, West	KONE	.75	3.25
7	T3-C-ELV7	EAQ7	Terminal 3, Center	KONE	.75	3.25
8	T3-C-E1/8	EA08	Terminal 3, Center	KONE	.75	3.25
g	T3-C-EL19	EAG9	Terminal 3, Center	KONE	.75	3.2 5
10	T3-C-EL\10	EA10	Terminal 3, Center	KONE	.75	3.25
11	13-C-ELV1	EA11	Terminal 3, Center	KONE	.75	3.25
12	T3-C-EL\12	EA12	Terminal 3, Cepter	KONE	.75	3.25
13	T3-E-EL113	EA13	Terminal 3, East	KONE	.75	3.25
14	T3-E-EL\14	EA14	Tennînal 3, East	KONE	.75	3,25
15	T3-E-EL15	EA15	Temninal 3, East	KONE	.75	3.25
16	T3-E-EL116	€A16	Terminal 3, East	KONE	.75	3.25
17	T3-E-EL\17	EA17	Terminal 3, East	KONE	.75	3.25
18	T3-E-EL\18	EA18	Terminal 3, East	KONE	.75	3.25
19	T3-W-EL/19	EÁ19	Terminal 3. West	KONE	.75	3.25
20	T3-W-EU20	EA20	Terminal 3, West	KONE	.75	3.25
21	T3-C-EL\21	EA21	Terminal 3, Center	KONE	.75	3.25.
22	T3-C-EL\22	EA22	Terminal 3, Center	KONE	.75	3.25
23	T3-C-ELV23	EA23	Terminal 3, Center	KONE	.75	3.25
24	T3-C-ELV24	EA24	Terminal 3, Center	KONE	.75	3.25
25	T3-E-EL\25	EA25	Terminal 3, East	KONE	.75	3.25
26	T3-E-EL\26	EA26	Terminal 3, East	KONE	.75	3.25
27	T3-E-EL12?	EA27	Terminal 3, East	KONE	.75	3.25
28	T3-E-EL\28	EA28	Terminal 3, East	KONE	.75	3.25
29	T3-E-EL\29	EA29	Terminal 3, East	KONE	.75	3.25
30	T3-W-EL\30	EA30	Terminal 3, West	KONE	.75	3.25
31	T3-E-EU31	EA31	Terminai 3, East	KONE	.75	3.25
32	T3-E-ELY3Z	EA32	Terminal 3. East	KONE	.75	3.25
33	T3-E-EL\33	EA33	Terminal 3, East	KONE	.75	3.25
-7	1					
1	T3-PK-ELM*	T	Terminal 3 Garage	KONE	.75	3.25
2	T3-PK-ELI2*		Terminal 3 Garage	KONE	.75	3.25
3.	T3-PK-EL/3*		Terminal 3 Garage	KONE	.75	3.25
4	T3-PK-ELM*		Terminal 3 Garage	KONE	.75	3.25
<u>.</u>	T3-PK-ELIS*	****	Teiminal 3 Garage	KONE	75	3.25
- 5	T3-PK-EL\6*		Terminal 3 Garage	KONE	.75	3.25
7	T3-PK-EL\7*		Terminal 3 Garage	KONE	.75	3.25
8	T3-PK-EL/8*	 	Terminal 3 Garage	KCNE	.75	3.25

Clark County Department of Aviation October 31, 2011

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			EQUIREMENTS	Minimum	
				PM	Minimum PM
	Escalator *			Hours	Hours per
er No.	Designation	Location	Manufacturer	per Week	Month.
11	T1-S1-ESCV1	Terminal 1. C Concourse	KONE	1.5	6.50
2	Tt-S1-ESC\2	Terminal 1, C Concourse	KONE	1.5	6.50
3	T1-S1-ESC\3	Terminal 1. C Concourse	KONE	1.5	6.50
4	T1-TBC-ESC\1*	Teiminal 1. Ticketing Center	KONE	1.5	6,50
5	T1-TBC-ESC\2	Terminal 1. Tickeling Center	KONE	1.5	6.50
6	T1-TBC-ESC/3"	Terminal 1, Ticketing Center	KONE	1.5	6,50
7	T1-TBC-ESCH*	Terminal 1, Ticketing Center	KONE	1.5	6.50
B	T1-BCC-ESCN1 *	Terminal 1, Bag Claim Center	KONE	1.5	6.50
8	T1-BCC-ESCV2*	Terminal 1, Bag Claim Center	KÓNE	1.5	6.50
10	T1-BCC-ESC\3+	Terminal 1, Bag Claim Center	KONE	1.5	6.50
11	.T1'-BCC-ESC\4 *	Terminal 1, Bag Claim Center	KONE	1.5	6,50
12	T1-BCC-ESC\5 *	Terminal 1, Bag Claim Center	KONE	1.5	6,50
13	T1-BCS-ESC\1	Terminal 1, Bag Claim South	KONE	1.5	6.50
14	T1-BCS-ESC\Z	Terminal 1, Bag Claim South	KONE	1.5	6.50
15	T1-BCS-ESC\3	Terminal 1, Bag Claim South	KONE	1,5	6.50
16	T1-BCS-ESCI4	Terminal 1. Bag Claim South	KONE	1.5	5.50
17	T1-8CS-ESC\5	Terminal 1, Bay Claim South	KONE	1.5	6.50
18	T1-8CS-ESC\5	Terminal 1. Bag Claim South	KONE	1.5	6.50
19	T1-8CS-ESCI7	Terminal 1, Bag Claim South	KONE	1.5	6,50
20	T1-9CS-ESC\8	Terminal 1, Bag Claim South	KONE	1.5	6.50
21	S2-RA-ESC\1 *	Terminal 1, D Concourse GH	KONE	1.5	6,50
22	S2-RA-ESC\2	Terminal 1, D Concourse GH	KONE	1,5	8.50
23	S2-RA-ESC/3	Terminal 1, D Concourse GH	KONE	1,5	6.50
24	S2-RA-ESC/4*	Terminal 1, D Concourse GH	KONE	1.5	6.50
25	S2-RA-ESC\5*	Terminal 1, D Concourse GH	Thyssen	1.5	6.50
26	SZ-RA-ESCI6 *	Terminal 1, D Concourse GH	Thyssen	1.5	6.60
27	T2-IAB-ESCI1	Terminal 2	KONE	1.5	6,50
28	T2-CIT-EEC/1	Teminal 2	Schladier	1.5	6,50
29	T2-CIT-ESCV2	Terminal 2	Schindler	1.5	5.50
30	T2-CIT-ESC\3	Terminal 2-	KONE	1,5	6,50
31	T2-CIT-ESCV4	Terminal 2	KONE	1.5	6.50
32	T1-CAX-ESC\1	Terminal 1, C Annex	KONE	1.5	8.50
33	T1-CAX-ESC\2	Terminal 1, C Annex	KONE	1.5	6:50
				1	
1	CSB-ESC\20	Customer Service Building	Otis	1.5	6.50
2	CSB-ESC\21	Customer Service Building	Otis	1.5	6.50
3	CSB-ESC122	Castomer Service Building	Otis	1.5	6.58
44	CSB-ESC\23	Customer Service Building	Otis	1.5	6.50
5	CSB-ESC\30	Customer Service Building	Otls	1.5	6,50
6	CSB-ESC\31	Customer Service Building	Oüs	1.5	6,50
7	CSB-ESC\32	Customer Service Building	Ofis	1.5	6.50
8	CSB-ESC\33	Customer Service Building	Oils	1.5	5.50
9	CSB-ESCW0	Customer Service Building	Oti's	1.5	6.50
10	CSB-ESCV41	Customer Service Building	Otis	1.5	6,50
11	CSB-ESC\42	Cuistomet Service Building	Otis	1.5	6.50
12	CSB-ESC43	Customer Service Building	Otis	1.5	6.50
					1

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CBE-862 MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALKWAYS EXHIBIT C

					Minimum	
					PM:	Minimum PM
	Escalator				Hours	Hours per
Nos	Designation	Ola D	Location	Manufacturer	per Weeks	Month
1	T3-W-ESC\1	ES01	Terminal 3, West	KONE	1.50	6.50
2	T3-W-ESC12	ES02	Terminal 3, West	KONE	1.50	6.50
3	T3-W-ESC13	ES03	Terminal 3. West	KONE	1.50	6.50
4	T3-W-ESC\4	ES04	Terminal 3, West	KONE	1.50	6.50
5	T3-C-ESC\5	ES05	Terminal 3, Center	KONE	1.50	6.50
5	T3-C-ESC\6	ES06	Terminal 3, Center	KONE	1.50	6.50
7	T3-C-ESC\7	ES07	Terminal 3, Center	KONE	1.50	6.50
3	T3-C-ESC\8	ES08	Terminal 3, Center	KONE	1.50	6.50
g	T3-E-ESC/9	ES09	Terminal 3, East	KONE	1.50	6.50
10	T3-E-ESC\10	ES10	Terminal 3, East	KONE	1.50	6.50
11	T3-E-ESC\11	€ \$11	Terminal 3, East	KONE	1.50	6.50
12	T3-E-ESC\12	ES12	Terminal 3, East	KONE	1.50	6.50
13	T3-W-ESC\13	E\$13	Terminal 3, West	KONE	1.50	6.50
14	T3-W-ESC\14	ES14	Terminal 3, West	KONE	1,50	6.50
15	T3-W-ESCV15	E\$15	Terminal 3, West	KONE	1,50	6.50
16	T3-W-ESC\16	ES16	Terminal 3, West	KONE	1.50	6.50
17	T3-C-ESC\17	ES17	Terminal 3, Center	KONÉ	1.50	8.50
18	T3-C-ESC\18	E\$18	Terminal 3, Center	KONE	1.50	6.50
19	T3-C-E\$C\19	ESIS	Terminal 3, Cealer.	KONE	1.50	6.50
20	T3-C-ESC\20	ES20	Terminal 3, Center	KONE	1.50	6.50
21	T3-E-E\$C\21	ES21	Terminal 3, East	KONE	1,50	8.50
22	T3-E-ESC\22	ES22	Terminal 3. East	KONE	1.50	6.50
23	T3-E-ESC\23	E\$23	Tenninal 3, East	KONE	1.50	6.50
24	T3-E-ESC\24	ES24	Terminal 3, East	KONE	1.50	6.50
25	T3-E-ESC\25	ES25	Terminal 3, East	KONE	1.50	6.50

Clark County Department of Aviation October 31, 2013

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CBE-662 MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALKWAYS EXHIBIT C

		MINIMUM MAINTENANCE	REQUIREMENT	s	
	A1		de.	Minimum: PM Hours	W. Shi
Nos	Moving Walkway Designation	Location	Manufacturer	C. Commission Commission Visite	Minimum PM: Hours per Month
1	T1-NC-L2-MWA1	Terminal 1. A Concourse	KONE	1.5	6.50
2	T1-NC-L2-MW/2	Terminal 1. A Concourse	KONE	1.5	6.5D
3	T1-NC-L2-MW3	Terminal 1. A Concourse	KONE	1.5	8.50
4	T1-NC-L2-MW4	Terminal 1. A Concourse	KONE	1.5	6.50
5	T1-SC-L2-MW1	Terminal 1. B Concourse	KONE	1.5	6.50
6	T1-SC-L2-MWAZ	Terminal 1, B Concourse	KONE	1.5	6.50
7	T1-SC-L2-MW3	Terminal 1, 8 Concourse	KONE	1.5	6,50
á	T1-SC-L2-MVA4	Terminal 1, 8 Concourse	KONE	1.5	8.50
9	T1-S1-L2-MW1	Terminal 1, C Concourse	KONE	1.5	6,50
10	T1-S1-L2-MW2	Terminal 1, C Concourse	KONE	1.5	6.50
11	T1-S1-L2-MW3	Terminal 1, C Concourse	KONE	1.5	6,50
12	T1-S1-L2-MW4	Terminal 1, C Concourse	KONE	1.5	6,50
13	S2-SE-L2-MW1	Terminal 1, D Concourse SE	KONE	1.5	6.50
14	S2-SE-L2-MW2	Terminal 1, D Concourse SE	KONE	1.5	6.50
15	SZ-SW-L2-MW1	Terminal 1, D Concourse SW	KONE	1.5	6.50
16	SZ-SW-LZ-MWZ	Terminal 1, D Concourse SW	KONE	1.5	6.50
17	S2-NE-L2-MW1	Terminal 1, D Concourse NE	KONE	1.5	6.50
18	S2-NE-L2-MW2	Terminal 1, D Concourse NE.	KONE	1.5	6.50
19	T1-PK-GLD-L1-MW1	Terminal 1, Gold Garage	KONE	1.5	6.50
20	T1-PK-GLD-L1-MW2	Terminal 1, Gold Garage	KONE	1.5	6,50
21	T1-PK-GLD-L2-MW1	Terminal 1, Gold Garage	KONE	1.5	6.50
22:	T1-PK-GLD-L2-MWA2	Terminal 1, Gold Garage	KONE	1.5	6,50
23	T1-SKY-L2-MW/1	Terminal 1, Sky Bridge	KONE	1.5	8.50
24_	T1-SKY-L2-MW2	Terminal 1, Sky Bridge	KONE	1.5	6.50
25	T1-SKY-L2-MW3	Terminal 1, Sky Bridge	KONE	1.5	9.50
26	T1-SKY-L2-MWA	Terminal 1, Sky Bridge	KONE	1.5	6,50
	<u> </u>	TOTAL HOURS FOR MO	I VING WALKWAYS	39.0	169.0
		TOTAL HOURS FOR		172.75	746.58

No.	Moving Walkway Designation	Oldie	Location	Manufacturer.	Hours	Minimum RM Hours per Month
1	T3-W-L2-MWA1	MWD1	Terminal 3, West	KONE	1.50	6,50
2	T3-W-L2-MW2	MW02	Terminal 3; West	KONE	1.50	6.50
3	T3-E-L2-MW3	MW03	Terminal 3, East	KONE	1.50	6.50
4	T3-E-L2-MW4	MWW4	Terminal 3, East	KONE	1.50	6.50
5	T3-W-L1-MW45	MW05	Terminal 3, West	KONE	1.50	6.50
6	T3-W-L1-MW6	MW05	Terminal 3, West	KONE	1:50	6,50.
7	T3-C-L1-MW/7	MV/07	Terminal 3. Center	KONE	1.50	8.50
8	T3-C-L1-MW8	BOWIM	Terminal 3, Center	KONE	1,50	6.50
9	T3-E-L1-ANV9	MW09	Terminal 3, East	KONE	1.50	6.50
10	T3-E-L1-MW/10	MW10	Terminal 3, East	KONE	1.50	6.50
11	T3-E-L1-MWA11	MW11	Terminal 3, East	KONE	1.50	6,50
	L	TOTAL HOU	RS FOR NEW TERMINAL 3 MO	VING WALKWAYS	16.50	71.50
		ro	TAL HOURS FOR NEW TERMIN	AL & EQUIPMENT	64.75	367.25

Clark County Department of Aviation October 31, 2011

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CBE-862 MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALKWAYS EXHIBIT D MAINTENANCE COSTS

		24/7 SCHEDULE		
		3507.VEPE		
TIEM.	RUMBURS.	MONTHAYOUNT COST	manner.	EXTENDEDITOTAL
		TERMINAL I. A-CONC		Projection CATEGOROUS CONTROL
1.	T1-NC-EL\1 (A-1)	\$1,440.00	x 12	\$17,280.00
2.	T1-CB4-EL\1 (A-2)	\$2.040.00	x 12	\$24.480,00.
		"TERMINAL 1, B-CONC	to the complete of a control of	
3,	T1-SC-ELM (B-2)	\$1,440.00	x 12	\$17,280.00
4.	T1-SC-EL\2 (B-1)	\$1,440.00	x 12	\$17,280.00
		STERMINAL 1, C-CONC	nga mengapatan sari	
5.	T1-S1-EL\(1 (C-1)	\$1,440.00	x 12	\$17,280,00
5.	T1-S1-E(\2 (C-2)	\$1,440,00	x 12	\$17,280,00
7,	T1-S1-EL/3 (C-3)	\$1,440.00	x12	\$17,280,00
8.	T1-S1-ELV(C-4)	\$1,440.00	x12:	\$17,280.00
9.	T1-S1-EL/5 (C-5)	\$1,440.00	×12	\$17,280,00
10.	T1-S1-ELI6 (C-6)	\$1,440.00	x12	\$17,280.00
		"TERMINAL 1, BRIDGE R	Cardinates in a contrary	
11.	T1-0R-EU1 (CT-3)	\$1,440.00	x12	\$17,280.00
12.	T1-8R-EL\2 (CT-1)	\$1,440.00	x12	\$17.280,00
13.	T1-8R-EL/3 (CT-2)	\$1,440.00	x12	\$17,280.00
		"TERMINAL 1, TICKETIN	G NORTH"	
14.	T1-TBN-EL11 (CT-4)	\$1,440.00	x12	\$17,280.00
		"TERMINAL 1, TICKETIN	G SOUTH!	
15.	T1-TBS-EL11 (CT-5)	\$1,440.80	x12	\$17,280.00
2886		"TERMINAL1, ESPLA	NADE!	"我们的是是我们的
16.	T1-TBC-ELM (CT-6)	\$1,440.00	x12	\$17,288.00
17.	T1-TBC-EL\2 (CT-9)	\$2.040.00	x12	524,480,00
18:	T1-TBC-ELV3 (CT-8)	51,440,00	x12	\$17,280,00
19.	T1-TBC-EU4 (CT-7)	\$2,040.00	x12	\$24,480.00
20.	T1-TBC-EL\5 (CT-10)	\$2,040.00	x12	\$24,480.00
		"TERMINAL 1, BAG CLA	IM NORTH"	
21.	T1-8CN-EL\1 (CT-15)	\$1,440,00	x12	\$17,280.00
22.	T1-BCN-EL1/2 (CT-11)	\$1,440.00	x12	\$17,280,00

Clark County Department of Aviation October 31, 2011

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\$275.00

\$275.00

24/7 SCHEDULE

HEA-ELI1 (HEA-2)

HEA-ELY2 (HEA-1)

74.

75,

\$3,360,00

\$3,300.00

x12.

x12

PRESENTATION OF THE PARTY OF TH

24/7 SCHEDULE						
	(NEW TRANSPORTED TO STREET OF THE STREET OF					
		MORTHY		Guille		
nem#si	NUMBERS 2	PROTECTION CHARACTERS	SE MONTHS SE	AND TOTAL AND TOTAL		
CONTRACT	IPATED THAT NEW TERMINAL 3 TOR SHALL PROVIDE A COST PR	OPOSAL FOR EACH PIECE (OF EQUIPMENT	USING JANUARY 2013 DOLLARS: AT		
THE TIME MONTHS R	THESE ELEVATORS COME OUT (REMAINING WILL BE ADDED TO T	OR WARRANTY, THE MONTH	Y UNIT COST S	HOWN TIMES THE NUMBER OF		
CONTRAC						
1.	T3-W-EL\1 (EL01)	\$560.00	x12	56,720.00		
-2. +	T3-W-ELV2 (EL02)	\$560.00	<u>x12</u>	\$6,720.00		
3.	T3-W-EL13 (EL03)	\$560,00	x12	\$6,720.00		
4.	73-W-EL/4 (EL04)	\$560.00	x12	\$6,720.00		
5.	T3-W-ELVS (ELOS)	\$560.00	x12	\$6,720,00		
5.	T3-W-EL16 (EL06)	\$560.00	x12	\$6,720.00		
7	T8-C-EL\7 (EL07)	\$560,00	x12	\$6,720.90		
8-	T3-C-EL\8 (EL08)	\$560.00	x12	\$6,720.00		
9	T3-C-EL/9 (EL09)	\$560.00	x12	\$6,720.00		
10.	T3-C-EL\10 (EL10)	\$560.0Q	X12	\$6,720.00		
11.	T3-C-EL(11 (EL11)	\$580.00	X12	\$6,720,00		
12'2	T3-C-EL/12 (EL/12)	\$560.00	X12	\$6,720.00		
13_	T3-E-EL\13 (EL13)	\$560.00	x12	\$6,720.00		
14.	T3-E-EL\14 (EL.14)	\$580,00	x12 ·	\$6,720.00		
15.	T3-E-ELM5 (EL)5)	\$560.00	x12	\$6,720,00		
16.	T3-E-EL\16 (EL\16)	\$560.00	x12	\$8,720.00		
17.	T3-E-EL\17 (EL17)	S560,08	x12	\$6,720.00		
18.	T3-E-ELM8 (EL18)	\$550.00	×12	\$8,720.00		
19.	T3-W-ELV19 (EL19)	\$560.00	x12	\$6,720.00		
20,	T3-W-EL\20 (EL20)	\$560,00	x12	\$8,720.00		
21.	T3-C-ELV21 (EL21)	\$560,00	x12	\$6,720.00		
22.	T3-C-ELW2 (EL22)	\$560.00	x12	\$6,720,00		
23.	T3-C-ELI23 (EL23)	5560.00	x12	\$6,720.00		
24.	T3-C-EL124 (EL24)	\$560.00	x12	56,720.00		
25.	T3-5-EL\25 (EL25)	\$560.00	x12	\$6,720.00		
26.	T3-E-EL\26 (El-26)	\$560.00	x12	\$6,720,00		
27.	T3-6-ELI27 (EL27)	\$560.00	x12	\$6,720.00		
28.	T3-E-EL\28 (EL28)	\$550.00	x12	\$6,720.00		
29.	T3-E-FL\29 (EL29)	\$550,00	×12	\$6,720.00		
\$0.	T3-W-EL/30 (EL30)	\$560.00	x12	S6,720.00		
31.	T3-E-EL\31 (EL31)	\$560.00	×12	\$6,720.00		
32.	T3-E-EL\32 (EL32)	\$560.00	x12	\$6,720.00		

	- NOTE - Committee	24/7 SCH	IEDUL E	
		nevenes	(B) TV: DERICE:	
neka.	NUMPERS	HONTHAY UNIT GOST		AFANTANIFO TOTAL
COST PROPO OUTLOF WARE	SAL FOR EACH PIECE OF	EQUIPMENT USING MAY IT COST SHOWN TIMES:	IY IN LATE APRIL 2012. K 2012 DOLLARS: AT TH THE NUMBER OF MON	THE CONTRACTOR SHALL PROVIDE A HE TIME THESE ELEVATORS COME THE REMAINING WILL BE ADDED TO
1,	T3-PK-ELM	\$560.00	x12	\$6,720.00
2.	T3-PK-EL\2	\$560.00	x12	\$6,720,00
3,	T3-PK-EL\3	\$560.00	x12	\$5,720,09
4.	T3-PK-ELW	\$550,00	x12	\$6,720.00
5.	T3-PK-EL)5	\$560,60	xiż	\$8,720.00
G-	T3-PK-EL/6	\$56Q.QQ	x12	\$6,720.00
7.	T3-PK-£L\7	\$580,00	x12	\$6,720.00
8.	T3-PK-EL\B	\$580,0α	x12	\$6,720.00
	70'	TAL NEW GARAGE ELE	24/7 SCHEDULE VATOR MAINTENANCE	\$53,760.00

