

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 because 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 OWNER 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 forth herein, OWNER 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, OWNER 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 at all times comply with all applicable laws, ordinances, statutes, rules or regulations.

If, during the term of this Contract, there are changes to existing laws 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 adjustment 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 same in writing to OWNER who will issue instructions as may be necessary.

00869

1.16 CLAIMS AND DISPUTES

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. Failure 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 paragraphs of this clause will be allowed (1) for any costs incurred before the CONTRACTOR will have notified the OWNER 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 (30) days after termination of the delay. The OWNER'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 maintain 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 negotiation, 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 manner 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 third arbitrator and will appoint the same by notice in writing, signed by both of them given to the OWNER and the CONTRACTOR. If fifteen (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

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 Nevada, 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 OWNER 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 monthly system availability (SA), as defined and calculated in accordance with provisions of paragraph 1.3.4, of 99.65%. If the ATS fails to achieve the warranted monthly 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 IS 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.

The CONTRACTOR will record all tasks performed by operations and maintenance personnel in fulfillment 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 submitted 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 contract.

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

Survival: The provisions of the paragraphs contained herein and titled 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.

1.20 AIRPORT SECURITY

a. OWNER Property

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

1. Landside: The non-secure portion of the Airport;
2. Airside: The Secured Area / Security Identification Display Area (SIDA); and
3. Sterile Areas: The parts of the terminal buildings that required access through a security check point. Note: This is a part of the SIDA.

All CONTRACTOR's personnel working on OWNER property, Landside, Airside or Sterile 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 outermost garment the appropriate McCarran International Airport security identification badge at all times.

2. CONTRACTOR acknowledges that McCarran 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.
3. 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 their employees.

c. 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. CONTRACTOR will be allowed access to only those areas necessary to complete the work.

d. Airport 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, 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.

e. Landside / Public Work Areas

CONTRACTOR's personnel with a Tan badge can gain access to Landside / Public or Sterile Area work areas without escort. If a Tan badge 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 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 security checkpoint prior to entering Airport Sterile Areas.

SECURITY PROCEDURES AND BADGING

- a. CONTRACTOR may apply for either a Maroon, Green or Tan 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 (CBP) 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) 261-5686.

- 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 fingerprinted, as required by 49 Code of Federal Regulation (CFR), Part 1542. It may take up to fourteen (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 Maroon 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 Maroon 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 Maroon 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 Areas.
- 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 personnel" includes any and all personnel of the Airport, operator, concessionaires, vendors, contractors, 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.

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.

LOST BADGES

- a. CONTRACTOR shall immediately file a report of lost or missing badges with the Airport Control Center at (702) 261-4125. If a lost identification badge is recovered, it must immediately be returned to the Airport Badging Office.
- b. 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

- a. All vehicles without decals must be escorted.
- b. No private vehicles, (registered to an individual) are authorized on the airfield.
- c. All CONTRACTOR'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.
- e. 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 OWNER. 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, regulations, 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

- a. 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.

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 malfunctions;
- 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;

Bombardier Trans.
Automated Transit System Equipment
CBE-552

- 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.

00877

ER0877

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, testing, 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" Trams = 4 vehicles, "D" Trams = 6 Vehicles, and T3 (when system is placed into service) = 6 vehicles and associated components of all trams) between the CONTRACTOR and OWNER, except as specifically identified hereinafter. 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 safe 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.

2.1.6 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 system 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.

2.1.6 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 nearest 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 OWNER to ensure personnel safety and equipment security.

2.1.7 RECORDS

The CONTRACTOR will keep detailed records and inventory 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 complies 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, accessory equipment, door mechanisms, graphic, and air conditioning equipment.

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

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 graffiti
- 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

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

Service Tests

- Tests of vehicle subsystems as necessary to assure safe 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 outlined 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-assisted check

2.2.2.2 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.

2.2.3 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:

2.2.3.1 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

2.2.3.2 SCHEDULED STATION EQUIPMENT MAINTENANCE

Minor Maintenance

- Station door adjustments and repairs
- Graphics repairs (excluding bulb 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 OWNER 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 protection 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

2.2.4.2 SCHEDULED POWER 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 unsatisfactory 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 adjustment of the power rails on the guideway.

2.2.5 AUTOMATIC TRAIN CONTROL EQUIPMENT MAINTENANCE

The CONTRACTOR will service and maintain all automatic vehicle control (ATC) and associated equipment, including the ATC 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 safe operation of all ATC equipment

2.2.5.2 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 Maintenance (excluding work covered under Section 2.2.5)

- Repair or replacement of failed equipment or components

2.2.5.3 NON-SCHEDULED MAINTENANCE OF AUTOMATIC TRAIN CONTROL EQUIPMENT

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

2.2.6 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 OWNER 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-scope 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.

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.

2.2.6.1 HEAVY MAINTENANCE AND OVERHAUL

In accordance with Bombardier 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 overhaul 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 overhaul 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 surface 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 heavy maintenance or overhaul item is rejected by OWNER and subsequently a failure occurs due to the rejection of the heavy maintenance or overhaul item, downtime for the purposes of calculating vehicle availability will be excluded and Contractor will not be deemed in violation of this contract.