基本院的结果

	24/7 SCHEDULE FEGGAL FORE					
- ITTEM 4	NUMBERS	ROSTRIA	in a supplier of the supplier	EXTENDED 2		
		"TERMINAL 1, C-CO	INCOURSE"			
1.	T1-S1-ESC/1 (C-105)	\$3,000.00	× 12	\$26,000.00		
2_	T1-S1-ESC/2 (C-106)	\$3,000.00	× 12	\$36,000.00		
3.	T1-S1-ESC/3 (C-107)	\$3,000.00	×12	\$36,000.00		
		"TERMINAL 1. TICKET	ING CENTER"			
4.	T1-TBC-ESC\1 (CT-104)	53,000.00	×12	\$36,000,00		
5.	T1-TBC-ESC\2 (CT-103)	\$3,000.00	x12	\$36,000.00		
6.	T1-TBC-ESC(3 (CT-102)	\$3,000.00	×12	\$36,000,00		
7.	T1-TBC-ESC\4 (CT-101)	\$3,000,00	×12	\$36,000,00		
		"TERMINAL 1, BAG C	LAIM CENTER			
3.	T1-BCC-ESC(1 (CT-109)	\$3,000,00	x12	\$36,000.00		
9.	T1-BCC-ESC\2 (CT-107)	\$3,000.00	x12	\$36,000.00		
10,	T1-500-ESO3 (CT-108)	\$3,000.00	×12	\$36,000.00		
11.	T1-BCC-ESC\4 (CT-106)	\$3,000.00	×12	\$36,000,00		
12.	T1-BCC-ESC/6 (CT-105)	\$3,000.00	×12	\$36,000,00		
		"TERMINAL 1, BAG	LAIM SOUTH			
13,	T1-BCS-ESC(1 (CT-117)	\$3,000.00	×12	536,000.00		
14.	T1-BCS-ESC\2 (CT-116)	\$3,000.00	x12	935,000.00		
15.	T1-8CS-ESC/3 (CT-115)	53,000.00	x12	\$36,000.00		
16.	T1-BCS-ESC/4 (CT-114)	\$3,000.00	×12	\$36,000,00		
17.	T1-BCS-ESC\5 (CT-113)	\$3,000.00	×12	\$36,000.90		
18.	T1-BCS-ESC(6 (CT-112)	\$3,000.00	x12	\$38,000.00		
19.	T1-8CS-ESC\7 (CT-110)	\$3,000.00	x12	\$35,000.00		
20,	T1-8CS-ESC/8 (CT-111)	53,000.00	x12	\$36,000.00		
MASS.		"TERMINAL 1, D-C	ONCOURSE"			
21.	S2-RA-ESC\1 (D-101)	\$3,000.00	x12	\$36,000.00		
22.	S2-RA-ESC\2 (O-102)	\$3,000.00	×12	536,000.00		
23.	S2-RA-ESC\3 (D-103)	\$3,000.00	x12	\$36,000.00		
24.	S2-RA-ESCM (D-104)	\$3,000.00	x12	\$36,000.00		
25.	\$2-RA-ESC\5 (D-109)	\$3.000.00	x12	\$36,000.00		
26.	S2-RA-ESC\6 (D-110)	\$3,000.00	x12	\$36,060.00		

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		24/7 SCHED	IVLE	
		May reaction strop	Menivacianes	
meM#	NUMBERS	MONTHAY UNITGOST	Monthe	4D TENDED TOTAL
CONTRA	ICTOR SHALL PROVIDE A COS E THESE MOVING WALKWAYS S REMAINING WILL BE ADDED:	T PROPOSAL FOR EACH PIE COME OUT OF WARRANTY.	CE OF EQUIPMENT THE MONTHLY UNI	NARRANTY IN JANUARY 2013: THE USING JANUARY 2013 DDELARS: AT ECOST SHOWN TIMES THE NUMBER OF MAINDER OF THE CURRENT CONTRACT
1.	T3-W-L2-MW-1 (MW01)	\$1,445.00	x12	\$17,340.00
z.	T3-W-L2-MW2 (MW02)	\$1,445.00	×12	517,340.00
3.	T3-E-L2-MW3 (MW03)	\$1,445,00	X15	\$17,340.00
4.	T3-E-L2-MW4 (MW04)	\$1,445.00	x12	\$17,340,00
5.	T3-W-L1-MW5 (MW05)	\$1,445.00	×12	\$17,340.00
6.	T3-W-L1-MWA6 (MW06)	\$1,445.00	x12	\$17,340.00
7.	T3-C-L1-MWA7 (MW07)	\$1,445.00	x12	\$17,340,00
8.	T3-C-L1-MW8 (MW08)	\$1,445.00	x12	\$17,340,00
9.	T3-E-L1-MW9 (MW09)	\$1,445.00	x12	\$17,340.00
10.	T3-E-L1-MVA10 (MW10)	\$1,445.00	X12	\$17,340.00
i 1.	T3-E-L1-MW11 (MW11)	\$1,445.00	X12	517,340.00
	TOTAL NEW T	ERMINAL 3 MOVING WALKW	24/7 SCHEDULE AY MAINTENANCE	\$190,740.00

maintenance services for elevators, escalators & moying walkways					
MAINTENANCE COST TOTALS (2417 SCHEDULE)					
24/7 Schedule Grand Total (To include To Building and Parking Garage elevators, escalators and moving welkways.)	\$5,207,880.00				

TERMS OF PAYMENT: NET 30 CALENDAR DAYS.

PREPAYMENT DISCOUNT:

The OWNER may choose to take advantage of one or more of the following prepayment discounts:

- A. 1% Quarterly B. 2% Semi-Annual C. 4% Annual

Clark County Department of Aviation October 31, 2011

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOMBARDIER TRANSPORTATION (HOLDINGS) USA INC.,

Appellant,

v.

NEVADA LABOR COMMISSIONER; THE INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS; and CLARK COUNTY,

Respondents.

Case No. 71101 Electronically Filed

Nov 06 2017 03:24 p.m. Elizabeth A. Brown Clerk of Supreme Court

APPELLANT BOMBARDIER TRANSPORTATION (HOLDINGS) USA INC.'S APPENDIX

VOLUME 4 ER0749-ER0997

JACKSON LEWIS P.C.

Paul T. Trimmer, Bar No. 9291 3800 Howard Hughes Parkway, #600 Las Vegas, Nevada 89169 (702) 921-2460

Attorneys for Appellant

DOCUMENT NAME	DATE	PAGE NO.
Amended Scheduling Order	January 14, 2013	0091-0093
Bombardier Transportation (Holdings) USA, Exhibit 1		1929–1974
Bombardier Transportation (Holdings) USA, Exhibit 2		1975–1981
Bombardier Transportation (Holdings) USA, Exhibit 3		1982–1988
Bombardier Transportation (Holdings) USA, Exhibit 4		1989–1990
Bombardier Transportation (Holdings) USA, Exhibit 5		1991–1992
Bombardier Transportation (Holdings) USA, Exhibit 7		1993–2055
Bombardier Transportation (Holdings) USA, Exhibit 8		2056–2109
Bombardier Transportation (Holdings) USA, Exhibit 9		2110–2166
Bombardier Transportation (Holdings) USA, Exhibit 10		2167–2226
Bombardier Transportation (Holdings) USA, Exhibit 11		2227–2230
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Bombardier Transportation (Holdings) USA, Exhibit 13		2241–2246
Bombardier Transportation (Holdings) USA, Exhibit 14		2247–2249

Bombardier Transportation (Holdings) USA, Exhibit 15	2250–2253
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Bombardier Transportation (Holdings) USA, Exhibit 18	2468–2516
Bombardier Transportation (Holdings) USA, Exhibit 21	2517–2561
Bombardier Transportation (Holdings) USA, Exhibit 22	2562–2570
Bombardier Transportation (Holdings) USA, Exhibit 23	2571–2580
Bombardier Transportation (Holdings) USA, Exhibit 24	2581–2583
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Bombardier Transportation (Holdings) USA, Exhibit 26	2585–2598
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Bombardier Transportation (Holdings) USA, Exhibit 29	2607–2620
Bombardier Transportation (Holdings) USA, Exhibit 30	2621–2625

Bombardier Transportation (Holdings) USA, Exhibit 31		2626–2808
Bombardier Transportation (Holdings) USA, Exhibit 32		2809
Bombardier Transportation (Holdings) USA, Inc.'s Motion for Summary Judgment	April 8, 2013	0094-0418
Bombardier Transportation (Holdings) USA, Inc. Post-Hearing Brief	December 13, 2013	1406–1467
Bombardier Transportation (Holdings) USA, Inc. Pre-Hearing Brief, List of Witnesses and List of Exhibits	June 3, 2013	0841–1294
Bombardier Transportation (Holdings) USA, Inc. Reply in Support of Motion for Summary Judgment	April 24, 2013	0675–0765
Bombardier Transportation (Holdings) USA, Inc. Supplement to Unopposed Motion to Seal	June 17, 2013	1311–1319
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Clark County Department of Aviation Response to Motion for Summary Judgment		0419–0549
Clark County Department of Aviation Revised Determination		0018-0036
Clark County Department of Aviation Witness List		0833-0836
Determination of Clark County Department of Aviation		0003-0005
Final Order	March 6, 2014	3939–3952
Hearing Transcript (Volume 1)	June 25, 2013	1468–1555
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International Union of Elevator Constructors Objection to Revised Determination		0040-0044
International Union of Elevator Constructors Opposition to Motion for Summary Judgment	April 16, 2013	0550-0674
International Union of Elevator Constructors Post-Hearing Brief	December 11, 2013	1366–1405
International Union of Elevator Constructors Pre-Hearing Conference Memorandum	June 18, 2012	0068-0075
International Union of Elevator Constructors Pre-Trial Brief	April 19, 2013	0766–0794
International Union of Elevator Constructors Prevailing Wage Complaint	October 9, 2009	0001-0002
Notice of Entry of Order	August 10, 2011	0045-0054
Notice of Pre-Hearing Conference	May 17, 2012	0037–0039
Order Denying Motion for Summary Judgment	June 3, 2013	0795–0799
Order on International Union of Elevator Constructors' Petition for Reconsideration	May 18, 2012	0055–0067

Revised Determination of the Clark County	March 30, 2010	0006–0008
Department of Aviation		
Scheduling Order	June 27, 2012	0076–0080
Stipulated Protective Order, signed by the Labor Commissioner	November 7, 2012	0081–0090
Summary of Legislation History of 1981		3953–4005

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WRF Roof Replacement	Bus Shalteri 2009	The state of the s	The property of the property o	THE ART OF THE PROPERTY HAS A VALUE OF THE PROPERTY OF THE PRO	Str. and From Party Roses & Str. Popularies Interpresentate	Commence Of the Property of Chart 19	Transfer Ties Total Westerness of Textures while they oppose	Vegas Velley Odynar Kakobilization	Traffic Signal System At Hosiopal Way/Tropicans Ava	Ann Road Specie Improvement District	Rose Replacement - ABB Concourses, Cluster Buildings & ARFF Station	: NAS Substation Project	C-Gates Passenger Loading Bridge Reposition	Annual tains togeth medical lea	CONTRACT CONTRACT LANGUAGE IN LANGUAGE CONTRACT	CHECKING COLORS CONTROL OF THE PROPERTY OF THE	Construction of the Assets of England of Construction of the Const	START START START THE PROTEST OF THE	DIE 7. (A) CHIEF TREATMENT.	COL *10 The Patric Society and Description	Company (Figures Con Company Fig. Company Comp	POODER FOR DESIGNED CONTRACT OF BEAUTY OF STREET OF STRE	CNLY Greenspun Building, Compater 1278 AG Ords	Deer Access Control Refroits at City Partition	- SASTA STATE STATE A	Company of the Section of the Company of the Compan	Thereto Desires in Visitas Sign States	Type County Lett. 1997 (April 1997) And 1997 And The Park Type Tubbling 1999	MOTOR TELEVISION CONTRACT	The second of the property of the second of	DETTY DESPERSITY AND GOT	PENCEP CITE SEE	(Advanced Clinical Training and Research Center, Tenting Los	Cn-Call Concrete Replacement and Mischilarecus Services	On-Call Minor Persement Replacement Services	Partily Court and Floor-Tenant Improvements	Sivet Spings Park	Asbestos Abasement ens Dampissen Brownerse and Clark Commetter	Ashestos Abatement uns Demoitison Stupak Center	On-Quit Major Parement Repléosement Servicia	CC 215 Belivey improvement (Eastern interchange Landscape)		Decesion Blod Street Rehabilitation-partitional But Turnous Sahara Ave to Alta	SYAC School Moderniaries (B. Mack Lyan #5	Town Wash Conveyance, F15 to the Vegin River	BUS TOTAL Project FY2005	Las Vegas Wash Middle Branch Storn Diela improvendris Decatu Sird, To Elibert Rd	Fightings Bouldor Highway North Sahara Ava. To Flamingo Wash	Accellanous improvements, Using of Sin Visitor Center	Cooling Tower Replacement William S. Bayer School of Law	E. S. G. F. Definition of the Resident State of the State	Charles State Stat	2 CONTRACTOR CORP. STORES AND PROPERTY AND CONTRACTOR STORES AND C	Transfer Present Date Phone 489
\$108,000,00	Description of	IN INC. SEC.		06 (8)C SBC#	\$555,930.77	\$212,784,00	\$429,283,30	\$5,244,381,22	\$430,871,26	\$158,234,00	50.000 BBS ES	dorohe'i Dac	37,025,030,00	ON LOSS SOL TO	900135100	£774 545.00	\$144,475.64	\$1,454,132.00	250 000 000	\$279,382.90	\$150,000.00	8486 200 00	OU USES	37.90 196.77		54 289 440 75	\$428,960,00	00,461,9825	\$18 600 000 00	\$211,457.00	DO 000 0574	00 000 000s	22 COC 000 100 100 100 100 100 100 100 100 10	C+ 097 1603	\$520,000.00	\$253,947.65	5534,800,00	\$212,809.00	\$100,000.00	\$872,275,00	\$4,245,791.35		\$247,497.00	\$663,200.00	34,040,400,40	2327,770,82	\$24,181,603.30	07.71.7 West #18	\$201,249.00	200,000		\$1,495,595,00	\$229,00:.00	\$1,274,530.00
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Rooting Photostals System Fig. 83 (B. Trombas O'Rooting ES | Recettor Photocoalisis System-Pity #3 @ Puttern Clax ES | | O XEVELL THE ALES SECTI CIED | Sanda Avenue Storm Drain-Fogg Street to Clayton Avenue | Westernich Bark Dahon and Vesta Traineasts | CARRIED STATES AND STATES OF THE STATES OF T | | | | LAN Upgrade & Infrusion Alami and School Rectambation QUE. Tooler ES | | Indian Ridge Pressure Zone Gedve/Son | Stephenio Street Automonce Shop Overtead Doors Replacement | County Dakestion Center, North Tower Handralis Seeing | Sewyer Building Striat Photovolitale Parking Structure | 2010 Cyertay Froject Phase it | DRI Thermal Wandow Retrotal Project | | Company Contracts Improvements at Stewart Ave and Casho Contra Co | Control and Court American value and Language and Control American Court | Comparing Total County of the Section of the Sectio | The spirit is the state of the spirit is the spirit in the spirit is the spirit in the | With Ep. Communicate | Subset Chrose Parking Phases It Hid Lot F | CLASS, ASSESS, ASSESS, ASSESS OF THE PROPERTY | The Transfer of the Control of the C | Sold Cover Parking Phose II, Bid Lot D | 15 Street Covers at Multiple Locations | Wester Possition Control Facility Odor Control Upgrades | Springry Separt Montrole On Call Repair Services | ADA Access Birk Slop (mprovements-Priese) | | | CUSC SCHOOL STORES SO COST TERCHING | Steamy Davis Reproved for | Control of the Contro | Charles Know harden and a same and charles the control of the cont | CONTROL ACTION AND AND AND AND AND AND AND AND AND AN | ANAIGH COUNTY CHAIRS, CONTRACTOR BARRIER SOUTH (STAIRS CONTRACTOR | では、アロウンではは、一般でしているのでは、これでは、これでは、これでは、これでは、これでは、これでは、これでは、これ | | Figuringo Wasti, Neille Bousvard In LESS | | Terrina 3 Startine | Tonapan Filmess Chrise | LAN and intrusion Atam: Opgrades & Todar ES | - 1 | THE POWER PERSON CONTO FRANKY NEW MARKET TO THE TOTAL PLANT | CONTRACT OF MAIN AND AND AND AND AND AND AND AND AND AN | TOOT TATER OF THE WORLD THE SERVICE OF THE SERVICE | 200 X 200 200 200 100 | TOOL TOO TOO TOO TOO | NOT ASSESSED OF CONTRACT OF | このではなっています。これは、これでは、これでは、これでは、これでは、これでは、これでは、これでは、こ | 27 State Covers the straight Locations | CODO CONTO PERIODE ACTIVAR INSURANCE | CHETTOWN COURT LOGIC FLAMENT (1887), MARINING THE PRODUCT OF THE P | When the Street District There May be District That | Children's Calc Improvementally 1998 | Storthern COLAS, Alleria Parties to Australia Scientifications To Paventern Restination | | Las Vegas Wash Channelization improvements | Autum Building Communications, Radio Amplification and Audio Video Systems | Family Courts Present | CLOSI SOCIA SECON | (10)の時間の大幅の関係では、「1800年) |
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BEFORE THE NEVADA LABOR COMMISSIONER CARSON CITY, NEVADA

FILED

MAY 3 1 2013

IN THE MATTER OF:

CONSTRUCTORS,

INTERNATIONAL UNION OF ELEVATOR

Claimant,

ν.

BOMBARDIER TRANSPORTATION (HOLDINGS) USA, INC.,

Respondent.

Clark County Department of Aviation Automated Transit Systems Equipment-DOA Contract CBE-552 NEVADA LABOR COMMISSIONER - CC

CLAIMANT IUEC'S PRE-TRIAL BRIEF

Trial Date: June 25, 2013

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I. ISSUES PRESENTED:

- 1. Was repair work done by Bombardier technicians under Contract #CBE 552 covered by Nevada prevailing wage law?
- 2. If so, what rate should have been paid?

Issue 2 contains 5 sub-issues:

- A. Can the County and Bombardier show the work entirely exempt (because not a "project" or the County cited Chapter 332 in letting the contract or because some maintenance was included)?
- B. Does "public work" include repair of the ATS vehicles, or is that term limited to wayside repairs (that is, repair of the stations)? As some argue "public work" only applies to fixtures, are these vehicles "fixtures"?
- C. What tasks performed by Bombardier techs fall within the normal maintenance or normal operation exemptions?
- D. Can Respondents meet their burden of showing the amount of covered repairs falls below the \$100,000 threshold?
- E. Can Bombardier meet its burden of showing the work exempt as railroad company work?

II. SUMMARY OF EVIDENCE AND ARGUMENT

Under CBE 552, Bombardier technicians worked 24-7 repairing the McCarran Airport's Automated Transit System(ATS), consisting of several stations and unmanned trams each running between two stations on rubber tires along concrete guideways.* This system is owned by the County, which paid Bombardier over \$3 million per year.

As for whether the repair work was "public work", this requires a "project", but there is a "project" here no less than with other long-term contracts for ongoing repairs of large systems, such as various agencies' annual slurry seal contracts or streetlight contracts for whatever tasks as are later found needed during that time period.

^{*}These are often referred to as Automated People Movers (APM's).

Legally, the Legislature could not have intended to exempt all repairs done under a contract merely because some maintenance is included under it, or merely because an awarding body cites Chapter 332 without proving its applicability, as such interpretations exalt form over substance and allow easy evasion of the rule of prevailing wage. The Legislature would have not left "repair" in the statute if it intended such a sweeping exemption. Also, here the prerequisite for the maintenance exemption of "compliance with Chapter 332" is not met because this contract was not a more cost-effective way to obtain these services than competitive bidding or in-housing the work.

"Public work" is properly understood as not requiring a fixture because that was the interpretation of the Davis Bacon Act ("DBA") prior to the Nevada Legislature's adoption of a state prevailing wage law modelled on DBA. However, even if a fixture is required, that should be found with the ATS cars here no less than elevators, escalators and track lights are fixtures. Numerous courts have held that similar equipment of enormous weight, especially when adapted to a particular location, is a "fixture" even if not bolted down. These cars are specially manufactured to each Airport's specs, weigh 30,000 pounds, cannot run on roads but only a specialized concrete guideway, require a special crane to install, require hundreds of manhours to be adapted to their location, and never leave the location where initially installed except to be discarded. This is not like a bus which readily can leave Las Vegas and be put to work in another community.

The evidence will show Bombardier did more than \$100,000 work of repair work on the wayside and many times this sum on repairing the ATS vehicles, as opposed to maintaining them (inspecting, lubricating, cleaning and adjusting). The tasks under "normal maintenance" or "normal operation" in the legislative history were low-skill, short-term, and involved inexpensive parts. Thus IUEC has defined repairs here as requiring a skilled ATS technician, taking at least 15 minutes, and involving parts costing at least \$10. "Repairs" of the vehicles included replacing non-functioning doors, motors, leaf springs, brake drums, and spindles, all of which take hours not minutes. Little of

the work claimed by IUEC to be "repair" was previously scheduled. All of it involved replacing parts or repairing them, not cleaning, lubricating nor mere tightening.

The railroad company exemption does not apply because the McCarran ATS system is not a railroad, and because a "railroad company" is one which staffs trains but this is not the role of Bombardier Transportation Holdings USA. Elsewhere in the world there might be a different subsidiary of the same parent company which runs trains, but (1) a corporate subsidiary is not permitted to pierce its own corporate veil, and (2) the Legislature could not have intended to exempt all work done by a company in Nevada merely because elsewhere in the world in the same global conglomerate there is some railroad operation.

Bombardier technicians were paid less than the posted rates for all job classes except the unskilled Fence Erectors and Highway Stripers. This skilled ATS repair work is most appropriately classified as Elevator Constructor work, but if not, as equipment repairmen classes under Operating Engineer and Truck Driver. Bombardier apparently argues for using some unposted job class (which would be contrary to the NRS 338.020), or for Communications Installer, but little of the work done by ATS techs resembles the latter's work of installing low-voltage cable.