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 reports 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.

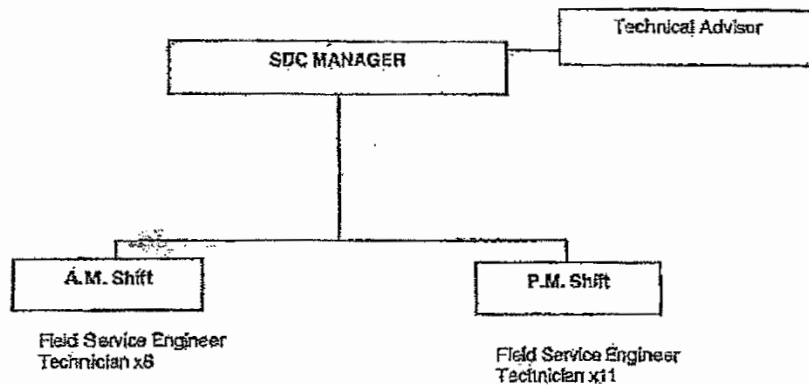
Maintenance management comprises all of the functions required to efficiently manage the maintenance activities, including:

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

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

If 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 OWNER and recommend if 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 liable 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 submittal of the annual inventory. Any parts deemed obsolete by the CONTRACTOR or OWNER will be delivered to the OWNER, and the part(s) will be removed from the inventory list.

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 unscheduled 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.

A1.3 SYSTEM AVAILABILITY AND EQUIPMENT HISTORY

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

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:

$$GA = \frac{\text{system operating time}}{\text{system scheduled operating time}}$$

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 inanimate 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 Satellite C ATS or five (5) minutes for the Satellite D ATS during which time corrective action effectively restores the vehicle(s) to service
- Acts of vandalism causing system interruptions

A1.6 SYSTEM OPERATING SCHEDULE

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

- 17 hours - Synchronized Double Shuttle
- 7 hours - Single Lane Shuttle

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

FORM A
INSURANCE REQUIREMENTS
CONTRACT FOR MAINTENANCE OF
AUTOMATED TRANSIT SYSTEM EQUIPMENT
CBE-552

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

1. Format/Time: The CONTRACTOR shall provide Owner with Certificates of Insurance and endorsements affecting coverage per enclosed sample formats as required by this Agreement within ten (10) calendar 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 duration of the contract and any renewal periods.
2. Best Key Rating: The Owner requires insurance carriers to maintain during the contract term, a Best Key Rating of A- VII or higher, which shall be fully disclosed and entered on the Certificate of Insurance. (see sample form)
3. 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 liability coverage. The CONTRACTOR's insurance shall be primary as respects the Owner, its officers, employees, agents, and volunteers.
4. Endorsement/Cancellation: The CONTRACTOR's general and automobile liability 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 certified mail "return receipt requested" of any policy changes, cancellations, or any erosion of insurance limits.
5. Deductibles: 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.
6. 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. Commercial General Liability: Subject to paragraph 6 of this attachment, the CONTRACTOR shall maintain limits of no less than \$1,000,000 combined single limit per occurrence for bodily injury (including death), personal injury and property damages. Commercial general liability coverage 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 endorsement) insurance form.
8. Automobile Liability: Subject to paragraph 6 of this attachment, CONTRACTOR shall maintain limits of no less than \$5,000,000 combined single limit per occurrence for bodily injury and property damage, to include, but not be limited to, coverage against all insurance claims for injuries to persons or damages to property which may arise from services rendered by CONTRACTOR and any auto 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 duration of this contract.
10. Workers' Compensation: 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, provided, however, a CONTRACTOR who is a Sole Proprietor shall be required to submit an affidavit (Attachment 1) indicating that the CONTRACTOR has elected not 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.
11. Failure To Maintain Coverage: If the CONTRACTOR fails to maintain any of the insurance coverage as required herein, Owner may withhold payment, order the //TYPE// to stop the work, declare the CONTRACTOR in breach, suspend or terminate the contract, assess liquidated damages as defined herein.
12. Damages: The CONTRACTOR is required to remedy all injuries to persons and damage 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.
13. Cost: The CONTRACTOR shall pay all associated costs for the specified insurance. The cost shall be included in the contract price(s).

14. Insurance Submittal Address: All Insurance Certificates requested shall be sent to the Clark County Department of Aviation, Purchasing, 3rd Floor, Attention: Senior Financial Office Specialist, 5757 Wayne Newton Boulevard, P.O. Box 11005, Las Vegas, NV 89111-1005.
15. Insurance Form Instructions: the CONTRACTOR's Insurance Company representative must fill in the following information:
1. Insurance Broker's name, complete address, phone and fax numbers.
 2. CONTRACTOR's name, complete address, phone and fax numbers.
 3. Insurance Company's Best Key Rating, A- (minus)- VIII (eight) or higher must be shown on certificate
 4. Commercial General Liability (Per 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) Fire Damage (\$50,000)
 - (I) Medical Expenses (\$5,000)
 5. Automobile Liability (Any Auto)
 - (A) Policy Number
 - (B) Policy Effective Date
 - (C) Policy Expiration Date
 - (D) Combined Single Limit (\$5,000,000)
 6. Worker's Compensation
 7. Description: Cid Number and Name of Contract (must be identified on the initial insurance form and each renewal form).
 8. Certificate Holder:
Clark County
c/o Department of Aviation-Purchasing
3rd Floor
5757 Wayne Newton Boulevard
P.O. Box 11005
 9. Authorized Agent Signature