- III. LIST OF WITNESSES AND SUMMARY OF TESTIMONY (actual order will vary)
- 1-2. Vern McClain & Ken DePiero: Worked for Bombardier as ATS repair, now work for County doing same. Will testify as to nature of work and as to the list of repairs and costs prepared by them, UX 1.
- 3. Anthony Schneider, currently employed by Bombardier as its technical consultant and hence will be called as adverse witness; will testify as to fixture issue as in UX 5.
- 4-6. Individuals who worked as repairmen of elevators/escalators, then went to work repairing ATS, and will testify as to overlap in duties: Scott Hoffrichter, Daniel Saftonn, and William Maier: See UX 16-17.*

3

- 7. Dr. Kevin Murphy, Job classification expert from Colorado State University, interviewed ATS techs and visited work location and determined Elevator Repairman was proper job classification. See UX 9.
- 8-10. Mike Davis, Larry Vogel, Ron Kremaric: They have worked for Kone at Airport as elevator/escalator repairmen and have also observed work of ATS techs; will address degree of overlap. See UX 15.*
- 11. William Stanley, IUEC Director of Legislative Affairs: received wage/benefit information from Bombardier and employees and then used this to present information to Clark County Commissioners about lack of cost-efficiency to CBE552; as he worked in elevator field and observed some work done by ATS techs, will testify to overlap; will testify to IUEC submissions of its CBAs to Commissioner's Office and response thereto; will testify as to competitors' availability to perform ATS work.
- 12-15. Other individuals who worked for Bombardier as ATS techs will testify as to nature of work: Nick Banas; Matt McCulloch; Mark McGhee; Ivan Custodio.*
- 16. Jack Jeffrey, former Nevada legislator who will testify to the discussions concerning adoption of maintenance exception (if health allows him to testify), UX 11.
- 17. Mike Moran, adverse witness as County listed him as its expert and he works for County doing prevailing wage investigations: he observed work functions of the ATS techs. (IUEC only has 5 minutes of questions for him and hence proposes to take such testimony at same time it cross-examines him when County calls him, so as to eliminate any need for him to have to testify twice).

 *In these categories, in order to cut down on trial time and avoid repetition, IUEC will likely call only one live witness and then offer others' testimony via offer of proof they would testify similarly and/or by declaration. This would reduce the number of IUEC witnesses to 9 (including Mr. Jeffrey whose health is in question and Mr. Moran who is actually County's witness).

IV. ARGUMENT

A. CONTRACT CBE 552 ENJOYS NO BLANKET EXEMPTION FROM PREVAILING WAGE COVERAGE

The statutes here must be construed in favor of workers. See International Game Technology, Inc. v. Second Judicial Dist. Court ex rel. County of Washoe, 179 P.3d 556, 560-61 (Nev.2008) ("remedial statutes, like NRS 357.250, should be liberally construed to effectuate the intended benefit. [citing four cases]."); Las Vegas Plywood v. D & D Enterprises, 98 Nev. 378, 380, 649 P.2d 1367, 1368 (1982) ("This court has repeatedly held that the mechanic's lien statutes are remedial in character and should be liberally construed;"); D.W. Close Co., Inc. v. Wash. State Dept. of Labor and Industries, 177 P.3d 143, 152 (Wash.App. 2008) ("the Prevailing Wage statute is remedial and should be liberally construed to affect its purpose."). 1

NRS 338.010(16) defines "public work" in relevant part as follows:

"Public work" means any project for the new construction, repair or reconstruction of: (a) A project financed in whole or in part from public money for: (1) Public buildings; *** (10) All other publicly owned works and property."

The Airport is a "public building" and hence repairing a vital part of it falls within subsection (a)(1). Even if the focus were solely on the ATS system, it also falls within (a)(10) as "publicly owned works and property."

Bombardier argues there was no "project" here, contending that requires something "programmatic and highly scheduled". However, it also has claimed the repairs here were scheduled in nature, and the industry standards which it helped design require each APM facility have a

Accord, City of Long Beach v. Dept. of Industrial Relations, 34 Cal.4th 942, 949, 102 P.3d 904, 22 Cal.Rptr.3d 518 (2004)("Courts will liberally construe prevailing wage statutes"); Board of Trade, Inc. v. State, Dept. of Labor, Wage and Hour Admin., 968 P.2d 86 (Alaska 1998)(same); Bockelman v. Prevailing Wage Appeals Bd., 30 A. 3d 616, 620-21 (Pa. Comm. 2011) ("Because the Act is a remedial statute, it must be construed broadly for its coverage, and any exceptions to the coverage must be narrowly construed. [citing three other cases]"); FFC, Ltd. V. N.J. DOL, 720 A. 2d 619, 316 NJ Super. 437 (NJ App. Div. 1998)("We have previously recognized that the Prevailing Wage Act is remedial legislation entitled to liberal construction"); Matter of Stephens & Rankins Inc. v. Hartnett, 160 AD 2d 1201, 555 NYS 2d 208 (NYAD 1990) (same).

comprehensive plan for maintenance/repair. However, many repairs here were not scheduled (some resulted from scheduled inspections, while others were in response to breakdowns). The term "project" does not require detailed advance planning of all work tasks. So long as NRS 338 covers "repairs", it is going to have to cover work that is not scheduled well in advance, because that is in the very nature of repairs: one cannot readily predict when an air conditioning or plumbing system is going to break down and need repair. The word "project" is broad enough to encompass long-term requirements contracts like the one here and like localities' contracts for a year's worth of area-wide streetlight repair, signal repair and pavement repair.³ Injecting a requirement that work be short-term or pre-scheduled makes no sense in terms of the underlying purposes of prevailing wage law to protect workers and local contractors from low wages. Indeed the more months of work are to be provided under a single contract, then the less protection would exist for workers and local contractors. However, this type of long-term requirements contract generates additional funds to help pay prevailing wage, as it is often more cost-effective for awarding bodies and contractors to bundle various tasks into a single long-term contract rather than spend more time and money bidding and contracting each task separately. Defining the term "project" broadly is also consistent with legal authorities about such term: see, e.g., NAC 445A.720 ("Project' means the activities or tasks identified in an agreement for financial assistance for which the recipient may expend, obligate or commit money."); NAC 348A.100 ("'Project' means any construction, planned expenditure, program or other activity intended to be financed by a private activity bond which is described in sufficient

² Bombardier is required by the industry standards for APMs which it helped develop to have "a comprehensive maintenance plan". American Society of Civil Engineers, Title 21, *Automated People Mover Standards – Part 4*, section 15.7.2 (UX 8). Judicial notice is often taken of published industry standards. *Easton v. Strassburger*, 152 Cal. App.3d 90, 101 n. 5, 199 CR 383 (1984)(citing two prior cases where notice also taken); *In re Asousa Partnership*, 2005 WL 2857983 at *4 (Bkrtcy. E.D.Pa. 2005).

³ See, e.g. Clark County Annual Streetlight Maintenance Contract for Clark County 215 Bruce Woodbury Beltway–CL-2012-295; City of Las Vegas Annual Traffic Signal Maintenance–CL-2010-366; City of Henderson 2012 Streetlight knockdown and replacement program–CL-2012-193; City of Las Vegas 2010 Annual Slurry Seal–CL-2010-223; City of Henderson 2013 On-Call Pavement Patching–CL-2012-118.

detail to determine eligibility for financing."); Friends of Mammoth v. Board of Supervisors, 8

Cal.3d 247 [104 Cal. Rptr. 761, 502 P.2d 1049 (1972)(construing "project" to include any

"entitlement for use" after noting notes Webster's dictionary definition includes "plan or design ...

scheme ... proposal...."); Anderson v. Alyeska Pipeline Serv. Co., 234 P.3d 1282, 1286-88 (Alaska 2010)(refusing to construe phrase as just short-term planned activities); People ex rel. Van De Kamp

v. Tahoe Reg'l Planning Agency, 766 F.2d 1319, 1323 (9th Cir. 1985) amended, 775 F.2d 998 (9th

Cir. 1985)("repairs to water-related structures are 'projects' within the meaning of the Compact.");

Arco Materials, Inc. v. State, Taxation and Revenue Dept. Court of Appeals of New Mexico, 878 P.2d

330 (N.M. 1994)(materials sold for unscheduled road maintenance and repair deemed part of "construction project" which code defined as including repairs).

The County has argued that because it did not use competitive bidding it need not pay prevailing wage. This obviously misreads the scope of the exception from prevailing wage provided by NRS 338.011 – a contract let noncompetitively under Chapter 332 is only the first of two requirements for exemption, the second is the contract being "directly related to the normal operation of the public body or the normal maintenance of its property." NRS 338.011 requires more than just the agency cite a section of Chapter 332 in letting a contract: the agency must be "in compliance with Chapter 332". The burden of establishing a jurisdictional exemption to a remedial statute like the Nevada prevailing wage law lies with the party urging the exception. *Pendleton v. State*, 103 Nev. 95, 734 P.2d 693 (Nev.1987). Courts have repeatedly held the strong public interest in public

⁴ If the Legislature intended the County be the exclusive judge of this question, this would have been worded much differently: "awarded in reliance upon" or "if a local agency determines Chapter 332 to apply". The Legislature correctly did not want the overriding state policies of wage standards and competitive bidding to be immune from review by the Commissioner because of the obvious self-interest of the County in spending less time on the bidding process and spending less money by seeing workers get less.

contracts being bid out requires narrowly construing any exceptions to bidding requirements.⁵

Awarding bodies cannot be trusted to decide on an exemption themselves. *Lusardi Const. Co. v.*Aubry, 1 Cal.4th 976, 987, 4 Cal.Rptr.2d 837, 824 P.2d 643 (Cal.1992)("As the facts of this case show, both the awarding body and the contractor may have strong financial incentives not to comply with the prevailing wage law.").

Here, IUEC will show there has not been compliance with Chapter 332, for the County relies upon an exception to formal bidding (332.115(1)(c)) based on the false premise that Bombardier

⁵ See, e.g., Associated Builders & Contractors, Inc. v. So. Nev. Water Auth., 115 Nev. 151, 158-59, 979 P.2d 224, 229 (1999)("with respect to bidding procedures, this court has held that: 'The purpose of bidding is to secure competition, save public funds, and to guard against favoritism, improvidence and corruption. Such statutes are deemed to be for the benefit of the taxpayers and not the bidders, and are to be construed for the public good.' Gulf Oil Corp. v. Clark County, 94 Nev. 116, 118-19, 575 P.2d 1332, 1333 (1978)."); Skakel v. North Bergen Tp. 181 A.2d 473, 478 (N.J. 1962) ("The fundamental philosophy of our competitive bidding statutes is that economy be secured and extravagance, fraud and favoritism prevented. [cite]. Such statutes are designed to safeguard the public good and should be rigidly enforced by the courts to promote that objective. [cite]. This common good is best advanced by cultivating the most extensive competition possible under the circumstances and municipalities should organize their efforts in that direction. [cite]."); Brasi Development Corp. v. Attorney General, 925 N.E.2d 826, 835(Mass. 2010) ("Consistent with its broad remedial purpose, the competitive bidding statute is to be strictly construed. [cite]); Staten Island Bus, Inc. v. Board of Ed. of City of New York, 82 A.D.2d 891, 440 N.Y.S.2d 293 (N.Y.A.D.1981)(policy of competitive bidding laws required rebidding of additional work even though existing contract allowed contractor at its option to take on more work); Manson Const. and Engineering Co. v. State, 600 P.2d 643, 646 (Wash. App. 1979) ("We begin ... by reasserting this jurisdiction's strong public policy that, except as permitted by legislation, public contracts shall be let only after competitive bidding procedures have been complied with. [cite] *** It is the function of the legislature, not the judiciary or an administrative agency, to circumscribe competitive bidding. When, as in the case at bench, the legislature has already defined those limits, courts will be wary of interpreting the legislatively mandated standards so as to further circumscribe the competitive bidding policy,"); Associated Builders and Contractors v. Contra Costa Water District, 37 Cal. App. 4th 466, 470 (1995) ("The purpose of requiring governmental entities to open the contracts process to public bidding is to eliminate favoritism, fraud, and corruption; avoid misuse of public funds; and stimulate advantageous market place competition. Because of the potential for abuse arising from deviations from strict adherence to standards which promote these public benefits, the letting of public contracts universally receives close judicial scrutiny and contracts awarded without strict compliance with bidding requirements will be set aside The importance of maintaining integrity in government and the ease with which policy goals underlying the requirement for competitive bidding may be surreptitiously undercut, mandate strict compliance with bidding requirements."); Marshall v. Pasadena Unified School District, 119 Cal.App.4th 1241, 1256 (2004)("[A]n interpretation . . . which upholds the broadest possible application of the statute is consistent with the strong policy favoring competitive bidding."); Miller v. McKinnon, 20 Cal.3d 83, 88 (1942) ("The competitive bidding requirement is founded upon a salutary public policy declared by the legislature to protect the taxpayers from fraud, corruption, and carelessness on the part of public officials and the waste and dissipation of public funds.").

could "more efficiently" provide these repairs and maintenance. Many other employers do APM repairs, even on equipment from other suppliers, including Otis Elevator, Schwager-Davis, Mitsubishi and the City of Seattle. Bombardier charged at least 50% more than its labor costs to pay for its off-site substantial management overhead (developing business elsewhere) and shareholders, making in-housing such work the far more efficient course.

Respondents contend the normal maintenance/operation exceptions extend even to major repairs because an old AG opinion indicated "repair" can include maintenance tasks. Their argument is meritless because the obvious intent of the Legislature was to reject the AG's approach, leaving repairs covered but exempting "normal maintenance" only. In addition to the published legislative history, there is the testimony of retired legislator Jack Jeffrey as to the discussions at the time being that repairs and maintenance were different. UX 11; *Rich v. State Bd. of Optometry*, 235 Cal. App. 2d 591, 603, 45 Cal. Rptr. 512, 520 (1965) (legislative discussions are admissible as opposed to private intent). The published legislative history shows "normal maintenance" and "normal operation" were understood to be short-term, inexpensive, low-skilled work, with specific references to window washing and replacing broken windows and keysets in locks. The public agency advocates pushing the bill assured legislators the work to be excluded was "generally ... performed by non-skilled laborers" – a far cry from the need of an APM technician to have several years of mechanic training even to get initially hired, and then several more to be trusted working alone.

Nevada's Division of Industrial Relations has already recognized in its elevator regulations that there is a real difference between "maintenance" and "repair":

NAC 455C.424 "Maintenance" defined. (NRS 455C.110) "Maintenance" means a process of routine examination, lubrication, cleaning and adjustment of parts, components and subsystems of an elevator to ensure that the elevator satisfies the requirements set forth in NAC 455C.400 to 455C.528, inclusive. ***

NAC 455C.436 "Repair" defined. (NRS 455C.110) "Repair" means the reconditioning of a part, component or subsystem of an elevator which is necessary to ensure that the equipment of the elevator satisfies the requirements set forth in NAC 455C.400 to 455C.528, inclusive.

This repair-maintenance distinction is supported by longstanding interpretations of similar federal laws. Under DBA, the Department of Labor (DOL) has long held that maintenance is exempt but repair is covered, and indeed confirmed that via regulation. 29 USC 5.2(i).⁶ DOL has consistently held repair work on elevators and major structural systems is covered by Davis-Bacon, and the evidence will show APMs are essentially just elevators turned on their sides. DOL has similarly found replacing components of a tank system constituted repairs rather than maintenance. OSHA also follows a maintenance-repair distinction. Bombardier claims now to be running a railroad, but OSHA holds that railroad repair work is not maintenance but instead covered by its standards for repairs/construction. See also *Idaho State Tax Comm'n v. Haener Bros*, 828 P.2d 304 (1992)(reversing ruling equating maintenance and repair).

The "normal operation" exception cannot exempt this entire contract. ATS techs have not themselves operated the ATS, but instead there is a County-employed control room staff. Just because the ATS systems are important to the public's use of the building cannot make this work exempt, for that would mean all electrical work is exempt because most building users need lighting, and all plumbing is also exempt because most building users demand toilets and running water. The "normal operations" exception clearly was intended to apply only to actually operating the building, the routine work such as cleaning and replacing light bulbs mentioned in the legislative history. See, e.g., *United States v. West Indies Transp., Inc,* 127 F.3d 299 (3d Cir.1997) and *Oelsner v. US*, 2003 WL 1564255, 60 Fed. Appx. 412 (3d Cir. 2003)(construing "normal operation" of a vessel to not include work repairing it in drydock). It also would make no sense to apply the "normal operation" exception to Bombardier repairs which are normally done at night while track and vehicle are out of service.

⁶ Nevada prevailing wage laws are construed in accordance with the Davis Bacon Act except where there are significant differences in statutory language or circumstances. *State of Nev. v Granite Constr. Co*, 40 P.3d 423, 426; 118 Nev. 83, 87 (2002); Nev. AGO No. 80-18.

B. REPAIRING THE VEHICLES IS COVERED WORK

The Legislature confirmed in NRS 338.16985 that "public work" can include things other than fixed works ("If the public work involves the construction of a fixed work "). Nevada prevailing wage law has never been construed as requiring the work tasks be done on permanent fixtures: for example, the Commissioner's listed job classes have always included scaffolding erectors and repairers of trucks, and normally listed repairers of construction equipment. See also Title Guaranty & Trust Co. v. Crane Co., 219 U. S. 24, 33, 31 S.Ct. 140 (1910) (holding construction of ships for federal government was covered by statute for "public work", noting:

Of course public works usually are of a permanent nature and that fact leads to a certain degree of association between the notion of permanence and the phrase. But the association is only empirical, not one of logic. Whether a work is public or not does not depend upon its being attached to the soil; if it belongs to the representative of the public it is public, and we do not think that the arbitrary association that we have mentioned amounts to a coalescence of the more limited idea with speech, so absolute that we are bound to read 'any public work' as confined to work on land.

See also, 38 U.S. Op. Atty. Gen. 418, 1936 WL 1683 (U.S.A.G. 1936) (applying this Court holding to coverage under DBA, finding DBA covers work on ships); DOL Field Operations Handbook (2010) at 15d11 (adhering to this view).⁷

⁷ See also, Hous. by Vogue, Inc. v. State, Dept. of Revenue, 403 So. 2d 478, 480 (Fla. Dist. Ct. App. 1981) approved, 422 So. 2d 3 (Fla. 1982)("While all fixed works constructed for the state or its subdivisions are public works, we do not consider that 'public works' are limited to fixed works. * * * The only distinction between this contract and a traditional contract for a construction of a fixed building is that these units are relocatable. We do not consider this to be a material distinction in the determination of whether or not appellants have shown that this construction comes within the exemption."); Twin State CCS Corp. v. Roberts, 125 A.D.2d 185, 11 N.Y.S.2d 958 (N.Y. Supr. 1987) (installation of telecommunications system in public building held "public work" even though removable), aff'd, 72 N.Y.2d 897, 528 N.E.2d 1219, 532 NYS 2d 746 (N.Y. App. 1988); Heller v. McClure & Sons, Inc., 963 P.2d 923, 4 Wage & Hour Cas. 2d (BNA) 1621 (Wash. App. 1998)(equipment mechanic's work held covered by state prevailing wage law); Griffith Co. 17 BNA Wage & Hour Cases 49 (DOL WAB 1965) ("laborers or mechanics employed by equipment rental dealers who, pursuant to a lessor-lessee arrangement with contractors, may be required to go upon the site of construction otherwise covered by the Act to repair leased equipment are entitled to the benefits of the Act."); U.S. v. Sparks, 939 F. Supp. 636 (C.D. Ill. 1996)(also holding equipment repair covered); In re Vecellio & Grogan. Inc., 1984 WL 161749 (DOL WAB 1984); In re Dworshak Dam, 1973 DOL Wage App. Bd. LEXIS 9 (1973)(same); Chester Bross Const. Co. v. Missouri Dept. of Labor and Indus., 111 S.W.3d 425,427 (Mo.App. 2003) (finding coverage for mechanics who do

Even if a fixture is required for Nevada Prevailing Wage Law coverage, fixture status exists here under the Nevada test reiterated in *Leasepartners Corp. v. Robert L. Brooks Trust*, 942 P.2d 182, 187 (Nev. 1997):

This court has stated that the three factors to determine whether an item is a fixture are annexation, adaptation, and most importantly, intent. Fondren v. K/L Complex, Ltd., 106 Nev. 705, 710, 800 P.2d 719, 722 (1990). We also stated:

The annexation test is met where the chattel is actually or constructively joined to the real property.

The adaptation test is met when the object in question is adapted to the use to which the real property is devoted. However, the most important factor in making the determination of whether an item is a fixture ... is the intention of the parties at the time the items were installed.

Id. (citations omitted).

There can be no dispute the ATS cars are specially-adapted for use at McCarran. Both adaptation and intent are shown by the fact the cars at McCarran have never been used elsewhere, either before or after their arrival at McCarran. These cars are constructively annexed because the facility has been altered with a special concrete guideway just for them, and they are so heavy, large, and hard to move elsewhere that it would be unreasonably difficult to move them except to discard them when they no longer work. Elevator cabs similarly move inside a building and theoretically can be removed from a building, but the practicalities have led them to repeatedly been held fixtures. See e.g., Medical Tower Corp. v. Otis Elevator Co., 104 F.2d 133 (CA 3 1939); Blake-McFall Co. v. Wilson, 193 P. 902 (Or. 1920); Oliver & Williams Elevator Corp. v. State Bd. of Equalization, 48 Cal.App.3d 890 (1975). Courts have repeatedly found moveable parts of systems similar to this one to constitute "fixtures". For example, in Seatrain Terminals of California, Inc. v. County of Alameda, 83 Cal.App.3d 69, 147 Cal.Rptr. 578 (1978), the Court found a large movable crane to be a fixture given its weight and specialized use, relying on decisions finding that rail and conveyance systems

[&]quot;not work on a highway, building, or other structure but rather is engaged solely in maintenance of construction equipment."),

like this one adapted for use on a single piece of property are also "fixtures." 83 CA3d at 78-79, 147 CR at 584 (citing United Pac. Ins. Co. v. Cann, 129 Cal. App. 2d 272 (1954) and other conveyance cases). See also Dobschuetz v. Holliday, 82 III. 371 (1876)(holding boxes used in mine's system for hauling coal to be fixtures even though removable: "Such boxes are a part of one system of machinery, each part being indispensable to the working of the other, and without which other parts would be utterly valueless for the purposes intended."); Curran v. Smith, 37 Ill. App. 69 (1890) (same conclusion as to cars used in connection with a drier in a brickyard); Cary Hardware Co. v. McCarty, 10 Colo. App. 200, 50 P. 744 (1897)(Ex. I) (same as to ore cars used in smelting plant). See also Taco Bell v. Commonw. Transp. Comm'r, 710 S.E.2d 478, 481-82 (Va. 2011); Searle v. Town of Bucksport, 3 A.3d 390, 396 (Me. 2010)("Physical annexation occurs when an object is affixed to the realty . . . or simply through the object's sheer weight, Hinkley & Egery Iron Co. v. Black, 70 Me. 473, 480 (1880); see also United States v. County of San Diego, 53 F.3d 965, 968 (9th Cir.1995) (concluding that a nuclear device weighing between 400 and 500 tons was annexed to the ground by gravity); Pritchard Petroleum Co. v. Farmers Co-op. Oil & Supply Co., 117 Mont. 467, 161 P.2d 526, 531 (1945) (finding that four-ton tanks held in place by their weight were affixed to the ground)."); General Motors Corp. v. City of Linden, 20 N.J.Tax 242, 324 (N.J.Tax 2002) ("An item of personal property not physically attached or fastened to a building or land will be deemed affixed where the item is sufficiently large and heavy that gravity alone holds it in place and the building or land has been specially modified or adapted to accommodate or enclose the item."); In re Heflin, 326 B.R. 696, 702 (Bkrtcy.W.D.Ky. 2005) ("Simply because an item could possibly be removed does not prevent it from becoming a fixture.").