CLARK COUNTY CERTIFICATE OF INSURANCE				ISSUANCE DATE: 5/12/2003	
PRODUCER 1. INSURANCE BROKERS NAME, ADDRESS, PHONE & FAX NUMBERS			THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.		
INSURED 2. NAME, ADDRESS, PHONE & FAX NUMBERS			COMPANIES AFFORDING COVERAGE COMPANY LETTER A LIST ALL COMPANY'S AFFORDING COMPANY LETTER B COVERAGE FOR EACH POLICY COMPANY LETTER C COMPANY LETTER D COMPANY LETTER E		BEST'S RATING COMPANY'S BEST KEY RATING A VII (B) OF HIGHER
COVERAGES THIS IS TO CERTIFY THAT THE POLICES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIODS INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
4.	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR OWNERS & CONTRACTORS PROT. UNDERGROUND EXPLOSION & COLLAPSE INDEPENDENT CONTRACTOR	(A)	(B)	(C)	GENERAL AGGREGATE \$25 2,000,000 PRODUCTS-COMPROP AGG. \$25 2,000,000 PERSONAL & ADV. INJURY \$25 1,000,000 EACH OCCURRENCE \$25 1,000,000 FIRE DAMAGE \$25 50,000 MED. EXPENSE (ACC. OR NON-ACC.) \$25 5,000
5.	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRER AUTOS NONOWNED AUTOS GARAGE LIABILITY	(A)	(B)	(C)	COLL. UNED SINGLE LIMIT \$25 5,000,000 BODILY INJURY (P & MED.) \$ \$ BODILY INJURY (P & MED.) \$ \$ PROPERTY DAMAGE \$ \$ EACH OCCURRENCE \$ \$ AGGREGATE \$ \$
	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				STATUTORY LIMITS EACH ACCIDENT \$ \$ DISEASE-POLICY LIMIT \$ \$ DISEASE-EACH EMPLOYEE \$ \$
6.	<input checked="" type="checkbox"/> WORKERS COMPENSATION OTHER PROFESSIONAL LIABILITY				
7. DESCRIPTION: CLARK COUNTY, ITS OFFICERS, EMPLOYEES, AGENTS, AND VOLUNTEERS ARE INSURED WITH RESPECT TO LIABILITY ARISING OUT OF THE ACTIVITIES BY OR ON BEHALF OF THE ADDITIONAL INSURED IN CONNECTION WITH THIS PROJECT. PER ISO FORM ENCLOSED (ENDORSEMENT FORM)					
8. CERTIFICATE HOLDER CLARK COUNTY COO DEPARTMENT OF AVIATION PURCHASING 5701 W. KYLE NEWTON BLVD. P.O. BOX 11002 LAS VEGAS, NV 89111-0025			CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. 9. Authorized Agent		

NAMED INSURED:				
POLICY PERIOD:		TO		ENDORSEMENT EFFECTIVE DATE:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

ADDITIONAL INSURED:

CLARK COUNTY, ITS OFFICERS, EMPLOYEES, AGENTS, AND VOLUNTEERS

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

Automobile Liability - (\$5,000,000)

Policy No.:

General Liability - (\$1,000,000)

Policy No.:

SCHEDULE (if required)

Name of Person or Organization:

Locations and Description of Completed Operations:

SAMPLE

(If no entry appears above, information required to complete this endorsement will be shown in the declarations as applicable to this endorsement.)

Section II

Who is insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" at the location designated and described in the schedule of this endorsement performed for that insured and included in the "products-completed operations hazard".

Authorized Agent (print name)

Signature

Date

00893

ER0893

FORM B
CONTRACT FOR MAINTENANCE OF
AUTOMATED TRANSIT SYSTEM EQUIPMENT
CBE-552

BUSINESS DESIGNATION

FOR INFORMATIONAL PURPOSES ONLY:

The above referenced firm is a ☐ MBE ☐ WBE ☐ PBE ☐ SBE ☐ NBE ☐ LBE as defined below.

STATE OF NEVADA BUSINESSES

MINORITY OWNED 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, Asian-Pacific American or Native American ethnicity.

WOMEN OWNED BUSINESS ENTERPRISE (WBE): An independent and 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 (PBE): 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 disabled individuals pursuant 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 dollars (\$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 economically 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.