C. MORE THAN \$100,000 WORTH OF ATS WORK WAS REPAIR RATHER THAN MAINTENANCE/OPERATION

The evidence will show the repairs of the wayside as opposed to its normal maintenance came to well over \$100,000, and many times that sum for the vehicle repairs. This is true not only

using the above-quoted Nevada elevator regulations to define these terms, but even restricting the covered repair tasks to those requiring more than 15 minutes and more than \$10 in parts. See, e.g., UX 1. The evidence will show a number of repair tasks took several manhours each. Moreover, the evidence will show these tasks require considerable skill, unlike those described as normal maintenance to the legislators. The evidence will show a large percentage of the ATS techs' workdays is spent on repairs, and will show major spending on repairs. These are also factors used by courts and agencies in distinguishing between repairs and maintenance. See *Borough of Schuylkill Haven v. Prevailing Wage Appeals Bd.*, 6 A.3d 580, 584 (Pa. Commw. Ct. 2010)("the Board also correctly relied upon the \$250,000.00 cost in characterizing the work at issue as large scale rehabilitation that does not fall within the maintenance exclusion for repairs under the Act."); *Henkels & McCoy, Inc. v. Dept. of Labor & Industry*, 598 A.2d 1065 (Pa. Commw. Ct. 1991)(holding that replacement of wiring was repair not maintenance even though existing conduit was just reused).⁸

D. THE RAILROAD COMPANY EXEMPTION DOES NOT APPLY HERE

The railroad exemption in NRS 338.080 does not apply here because this APM system is not a true railroad and Bombardier does not own or operate it. Bombardier's APM system does not use true rails nor have the special challenges of a true railroad of grade crossings – the challenge which history shows to have led to the exemption. Instead, it has a concrete guideway on which it runs rubber-tired vehicles. It is not governed by the usual legal and regulatory standards for railroads. It

⁸ See also, Borough of Youngwood v. Pennsylvania Prevailing Wage Appeals Bd., 596 Pa. 603, 615-16, 947 A.2d 724, 731-32 (Pa. 2008) ("given the clear purpose of the Act to protect workers from receiving substandard wages on public works projects, these modifiers cannot be interpreted to mean that only when a structure or other facility is, through a public works project, enlarged, reduced, or replaced with an entirely new material is the project non-maintenance, no matter how extensive the work. Such an interpretation would be completely incompatible with the clear and significant legislative intent of ensuring that workers on public works projects be paid at least the prevailing minimum wage. The exception does not eviscerate the rule. *** In Kulzer Roofing, supra, the Commonwealth Court observed that the word 'repair' would be written out of Section 2(5) of the Act should an expansive interpretation of 'maintenance work' be observed.").

does not run across any borders, not even leaving the property of a single public agency. For all these reasons, Bombardier's predecessor (Westinghouse) successfully persuaded the courts that an airport APM is not a "railroad" in Westinghouse Elec. Corp. v. Williams, 325 S.B.2d 460, 463-64 (Ga. App. 1984). True railroads in Nevada pay fees to (and are regulated by) the Public Utilities Commission of Nevada (NRS 704.309), which Bombardier has not paid (nor been regulated by: according to PUCN Staff, the only two "railroads" in the State are those listed on its website, Union Pacific and BNSF). See also NRS 705.690, rendered surplusage if any type of transit on a guideway is a "railroad". Here there are none of the policy reasons for state laws exempting true railroad projects from prevailing wage explained in Long Island R. Co. v. Dept. of Labor of State of New York, 256 N.Y. 498, 177 N.E. 17 (N.Y. App. 1931), aff'g 247 NYS 78 (N.Y. Special Term 1931)(urgent problem of massive increase in use of autos on literally hundreds of streets in each state where railroads crossed meant delay in bidding process and wage burden from applying state wage and bidding laws would have dealt crushing financial blow to both railroads and governments involved). The Interstate Commerce Clause and preemption by federal laws governing interstate railroads posed a serious legal obstacle to state regulation of working conditions of railroad projects. 10 Railway unions with contractual wage protections were already well established by the time this exemption was put into place by the Legislature, making state statutory wage protection superfluous. See Railway Labor Act ("RLA") of 1926, 45 USC 151 et seq; Pennsylvania R. Co. v. U.S. Railroad Labor Board, 261 U.S. 72, 43 S.Ct. 278 (U.S. 1923)(explaining history of wage

⁹ Not only is this decision persuasive, but also Bombardier is legally bound by it as the successor to Westinghouse (through Adtranz). <u>See UX4</u>; *Gamble v. Silver Peak Mines*, 35 Nev. 319, 133 P. 936 (Nev. 1913)("Former decrees which are final and unreversed are res judicata of the subject-matter of the suits as then decided between the parties thereto and their successors in interest").

¹⁰ See, e.g., *Napier v. Atlantic Coast Line R. Co.*, 272 U.S. 605, 47 S.Ct. 207 (1926)(striking down state law restricting interstate railroads as preempted by federal laws); *Southern Pac. Co. v. Mashburn*, 18 F. Supp. 393 (D. Nev. 1937)(striking down state statute regulating number of railcars under Interstate Commerce Clause, following *Atchison, T. & S.F. Ry. Co. v. La Prade*, 2 F.Supp. 855 (D. Ariz. 1933)). NRS 705.005 confirms the Legislature's intent to avoid federal preemption.

agreements). None of these reasons for exempting true railroads apply to an APM that does not cross any streets, nor cross state lines, nor is covered by the RLA.

The term "railroad company" is vague as applied to companies with both rail and non-rail businesses. The Legislature intended the exemption only to apply when a company is acting in the capacity of a railroad company within Nevada. The mere fact Bombardier produces and services railcars elsewhere does not avail it of this exemption, as otherwise any contractor could take control of the entire public works market in Nevada by buying some tiny rail outfit elsewhere and then use the railroad company exemption for all its work on Nevada schools, office buildings, roads, etc. Bechtel and URS (Washington Group) could have tried that gambit in Nevada public works because of their railcar subsidiaries but never have. No significant part of Bombardier's revenues come from railroad operations. Even if "railroad company" means a company which supplies railcars and services them, Bombardier cannot prove a majority of its revenues come from true railcars. Even if somehow the statutory language here were deemed clear, Nevada courts say the underlying legislative intent must be enforced even if contrary to the ordinance sense of the language. McKay v. Board of Sup'rs of Carson City, 730 P. 2d 438 (1986)("The leading rule of statutory construction is to ascertain the intent of the legislature in enacting the statute. City of Las Vegas v. Macchiaverna, 99 Nev. 256, 257, 661 P.2d 879, 880 (1983). This intent will prevail over the literal sense of the words. Id. at 257-258.").12

¹¹ The Company instead stipulated to National Labor Relations Act coverage in NLRB Case No. 28-RC-6636 and itself asserted NLRA jurisdiction in a ULP charge against IUEC, NLRB Case 28-CB-7118.

Bombardier's entry into the McCarran Construction Contract No. 2305 with a prevailing wage provision for painting and electrical work and any work by a licensed subcontractor was an admission that Bombardier was not functioning as a railroad company at McCarran, for this exemption argument would have equally applied to this painting electrical, and subcontracted work. Also, the APM Guide which Bombardier co-sponsors (UX-10) notes many practical differences between APMs and true railroads. Industry experts instead refer to APMs as a "horizontal elevator." UX-4. The existence of APM standards separate and apart from railroad standards (UX-8) also helps confirm that APMs are not a type of railroad. "The group that develops construction standards and material specifications for the railroad industry is the American Railway Engineering and Maintenance of Way Association (AREMA).

E. THE PROPER WAGES WERE NOT PAID TO THE ATS TECHS

The evidence will show most Bombardier techs made less than \$25 an hour in total compensation. UX 18. The lowest-paid posted classifications potentially applicable (according to Bombardier's expert), Electrician - Communications Technician and Senior Technician, made \$35.37 and \$49.60 per hour under the applicable 2007-8 posting by the Commissioner. However, more of the work falls within the job classes of Heavy Duty Repairman under Operating Engineers Group 8 (\$52.30), and Truck Repairman under Truck Driver Group 6 (\$39.47). However, the only job class which requires combined job skills in all these areas, both electronics and physical repair of vehicles, as ATS techs need, is Elevator Constructors (\$56.15)(hereafter "ECs"). IUEC labor agreements filed with the Commissioner's office expressly included APMs in their scope of work. UX 2. The DOL's Service Contract Act job descriptions include APM work as part of Elevator Repairmen's work. UX 3. ECs who became ATS techs will testify to the overlap in skills and duties (UX 16), as will the ECs employed by Kone Elevator who worked at McCarran right near Bombardier techs (UX 15). Expert witness Murphy will confirm the EC class applies.

Respondents argue that applying the EC rate to this work would be impermissible as a policy change adopted without APA rulemaking. However, the Commissioner's published job descriptions use the phrase "includes but is not limited to" to make clear to everyone that his descriptions are not exhaustive. The Commissioner's introduction to his descriptions in Item 3 instructs all parties not finding some task expressly listed in such descriptions to contact the Commissioner's office – not to simply to put their heads in the sand and ignore the statutory command to pay the prevailing wage based on prevailing local job class. These descriptions are clearly not intended to, nor required to be, exhaustive, for they do not even mention "hammers" under "Carpenters." The award of EC pay would flow from regulations already in the NAC and properly promulgated under the APA, those

AREMA's web page is www.arema.org." Federal Railway Administration, www.fra.dot.gov/Pages/1342.shtml.

saying the Commissioner will look to CBAs and federal authorities in defining job classes. The Commissioner's office with judicial approval has enforced the prevailing wage as to duties not listed in these job descriptions even over employer objections that a more comprehensive list of duties should have been published first as a regulation. *Tim KuszfUniversal Electric Inc.*, (Commr. Johnson 9/1/00), enf'd sub nom *Labor Commissioner v. Universal Electric Inc.*, Nev. S.Ct. Case No. 38073 (Nov. 21, 2002)(finding claimant worked as "general foreman" not exempt "superintendent"). Further conformity with the APA here stems from the fact IUEC relies upon a collective bargaining agreement on file with the Commissioner and a DOL publication: the Commissioner has already fully complied with the APA by adopting regulations notifying employers that his office will rely on CBAs and federal authority in determining job classes, NAC 338.015(2); 338.020(2)(b), (c).

DBA precedent holds that employers cannot delegate the task of figuring out the proper job class entirely to the government agencies, as Bombardier would have it. Instead each employer has an obligation to go out and do research in the community to decide what is the proper job class upon which to base workers' pay, what is known as the "Fry Brothers" rule. See U.S. ex rel Plumbers v. C.W. Roen Construction Co., 183 F.3d 1088, 1093-94 (CA 9 1999)("[First] the Wage Appeals Board made clear that prevailing wage rates may be derived from collective bargaining agreements, not just from an area practice survey conducted by the Labor Department. Second, where the Department determines that prevailing wages are established by a collectively bargained agreement, the job classifications for the project or area at issue are also established by that agreement. We find both elements of two-decades old rule of Fry Brothers to be eminently reasonable."). Here, a reasonable consultation by Bombardier with various possible sources in the Nevada community would have led it to find the IUEC labor agreement in Nevada and DOL's SCA classifications both showing APM

¹³ Accord, *Abhe & Svoboda, Inc. v. Chao*, 2006 WL 2474202 (D.D.C. Aug. 25, 2006), affd., 508 F.3d 1052, 1056 (D.C. Cir. 2007)(no excuse that contractor unaware of rules announced in <u>Fry Brothers</u>: "its inclusion in a commercial reporter and its treatment in subsequent judicial and administrative cases provide adequate notice that contractors must use the job classifications of signatory unions when wage determinations are based on collective bargaining agreements.")

work as EC work. Bombardier was aware of IUEC's general claim to this work because of the dispute between them at Denver Airport. In any event, the failure of the posted job descriptions to make express reference to APMs does not relieve an employer of the underlying statutory command.

14 Lusardi Constr. v. Aubry, 824 P.2d 643, 1 Cal. 4th 976 (1992); Ohio Asphalt Paving, Inc. v. Ohio Dept. of Indus. Relations et al., 63 Ohio St.3d 512, 589 N.E.2d 35 (1992)("Simply because the public authority failed in its duty to fix the prevailing wage rates within the contracts in issue does not mean that the contractor is excused from its statutory duty of ensuring compliance."). Hence it would be reversible legal error for the Commissioner to deny the claim for EC pay on APA grounds. Indeed, to fail to rely on the posted phrase "includes but it not limited to" would be a sudden change in policy that would violate the APA.

Finally, IUEC has argued in the alternative that if EC pay is not provided, then other posted job classes should be used, for some of the work done is similar to that of repairmen of heavy equipment and trucks, and some is electrical work. Indeed, Bombardier technicians were paid much less than the residual job class of Laborer, which is the minimum which should be awarded.

F. THE APPROPRIATE REMEDY

DOA should be instructed what the Commissioner considers to constitute "repairs" and what the proper pay rate should have been. The matter could then be remanded to DOA to calculate backpay. Alternatively, IUEC will not object to the Commissioner determining the dollar liability himself, recognizing the employer's failure to keep CPRs necessitates estimation here and this

¹⁴ Nor can the IUEC be faulted: Mr. Stanley will testify that it regularly submitted to the Commissioner's office its labor agreements containing a scope of work clause expressly including APMs, like UX2.

¹⁵Accord, *Tidewater Marine Western v. Bradshaw*, 927 P. 2d 296, 59 Cal. Rptr. 2d 186, 14 Cal. 4th 557 (1996)("If, when we agreed with an agency's application of a controlling law, we nevertheless rejected that application simply because the agency failed to comply with the APA, then we would undermine the legal force of the controlling law. Under such a rule, an agency could effectively repeal a controlling law simply by reiterating all its substantive provisions in improperly adopted regulations. Here, for example, if Tidewater and Zapata violate applicable IWC wage orders, they should not be immune from suit simply because the DLSE adopted an invalid policy.").

dispute has lingered too long. It is well-settled under wage-hour laws that an employer's failure to keep required records shifts the burden of proof to the employer to disprove estimates made by the workers. *Anderson v. Mt. Clemens Pottery Co.*, 327 US 680, 687-88, 66 S. Ct. 1187 (1946); *Amaral v. Cintas Corp.*, 163 Cal.App.4th 1157, 1189, 78 Cal.Rptr.3d 572, 597 (2008).

V. CONCLUSION

The evidence will show IUEC's objections to the DOA determination should be sustained and violations of Nevada Prevailing Wage Law found here.

Dated: ________, 2013

Respectfully submitted,

McCRACKEN, STEMERMAN & HOLSBERRY

By: Andrew J. Kahn

Attorney for Claimant IUEC

CERTIFICATE OF SERVICE VIA UPS OVERNIGHT MAIL

I hereby certify that on May 30, 2013, the undersigned, an employee of McCracken, Stemerman & Holsberry enclosed a copy of CLAIMANT IUEC'S PRE-TRIAL BRIEF and PROPOSED UNION EXHIBITS in an envelope or package provided by an overnight delivery carrier. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier. It was addressed as follows:

Gary C. Moss Paul T. Trimmer JACKSON LEWIS 3800 Howard Hughes Parkway Suite 600 Las Vegas, NV 89169

Eldon Lee Thompson Clark County District Attorney's Office 500 S. Grand Central Parkway, Suite 5075 Las Vegas, NV 89106

I declare under penalty of perjury under the laws of the State of Nevada and United States of America that the foregoing is true and correct. Executed on this 30th day of May, 2013.

Joyce Archain

BEFORE THE NEVADA STATE LABOR COMMISSIONER 1 2 **CARSON CITY, NEVADA** FILED 3 IN THE MATTER OF: 4 JUN 0 3 2013 INTERNATIONAL UNION OF ELEVATOR) CONSTRUCTORS, 5 HEVADA Complainant. 6 VS. 7 **BOMBARDIER TRANSPORTATION** (HOLDINGS) USA, INC., 8 Respondent. 9 Clark County Department of Aviation Contract CBE-552 10

ORDER DENYING RESPONDENT'S MOTION FOR SUMMARY JUDGMENT

This matter came before the Labor Commissioner on Respondent Bombardier's Motion for Summary Judgment filed on March 28, 2013. On April 11, 2013, Complainant IUEC filed its Opposition to Bombardier's Motion for Summary Judgment. On April 12, 2013, Clark County filed its Response to Bombardier's Motion for Summary Judgment in which, to the extent possible, it joined in Bombardier's motion. Finally, on April 22, 2013, Bombardier filed its Reply in Support of Motion for Summary Judgment.

After full consideration of the motions and pleadings on file with the Office of the Labor Commissioner and with careful consideration of the arguments and evidence presented by the parties, Respondent Bombardier's Motion for Summary Judgment is DENIED. It is apparent that there are several material facts in dispute in this matter. Therefore, summary judgment would be inappropriate.

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BACKGROUND

Bombardier installed the original Automated Transit System (ATS) at McCarran Airport in 1985. With the growth of McCarran Airport, the ATS tram and its progeny became important to ensuring the efficient movement of travelers to and from their destinations. In June 2008, Bombardier and Clark County entered into a contract (CBE-552) for the preventative and corrective maintenance of the ATS at McCarran Airport. Work under the contract began on July 1, 2008 and was to continue for a period of 5 years, ending June 30, 2013.

On October 9, 2009, the IUEC filed a prevailing wage complaint against Bombardier alleging that workers hired to perform work on the ATS at McCarran International Airport were not paid the prevailing wage in accordance with NRS 338. The Clark County Department of Aviation issued its Determination on November 24, 2009 finding that CBE-552 was a contract for maintenance entered into under NRS 332 and was not subject to the prevailing wage requirements of NRS 338. The IUEC objected to the Determination.

After further investigation, at the request of Deputy Labor Commissioner Sakelhide, the Clark County Department of Aviation filed its first revised Determination on March 30, 2010 affirming the findings in its prior Determination. The IUEC once again objected.

Following a pre-hearing conference conducted by the Deputy Labor Commissioner and an Interim Order issued by the former Labor Commissioner, the Clark County Department of Aviation issued a second revised Determination, finding that all work performed under CBE-552 was minor and therefore, exempt from prevailing wage law. Bombardier and the IUEC filed objections to this determination.

///

SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate where the pleadings, depositions, answers to interrogatories, admissions, and affidavits on file show that no genuine issue exists as to any material fact and the moving party is entitled to judgment as a matter of law. NRCP 56 (c). The party moving for summary judgment has the burden of proving that no triable issues remain. NRCP 56. To successfully oppose a motion for summary judgment, the non-moving party must show specific facts and not mere allegations or conclusion showing a genuine issue of material fact for trial. NRCP 56 (c).

DISCUSSION

In its motion, Respondent Bombardier makes two arguments for summary judgment:

(1) CBE-552 is not a "public work" within the meaning of NRS 338.010(16); (2) even if CBE-552 was deemed a public work, it is exempt under NRS 338.011 because it was awarded pursuant to NRS 332 and is directly related to normal operations or normal maintenance.

Clark County joined in these arguments, only adding that the County is consistent in its application of the NRS 338.011 exemption and CBE-552 fits within this consistent application.

While Bombardier may have met its initial burden for summary judgment, the Labor Commissioner believes that IUEC was able to show specific facts showing a genuine disagreement about these key facts and others in its Opposition to Summary Judgment. For that reason, Respondent Bombardier's Motion for Summary Judgment is DENIED.

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CONCLUSION

THEREFORE, it is ORDERED that Respondent's Motion for Summary Judgment is DENIED.

The disputed facts in this matter will be heard by the Labor Commissioner at the Final Hearing scheduled for June 25, 2013 at the Roadrunner Room at the Clark County District Attorney's Office located at 500 S. Grand Central Parkway, Las Vegas, NV 89106 and continue thereafter until completed.

Dated this 3 day of June, 2013.

THORAN TOWLER Labor Commissioner State of Nevada

1	CERTIFICATE OF MAILING
2	I HEREBY CERTIFY that on this date, I deposited into the U.S. Mail, postage prepaid
3	thereon, a copy of the foregoing ORDER DENYING RESPONDENT'S MOTION FOR
4	SUMMARY JUDGMENT to the persons listed below at their last known addresses:
5	and the second to the percent at their fact them fact the analysis and the second to t
6	
7	Andrew J, Kahn, Esq. Counsel for International Union of Elevator McCracken, Stemerman & Holsberry Constructors
8	1630 S. Commerce Street, Ste. A-1 Las Vegas, NV 89102
9	Gary C. Moss, Esq. & Paul T. Trimmer, Esq. Counsel for Bombardier Transportation
10	Jackson Lewis, LLP (Holdings) USA, Inc. 3800 Howard Hughes Parkway, Ste. 600
11	Las Vegas, NV 89169
12	Eldon Lee Thomson, Esq. Counsel for Clark County Clark County District Attorney's Office
13	500 S. Grand Central Parkway, Ste. 5075 Las Vegas, NV 89106
14	Las vegas, INV 09100
15	
16	2
17	Dated this <u>3</u> day of June, 2013.
18	A dea & Vlage
19	An Employee of the Nevada
20	State Labor Commissioner
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BEFORE THE NEVADA LABOR COMMISSIONER

INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS,

MAY 3 I 2013

CLARK COUNTY'S PRE-HEARING BRIEF

FILED

JUN 0 3 2013

NEVADA LABOR COMMISSIONER - CC

Complainant,

v.

BOMBARDIER TRANSPORTATION (HOLDINGS) USA, INC.,

Respondent.

Contract CBE-552

Pursuant to the Labor Commissioner's direction, Clark County, on behalf of its Department of Aviation, submits the following Pre-Hearing Brief. The County conducted the investigation of the Complaint raised by the International Union of Elevator Constructors ("IUEC") and determined that the work done under CBE-552 was not subject to the provisions of NRS Chapter 338 because the Contract was awarded in compliance with NRS Chapter 332 and was directly related, in fact absolutely critical, to the normal operation of the public body or the normal maintenance of its property, the Automated Transit System ("ATS") at McCarran International Airport ("Airport"). Three determinations on this matter have been submitted to the Labor Commissioner. The issues in this matter have already been extensively briefed by the parties. This brief is intended to provide the Commissioner with an outline of what will be presented in support of the County's determinations as the Commissioner may require.

I. ISSUES

The Scheduling Order, filed June 27, 2012, set forth the four issues which are addressed in the discussion session. According to the Scheduling Order, and by the agreement of the parties, these issues provide a framework, but do not limit the issues or sub-issues which any party may raise.

II. BACKGROUND

A. History of ATS construction and maintenance, and transit system maintenance at McCarran International Airport

For over thirty years, the County, on behalf of its Department of Aviation ("CCDOA" or "County"), has consistently applied a common sense application of the plain meaning of NRS 338.011(1), and has made reasonable differentiations between ATS projects for construction, installation and rehabilitation, which are not activities related to normal operation and maintenance of the Airport and which require payment of prevailing wage, and ATS maintenance work, to which prevailing wages do not apply. ATS maintenance work is "perpetual in nature, with no fixed beginning or completion point" for the purpose of keeping the ATS trains operational and available to move the Airport's passengers to and from the gates.

The County has found the language in NRS 338.011(1) to be clear as to what is and is not exempt from the prevailing wage requirements of NRS Chapter 338. In every case when the County has contracted for the on-site construction or major rehabilitation of its ATS, the County has required that prevailing wages apply to workers doing work at the Airport site. In every case when the County has contracted for maintenance of the ATS, it

has determined the procurement of the services, supplies, materials and equipment necessary to the normal operation and normal maintenance of the ATS to be a contract properly awarded pursuant to NRS Chapter 332.

Bombardier Transportation (Holdings) USA, Inc. ("Bombardier"), or its predecessors, maintained the ATS at McCarran International Airport for 24 years beginning in 1985 (when the first ATS leg commenced operation at the Airport). No assertion was made during that time that prevailing wages had to be paid on the scope of the maintenance contract work until IUEC raised the issue and filed the instant Complaint on October 9, 2009.

An examination of the Airport's two shuttle system contracts shows a consistency in the County's application of the exemption given in NRS 338.011(1). The County has previously noted that the ATS utilizes rubber-tired passenger vehicles pulled in multiple-car trains which, in size, construction and purpose, have more in common with buses than sideways elevators or railroads. The Airport has two shuttle systems. The ATS is an automated system which has vehicles which are guided without the use of a driver. The second system is the "Shuttle Bus Operations and Maintenance for the Consolidated Car Rental Facility at McCarran International Airport," which has been in force since September, 2006. Both CBE-552 and the Shuttle Bus Contract are consistent in their interpretation of what needs to be done on an ongoing basis to keep these two shuttle systems operational. Both shuttle systems are necessary to the normal operations of the Airport. The regional transportation commissions and school districts with their bus fleets, as well as the state and local government motor pools, do not treat the work they have to do

to keep their fleets up and running as public work and subject to prevailing wages. Maintenance of these vehicles includes such activities as refurbishing motors and axles. If the Commissioner moves to make this drastic change in the law and apply prevailing wages to this work, it will have significant consequences to all government-owned motor vehicle and bus fleets.

B. Contract CBE-552

The County entered into Contract CBE-552 with Bombardier in July, 2008, for the operation and maintenance of both the existing Automated Transit System ("ATS") legs that connect Terminal 1 to Satellites "C" and "D." The County Agenda Item #36, dated June 3, 2008, shows the contract was awarded pursuant to NRS 332.115(1)(a) (sole source) and 332.115(1)(c) (maintenance of equipment can be performed more efficiently by a certain company). The term of the Contract was for 5 years.

Section 1.3.5 of CBE-552 required Bombardier maintain system availability of at least 99.65% in order to meet the Airport's needs to provide reliable transportation on a nearly 24/7/365 basis. Under Section 2.2, the work was broken down into three subcategories "sufficient to maintain system performance characteristics at the levels specified in the ATS contract": Routine Maintenance; Scheduled Maintenance; and Non-Scheduled Maintenance, Subsection 2.2.6 additionally contemplated possible "Heavy Maintenance and Overhaul," but any such work required Bombardier to submit a separate proposal, which had to include the additional fixed cost for performing the work, and the work could not be performed without express written approval from the County. In other

¹ CBE-552 was terminated early in May, 2012.

words, the Contract provided for this type of work to be identified and quantified but, before any of the work could be done, it had to be approved and it had to be paid for separately. There was no agreement as to the scope or payment terms of any such particular work proposal, if any were to be later identified as being necessary to be performed, at the time of the formation of the contract. During the term of CBE-552, the County did not receive or approve any proposals from Bombardier requesting performance of Heavy Maintenance or Overhaul work under Subsection 2.2.6.

C. IUEC Complaint

IUEC filed its Complaint on October 9, 2009. The Complaint alleged that Contract CBE-552 should be deemed to be a public works contract requiring the payment of prevailing wages. The Complaint alleged "[t]he repair component of the contract requires the contractor...to compensate employees performing the repair..." and that "...the contract has an extensive repair element, estimated by employees performing the work to be as high as 80% of the work." The Complaint also asserted that this work should be classified and compensated as "Elevator Constructor."

D. COUNTY investigation and determination

When the Complaint was raised, CCDOA conducted its investigation of the IUEC's Complaint concerning CBE-552 as mandated by NRS 338.070(1). County staff issued its First Determination Letter to the Labor Commissioner, dated November 24, 2009 (Attachment "1"), which found the work done under the Contract to be properly exempted from prevailing wage requirements under NRS 338.011(1). After meeting with Deputy Labor Commissioner Sakelhide, the County went to the extraordinary measure of retaining

the services of Michael Moran, an experienced and trusted analyst of wage claims, from Richardson Construction Company. Mr. Moran conducted his own investigation, which involved a comprehensive review of the contract, interviews with Bombardier's employees, interviews with Bombardier's site managers and observations of the work itself. Mr. Moran found that CBE-552 was entered into under NRS 332.115(1)(c) and was exempt from NRS Chapter 338 pursuant to NRS 338.011. He found that normal maintenance inherently includes some repair work as needed or as specified in the Preventative Maintenance Schedule. He also found that the repairs and replacements were done on individual bases and not as a systemic upgrade. He concluded that the Contract was awarded in compliance with NRS Chapter 332 and was not subject to NRS Chapter 338. The County then issued its Second Determination Letter, dated March 30, 2010 (Attachment "2"). Former Labor Commissioner Tanchek issued his Interim Order, dated June 7, 2011, directing the County to reopen its investigation and assess the work performed under DOA Contract CBE-552 to further investigate the cost of repairs to what he had determined were the "fixed works" areas of the ATS, such as the guideway, stations, power distribution systems and automatic train control systems, but not the ATS vehicles.² Mr. Moran dutifully investigated, as directed by the Labor Commissioner, and determined the work performed by Bombardier's workers consisted of routine maintenance and adjustments along with the repairs that are inherent to the maintenance of the ATS. He also found that no repairs exceeding

²By stipulation by all parties, the Interim Order's determinations are not final and are subject to argument at the hearing.

\$100,000.00 had occurred to the "fixed works" areas under CBE-552.³ The County then issued its Third Determination Letter, dated July 25, 2011 (Attachment "3").

The County has complied with the laws as they apply to CBE-552 and with its obligation to investigate and report its findings to the Commissioner.

III. DISCUSSION

ISSUE #1. Is the Contract, CBE 552 ("Contract"), a "public work" contract, as defined in NRS 338.010, or is the Contract a normal maintenance (or normal maintenance and repair) contract, for existing equipment or an existing system, awarded under NRS Chapter 332?

Bombardier has briefed this issue thoroughly and correctly addresses the particulars regarding this issue. The County, however, feels obligated to address certain concerns about specific allegations raised by IUEC on this issue.

A contract awarded in compliance with NRS Chapter 332 which is directly related to the normal operations⁴ of the County's Airport or the normal maintenance of the Airport is not subject to the requirements of NRS Chapter 338, including prevailing wages and its specialized bidding requirements. NRS 338.011(1).

³The 3rd Determination Letter identified six instances where two independent contractors performed work that might be of the type described as "Heavy Maintenance or Overhaul" on the ATS guideways. All work was performed under separate purchase orders and paid directly to those contractors. The total of all six purchase orders was \$62,509.00. It also noted that some of the work at issue may have been warranty work under Contract 2305, "Leg C and Leg D Rehabilitation Automated Transit System," which was upgrading and rehabilitating the entire ATS in a phased process in order to allow the Airport to continue to function and move passengers to and from the "C" and "D" gates. Contract 2305 also involved the installation of new ATS vehicles. The phased process resulted in several different warranty periods for the new vehicles and Contract 2305 work, Vehicles I & 2--9/14/08-0/14/09; Vehicles 3 & 4--12/19/08-12/19/09; Vehicles 5, 6 &7--2/21/09-2/21/10; Vehicles 8, 9 & 10--5/7/09-5/7/10; and Substantial Completion, 10/7/10. It further noted that the wayside terminal doors were also covered by the Contract 2305 warranty. Contract 2305 warranty work was to be done under Contract 2305 and was not part of the scope of CBE-552. The IUEC Complaint was filed while the Contract 2305 warranties were in effect.

⁴A contract's direct relation to normal operations does not require Bombardier itself to be operating the ATS as IUEC contends. See: URB, p.5.

NRS 338.011 is a unique statute. It was enacted in 1981 with the apparent purpose of preventing a 1944 Opinion of the Attorney General, AGO 171, from forcing all government maintenance work to be under the definition of "public work" and subject to prevailing wages. AGO 171 states:

Under the definition of public work, the words construction, repair and reconstruction are used, which appear broad enough to include the word "maintain." According to Webster, one of the definitions of the word "maintain" is to hold or keep in any particular state or condition. Therefore, the employment by the day of workmen on regular maintenance on public owned works or property comes within the provisions of the statute.

AGO 171, p. 2 (1944).

The legislature in 1981 was completely aware of the language in NRS Chapter 332, including NRS 332.115 (which had been enacted in 1975). In enacting the statute, the legislature did not choose to differentiate between what was "maintenance" and what was "repair" or "heavy maintenance," even though it was aware of the opinion of the Attorney General in AGO 171. It did not set a dollar limit or differentiate based upon difficulty of the work, the time it took to do the work, or the skill of the people performing the work. Whether it was a good idea or not, the legislature left local governments with two different chapters in the statutes which, at times, overlap in the areas of maintenance and repair (and defined by the Attorney General to be synonymous) and with a specific exemption from the requirements of NRS Chapter 338 if a contract is awarded in compliance with NRS Chapter 332 "...which is directly related to the normal operation of the public body or the normal

⁵NRS 338.010(22) includes both skilled and unskilled workman in its definition of "workman" for the purposes of prevailing wage laws.

biUEC's position that any repair must be deemed "public work" subject to the provisions of NRS Chapter 338 is directly contradicted by NRS 332.115(c), which provides for "repairs and maintenance of equipment."

maintenance of its property." NRS 338.011(1). Therefore, even if some work might otherwise be determined to be covered as "public work" and subject to NRS Chapter 338 because it involves repair, the provisions of that chapter do not apply if the work is in a contract awarded according to the criteria provided in NRS 338.011(1).

It is a standard rule of statutory construction that, if the statute's language is plain and unambiguous, it must be given effect and that resort to legislative history is unnecessary to interpret its meaning. State v. State of Nev. Employees Ass'n, Inc., 102 Nev. 287, 720 P2d 697 (1986).

Nevertheless, IUEC claims that the Commissioner should apply criteria which appear nowhere in the statute to impose tests for expense, worker skill, and the time it takes to complete the work. IUEC likens "normal maintenance" to "changing oil and rotating tires on a car," and "normal operation" to "routine tasks like cleaning of operating trains or checking equipment to make sure it is running properly." It is asking the Commissioner to rule that any repair element in a maintenance contract would invoke the application of the prevailing wage requirements in NRS Chapter 338. While that may be what IUEC wishes the legislature had enacted, its proposed definitions of "normal maintenance" and "normal repair" are simply not supported by the plain meaning of the words in the statute. As the Attorney General stated in AGO 171, "[a]ccording to Webster, one of the definitions of the word "maintain" is to hold or keep in any particular state or condition." The normal maintenance of the ATS requires far more than changing oil and rotating tires in order to hold or keep the ATS in an operable state or condition. Normal maintenance inherently includes some repair work.

IUEC contends that the County "seeks to create enormous gaps" in prevailing wage laws. It also contends that a ruling upholding the County's determination would "eviscerate" NRS Chapter 338 and would end up with the "tail wagging the dog." IUEC fails to acknowledge that the County's determination recognizes the status quo that has existed for decades. No "enormous gaps" have existed in the application of prevailing wage laws. NRS 338.011 is quite self-limiting and can hardly result in the "tail wagging the dog." NRS Chapter 338 has not been eviscerated. These alarmist claims simply have no substantiation.

Contract CBE-552 is exempt under NRS 338.011(1) because it was legally awarded pursuant to the provisions of NRS 332.115(1). The purpose of the Contract was to ensure the existing Automated Transit System ("ATS") performed on a virtually 24/7, 365 days per year basis with a 99.65% availability and was directly related to the normal operation of McCarran International Airport to serve the large majority of its approximately 40 million passengers a year (down from 47 million, but expected to exceed 52 million in the future). All passengers using the Satellite "D" gates and a large number of the passengers using the

IUEC has listed in its Opposition to Bombardier's Motion for Summary Judgment a list of a number of public contracts which contain the word "maintenance" in their titles which also require the payment of prevailing wages. A review of those contracts shows them to be "repair and replace" contracts not related to normal maintenance.

Bromer Commissioner Tanchek improperly rewrote NRS 338.011(1) when he made an overly-broad and unreasonable interpretation of the term "normal operation" for the sake of creating a false argument that "the exemption consumes the general rule." It was a false assumption by the former Commissioner to posit that the construction of a new runway at the Airport would be part of its "normal operations," This has never been the interpretation by any public body in this state and should not be the basis for dismissing a term purposefully adopted by the Legislature. It is improper to interpret a statute in a way which would render a material term meaningless. See, Buckwalter v. Eighth Judicial Dist. Ct., 234 P.3d 920, 922 (Nev. 2010).

Satellite "C" gates rely on the ATS. Without the ATS, service to transport the Airport's passengers to and from Satellites "C" and "D" would be seriously affected.⁹

IUEC has also raised an argument in its previous filings with the Commissioner that the work under CBE-552 is public work subject to the prevailing wage requirements of NRS Chapter 338 because "...IUEC disputes that there has been compliance with Chapter 332, for the County relies upon an exception to formal bidding there (332.115) that is based on the false premise that no company other than Bombardier can provide APMs." IUEC Brief on Legal Issues, 12/14/10, p.6. IUEC's position ignores the language of NRS 332.115(c), which covers "[a]dditions to and repairs and maintenance of equipment which may be more efficiently added to, repaired or maintained by a certain person" (emphasis added). There is no obligation to prove that only one person is capable of providing any of these items. The statutory requirement is a determination that it may be more efficient to utilize a certain person. Bombardier's experience and expertise with its own product and its control of proprietary parts and materials make such a determination that it may be more efficient to contract with it obvious. This is a non-issue. ¹⁰

Further, even assuming, *arguendo*, that award of CBE-552 should not have been made under NRS 332.115(a) or (c), the work still could have been awarded under NRS

⁹A serious failure of the ATS on Sunday, May 19, 2013, proved how vital the ATS is to the normal operation of the Airport: http://mms.tveyes.com/PlaybackPortal.aspx?SavedEditID=364bf916-e5d7-4a66-a111-le9146fd4eaa
¹⁰The County's Agenda Item, which placed the Maintenance Contract for CBE-552 before the Board of County Commissioners on June 3, 2008 for award, shows that public notice was given that the award was being made under NRS 332.115(1)(a)&(c). Although staff's statement in the background information of the agenda item that Bombardier was the only company which could perform the maintenance work may have been inaccurate (at the time staff was only aware of Bombardier as capable of performing the work), the award under NRS 332.115(1)(c) was valid and won't be overturned if a correct result was made, albeit for different reasons. See *Rosenstein v. Steele*, 103 Nev. 571,575 (1987). No protest was made at the time concerning the propriety of awarding the contract under NRS Chapter 332. The doctrine of laches prohibits challenges to the award at this late date. *Building and Construction Trades Council of Northern Nevada v. State, ex rel. Public Works Bd.*, 108 Nev.605, 836 P2d 633(Nev., 1992).

Chapter 332. NRS 332.115 addresses exceptions to competitive bidding requirements set forth in NRS 332.065. Even if the award to CBE-552 could have been successfully challenged in a timely manner, the Contract could have been bid and awarded under NRS 332.065 and would still have been exempt from NRS Chapter 338 under NRS 338.011.

IUEC has also asserted that no agency or court has ever held that a maintenance exception to a public works statute also extends to "major repairs." Whether or not that is the case, it is also true that no agency or court has ever addressed the very unique exemption from the requirements of NRS Chapter 338 created by the legislature in NRS 338.011(1). The ATS involves rubber tired passenger vehicles which, in size, construction and purpose, have more in common with buses than sideways elevators or trains. The regional transportation commissions and school districts in the state with their bus fleets, as well as the state and local government motor pools, do not treat the work they have to do to keep their fleets up and running as public works and subject to prevailing wages (including IUEC's termed "heavy maintenance," such as refurbishing motors or axles). If the Commissioner moves to make this drastic change in the law and apply prevailing wages to this work, it will have significant consequences to all government-owned motor vehicle and bus fleets.

The County contends that any attempts by the Commissioner to shape the meaning of the statute according to cost, difficulty, skill or other factors or to adopt a definition derived for other purposes by other agencies would be in excess of the Commissioner's

¹¹IUEC notes that CBE-552 calls for "routine maintenance," "non-scheduled maintenance" and "heavy maintenance" such as axle and motor work done before there is a breakdown of the ATS. Work done before there is an actual problem is not a "repair" under a dictionary definition of the term.

authority and would be legislating in place of the legislature. 12 The IUEC's citations to other agencies and other state courts do not provide the Commissioner useful guidance because they are not precedent in this case. In each instance, they address such different situations and/or such different statutory or regulatory provisions for the application of prevailing wages to maintenance contracts that they do not translate to the unique language of NRS 338.011(1).¹³ The Nevada Division of Industrial Relations regulations defining "maintenance" and "repair" are for internal purposes in order to regulate permits and inspections necessary to set its standards and procedures under NRS 455C.110(1). The Davis-Bacon definitions¹⁵ are within the context of federal construction law, which do not mirror Nevada's definition of public work and this unique exemption. Other examples cited by IUEC are in the arena of an active construction project under different regulatory schemes and definitions, including the Wage Appeals Board determination in Norsaire Systems, Inc. 16 (UOB Ex. K) and OSHA Standard Interpretation 1926.32 (UOB Ex. L). The Commissioner's own schedules for prevailing wages for truck and heavy equipment mechanics, referred to by IUEC (UOB 12) are all in the context of a construction project at the construction site and they have not been applied to the mechanics working on regional transportation commission buses, school bus fleets or government motor pools.

¹²This matter has been before the Commissioner through two legislative sessions. If an amendment to NRS 338.011 was desired, it should have been by seeking a change to the law instead of trying to impose an administrative change to its plain meaning.

¹³Bombardier's discussion of the effect of a single legislator's opinion about the meaning of a statute appears to be a correct statement of the law.

¹⁴NAC 455C.424 and NAC 455C.436

¹⁵²⁹ CFR Subtitle A Section 5.2 (7-1-09 Edition)

¹⁶1995 WL 90009 (DOL W.A.B.). Repair work ostensibly done under warranty before the construction contractor could turn over the air conditioning units at the time of building acceptance was work done under the scope of the construction contract.

The County has followed the law by requiring the payment of prevailing wages on construction and rehabilitation projects and by not requiring the payment of prevailing wages on maintenance contracts, such as CBE-552, which were awarded under NRS Chapter 332 and are related to the normal operation or normal maintenance of the Airport.

In conclusion, the County is concerned about the Commissioner reshaping and redefining definitions of "repair," "maintenance," and "operations" in the context of NRS 338.011(1) and then applying them retroactively against the public entity that entered into this contract in compliance with NRS 332.115 and in good faith reliance on the plain terms of the NRS 338.011(1) that exempt this contract from requirements of NRS Chapter 338. If any action is to be taken, the legislature should be responsible for any changes in the law. The County's application of the laws is reasonable and appropriate. The County is the government body charged with applying NRS Chapters 332 and 338 to its contracts and it should be given deference to its long-standing interpretations of the laws.

ISSUE #2. Was the work performed on the Automated Transit System ("ATS") vehicles a "public work" under NRS 338.010(16)?

NRS 338.010(16) provides:

"Public work" means any project for the new construction, repair or reconstruction of: (a) A project financed in whole or in part from public money for: (1)Public buildings; (2)Jails and prisons; (3)Public roads; (4)Public highways; (5)Public streets and alleys; (6)Public utilities; (7)Publicly owned water mains and sewers; (8)Public parks and playgrounds; (9)Public convention facilities which are financed at least in part with public money; and (10)All other publicly owned works and property.

In his Interim Order, filed June 7, 2011, former Labor Commissioner Tanchek interpreted the meaning of NRS 338.010(16) and found that, even though the definition of

public work appears to provide an expansive definition, the scope of the statute was never intended to include mobile equipment like ATS cars, fire trucks, police cars, snow plows and buses. (Interim Order, p. 3.) IUEC petitioned for reconsideration on the issue of "APM car repair," which was denied by this Commissioner's Order, filed May 18, 2012.

It is the position of the County that Contract CBE-552 satisfies the requirements outlined in NRS 338.011, therefore negating the need to define it a public work as outlined in NRS 338.010. Further, even though the definition of public works states that it applies to "all other publicly owned works and property," former Commissioner Tanchek was right in concluding that NRS Chapter 338 has never applied to publicly owned vehicles and that the statute does not extend to ATS cars, police cars, fire trucks, etc. As stated above, a decision which finds that work on engines, axles, transmissions, etc., will have far-ranging and devastating effect on public entities.

ISSUE #3. Applicability of NRS Chapter 338: Exemptions:

a. Was all or part of the work performed on the project at McCarran International Airport railroad work? If yes, which work?

The County does not agree that any work under CBE-552 was railroad work.

b. Was all or part of the work performed on the project at McCarran International Airport railroad work? NRS 338.080(1). If yes, which work?

See above.

c. Was the Contract a contract for a public work whose cost is less than \$100,000.00? NRS 338.080(3).

As discussed above, the Contract was awarded under Chapter 332 and was related to the normal operations of the Airport and the normal maintenance of the ATS.

Therefore, it was exempt from NRS Chapter 338 and should not be treated as a contract for public work. As discussed in (d), below, the contract exceeded \$100,000.00. However, the County has determined that any work which might be deemed to be repair work was either not done under the Contract (e.g., warranty work or under separate purchase order to an independent contractor) or was under \$100,000.00. County Determination Letter #3 sets forth that purchase orders for work by the independent contractors totaled \$62,509.00 and work done by Bombardier's employees on the wayside terminal doors totaled \$4,090.32.

d. What is the cost of the Contract?

The total Contract award amount was \$19,989,608.00 to be paid as follows: contract year 1--\$3,139,037.00; contract year 2--\$3,225,250.00; contract year 3--\$3,897,658; contract year 4--\$4,700,600.00; contract year 5--\$5,027,063.00. 17

ISSUE #4. If work performed on the project at McCarran International Airport was subject to NRS Chapter 338 prevailing wage laws, were the workers properly classified and paid the proper prevailing wage rates?

The County believes that this matter should be concluded after considering Issue #1. However, if the Commissioner does decide to consider compensation, the County feels obligated to raise certain points, without conceding that any such analysis is appropriate in this case.