00894

ER0894

FORM C
CONTRACT FOR MAINTENANCE OF
AUTOMATED TRANSIT SYSTEM EQUIPMENT
CBE-552

SUBCONTRACTOR INFORMATION

It is our intent to utilize the following MBE, WBE, PBE, SBE, and NBE subcontractors in association with this Contract:

1. Subcontractor Name: _____
Contact Person: _____ Telephone Number: _____
Description of Work: _____
Estimated Percentage of Total Dollars: _____
Business Enterprise Type: ☐ MBE ☐ WBE ☐ PBE ☐ SBE ☐ NBE
Ethnicity: ☐ Asian ☐ Black ☐ Caucasian ☐ Hispanic ☐ Native American ☐ Other: _____
 2. Subcontractor Name: _____
Contact Person: _____ Telephone Number: _____
Description of Work: _____
Estimated Percentage of Total Dollars: _____
Business Enterprise Type: ☐ MBE ☐ WBE ☐ PBE ☐ SBE ☐ NBE
Ethnicity: ☐ Asian ☐ Black ☐ Caucasian ☐ Hispanic ☐ Native American ☐ Other: _____
 3. Subcontractor Name: _____
Contact Person: _____ Telephone Number: _____
Description of Work: _____
Estimated Percentage of Total Dollars: _____
Business Enterprise Type: ☐ MBE ☐ WBE ☐ PBE ☐ SBE ☐ NBE
Ethnicity: ☐ Asian ☐ Black ☐ Caucasian ☐ Hispanic ☐ Native American ☐ Other: _____
 4. Subcontractor Name: _____
Contact Person: _____ Telephone Number: _____
Description of Work: _____
Estimated Percentage of Total Dollars: _____
Business Enterprise Type: ☐ MBE ☐ WBE ☐ PBE ☐ SBE ☐ NBE
Ethnicity: ☐ Asian ☐ Black ☐ Caucasian ☐ Hispanic ☐ Native American ☐ Other: _____
 5. Subcontractor Name: _____
Contact Person: _____ Telephone Number: _____
Description of Work: _____
Estimated Percentage of Total Dollars: _____
Business Enterprise Type: ☐ MBE ☐ WBE ☐ PBE ☐ SBE ☐ NBE
Ethnicity: ☐ Asian ☐ Black ☐ Caucasian ☐ Hispanic ☐ Native American ☐ Other: _____
 6. Subcontractor Name: _____
Contact Person: _____ Telephone Number: _____
Description of Work: _____
Estimated Percentage of Total Dollars: _____
Business Enterprise Type: ☐ MBE ☐ WBE ☐ PBE ☐ SBE ☐ NBE
Ethnicity: ☐ Asian ☐ Black ☐ Caucasian ☐ Hispanic ☐ Native American ☐ Other: _____
- ☐ No MBE, WBE, PBE, SBE, nor NBE subcontractors will be used.

00895

ER0895

FORM D
CONTRACT FOR MAINTENANCE OF
AUTOMATED TRANSIT SYSTEM EQUIPMENT
CBE-552

AFFIDAVIT

I, _____, on behalf of my company, _____, being
(Name of Sole Proprietor) (Legal Name of Company)

duly sworn, depose and declare:

1. I am a Sole Proprietor;
2. I will not use the services of any employees in the performance of this contract, identified as Bid No. _____/RFP No. _____/CBE No. _____, entitled _____;
3. I have elected to not be included in the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive; and
4. I am otherwise in compliance with the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive.

I release Clark County from all liability associated with claims made against me and my company, in the performance of this contract, that relate to compliance with NRS Chapters 616A-616D, inclusive.

Signed this _____ day of _____, _____.

Signature

State of Nevada
County of Clark

On this _____ day of _____, before the undersigned Notary Public, personally appeared _____, having proved on a satisfactory basis to be the person(s) whose name(s) _____ subscribed to this instrument, and acknowledge that _____ executed it.

Witness my hand and official seal.

Notary's Signature

00896

ER0896

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

Type of Business:

☐ Individual ☐ Partnership ☐ Limited Liability Company ☐ Corporation ☐ Trust ☐ Other

Business Name (include d.b.a., if applicable): _____

Business Address: _____

Business Telephone: _____

Disclosure of Ownership:

All non-publicly traded corporate business entities must list the names of individuals holding more than five percent (5%) ownership or financial interest in the business entity appearing before the Board. "Business entities" include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations. Corporate entities shall list all Corporate Officers and Board of Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use transactions, extends to the applicant and the landowner.

FULL NAME	TITLE

I certify under penalty of perjury, that all of the information provided herein is current, complete and accurate. I also understand that the Board will not take any action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.

Signature/Capacity

Print Name

Date

00897

ER0897

**ATTACHMENT 4
DISCLOSURE OF OWNERSHIP / PRINCIPALS**

Type of Business:

☐ Individual ☐ Partnership ☐ Limited Liability Company ☒ Corporation ☐ Trust ☐ Other

Business Name (include d.b.a., if applicable): Bombardier Transportation
(Holdings) USA Inc.

Business Address: 1501 Lebanon Church Road
Pittsburgh, PA 15236

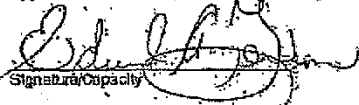
Business Telephone: (412) 655-5700

Disclosure of Ownership

All non-publicly traded corporate business entities must list the names of individuals holding more than five percent (5%) ownership or financial interest in the business entity appearing before the Board. "Business entities" include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations. Corporate entities shall list all Corporate Officers and Board of Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use transactions, extends to the applicant and the landowner.