Nevada Administrative Code 338.0095(1)(a) states that "A workman employed on a public work must be paid the applicable prevailing rate of wage for the type of work that

¹⁷CBE-552 also contemplated adding maintenance of the yet to be constructed ATS between the new Terminal 3 and Satellite "D," which opened in June, 2012, but the County terminated CBE-552 and took maintenance in-house before this part of the ATS became operational. Thus, the contract was not in force for part of year 4 and all of year 5.

the workman actually performs on the public work and in accordance with the recognized class of the workman."

Based on Bombardier employee interviews conducted by DOA and based on the content of the context of CBE-552, if it were determined to be subject to prevailing wages on some or all of the work performed, Bombardier employees would be classified by the type of work they actually performed. The "Elevator Constructor" classification does not include nor reference ATSs but does specifically reference "electric and hydraulic freight and passenger elevators, escalators and dumbwaiters." The tasks performed by Bombardier employees, which relate to the ATS, dictate their classifications on this contract.

Additionally, based on the recent McCarran Airport Project Labor Agreement Pre-Job Jurisdictional Conference for work on the Terminal 3 ATS¹⁹, the jurisdictional assignments were made by the signatory contractors performing the work based solely on the scope of work and the tasks required to perform that scope. Although the IUEC claimed much of the work associated with the Terminal 3 ATS work, its members were not awarded any portion of the work when the jurisdictional assignments were made.

In conclusion, the County is concerned that, if the Commissioner decides to consider the rate of compensation, any such evaluation take place according to the factors set forth in the NAC and in light of union action in the County's PLA jurisdictional assignments.

¹⁸ATS work is also not in the statutory definition of elevator.

¹⁹The County's ATS construction and rehabilitation projects are not for maintenance and are subject to the prevailing wages, which demonstrate its differentiation between maintenance and non-maintenance work.

IV. CONCLUSION

The County appreciates this opportunity to address the several issues of concern to the Commissioner. NRS 338.011(1) is clear in what it exempts from the requirements of NRS Chapter 338. The County entered into the contract directly related to its normal operations of transporting passengers at the airport and its normal maintenance of the airport's ATS in compliance with NRS 332.115(1) and it is inappropriate to now penalize the County for following the law in good faith or for its good faith investigation of this complaint.

There are no bases for the Commissioner to create artificial definitions or differentiations between "maintenance" and "repair" based on the factors urged by IUEC. It would also be unfair to apply any new interpretation retroactively. Further, any such decision would have serious implications upon regional transportation commissions and school districts which operate bus fleets as well as any governmental motor vehicle pool. This is a matter for the legislature if changes are to be made.

As stated above, for over thirty years, the County has consistently applied a common sense application of the plain meaning of the law, which differentiates between construction, installation and rehabilitation of the ATS system, which are not activities related to normal operation of the Airport and which require payment of prevailing wage, and the ATS maintenance contract, which, as Bombardier has aptly put it, "...is perpetual in nature, with no fixed beginning or completion point," for the purpose of keeping the ATS trains operational and available to move the Airport's passengers to and from the gates. The County's application of the laws is reasonable and appropriate. The County is the

government body charged with applying NRS Chapters 332 and 338 to its contracts and it should be given deference to its long-standing interpretations of the laws.

Dated this 31ST day of May, 2013.

CLARK COUNTY

STEVEN B. WOLFSON, DISTRICT ATTORNEY

E. Lee Thomson, Chief Deputy District Attorney

P.O. Box 552215

Las Vegas, NV 89155-2215

(702) 455-4761

CERTIFICATE OF SERVICE

Pursuant to NAC 607.160, I hereby certify that the original and three (3) copies of Clark County's Pre-Hearing Brief were served on the 31st day of May, 2013 via hand-delivery to the following:

Commissioner Thoran Towler STATE OF NEVADA Office of the Labor Commissioner 555 E. Washington Avenue, Suite 4100 Las Vegas, NV 89101

In addition, I certify that one (1) copy of Clark County's Pre-Hearing Brief was served on the 31st day of May, 2013 via U.S. Mail to the following:

Gary C. Moss, Esq.
Paul T. Trimmer, Esq.
JACKSON LEWIS LLP
3960 Howard Hughes Parkway, Suite 450
Las Vegas, NV 89169

Andrew J. Kahn, Esq. MCCRACKEN, STEMERMAN, & HOLSBERRY 1630 S. Commerce Street, Suite A-1 Las Vegas, NV 89102

An Employee of Clark County

Attachment "1"



Department of Aviation

RANDALL H. WALKER

ROSEMARY A. VASSILIADIS

POSTAL SOX 11005 LAS VEGAS, NSVADA 68111-1005 (702) 681-5811 FAX (702) 587-9583

VIA FACSIMILE AND MAIL

November 24, 2009

Mr. Michael Tanchek Labor Commissioner State of Nevada 555 E. Washington Avenue, Suite 4100 Las Vegas, Nevada 89101

Project:

ATS Maintenance Contract CBE-552

Subject

Bombardier Transportation Holdings USA, Inc. - IUEC Alleged incorrect

payment of prevailing wages for a public work project

Dear Mr. Tanchek:

Pursuant to Nevada Revised Statutes (NRS) 338.070(1) any public body and its officers or agents awarding a contract shall: (a) Investigate possible violations of the provisions of NRS 338.010 to 338.090, inclusive, committed in the course of the execution of the contract, and determine whether a violation has been committed and inform the labor commissioner of any such violations; (b) When making payments to the contractor of money becoming due under the contract, withhold and retain all sums forfeited pursuant to the provisions of NRS 338.010 to 338.090, inclusive or NAC 338.005 to 338.125 inclusive.

An investigation was initiated when the Clark County Department of Aviation received a copy of the Complaint filed by William H. Stanley, Organizing Director for the International Union of Elevator Contractors ("IUEC") from Deputy Labor Commissioner Keith Sakelhide. The Complaint submitted by Mr. Stanley identified the contract listed above and alleged that the employees of Bombardier Transportation Holdings (Bombardier) were performing work for a public work project and not being paid the prevailing wage related to a public work project.

The Clark County Department of Aviation has several significant maintenance contracts for the care of Airport Facilities that rest under the Department's Facilities area of responsibility. Per past practices and our District Attorney's Office interpretation with regard to such maintenance contracts, NRS 338.011 exempts contracts directly related to the normal operation of the county or the normal maintenance of its property. This law

00821



Clark County Board of Commissioners Rory Rold, Chair + Myrna Williams, Vice-Chair Mr. Michael Tanchek Labor Commissioner November 24, 2009 Page 2

was passed in 1981 after the Labor Commissioner was applying Chapter 338.010's inclusion of the word "repair" in the definition of public works to require all of the contracts for services entered into under Chapter 332 which had any "repair" component to have to comply with the provisions of Chapter 338. The Attorney General had issued an opinion that maintenance and repair were synonymous.

NRS 338.011 states the legislature's intention to recognize that Chapter 332 has its own requirements and that maintenance contracts entered into under that chapter are not subject to the public works requirements of Chapter 338 even though they include repair as one of the services being provided. NRS 332.115(1)(c) specifically refers to contracts for "additions to and repairs and maintenance," which further demonstrates legislative intent for maintenance contracts to be able to include repairs as part of the scope of work without making the contract subject to the public works project requirements in NRS Chapter 338.

The purpose of maintenance is to care for, preserve and keep in proper condition. It is obvious that maintenance work requires the inclusion of repairs in order to keep things operating and in proper condition. Windows need replacing. Lights need to be kept working. Sprinklers need repair. County vehicles need new brakes and the ATS System needs to be kept in operating condition. This is the case with this maintenance contract. It should be noted that the rehabilitation work needed for this equipment was handled under a separate contract, referred to as Contract 2305, ATS Modernization Project, that was addressed separately from this investigation. With this being said, the individual points outlined in the IUEC complaint are not valid because prevailing wages do not apply to a maintenance contract of this nature.

Further research on other maintenance contracts within the Clark County Department of Aviation and other local government entities has reinforced that this type of contract for maintenance and repair is not a public work.

It is the opinion of the District Attorney's office, Clark County Department of Aviation Purchasing Administration, and myself that this contract is a maintenance and repair

Mr. Michael Tanchek Labor Commissioner November 24, 2009 Page 3

contract governed by NRS Chapter 332 and not a public work project subject to prevailing wage under NRS Chapter 338.

Sincerely,

Bob Kingston

Assistant Director, Facilities

Keith Sakelhide, Deputy Labor Commissioner
 William H. Stanley, Director of Organizing, International Union of Elevator Constructors
 Michael Fetsko, President, Bombardier Transportation Holdings USA, Inc.
 E. Lee Thomson, Chief Deputy District Attorney, Clark County District Attorney's Office
 Randall Walker, Director, Department of Aviation
 Rosemary Vassiliadis, Deputy Director, Department of Aviation
 Steven Jay, Airport Engineer, Department of Aviation
 Edward Munzing, Purchasing Administrator, Department of Aviation

Attachment "2"



Department of Aviation

RANDALL H. WALKER

POSEMARY A. VASSILIADIS

POSTAL BOX 1,1005 LAG VEGAS, NEVADA 89111-1005 (702) 261-3811 FAX (702) 597-9553 E-MAIL: webmaster@mccarren.com

March 30, 2010

Michael Tanchek Nevada Labor Commissioner Office of the Labor Commissioner Department of Business and industry State of Nevada 555 E. Washington Avenue, Suite 4100 Las Vegas, NV 89101-1069

Project: ATS Maintenance Contract, Contract #CBE-552

Subject: Bombardier Transportation Holdings USA, Inc. - Alleged Non- Payment of

Prevailing Wages. Revised Determination

Pursuant to Nevada Revised Statute (NRS) 338.070(1) any public body and its officers or agents awarding a contract shall: (a) Investigate possible violations of the provisions of NRS 338.010 to 338.090, inclusive, committed in the course of the execution of the contract, and determine whether a violation has been committed and inform the labor commissioner of any such violations; (b) When making payments to the contractor of money becoming due under the contract, withhold and retain all sums forfeited pursuant to the provisions of NRS 338.010 to 338.090, inclusive.

In as much as this contract was awarded under NRS 332 and not NRS 338, the Clark County Department of Aviation (CCDOA), as a courtesy to the Labor Commissioner conducted an investigation after the CCDOA received a copy of the Complaint filed by William H. Stanley, Organizing Director for the International Union of Elevator Constructors (IUEC) from Deputy Labor Commissioner Keith Sakelhide. The Complaint submitted by Mr. Stanley identified the project listed above and the employees of Bombardier Transportation Holdings (Bombardier) performing work for an alleged prevailing wage project and not being paid the prevailing wage. Additionally, all references cited by Mr. Stanley were legal precedents set outside the state of Nevada and have no bearing on the Nevada Revised Statutes governing Public Works.

A subsequent investigation ensued beginning with a review of the contract issued on July 1, 2008 for Maintenance of Automated Transit System Equipment.



Michael Tanchek, Labor Commissioner Page 2 of 3

March 30, 2010

Additionally, interviews were conducted with Bombardier on site managers as well as most of the Bombardier employees performing the work at McCarran International Airport.

This contract identifies various stages of maintenance and subsequent repairs on the equipment and vehicle control equipment. It is noted that all equipment from the vehicles themselves to parts, spares and tools belong to McCarran International Airport.

This contract is designed to provide minimum down time of the equipment thereby maximizing the safety and availability of the ATS to the airport customers.

The contract identifies Extent of the Work: "The work under this contract shall include furnishing all labor and materials necessary to accomplish the inspection, cleaning, adjustment, preventative maintenance, lubrication, repair, testing, replacement of worn parts and repair of spare equipment for the ATS." This was verified by both Bombardier managers and employees.

Varieties of tasks are involved with this maintenance and repair contract. The preventative maintenance schedules are followed as time is allotted and many of the repair items are noted during these scheduled inspections and maintenance tasks. These repairs are attended to based on severity and time constraints. Other items are identified during normal operations of the trams when a situation occurs that needs immediate attention to ensure safe and continuous operations of these trams.

Throughout the investigation process none of the work appeared to be modernization, upgrades, remodels, etc... All of the work that was identified through interviews and observations was maintenance of the existing equipment and therefore not subject to the provisions of NRS 338.

Pursuant to Nevada Administrative Code (NAC) 338.110, a person who has been served a copy of a determination pursuant to subsection 1 and who is aggrieved by the determination may file a written objection with the labor commissioner within 15 days after the date of service of this determination. Such an objection must be accompanied by a short statement of the grounds for the objection and evidence substantiating the objection. Your objection letter and attachments must be received by the Labor Commissioner within 15 days of receipt of this letter. Mail your objection package directly to:

Labor Commissioner
Office of the Labor Commissioner
555 E. Washington Ave, Ste 4100
Las Vegas, NV 89101

Michael Tanchek, Labor Commissioner Page 3 of 3

March 30, 2010

If an objection to this determination is not received by the due date, the Labor Commissioner will issue an Order Affirming the Determination.

Sincerely,

Bob Kingston Assistant Director, Facilities

Attachments:

cc:

Keith Sakelhide, Deputy Labor Commissioner
William H. Stanley, Director of Organizing, International Union of Elevator Constructors
Susan Hobbes, Contracts Manager, Clark County Department of Aviation
E. Lee Thomson, Chief Deputy District Attorney, Clark County District Attorney's Office
Randall Walker, Director, Department of Aviation
Rosemary Vassiliadis, Deputy Director, Department of Aviation
Steven Jay, Airport Engineer, Department of Aviation
Edward Munzing, Purchasing Administrator, Department of Aviation
Mike Moran, Bechtel Infrastructure Corporation

Attachment "3"



July 25, 2011

Department of Aviation

MANDALL M. WALKER

RICENTARY A. VASBILIADIS

POSTAL BOX 11005
LAS VEGAS, NEVAIDA 89111-1006
(702) 961-6211
FAX (702) 597-5253
E-MAIL: with resear@incorrancem

Michael Tanchek Nevada labor Commissioner Office of the Labor Commissioner Department of Business and industry State of Nevada 675 Fairview Drive, Suite 226 Carson City, NV 89701

Project: ATS Maintenance Contract, Contract #CBE-552

Subject: Bombardier Transportation Holdings USA, Inc. - Alleged Non-Payment of

Prevailing Wages Determination Revision Number 2

Pursuant to Nevada Revised Statute (NRS) 338.070(1) any public body and its officers or agents awarding a contract shall: (a) Investigate possible violations of the provisions of NRS 338.010 to 338.090, inclusive, committed in the course of the execution of the contract, and determine whether a violation has been committed and inform the labor commissioner of any such violations; (b) When making payments to the contractor of money becoming due under the contract, withhold and retain all sums forfeited pursuant to the provisions of NRS 338.010 to 338.090, inclusive.

This second revised determination is filed in response to your Interim Order issued on June 7, 2011. This determination is a culmination of an extensive review of previously filed determinations as well as an exhaustive examination of all work done under this contract to the fixed assets defined in the Interim Order.

The previous determinations were focused mainly on the maintenance of the Trams or the "Non-Fixed" aspect of the contract. This was also the main focus of the International Union of Elevator Constructors (IUEC) complaint regarding this contract. The previous investigation and subsequent interviews with Bombardier employees also focused on the vehicle maintenance with very little emphasis on the fixed assets.

This current investigation focused on the "fixed" assets as identified in the Interim Order. Bombardier employees did perform routine maintenance such as cleaning, lubrication, repairs, replacements and minor adjustments on the station or wayside doors (see attached spreadsheet), they also made minor adjustments to the power rail for the tracks



Clark County Board of Commissioners

Rory Reid, Chair • Chip Maxfield, Vice Chair Susan Brager • Tom Collins • Chris Grunchighani • Lawence Weekly • Bruce Woodbury

Page 3 of 3 July 25, 2011

If an objection to this determination is not received by the due date, the Labor Commissioner will issue an Order Affirming the Determination.

Sincerely,

Bob Kingston

Assistant Director, Facilities

CC:

Keith Sakelhide, Deputy Labor Commissioner

William H. Stanley, Director of Organizing, International Union of Elevator Constructors E. Lee Thomson, Chief Deputy District Attorney, Clark County District Attorney's Office Randall Walker, Director, Department of Aviation

Rosemary Vassiliadis, Deputy Director, Department of Aviation

Andrew J. Kahn, Esquire, McCraken, Stemerman & Holsbery

Gary C. Moss, Esquire, Jackson Lewis LLP

Bombardier Transportation (Holdings) USA, Inc.

Attachment: Contract CBE-552 Maintenance and Repair of Fixed Assets

Nonpayment of Prevailing Wage Revision 2 Bombardier Transportation Holding USA, Inc.

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			30mbardie	Bombardier Transportation Holdings USA, Inc.	n Holding	rs USA, Inc.			
		Contract CBE	-552 Main	tenance of Auto	mated Tr	tract CBE-552 Maintenance of Automated Transit System Equipment	uipment		
			Emplo	Employee Classifications and Pay Rates	ns and Pa	y Rates			
Z	Name	2008		2009		2010		2011	
,	į		Hourly	į	Hourly	ŝ	Hourly		Hourly
Last Name	First Name	Classification A Tech	Kate 829 83	Classincation A Tech	S) o g)	Classification A Tech	Kate \$70.87	Classification	Rate
Banas	Nicholas	CTech	\$18.68	C Tech	\$18.68	CTech	\$18.68	C Tech	\$18.68
DePiero	Kenneth	Tech Admin	24.48	CTech	24.48	C Tech	24.48	C Tech	24.48
Estrada	Daniel	A Tech	\$27.71	A Tech	\$27.71	A Tech	\$27.71	A Tech	\$27.71
Кагра	David	C Tech	\$25.42	C Tech	\$25.42	C Tech	\$25.42	N/A	\$0.00
Keeran	Robert	B Tech	\$26.44	B Tech	\$26.44	B Tech	\$26.44	B Tech	\$26.44
McClain	Vетоп	C Tech	\$21.25	CTech	\$21.25	C Tech	\$21.25	C Tech	\$2125
McCullough	Matthew	C Tech	\$23.80	C Tech	\$23.80	C Tech	\$23.80	C Tech	\$23.80
McGhee	Mark	C Tech	\$23.26	CTech	\$23.26	C Tech	\$23.26	C Tech	\$23.26
Rasmussen	Craig	C Tech	\$18.46	C Tech	\$18.46	C Tech	\$18.46	C Tech	\$18.46
Schneider	Anthony	B Tech	\$26.44	B Tech	\$26.44	B Tech	\$26.44	B Tech	\$26.44
Thomas	Peter	C Tech	\$19.80	C Tech	\$19.80	C Tech	\$19.80	C Tech	\$19.80
Urbina	Aaron	C Tech	\$18.68	C Tech	\$18.68	C Tech	\$18.68	C Tech	\$18.68
Valentine	Ricky	C Tech	\$21.39	C Tech	\$21.39	C Tech	\$21.39	C Tech	\$21.39
Johnson	Mike	N/A	N/A	N/A	N/A	C Tech	18.00	C Tech	19.19
Krauch	Erik	N/A	N/A	N/A	N/A	C Tech	\$ 18.00	C Tech	61.63
Corwin	Andrew	CTech	\$ 18.00	C Tech	\$ 18.00	N/A	- 59	N/A	, 93
Smith	Сапец	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	. \$	N/A	. s
Custodio	Ìvan	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	,	N/A	, 63
Dahlin	Eric	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	. 69	N/A	, \$3
Rodriguez	Dennis	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	. \$	N/A	- -
8 Rowell	Daina	C Tech	\$ 19.05	N/A		N/A		N/A	, 43
31									

Contract CBE-552 Maintenance and Repair of Fixed Assets

	Stopped Revenue Service	New Vehicle Start Revenue Service	New Vehicle Warranty End	Start of CBE-552 Contract Not Including Rehab Time or Warranty Period
East				
Car 1	1-Mar-08	9/14/2008	9/14/2009	9/14/09 to Present
Car 2	1-Mar-08	9/14/2008	9/14/2009	9/14/09 to Present
West				
Car 3	18-Sep-08	12/19/2008	12/19/2009	(7/1/08 to 9/18/08) & (12/19/09 to Present)
Car 4	18-Sep-08	12/19/2008	12/19/2009	(7/1/08 to 9/18/08) & (12/19/09 to Present)
North				
Car 5	3-Feb-09	2/21/2009	2/21/2010	(7/1/08 to 2/3/09) & (2/21/10 to Present)
Car 6	3-Feb-09	2/21/2009	2/21/2010	(7/1/08 to 2/3/09) & (2/21/10 to Present)
Car 7	3-Feb-09	2/21/2009	2/21/2010	(7/1/08 to 2/3/09) & (2/21/1/0 to Present)
South				
Car 8	24-Apr-09	\$77/2009	5772010	(7/1/08 to 4/24/09) & (5/7/10 to Present)
Car 9	24-Apr-09	5/7/2009	5/7/2010	(7/1/08 to 4/24/09) & (5/7/10 to Present)
Car 10	24-Apr-09	5/1/2009	5/7/2010	(7/1/08 to 4/24/09) & (5/7/1/0 to Present)

During the time frames listed above there were no major repairs done to fixed facilities by Bombardier employees.

All work on fixed facilities (Guideways, station doors or wayside train control equipment) was in the form of inspections, deaning, replacing missing hardware or tightening of lose hardware.

As of July, 5 2011 the following failed fixed (wayside) station door components were replaced for the time periods above by Bombardier employees: (data from Bombardier Wayside log book).

	\$ 4,090.32	r Employees	Bombardie	te by	et Costs to Da	Contract Total Fixed Asset Costs to Date by Bombardier Employees	Contra
	\$ 2,467.53				\$ 1,622.79		Totals
+ = One Technician per hour	\$ 177.84	8	+ Controller		\$ 133.38	9	+ Controller
# = One Technician per hour and one half	\$ 266.78	တ	# Motor		\$ 466.83	14	# Motor
- One Technician per hour	\$ 2,022.93	91	* Auto-Locks		\$ 1,022.58	46	* Auto-Locks
* = Average rate of pay at \$22.23	Cost **	Replaced	D-System		Labor Cost ""	Replaced	C-System
	Approximate Labor	Number of Times				Number of Times	

All repairs on fixed facilities such as guideways has always been done by other contractors independent of Contract CBE-552 under separate purchase orders independent of each other and paid directly by DOA.

| Date | Contractor | Work Completed | Cost

200	Contractor			COS.
7/15/2008	Truesdel	Guideway Work	s	14,050.00
		C-guideway drain and stair concrete		
3/31/2009	Truesdel	work.	\$	16,320.00
8/4/2009	Truesdel	South guideway concrete work:	\$	4,468.00
		D-guideway broken bolts & missing		
9/21/2010	Truesdel	hardware:	ы	8,280.00
		D-guideway missing fabrica pads.		
11/10/2010 Truesdel	Truesdel	broken washers & concrete repair.	69	16,404.00
9/9/2010	Morse Electric	C rail power cable replacement.	\$	2,987.00
	To	Total To Date	649	62,509.00

BEFORE THE NEVADAL ABOR COMMISSIONER

INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS,

Complainant,

٧,

BOMBARDIER TRANSPORTATION (HOLDINGS) USA, INC.,

Respondent.

Contract CBE-552

MAY 3 1 2013

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CLARK COUNTY'S
DEPARTMENT OF AVIATION'S
WITNESS LIST

FILED

JUN 0 3 2013

NEVADA LABOR COMMISSIONER - CC

Pursuant to the Nevada State Labor Commissioner's Scheduling Order of June 27, 2012, the Clark County Department of Aviation, by and through its undersigned counsel, submits its Witness list for the hearing as follows:

 Michael S. Moran, Labor Compliance Officer RICHARDSON CONSTRUCTION c/o Clark County District Attorney's Office 500 S. Grand Central Parkway, 5th Floor Las Vegas, NV 89155

Mr. Moran will testify about investigation procedures and determinations related to prevailing wage claims under Nevada law and administrative procedure. His determinations to the Labor Commissioner are contained in the County's determination letters dated March 30, 2010 and June 7, 2011, which have already been distributed to all parties.

Joel Middleton
 CLARK COUNTY DEPARTMENT OF AVIATION
 c/o Clark County District Attorney's Office
 500 S. Grand Central Parkway, 5th Floor
 Las Vegas, NV 89155

The witness will testify concerning the work at issue in this matter.

Robert Keeran
 CLARK COUNTY DEPARTMENT OF AVIATION
 c/o Clark County District Attorney's Office
 500 S. Grand Central Parkway, 5th Floor
 Las Vegas, NV 89155

The witness will testify concerning the work at issue in this matter.

4. Timothy Alvarez

CLARK COUNTY DEPARTMENT OF AVIATION

c/o Clark County District Attorney's Office

500 S. Grand Central Parkway, 5th Floor

Las Vegas, NV 89155

The witness will testify concerning the work at issue in this matter.

5. Randall H. Walker

CLARK COUNTY DEPARTMENT OF AVIATION

c/o Clark County District Attorney's Office

500 S. Grand Central Parkway, 5th Floor

Las Vegas, NV 89155

The witness will testify concerning the operations of MIA and various construction and maintenance contracts.

CLARK COUNTY reserves the right to call any witnesses identified by the Claimant, International Union of Elevator Constructors ("IUEC"), or by the Respondent,

Bombardier Transportation (Holdings) USA, Inc. ("Bombardier").

Dated this 31st day of May, 2013.

CLARK COUNTY

STEVEN B. WOLFSON, DISTRICT ATTORNEY

E. Lee Thomson, Chief Deputy District Attorney

P.O. Box 552215

Las Vegas, NV 89155-2215

(702) 455-4761

CERTIFICATE OF SERVICE

Pursuant to NAC 607.160, I hereby certify that the original and three (3) copies of Clark County Department of Aviation's Witness List were served on the 31st day of May, 2013 via hand-delivery to the following:

Commissioner Thoran Towler STATE OF NEVADA Office of the Labor Commissioner 555 E. Washington Avenue, Suite 4100 Las Vegas, NV 89101

In addition, I certify that one (1) copy of Clark County Department of Aviation's Witness List was served on the 31st day of May, 2013 via U.S. Mail to the following:

Gary C. Moss, Esq. Paul T. Trimmer, Esq. JACKSON LEWIS LLP 3960 Howard Hughes Parkway, Suite 450 Las Vegas, NV 89169

Andrew J. Kahn, Esq. MCCRACKEN, STEMERMAN, & HOLSBERRY 1630 S. Commerce Street, Suite A-1 Las Vegas, NV 89102

An Employee of Clark County

ORIGINAL

BEFORE THE NEVADA LABOR COMMISSIONER

FILED

INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS,

Complainant,

٧.

BOMBARDIER TRANSPORTATION (HOLDINGS) USA, INC.,

Respondent.

Contract CBE-552

JUN 0 3 2013

LABOR COMMISSIONER - CC

CLARK COUNTY'S
DEPARTMENT OF AVIATION'S
LIST OF DOCUMENTS

Pursuant to the Nevada State Labor Commissioner's Scheduling Order of June 27, 2012, the Clark County Department of Aviation, by and through its undersigned counsel, submits its List of Documents for the hearing as attached hereto.

Dated this 31st day of May, 2013.

CLARK COUNTY

STEVEN B. WOLFSON, DISTRICT ATTORNEY

E. Lee Thomson, Chief Deputy District Attorney

P.O. Box 552215

Las Vegas, NV 89155-2215

(702) 455-4761

1

CERTIFICATE OF SERVICE

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Andrew J. Kahn, Esq.
MCCRACKEN, STEMERMAN, & HOLSBERRY
1630 S. Commerce Street, Suite A-1
Las Vegas, NV 89102

An Employee of Clark County

Exhibits for IUEC Hearing

Mike Moran's Notes

- 1. 01/11/2010, Meeting Minutes with Bombardier
- 2. 01/13/2010 01/14/2010, Notes from employee interviews

Determination Letters

- 3. 11/24/2009, Letter to Michael Tanchek from Bob Kingston
- 4. 03/30/2010, Letter to Michael Tanchek from Bob Kingston
- 5. 07/25/2011, Letter to Michael Tanchek from Bob Kingston

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- 6. 09/1982, Contract 11523.11/F-50-10, Automated Transit System Equipment
- 7. 05/01/2008, Contract 552, Maintenance of ATS and Agenda Item
- 11/09/1992, Contract ATS Maintenance Agreement between McCarran International Airport, Clark County and AEG Westinghouse Transportation Systems, Inc. with Board of County Commissioners Agenda Item 12/15/1992 #22
- 06/01/1998, Maintenance Agreement between Clark County and ABB Daimer Benz Transportation with Board of County Commissioners Agenda Item 05/19/1998 #22
- 10. 10/04/1994, Contract 2013, Design, Manufacture, Installation, Testing, and Maintenance of ATS Vehicles with Appurtenances
- 11. 12/07/1999, Contract 2131, Design, Manufacture, Installation and Testing of Automated Transit System Vehicles For The Expansion of Shuttle System, Satellite "D
- 12. 05/02/2006, Contract 2273, Terminal 3 Automated Transit System,"
- 13. 11/08/2006, Contract 2305, Leg C and Leg D Rehabilitation Automated Transit System
- 14. Shuttle Maintenance Contract for Consolidated Rental Car Facility

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- 15. Contract 2305
- 16. Contract 2305, Section 10 Special Provisions Warranties
- 17. Contract 2305, Warranty Letter 11/03/2010

- 18. Contract 2305, Notices of Acceptance for each ATS Car
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- 20. 10/07/2010, Contract 2305, Notice of substantial completion

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- 21. Bid 1449, City of Reno Elevator Escalator Maintenance Contract
- 22. RFP No. 120153-SK, City of Las Vegas Elevator Maintenance and Repair
- 23. 09/20/11, UMC HVAC Service Agreement
- 24. Bid No. 2009-24, UMC Chiller Maintenance
- 25. Bid No. 2010-24, UMC Elevator Maintenance
- 26. Bid No. 602211-11, Clark County HVAC Maintenance and Minor Repair
- 27. Bid No. 600902-07, Clark County Chiller Maintenance
- 28. IFB 102-12, City of Henderson City Wide Elevator Maintenance
- 29. IFB 107-12, City of Henderson U.S. Landscape Inc.
- 30. Bid No. 12-4027, LVCVA Elevator Escalator Maintenance
- 31. Contract 12147, State of Nevada Chiller Maintenance
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- 36. 09/21/2010, Contractor, Truesdel, D-guideway broken bolts and missing hardware
- 37. 11/10/2010, Contractor, Truesdel, D-guideway missing fabrica pads broken washers and concrete repair
- 38. 09/09/2010, Contractor, Morse Electric C rail power cable replacement

JUN 0 8 2013.

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BEFORE THE NEVADA LABOR COMMISSIONER

INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS,

Complainant,

BOMBARDIER TRANSPORTATION (HOLDINGS) USA, INC.,

Respondent.

Contract CBE-552

BOMBARDIER TRANSPORTATION (HOLDINGS) USA, INC.'s PRE-HEARING BRIEF, LIST OF WITNESSES AND LIST OF EXHIBITS

Pursuant to the parties' agreement and the Labor Commissioner's direction, Bombardier Transportation (Holdings) USA, Inc. ("Bombardier") submits the following Pre-Hearing Brief, list of witnesses and list of exhibits it intends to use at the hearing. For the reasons set forth below, work performed pursuant to Contract CBE-552 ("CBE-552" or the "Contract") is exempt from the prevailing wage rate requirements of NRS Chapter 338, and as such, workers performing that work are not entitled to be paid at prevailing wage rates. The International Union of Elevator Constructors' (the "Union") Complaint ("Complaint") regarding CBE-552 must be dismissed.

I. ISSUES PRESENTED

Evidence at the hearing should address the following five issues:

 Should the Union's complaint under Contract 552 be dismissed because work performed under that contract is exempt pursuant to NRS 338.011 as work directly related to the normal operation of the airport?

- 2. Should the Union's complaint under Contract 552 be dismissed because work performed under that contract is exempt pursuant to NRS 338.011 as work directly related to the normal maintenance of the airport?
- 3. Should the Union's complaints be dismissed because Contract 552 does not concern "public work" for purposes of NRS 338.010?
- 4. Should the Union's complaint be dismissed because Bombardier is a railroad company within the meaning of NRS 338.080 and therefore, exempt from NRS Chapter 338's prevailing wage requirements?
- 5. Can the Labor Commissioner consider the Union's contention that the employees are entitled to be compensated at the elevator constructor rate, or is he barred from doing so in the context of this contested case because it would require a substantial modification of the application of that wage classification?

II. SUMMARY OF ARGUMENT

CBE-552 was a contract between Bombardier and Clark County, Nevada for the operation and maintenance of the ATS and its associated equipment at McCarran International Airport ("McCarran" or the "Airport"). Under that contract, Bombardier performed whatever maintenance and operational services were required to ensure that the ATS remained in good working order and was able to transport the approximately forty million visitors who travel through McCarran each year from the terminal to the gates. More than 40% of all the gates at McCarran—all of the gates in the "D" concourse—cannot be accessed without using the ATS system. Most of the passengers who do not use the "D" Concourse also depend on the ATS system for practical reasons. The "C" Concourse is difficult to access without the train, particularly for arriving passengers, and a significant number of individuals using Terminal 3 rely on an ATS train to travel from Terminal 3's check-in area to the "D" Concourse.

Although the Contract contains no prevailing wage provisions — until now, no one has ever contended that the Contract was subject to Chapter 338 even though Bombardier and its predecessors had been performing the same work since 1985 — the Union now claims that the

maintenance work performed under CBE-552 is a "public work" and that the maintenance technicians who perform that work should be paid prevailing wage. This claim has no merit.

This case, and in particular Bombardier's contentions that (1) CBE-552 is exempt under NRS 338.011, (2) it is exempt under NRS 338.080, and (3) that the work performed under the Contract CBE-552 is not public work because the Contract and the work performed on the trains themselves does not constitute "public work" under NRS 338.010, have been briefed extensively. Bombardier submitted detailed pre-hearing briefs in January and February 2011, and it submitted a comprehensive Motion for Summary Judgment in April 2013. Bombardier will not burden the record with a duplicative discussion of the same arguments. Instead, the principle basis for each argument is set forth below, and Bombardier incorporates its prior briefing by reference.

A. CBE-552 And The Work Performed Under CBE-552 Is Not A "Public Work"

First, the Union's complaint fails Chapter 338's threshold inquiry because CBE-552 is not a "public work" within the meaning of Nevada's prevailing wage law. NRS 338.010(16). Nevada law is clear. Prevailing wages must be paid only for "public work," NRS 338.020, and the definition of "public work" is strictly limited. It does not include any publicly financed work. It is restricted to publicly financed "projects," NRS 338.010(a); and, a "project" is a plan or scheme to complete a particular objective in accordance with a defined schedule, like a development project. A maintenance contract such as CBE-552, which is a commitment to provide a variety of different services as those services are needed throughout the term of the Contract, simply does not fall within the plain and ordinary meaning of the term "project," and stretching the word's meaning to include a maintenance contract like CBE-552 would be inconsistent with the plain meaning of

Chapter 338. Accordingly, the Contract, and all work performed under it, cannot be considered "public work" within the meaning of Chapter 338.

B. CBE-552 And The Work Performed Under The Contract Is Exempt From Chapter 338's Requirements Because It Is Directly Related To The Normal Operation And Normal Maintenance Of Clark County's Property

CBE-552 concerns the operation and maintenance of both the existing automated people movers ("APM") that connect the Terminal 1 Main Concourse with the C and D Concourses, as well as the trains that will eventually connect Concourse D with the now under construction Terminal 3. At no time during the twenty-five year period during which Bombardier has maintained the trains at McCarran Airport has there been even a suggestion that the Company was obligated to pay the employees who perform the maintenance work prevailing wage rates. In fact, the issue was not raised until late 2009 when, after Bombardier would not agree to the Union's demand during collective bargaining negotiations to almost double the wage rates of its maintenance employees, the Union requested that the Labor Commissioner issue the instant Complaint. Given the statutory exemptions that apply to Bombardier and the work performed under CBE-552, the Union's request should be seen for what it is: a transparent effort by the Union to obtain through litigation that which it could not obtain at the bargaining table. Indeed, in light of the obvious applicability of NRS 338.011 and 338.080 to this situation, the Union's Complaint borders on frivolous.

As the Department of Aviation ("DOA") found when it conducted its investigation into the Union's complaint, CBE-552 is exempt from the requirements of Chapter 338. More specifically, Section 338.011 provides that "the requirements of [Chapter 338] do not apply" to a contract "awarded in compliance with chapter 332 or 333 of NRS which is directly related to the normal operation of the public body or the normal maintenance of its property." CBE-552 was properly

awarded under NRS 332.115.1 because Bombardier "is the only firm that can supply maintenance services" for the APM trains at McCarran. Moreover, although CBE-552 need satisfy only one of the two conditions — normal operation or normal maintenance — in order to qualify for the exemption, it is clear that the Contract satisfies both.

There can be no doubt that performance of CBE-552 and the corresponding maintenance of the APM trains is directly related to the normal operation of McCarran Airport. Without the trains, it is exceedingly difficult for passengers to travel to and from the C and D concourses, and the maintenance work performed pursuant to CBE-552, and therefore CBE-552 itself, is essential to ensuring that the trains run continuously.

As discussed in more detail below, the Union's only argument that the statutory exemption set forth in NRS 338.011 does not apply to CBE-552 is that the Contract calls for work that goes beyond maintenance. This argument is either disingenuous or reflects a clear misreading of the provision. NRS 338.011 is written in the disjunctive, and as such, the exemption applies so long as CBE-552 is directly related to either the normal operation or the normal maintenance of the McCarran Airport. See Coast Hotels & Casinos v. Nev. State Labor Comm'n, 117 Nev. 835, 841 (2001).

Moreover, to the extent the Union's objection is responsive to the second part of the exemption, there is simply no basis for the Union's position that maintenance and repair are mutually exclusive terms. See Missourt v. City Utilities of Springfield, 910 S.W.2d 737, 744 (Mo. Ct. App. 1995) (rejecting interpretation of term maintenance that would have limited scope of prevailing wage exemption). A general definition of the exemption applies so long as the Contract is directly related to the normal maintenance of McCarran Airport. It does not, as the Union appears to argue, require that the Contract be limited exclusively to maintenance. Imposing such

an artificial limitation on the scope of NRS 338.011, when the plain meaning of the statute provides otherwise, would improperly interfere with the legislature's intent to provide local governments with the ability to opt out of Chapter 338 when contracting for services that are directly related to their normal operations or normal maintenance of their property. See id. (rejecting contention that supposed remedial purpose of the Act required broad coverage); see also State ex rel. Torreyson v. Grey, 21 Nev. 378, 381 (1893) ("it is a well-established principle of law, and one that does not require the citation of authorities, that the greater includes the lesser."). In any event, the objective of the Contract as clearly stated throughout is to maintain the APM system. Any so-called "repairs" that may be performed are incidental to that purpose.

C. CBE-552 Is Exempt Because Bombardier Is A Railroad Company Pursuant To NRS 338.080

Third, the work performed pursuant to CBE-552 is exempt because Bombardier is a railroad company, and Chapter 338's prevailing wage requirements do not apply to "[a]ny work, construction, alteration, repair or other employment performed, undertaken or carried out, by or for any railroad company or any person operating the same, whether such work, construction, alteration or repair is incident to or in conjunction with a contract to which a public body is a party, or otherwise." NRS 338.080(1). Like project, the term "railroad company" is not defined in Chapter 338 or elsewhere in the Nevada Revised Statutes, but its plain meaning is well-established: it is a company organized to construct, maintain and operate railroads. As described below, Bombardier does exactly that. It has long been considered a railroad company. In addition to being responsible for developing and maintaining the APM system at McCarran, which consists of passenger cars that run on a track and guiderail system, it constructs and maintains similar systems at airports around the world. Bombardier also has constructed and

See BLACK'S LAW DICTIONARY, SEVENTH ED., 1999 at p.344 (defining "railroad company").

maintains more traditional railroad systems such as the Las Vegas Monorail and Southern New Jersey Transit's River line, a light rail project running from Trenton to Camden, New Jersey that was built in collaboration with Bechtel. Accordingly, regardless of the scope of the work required by CBE-552, the Labor Commissioner must dismiss the Complaint. The evidence will show that between 2009 and 2011, approximately 40% of the Company's revenues were derived from the sale of railroad services, systems, and equipment. As a railroad company, Bombardier is completely exempt from the requirements of NRS Chapter 338.

D. The Union's Claim For Elevator Constructor Wages Is Barred By The Administrative Procedure Act

Finally, even if the Union's Complaint were allowed to proceed to hearing, it is clear that the Union is not entitled to obtain the relief requested. Specifically, the Union has repeatedly insisted that the Labor Commissioner should classify Bombardier's maintenance employees as "Elevator Constructors." The Labor Commissioner's current job description for Elevator Constructors indisputably does not cover the work performed by maintenance employees pursuant to CBE-552. As such, granting the relief requested by the Union would require the Labor Commissioner to modify the Elevator Constructor job description. However, the Nevada Supreme Court has already held that the Labor Commissioner cannot do so in the context of a contested case. See So. Nev. Operating Engineers Contract Compliance v. Johnson, 121 Nev. 523 (2005); Labor Commissioner v. Littlefield, 123 Nev. 35 (2007); see also NAC 338,040.

III. WITNESSES THAT BOMBARDIER INTENDS TO CALL AT THE HEARING

Randy Walker. Mr. Walker will give testimony that supports Bombardier's
position that CBE-552 is exempt from Chapter 338's prevailing wage requirements because it is
directly related to the normal operation and/or maintenance of the Airport and the Airport's

property. He will also give testimony regarding the nature of the Contract and the work performed under it.

- Roy Ryan. Roy Ryan is a current Bombardier employee. If called, he will give testimony about the work performed under the contract, and the underlying electrical and mechanical systems, and the nature of operations at other locations where Bombardier performs work.
- 3. Michael Shaman. Mr. Shaman is a current Bombardier employee. If called, he will give festimony relating to Bombardier's contention that CBE-552 is exempt under NRS 338.080, testimony relating to the nature of work performed under the Contract (i.e., preventative and corrective maintenance).
- 4. Melvin Smith. Mr. Smith is a current Bombardier employee and the former Site Director at the Airport. He will testify about the nature of the work performed under the contract.
- 5. Doug Nebeker. Mr. Nebeker is a current Bombardier employee. He will testify about the data, including SIMS data, that was created by the Claimants while they were completing their work under the Contract, including the percentage of preventative vs. corrective maintenance, the types of work performed and the amount of time spent on it.
- 6. Alan Moss. Dr. Moss is an expert witness. He will testify about his expert report, which is enclosed as an Exhibit. In general, Dr. Moss will testify about what Nevada prevailing wage classification is appropriate for the Claimants.
- 7. Bombardier reserves the right to call any other individuals previously identified in its, the Union's, and the County's witness disclosures for purposes of impeachment and/or rebuttal as the evidence adduced at hearing develops.

IV. EXHIBITS

Bombardier expects to use certain compilations of the vast amounts of electronic data that have been produced, as well as certain other documentary evidence. Those exhibits are enclosed in both hard copy and, to the extent appropriate, electronic format. Bombardier reserves the right to introduce other documents for purposes of impeachment and/or rebuttal should the evidentiary record require it.

IV. CONCLUSION

For the reasons set forth above, there is no reason to conduct a hearing in this matter.

The Union's Complaint is meritless and based on a fundamentally defective interpretation of Chapter 338. The Complaint should be dismissed.

Dated this 31st day of May, 2013.

JACKSON LEWIS LLP

Gary C. Moss Paul T. Trimmer

3800 Howard Hughes Parkway,

Ste. 600

Las Vegas, Nevada 89169

CERTIFICATE OF SERVICE

I hereby certify that three (3) copies of Bombardier Transportation (Holdings) USA, Inc.'s Pre-Hearing Brief was hand delivered to the Labor Commissioner's office in Las Vegas. A courtesy copy has been mailed to the Carson City, NV office. In addition, I certify that one (1) copy of Bombardier Transportation (Holdings) USA, Inc.'s Pre-Hearing Brief and one (1) copy each of the Document Appendix and Appendix of Authorities was served via U.S. Mail on Counsel for the Claimants, Andrew J. Kahn, and Counsel for Clark County, E. Lee Thomson.

An Employee of Jackson Lewis LLP

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CLARK COUNTY, NEVADA

CONTRACT FOR MAINTENANCE OF AUTOMATED TRANSIT SYSTEM EQUIPMENT

CBE-552

	,
NAME OF FIRM	BOMBARDIER TRANSPORTATION (HOLDINGS) USA, INC.
DESIGNATED CONTACT, NAME AND TITLE	EDWARD A. GORDON VICE PRESIDENT APM MARKETING
ADDRESS OF FIRM INCLUDING CITY, STATE AND ZIP CODE	1501 LEBANON CHURCH ROAD PITTSBURGH, PA 15236-1491
TELEPHONE NUMBER (include area code)	(412) 655-5248
FAX NUMBER (include area code).	(412) 555-5841
EMAIL ADDRESS	rick,fostér@us.transport.bombardier.com

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Clark County Department of Aviation - SW2/2008

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Clark County Department of Awaton - 5/12/2008.

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Chark County Department of Autation - 5/12/2008

CONTRACT FOR MAINTENANCE OF AUTOMATED TRANSIT SYSTEM EQUIPMENT

CBE-552

- Junio This contract, made and entered into as of this day of July 1, 2008 between CLARK COUNTY, a political subdivision of the State of Nevada, hereinafter called the "OWNER," and Bombardier Transportation (Holdings) USA Inc., a corporation of the State of Delaware, herein called the "CONTRACTOR."