FULL NAME	TITLE
The ultimate owner of Bombardier Transportation (Holdings) USA Inc. is Bombardier, Inc., a publicly traded company.	

I certify, under penalty of perjury, that all of the information provided herein is current, complete and accurate. I also understand that the Board will not take any action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.


Signature/Capacity

Edward A. Gordon
Print Name

May 1, 2008
Date

Clark County Department of Aviation

00898

ER0898

EXHIBIT 2

00899

ER0899

JIM GIBSONS
Governor

DIANNE CORNWALL
Director

MICHAEL TANCHER
State Labor Commissioner

STATE OF NEVADA



DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF THE LABOR COMMISSIONER

<http://www.LaborCommissioner.com>

REPLY TO:

11 OFFICE OF THE LABOR COMMISSIONER
338 E. WASHINGTON AVENUE, SUITE 4100
LAS VEGAS, NEVADA 89101
PHONE: (702) 458-2838
FAX: (702) 458-2800

11 OFFICE OF THE LABOR COMMISSIONER
515 FARMVIEW DRIVE, SUITE 220
CARSON CITY, NEVADA 89701
PHONE: (775) 887-1838
FAX: (775) 887-4108

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 CBE-352

Dear Ms. 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 the 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 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.

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

00900

ER0900

NEVADA STATE LABOR COMMISSIONER

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 me at (702) 486-2654.

Sincerely,



Keith Sakelidze

Deputy Labor Commissioner

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

Encl

00901

ER0901

EXHIBIT 3

00902

ER0902



Department of Aviation

RANDALL M. WALKER
DIRECTOR

ROSEMARY A. VASSILIADIS
DEPUTY DIRECTOR

POSTAL BOX 11008
LAS VEGAS, NEVADA 89111-1008
(702) 231-5211
FAX (702) 237-5253
EMAIL: webmaster@dmvcc.com

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



Clark County Board of Commissioners
Rory Reid, Chair • Myra Wilson, Vice-Chair
Tom Collins • Verne Anderson • John M. ...

00903

ER0903

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

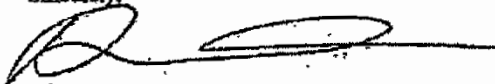
00904

ER0904

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

cc: 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

00905

ER0905

EXHIBIT 4

00906

ER0906

December 17, 2009

TO: Michael Tanchuk, Labor Commissioner
FROM: William Stanley, IUEC
RE: Appeal from Decision of Clark County Dept. of Aviation re Bombardier
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 CBE 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

00907

ER0907

Bombardier employees employed on County Contract 2305: 1) "the work knowledge and tasks are the same as those held and utilized on a daily 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."

Now that work completed by Bombardier 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 swallow the rule.

Bombardier 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 20-25% 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 overhauling 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 overhaul" which included:

00908

ER0908

Vehicles

- Propulsion Motor Overhaul
- Axle differential and planetary gear overhaul
- Air Conditioning overhaul
- Replacement of bogie 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.

00909

ER0909

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. Close Co., 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 Los 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.

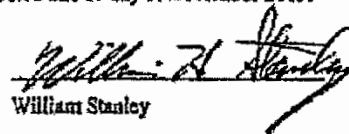
DOA's argument per past practice and legal opinions offered by this deputy DA regarding other contracts has no relevancy in this determination, because this contract is fundamentally different from the others due to the predominance of heavy repair, and because there is no evidence that DOA or the deputy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

00910

ER0910

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


William Stanley

00911

ER0911

EXHIBIT 5

00912

ER0912

JIM GIBBONS
Governor

DAVIDE CORNWALL
Director

MICHAEL TANCHER
State Labor Commissioner

STATE OF NEVADA



DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF THE LABOR COMMISSIONER

<http://www.LaborCommissioner.com>

REPLY TO:

1) OFFICE OF THE LABOR COMMISSIONER
455 E. WASHINGTON AVENUE, SUITE 4100
LAS VEGAS, NEVADA 89101
PHONE (702) 498-2808
FAX (702) 498-2880

2) OFFICE OF THE LABOR COMMISSIONER
675 FAIRVIEW DRIVE, SUITE 228
CARSON CITY, NEVADA 89101
PHONE (775) 447-1300
FAX (775) 447-1400

December 31, 2009

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

Re: 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 November 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 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 falls 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.

UNV-100-11-02

100-240

00913

ER0913

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

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

Encl.

07/16/00

00914

ER0914

EXHIBIT 6

00915

ER0915

LAS VEGAS



MCCARRAN INTERNATIONAL AIRPORT

Department of Aviation

RANDALL H. WALKER

DIRECTOR

ROSEMARY A. VASSILIADIS

DEPUTY DIRECTOR

POSTAL BOX 110003

LAS VEGAS, NEVADA 89111-10003

702/251-5511

FAX 702/251-5553

E-MAIL: walkerrh@ccdoa.net vassiriadisa@ccdoa.net

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 Sakellide. 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.