WITNESSETH:

WHEREAS, CONTRACTOR has proposed to provide maintenance service for the operation of the Automated Transit System (ATS) equipment for McCarran International Airport; and, WHEREAS, OWNER desires the CONTRACTOR to provide maintenance for the said system;

NOW, THEREFORE, the CONTRACTOR hereby coverants and agrees to undertake and execute all of the said named work in a good, substantial and workmanlike manner and to lumish all the parts, materials, tools and labor necessary to perform properly the work in strict accordance with the General Provisions and, Maintenance Requirements referred hereto as Attachment A, and hereto other contract documents Exhibits A and B attached and made a part hereof. For performance of the contract; the CWNER shall pay the CONTRACTOR as hereinafter defined.

The CONTRACTOR shall commence the work to be performed under this contract on July 1, 2008. The contract period shall be for five (5) years.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first above written.

APPROVED AS TO FORM:

DAVID ROGER, DISTRICT ATTORNEY

ET.EP THOMSON

Chief Deputy District Altomey

CLARK COUNTY, NEVADA

HANDALLY, WALKER

Director of Aviation

CONTRACTOR:

Bombardier Transportation (Holdings) USA Inc.

EDWARD A. GORDISH

THORTON

NOTE: Wilnesses not required for a corporation, but a corporate certificate must be completed. Partnerships must complete a partnership certificate.

Clark County Department of Aviation - \$/12/2003

CONTRACT FOR MAINTENANCE OF AUTOMATED TRANSIT SYSTEM EQUIPMENT

1.0 **GENERAL PROVISIONS**

1.1 STATEMENT OF WORK

The work to be completed under this contract is set forth in Paragraph 2.0, Maintenance Requirements. The CONTRACTOR shall provide all labor, equipment and materials to perform the work according to the provisions contained therein.

12 TERM OF CONTRACT

This term of contract shall be for five (5) years commencing on July 1, 2008 through June 30, 2013.

1.2.1 FISCAL FUNDING REQUIREMENTS

OWNER reasonably believes that sufficient funds will be appropriated to make all payments during the term of the contract in the event sufficient funds are not appropriated, the OWNER will so notify the CONTRACTOR for an orderly termination and close out of CONTRACTOR's operations hereunder as provided in Section 1.8. In any event, the contract is to terminate at the time appropriated funds are exhausted.

1.3 **PAYMENT PROVISIONS**

The OWNER agrees to pay CONTRACTOR, as follows, for the maintenance services described herein for the five (5) year contract period commercing July 1, 2008. The prices for each year are inclusive of the three (3) additional maintenance technicians for compressed maintenance of the D Gates Automated Transit System (ATS) which will reduce downtime by two (2) hours per day. With this reduced downtime, the hours of daily operation of the D Gates ATS will be 05;15 a.m. to 00:30 a.m. daily.

It is anticipated that during the term of this contract, new Terminal 3 will be constructed and the new ATS will begin carrying passengers. At the OWNER's sole discretion, when the new ATS at Terminal 3 commences operation, the additional cost associated with the three (3) additional technicians shall no longer be valid and therefore, the firm fixed price described below can be reduced by the amounts identified with an asterisk (*) and described as "Compressed maintenance fee".

Clark County Department of Aviation - 5/12/2008

Bombaniler Trans. Automated Transit System Equipment CGE-स्व

Year One: July 1, 2008 — June 30, 2009
Base Price = \$2,712,145 + *Compressed maintenance fee = \$366,892
= A total fixed price of Three Million Seventy Nine Thousand Thirty Seven and no/100
Dollars (\$ 3,079,037).

Year Two: July 1, 2009 – June 30, 2010
Base Price = \$2,788,085 + 1 Compressed maintenance fee = \$377,165
= A total fixed price of Three Million One Hundred Stay Pive Thousand Two Hundred Fifty and no/100 Dollars (\$ 3,165,250).

Year Three: July 1, 2010 – June 30, 2011
Hase Price = \$2,924,702 + * Compressed maintenance fee = \$395,648
= A total fixed price of Three Million Three Hundred Twenty Thousand Three Hundred Forty Seven and no/100 Dollars (\$ 6,320,347).

Year Four: July 1, 2011 – June 30, 2012

Ease Price = \$3,070,937 ← * Compressed maintanance fee = \$415,428

A total fixed price of Three Million Four Hundred Eighty Six Thousand Three Hundred Sixty Five and no/100 Dollars (§ 3,486,365).

Year Five: July 1, 2012 – June 30, 2013

Base Price = \$3,224,483 + * Compressed maintenance fee = \$436,199

= A total fixed price of Three Million Six Hundred Sixty Thousand Six Hundred Eighty Three and no/100 Dollars (\$ 3,660,683).

1.3.1 TERMINAL 3 ATS

Upon commencement of this contract, the exact date to begin passenger service of the new Terminal 3 ATS has not yet been determined. However, when the new Terminal 3 ATS system commences operation, the following annual price as described in the table 1.3.1.1- Terminal 3 Costs (includes escalation) on the following page shall be added to the yearly "Base" contract price.

Clark County Department of Aviation -5/12/2/08

Bombardler Trans. Automated Transit System Equipment C3E-552

Table 1.3.1.1- Terminal 3 Costs (includes escalation) Terminal 3 Automated Transit System (ATS) Pricing Per Contract No. 2273

	2006								
ĺ	Reference	Year	Year	Year	Year	Year	Year	Year	Year
. 1	Price	2011	2012	2013	2014	2015	2016	2017	2018
Year									
1						1		ŀ	
Price						1	İ	•	
_ = _]	\$850,383	\$1,034,621	\$1,078,005	\$1,119,046					
Year								ĺ	
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	\$1,058,160	<u> </u>		<u> </u>	\$1,448,166	\$1,506,092	\$1,586,336		
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⊏IIÁ4	\$1,109,487		1			\$1,566,338	\$1,628,989	** ****	
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œ	\$1,144,506		1				\$1,694,149	\$1,761,915	\$1,882,393
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***	\$1,190,287	i						\$1,832,392	\$1,905,68

For example, if the T3 ATS goes into service on January 1, 2012, the year 1 price will be \$1,076,006, year 2 price will be \$1,324,801, year 3 price will be \$1,392,467, and so on.

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The yearly price for the maintenance of the T3 ATS operation that shall be added to each yearly "Base Price" listed in the each "Year" column described in Table 1.3.1.1 — Terminal 3 Costs (Includes escalation), above. The associated T3 Yearly Price to be added to the Base price for the T3 operation shall be solely dependent upon the year T3 commences operation.

Additionally, beyond the term of this agreement set to expire June 30, 2013, the prices listed above for the maintenance of the T3 ATS are predicated on the cross-utilization of concurrent Maintenance services including labor (common Administrative, Engineering, and Technician Services) and materials (common parts and supplies inventorles and tools) provided by the CONTRACTOR on the Automated Transit Systems at C & D. In the event, the CONTRACTOR is no longer under contract for maintenance services for the Automated Transit Systems at C & D, then the OWNER will negotiate an Amendment to increase the CONTRACTOR's labor and materials for the efficient performance of Maintenance Services for the T3 ATS on a stand-alone basis. The unit prices from the CONTRACTOR's proposal shall be the basis of these Amendment negotiations.

All yearly prices listed in Table 1.3.1.1 are valid through June 30, 2018. Owner and Contractor shall begin negotiations for a new contract post July 1, 2018 beginning no less than 9 months prior to June 30, 2018. The new contract will be negotiated to encompass the entire ATS at McCarran International Airport, which includes APM systems on "C" and "D" and T3.

These contract amounts shall be subject to such additions and deductions as may be provided for in the contract documents. Payments shall be made upon the terms set forth in the contract documents.

1.3.2 CONTRACT AMOUNT

The contract amount reflects the OWNER's and CONTRACTOR's agreement as to the proper payment for all costs (excluding changes, heavy maintenance, major overhaul(s) described in Section 2.2.6.1, upgrades and enhancements) to be incurred by the CONTRACTOR in providing the operations and maintenance work in accordance with terms and conditions of the contract. The CONTRACTOR with not be entitled to any payment for additional work or reimbursement for costs over and above the amount for a given year unless it has received prior written authorization from the OWNER to exceed the contract amount.

1.3.3 METHOD OF PAYMENT

The CONTRACTOR shall be paid one-twelfith (1/12) of the contract amount for the applicable year each month and shall submit an invoice to OWNER. If additional fees, over and above the contract amount, have been approved by OWNER, CONTRACTOR will submit a billing for such additional services in the agreed amount along with its monthly invoice,

Except as otherwise provided herein, the CWNER will, within forty-five (45) days of receipt of an invoice, make payment to CONTRACTOR. The CONTRACTOR will submit an invoice for any additional work requested by the OWNER and performed during the preceding month, by the fitteenth (15th) day of each month.

The CONTRACTOR will be obligated to promptly pay all charges and costs incurred by CONTRACTOR for labor materials, supplies and equipment for the work performed under this contract within forty-five (45) days of invoice.

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1.3.4 PAYMENT FOR UPGRADES AND ENHANCEMENTS

Upon completion of any OWNER approved upgrades and/or enhancements, and verification of the same by OWNER, CONTRACTOR will be paid the approved lixed-cost amount for the work as previously agreed between the parties pursuant to Paragraph 2.2.6.

1.3.5 CREDITS FOR SYSTEM AVAILABILITY

For any month of this contract that ATS does not achieve system availability (SA) of at least 99.65%, as defined in Exhibit "A" to this contract, a payment factor will be applied to the CONTRACTOR's total invoice amount for that month as follows:

SYSTEM AVAILABILITY (%)	PAYMENT FACTOR
99.65 - 100.00	1.000
99.65 - 99.64	0.991
99.45 99.54	0.981
99.35 - 99.44	0.971
99.25 99.34	0.961
99.15-99.24	0.949
99.05 - 99.14	0.937
99.00 - 99.04	0.930
98.95 ~ 98.9 9	0.916
98.85 - 98.94	0.892
98.75 - 98.84	0.870
98.65 98.74	0.850
98.55 - 98.64	0,832
98,45 - 98,54	0.816
98.35 - 98.44	0.807
98.25 - 98.34	0.786
98.06 99.24	0.773
98.05 or lower	0,761

For any period of 3 consecutive months, during this maintenance contract that a minimum SA of 99.65% is not met and/or a trend shows it will not be met, the CONTRACTOR will, at his expense, promptly undertake design reviews and a review of preventive maintenance procedures and propose a plan to correct within one month the default or potential default.

INDEMNIFICATION 1.4

Indemnity

The CONTRACTOR agrees, by entering into this contract, regardless of the coverage provided by an insurance policy, to pay all costs necessary to indemnify, defend and hold CWNER harmless from any and all claims, demands, actions, attorney's less, costs, and expenses (collectively "Claims") but only to the extent such Claims are alleged to be based upon or arising out of any acts, errors, omissions, fault or negligence of CONTRACTOR or its principals, employees, subcontractors or other agents white performing services under this contract. The CONTRACTOR shall indemnify, defend, and hold harmless the OWNER for any attorney's fees or other costs of delense, even if the allegations of the claim are groundless, false or fraudulent.

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Except claims for bodily injury and the costs of repair or replacement of damaged property, the CONTRACTOR's liability under this provision, for direct, indirect, special, incidental or consequential loss or damage, will be limited, in the aggrégate; to two million dollars (\$2,000,000).

Patent Indemnity

CONTRACTOR hereby indemnities and shall defend and hold harmless OWNER and its representatives respectively from and against all claims, losses, costs, damages, and expenses, including altorney's fees, incurred by OWNER and its representatives, respectively, as a result of or in connection with any claims or actions based upon intringement or alleged intringement of any patent and arising out of the use of the equipment or materials furnished under the Contract by CONTRACTOR, or out of the processes or actions employed by, or on behalf of CONTRACTOR in connection with the performance of the Contract. CONTRACTOR shall, at its sole expense, promptly defend against any such claim or action unless directed otherwise by OWNER or its representatives; provided that OWNER or its representatives shall have notified CONTRACTOR upon becoming aware of such claims or actions, and provided further that CONTRACTOR's afterementioned obligations shall not apply to equipment, materials, or processes furnished or specified by OWNER or its representatives.

CONTRACTOR shall have the right, in order to avoid such claims or actions, to substitute at its expense non-infringing equipment, materials, or processes, or to modify such intringing equipment, materials and processes so they become non-inlinging, or obtain the necessary licenses to use the inlinging equipment, material or processes, provided that such substituted and modified equipment, materials and processes shall meet all the requirements and be subject to all the provisions of this Contract.

INSURANCE

The CONTRACTOR will provide OWNER with certificates of insurance for coverages as listed below. and endorsements affecting coverage required by this contract within ten (10) calendar days after approval by the OWNER. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer and licensed by the State of Nevada in accordance with NRS 680A.300L

Each insurance company's rating as shown in the latest Best's Key Rating Guide will be fully disclosed and entered on the required certificate of insurance. OWNER requires insurance carriers to maintain a Best's Key Rating of at least A - (minus) VIII (eight) or higher.

OWNER, its officers and employees must be expressly covered as additional insureds except on workers' compensation coverages.

The CONTRACTOR's insurance will be primary as respects the OWNER, its officers and employees

The CONTRACTOR's general liability policies will be endorsed to recognize specifically CONTRACTOR's contractual liability to OWNER. It is further agreed that the CONTRACTOR, or its insurance carrier, with provide the OWNER with 30-day advance notice of any cancellation of the policies, except for renpayment which will be noticed ten (10) days in advance.

All deductibles and self-insured retentions will be fully disclosed in the certificates of insurance. No deductible or self-insured retention may exceed the equivalent of One Hundred Severty Five Thousand Dollars (\$175,000) without the written approval of the OWNER.

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If aggregate limits are imposed on bodily injury and property damage, then the amount of such limits must be less than Two Million Dollars (\$2,000,000). All aggregates must be fully disclosed and the amount entered on the required certificate of insurance. The CONTRACTOR must notify OWNER of any erosion of the aggregate limits.

The CONTRACTOR will obtain and maintain, for the duration of this contract, general liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONTRACTOR, its agents, representatives, employees or SUBCONTRACTOR's of any tier. The cost of such insurance will be included in CONTRACTOR's fixed fee.

General liability coverage will be on a "per occurrence" basis only and not "claims made." The coverage must be provided either in a commercial general liability form or a broad form comprehensive general liability form. No exceptions to coverages provided in such forms are permitted. Policies must include, but need not be limited to, coverages for bodily injury, personal injury, broad form property damage, premises operations, severability of interest, products and completed operations, contractual and independent contractors. General liability insurance policies will be endorsed to include CWNER as an additional insured. Subject to paragraph 6 of this subsection, CONTRACTOR will maintain limits of no less than One Million Dollars (\$1,000,000) combined single limit "per occurrence" for bodily injury (including death), personal injury and property damages.

The CONFRACTOR will obtain and maintain, for the duration of this contract, automobile coverage which must include, but need not be limited to, covarage against claims for injuries to persons or damages to properly which may arise from or in connection with the use of any auto in the performance of the work hereunder by the CONTRACTOR, its agents, representatives, employees or subcontractors of any tier. Subject to the conditions set forth herein, CONTRACTOR will maintain limits of no less than Five Million Dollars (\$5,000,000) combined single limit "per occurrence" for bedily injury and property damage.

if the CONTRACTOR fails to maintain any of the insurance coverages required herein, then the OWNER will have the option of declaring the CONTRACTOR responsible for any payments made by the OWNER to obtain or maintain such insurance, and the OWNER may collect the same from the CONTRACTOR, or deduct the amount paid from any sums due the CONTRACTOR under this contract.

The CONTRACTOR shall obtain and maintain for the duration of this contract, a work certificate and/or a certificate issued by an insurer qualified to underwrite workers' compensation insurance in the State of Nevada, in accordance with Nevada Revised Statutes Chapters 616A-616D, inclusive, unless Contractor is a Sole Proprietor and shall be required to submit an affidavit indicating that it has not elected to be included in the terms, conditions and provisions of Chapters 616A-616D, Inclusive, and is otherwise in compliance with those terms, conditions and provisions.

The CONTRACTOR agrees to maintain required workers' compensation coverage throughout the term of the contract. If CONTRACTOR does not maintain coverage throughout the term of the contract, CONTRACTOR agrees that OWNER may, at any time the coverage is not maintained by CONTRACTOR, order the CONTRACTOR to stop work, suspend the contract, or terminate the contract.

The insurance requirements specified herein do not relieve the CONTRACTOR of its responsibility or limit the amount of its liability to the OWNER or other persons and CONTRACTOR is encouraged to purchase such additional insurance as it deems necessary.

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The CONTRACTOR is responsible for and required to remedy all damage or loss to any property. including property of OWNER, to the extent caused by the CONTRACTOR, CONTRACTOR'S subcontractor, or anyone employed, directed or supervised by CONTRACTOR.

In the event of a change in the cost of premium, which the Contractor believes to have been caused by factors beyond its control (i.e. terrorism), the Contractor may submit documentation of this change in costs to the Authority. If the Authority, in its sole discretion, determines that the cost of premiums increased due to the factors beyond the Contractor's control, the Authority shall make an equitable adjustment to the O&M price for the appropriate time period,

1.6 OWNERSHIP OF DOCUMENTS

Copies of ATS maintenance records developed by the CONTRACTOR at the work site will be deliverable to the OWNER upon request.

INDEPENDENT CONTRACTOR 1.7

In the performance of this contract, the CONTRACTOR's status is that of an independent CONTRACTOR, and not as an agent of employee of the OWNER. The CONTRACTOR will conduct themselves in accordance with that status.

B.1 TERMINATION

OWNER reserves the right to terminate the CONTRACTOR for cause by giving sixty (60) days prior written notice.

The performance of the work under this contract may be terminated by the OWNER in whole, or from time to time in part, in accordance with this paragraph whenever the OWNER determines that such termination is in the best interest of the County. Any such termination will be effected by a minimum of sixty (60) days prior written notice by registered or certified mail, return receipt requested to the CONTRACTOR specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. Further, it will be deemed conclusively presumed and established that such fermination is made with just cause as therein stated and no proof in any claim, demand, or suit will be required of the OWNER regarding such discretionary action, if such termination is given for nonperformance of the CONTRACTOR for work under this contract, the CONTRACTOR will not make claim for any termination expenses, except long-lead items which will not be received within the succeeding six (6) months, and for which the CONTRACTOR has an outstanding financial obligation.

After receipt of Notice of Termination, and except as otherwise directed by the OWNER, the CONTRACTOR will:

- Stop work under the contract on the date and to the extent specified in the Notice of Termination.
- Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portions of the work under the contract as is not terminated.
- Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.

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Assign to the CWNER, in the manner, at the times, and to the extent directed by the OWNER, all of the rights, title, and interest of the CONTRACTOR under the orders and subcontracts so terminated, in which case the OWNER will have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

Settle all outstanding liabilities and all claims arising out of such termination or orders and subcontracts, with the approval or ratification of the OWNER to the extent it may require, which approval or ratification will be final for all purposes of this Section.

- Transfer title to the QWNER and deliver in the manner, at the times, and to the extent, if any, directed by the QWNER;
 - Work in process, completed work, supplies, and other material produced as part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination; and
 - The completed, or partially completed documents, information, and other property which, if the
 contract had been completed, would have been required to be furnished to the OWNER.
- Complete performance of such part of the work which have not been terminated by the Notice of Termination; and
- Take such action as may be necessary, or as the OWNER may direct, for the protection and
 preservation of the property related to the contract which is in the possession of the CONTRACTOR
 and in which the OWNER has or may acquire an interest.
- Within sixty (60) days after Notice of Termination, the CONTRACTOR will submit his termination claim to the OWNER in the form and with the certification prescribed by the OWNER. Unless one or more extensions in writing are granted by the CWNER upon request of the CONTRACTOR made in writing within such sixty (60) day period or authorized extension thereof, any and all such claims will be conclusively deemed waived.
- Subject to the provisions of this paragraph, the CONTRACTOR and OWNER may agree upon the whole or any part of the amount or amounts to be paid to the CONTRACTOR by reason of the total or partial termination of work pursuant hereto; provided that such agreed amount or amounts will never exceed the total year amounts as reduced by the amount of payments otherwise made and as further reduced by the amounts for work not terminated. The contract will be amended accordingly, and the CONTRACTOR will be paid the agreed amount.
- Under a partial termination of the work under this contract, the OWNER will review the CONTRACTOR's termination claim, and make payment in the amount due the CONTRACTOR. Any disagreement on the amount of such payment will be subject to settlement under the arbitration provisions of Article 1.17, Claims and Disputes.

1.9 GOVERNING LAW AND VENUE

The terms and provisions of this contract shall be construed in accordance with the laws and court decisions of the State of Nevada. Venue of any action brought under this contract shall lie in Clark County, Nevada, exclusively.

1,10 CHARACTER OF WORKMEN AND EQUIPMENT

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The CONTRACTOR shall employ such superintendents, foremen, and workmen that are careful and competent. All workmen shall have sufficient skill and experience to perform properly the work assigned them. The OWNER shall furnish all tools and equipment as necessary to perform maintenance and repairs of equipment. CONTRACTOR shall provide a work force as considered necessary for the prosecution of the work in an acceptable manner and a satisfactory rate of progress,

The OWNER may, in writing, demand the dismissal of any person or persons) employed by the CONTRACTOR under this contract who misconducts himselfcherself or is incompetent or negligent in the proper performance of its duties or neglicels or refuses to comply with the directions of the OWNER as provided to CONTRACTOR. Such person or persons shall not be employed thereon again without the written consent of the OWNER.

Further, the CONTRACTOR's designated Superintendent shall not be replaced or reassigned by the CONTRACTOR without the approval of the OWNER. OWNER's approval of such replacement will not be unreasonably withheld.

All equipment, looks, and machinery used for handling materials and executing any part of the work shall be satisfactorily maintained. Equipment on any portion of the work will be such that no foreseeable injury to the work, or the property, will result from its use.

1.11 NO WAIVER OF LEGAL RIGHT'S

Any waiver of any breach of this contract shall not be field to be a waiver of any other or subsequent breach, or of any right the OWNER or CONTRACTOR may have for damages.

1.12 FORCE MAJEURE

Neither the CWNER nor the CONTRACTOR shall be deemed in violation of this contract it it is prevented from performing any of the obligations hereunder by reason of boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, acts of superior governmental authority, unusual weather conditions, floods, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not in its control, nor will any such event be considered in the computation of system availability (SA) hereunder. However, notice of such impediment or delay in performance must be timely given.

1.13 NONDISCRIMINATION

The CONTRACTOR agrees as follows during the performance of any of the work covered by this contract:

The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The equal opportunity clause and the regulations contained in Title 41 of CFR Part 60-1 are incorporated in this contract by reference.

The CONTRACTOR shall file annually complete and accurate reports on Standard Form 100 (EEO-1) with the Joint Reporting Committee of the Federal Government. The CONTRACTOR shall file such a report within thirty (30) days after the effective date of this contract unless CONTRACTOR has submitted such a report within the twelve (12) months preceding the effective date of this contract.

The CONTRACTOR shall develop a written attirmative action compliance program for each of its establishments consistent with the rules, regulations and orders of the Department of Labor.

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