Clark County Board of Commissioners

Rory Feld, Chair • Chip Maxwell, Vice Chair

Susan Breyer • Tom Collins • Chris Gundlach • Lawrence Westby • Bruce Woodbury

00916

ER0916

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 downtime 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 trains 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, 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

00917

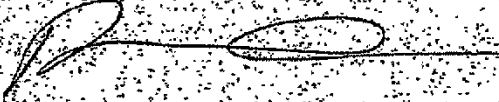
ER0917

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 Sakellides, 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

00918

ER0918

EXHIBIT 7

00919

BEFORE THE NEVADA STATE LABOR COMMISSIONER

CARSON CITY, NEVADA

FILED

JUN 7 2011

NEVADA
LABOR COMMISSIONER - CL

INTERIM ORDER

IN THE MATTER OF:)
INTERNATIONAL UNION OF ELEVATOR)
CONSTRUCTORS, Claimant)
vs.)
BOMBARDIER TRANSPORTATION (HOLDINGS) USA,)
INC., Respondent)
Clark County Department of Aviation)
Automated Transit Systems Equipment)
DOA Contract CBE-552)

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 categories of maintenance for the vehicles, guideways,

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

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

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

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

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

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

- 21 15. "Public work" means any project for the new construction, repair or
22 reconstruction of:
23 (a) A project financed in whole or in part from public money for:
24 (1) Public buildings;
25 (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.

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

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

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

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

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

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

4 A public body that undertakes a public work shall request from the Labor
5 Commissioner, and include in any advertisement *or other type of*
6 *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)

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

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

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

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

19 One of the points raised by the parties concerns whether there is a distinction between
20 "normal operation" and "normal maintenance." There is, but it is not of any particular
21 significance in this matter even though they are addressed separately in the statute. The normal
22 operation of the McCarran Airport is a complex operation. It involves a vast array of tasks, the
23 majority of which have no relationship to the requirement to pay prevailing wages. There are
24 many aspects of the day-to-day business of the airport that do not involve maintenance.
25

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

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

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

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

23 A second reason is that, maintenance contracts, by their nature, have a degree of
24 uncertainty when it comes to repairs. For example, during the term of the maintenance
25

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

3 In interpreting the statute, the Labor Commissioner's Office takes the position that there
4 is a third way. Some work that is performed under a maintenance contract is subject to
5 prevailing wage and some is not. It depends on the circumstances. It would not be unusual for
6 a problem requiring repairs to be discovered in the course of normal maintenance. In those
7 cases, it is the long-established practice of the Labor Commissioner to analyze the repair that is
8 being made. In many cases where a maintenance agreement or contract is involved, the repairs
9 tend to be minor in that the total cost of making the repair is less than \$100,000. (See NRS
10 338.080)

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

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

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

24 By way of disclosure, the Labor Commissioner has ridden the ATS serving Terminals C
25 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

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

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

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

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

19 This can be illustrated hypothetically. During the course of a routine inspection, it is
20 discovered that a concrete pillar supporting the guideway is defective and needs be replaced.
21 The construction of the pillar may require the use of carpenters to build the forms, iron workers
22 to tie the rebar, cement masons to handle the concrete work, and laborers to provide assistance
23 where necessary. In that case, the prevailing wage rates to be paid would be based on those
24 classifications since those are the classifications that routinely used perform those tasks.
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

13
14
15
16
17
18
19
20
21
22
23
24
25

1
2

ER0927

1
2 CERTIFICATE OF MAILING

3 I HEREBY CERTIFY that on this date, I deposited into the U.S. Mail, postage prepaid
4 thereon, a copy of the foregoing ORDER to the persons listed below at their last known
5 addresses:

6 Eldon Lee Thomson, Esquire
Clark County District Attorney's Office
7 500 S. Grand central Pkwy., Ste. 5075
Las Vegas, NV 89106

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

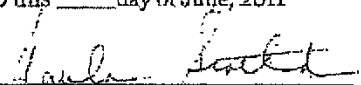
11 Andrew J. Kahn, Esquire
McCracken, Stemerman & Holsberry
12 1630 S. Commerce, Suite A-1
Las Vegas, NV 89102

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

16 Gary C. Moss, Esquire
Jackson Lewis LLP
17 3960 Howard Hughes Parkway, Suite 450
Las Vegas, NV 89169

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

20 DATED this 7 day of June, 2011

21
22 
23 An Employee of the Nevada State Labor Commissioner
24
25

00928

ER0928

EXHIBIT 8

00929

Anna D. Schmitt
CLERK OF THE COURT

1 STIP
Gary C. Moss, Bar Number 4340
2 moss@g@jacksonlewis.com
Paul T. Trimmer, Bar Number 9291
3 trimmer@g@jacksonlewis.com
JACKSON LEWIS LLP
4 3960 Howard Hughes Parkway, Suite 450
Las Vegas, Nevada 89169
5 Telephone: (702) 921-2460
Facsimile: (702) 921-2461
6 Attorneys for Bombardier Transportation (Holdings)
USA, Inc.

8 EIGHTH JUDICIAL DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 BOMBARDIER TRANSPORTATION
(HOLDINGS) USA, INC.,

Case No.: A-11-644596-J
Dept. No.: XXXII

11 Petitioner,

12 v.

13 NEVADA LABOR COMMISSIONER, a
Nevada Administrative Agency; THE
14 INTERNATIONAL UNION OF
ELEVATOR CONSTRUCTORS, an
unincorporated association; CLARK
COUNTY, a political subdivision of the
State of Nevada,

Respondent.

* * *

19 INTERNATIONAL UNION OF
20 ELEVATOR CONSTRUCTORS,

Petitioner-Plaintiff,

21 v.

22 LABOR COMMISSIONER, STATE OF
NEVADA; BOMBARDIER
TRANSPORTATION (HOLDINGS) USA,
23 INC.; COUNTY OF CLARK,
DEPARTMENT OF AVIATION,

Defendants.

STIPULATION TO DISMISS WITHOUT
PREJUDICE AND ~~PROPOSED~~ ORDER

Case No.: A-11-644400-J
Dept. No.: XXXII

27 Bombardier Transportation (Holdings) USA, Inc. ("Bombardier"), the International Union
28 of Elevator Constructors ("IUEC"), Clark County, Nevada ("Clark County") and the Nevada

-1-

JACKSON LEWIS LLP
LAS VEGAS

00930

ER0930

1 Labor Commissioner ("Labor Commissioner") (collectively the "Parties") are parties in two
2 different actions filed in the Eighth Judicial District Court. Both actions are pending before
3 Department XXXII, and both are captioned as Petitions for Judicial Review or, in the Alternative,
4 Requests for Writs of Mandamus. The action filed by Bombardier is Case No. A-11-644596-J.
5 The action filed by the IUEC is Case No. A-11-644400-J (collectively the "Actions").
6

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

9 1. On June 7, 2011, the Labor Commissioner issued an Interim Order for the purpose
10 of resolving a number of disputed issues in a pending administrative action entitled: "In the
11 Matter of: International Union of Elevator Constructors, Claimant, vs. Bombardier Transportation
12 (Holdings) USA, Inc., Respondent, Re: Clark County Department of Aviation Automated Transit
13 System Equipment DOA Contract CBB-552."
14

15 2. The IUEC filed a Petition for Reconsideration of the Interim Order with the Labor
16 Commissioner on June 20, 2011.

17 3. Bombardier filed a Request for Clarification of the Interim Order on June 20,
18 2011.

19 4. Both documents sought clarification of a number of issues including, among other
20 things, whether the Interim Order constituted a final decision for purposes of judicial review
21 under the Nevada Administrative Procedure Act, NRS Chapter 233B, whether the Interim Order
22 prohibited the parties from continuing to maintain certain positions during the administrative
23 action, and whether the Interim Order could otherwise be considered final and subject to appeal
24 under Nevada law.
25

26 5. The Labor Commissioner did not rule and, to this date, has not ruled, on either the
27 IUEC's Petition for Reconsideration or Bombardier's Request for Clarification.
28

1 6. As a result, both Bombardier and the IUEC sought review of the Interim Order.
2 The IUEC filed Case No. A-11-644400-J on July 5, 2011. Bombardier filed Case No. A-11-
3 644596-J, on July 7, 2011.

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

7 8. The Labor Commissioner, through his counsel, the Nevada Attorney General,
8 represents that the Interim Order is not a final decision for purposes of NRS 233B.130 and further
9 represents that the Labor Commissioner will not argue that the Interim Order is otherwise final
10 under Nevada law.
11

12 9. For those reasons, the Parties represent and agree that they will not contend in the
13 future the Interim Order is a final decision for purposes of NRS 233B.130 or otherwise final
14 under Nevada law, nor will a Party contend that any other Party is barred from appealing or
15 seeking review of any of the apparent determinations set forth in the Interim Order because that
16 Party or one or more of the other Parties failed to pursue judicial review of the Interim Order at
17 this time.
18

19 10. The Parties further agree that in the event further administrative proceedings
20 regarding the underlying administrative action are required, including, but not limited to, an
21 administrative hearing, neither Bombardier, Clark County, nor the IUEC will be barred from
22 asserting the arguments or presenting evidence in support of the arguments and contentions
23 addressed in the Interim Order.
24

25 11. Accordingly, the Parties stipulate to dismiss the Actions without prejudice,
26 returning this matter to the Labor Commissioner for final resolution.
27
28

1 Dated this 29th day of July, 2011.

2 JACKSON LEWIS LLP

McCRACKEN, STEMERMAN
& HOISBERRY

3 



4 Gary C. Moss
5 Paul T. Trimmer
6 3960 Howard Hughes Parkway
7 Suite 450
8 Las Vegas, Nevada 89169
9 Attorneys for Bombardier

Andrew J. Kahn
1630 South Commerce Street
Suite A-1
Las Vegas, Nevada 89102
Attorneys for IUEC

10 NEVADA LABOR COMMISSIONER

CLARK COUNTY, NEVADA

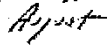
11 Catherine Cortez Masto
12 Michael D. Wypier
13 Office of the Attorney General
14 555 East Washington Avenue
Suite 3900
Las Vegas, Nevada 89101
Attorneys for Nevada Labor Commissioner

David Roger
E. Lee Thomson
Office of the District Attorney
500 S. Grand Central Parkway
P. O. Box 552215
Las Vegas, Nevada 89155-2215
Attorneys for Clark County, Nevada

15 ORDER

16 IT IS HEREBY ORDERED that the Parties' Stipulation to Dismiss Without Prejudice
17 in the above-captioned matters is GRANTED.

18 Dated this 5th day of July, 2011.

19 

20 District Court Judge, Department XXXII

21 Respectfully submitted by:

22 ~~FOR BARE~~
23 ~~ROB BARE~~ DISTRICT COURT, DEPARTMENT 32
24 JUDGE, DISTRICT COURT, DEPARTMENT 32

25 JACKSON LEWIS LLP

26 

27 Gary C. Moss
28 Paul T. Trimmer
3960 Howard Hughes Parkway
Suite 450
Las Vegas, Nevada 89169
Attorneys for
Bombardier Transportation (Holdings) USA, Inc.

JACKSON LEWIS LLP
LAS VEGAS

00933

ER0933

1 Dated this ____ day of July, 2011.

2 JACKSON LEWIS LLP

McCRACKEN, STEMERMAN
& HOLSBERRY

3
4 Gary C. Moss
5 Paul T. Trimmer
6 3960 Howard Hughes Parkway
7 Suite 450
8 Las Vegas, Nevada 89169
9 Attorneys for Bombardier

Andrew J. Kahn
1630 South Commerce Street
Suite A-1
Las Vegas, Nevada 89102
Attorneys for IUEC

10 NEVADA LABOR COMMISSIONER

CLARK COUNTY, NEVADA

11 Michael D. Wymer 8/1/11
12 Catherine Cortez Masto
13 Michael D. Wymer
14 Office of the Attorney General
15 555 East Washington Avenue
16 Suite 3900
17 Las Vegas, Nevada 89101
18 Attorneys for Nevada Labor Commissioner

David Roger
B. Lee Thomson
Office of the District Attorney
500 S. Grand Central Parkway
P. O. Box 552215
Las Vegas, Nevada 89155-2215
Attorneys for Clark County, Nevada

19 ORDER

20 IT IS HEREBY ORDERED that the Parties' Stipulation to Dismiss Without Prejudice
21 in the above-captioned matters is GRANTED.

22 Dated this ____ day of July, 2011.

23 District Court Judge, Department XXXII

24 Respectfully submitted by:

25 JACKSON LEWIS LLP

26 Gary C. Moss
27 Paul T. Trimmer
28 3960 Howard Hughes Parkway
Suite 450
Las Vegas, Nevada 89169
Attorneys for
Bombardier Transportation (Holdings) USA, Inc.

JACKSON LEWIS LLP
LAS VEGAS

00934

ER0934

1 Dated this ____ day of July, 2011.

2 JACKSON LEWIS LLP

McCRACKEN, STEMERMAN
& HOLSBERRY

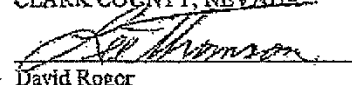
3
4
5 Gary C. Moss
6 Paul T. Trimmer
7 3960 Howard Hughes Parkway
8 Suite 450
9 Las Vegas, Nevada 89169
10 *Attorneys for Bombardier*

Andrew J. Kahn
1630 South Commerce Street
Suite A-1
Las Vegas, Nevada 89102
Attorneys for IUEC

11 NEVADA LABOR COMMISSIONER

CLARK COUNTY, NEVADA

12 Catherine Cortez Masto
13 Michael D. Wymer
14 Office of the Attorney General
15 555 East Washington Avenue
16 Suite 3900
17 Las Vegas, Nevada 89101
18 *Attorneys for Nevada Labor Commissioner*


David Roger
E. Lee Thomson
Office of the District Attorney
500 S. Grand Central Parkway
P. O. Box 552215
Las Vegas, Nevada 89155-2215
Attorneys for Clark County, Nevada

19 ORDER

20
21 IT IS HEREBY ORDERED that the Parties' Stipulation to Dismiss Without Prejudice
22 in the above-captioned matters is GRANTED.

23 Dated this ____ day of July, 2011,

24
25 District Court Judge, Department XXXII

26 Respectfully submitted by:

27 JACKSON LEWIS LLP

28
29 Gary C. Moss
30 Paul T. Trimmer
31 3960 Howard Hughes Parkway
32 Suite 450
33 Las Vegas, Nevada 89169
34 *Attorneys for*
35 *Bombardier Transportation (Holdings) USA, Inc.*

JACKSON LEWIS LLP
LAS VEGAS

-4-

00935

ER0935

EXHIBIT 9

00936



July 25, 2011

Department of Aviation**RANDALL H. WALKER**
DIRECTOR**ROSEMARY A. VASSILIADIS**
DEPUTY DIRECTORPOSTAL BOX 11003
LAS VEGAS, NEVADA 89111-1003
(702) 261-5211
FAX (702) 597-9523
EMAIL: rwalker@dmccarran.com

Michael Tanciek
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 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**

Roy Reid, Chair • Crisp Masfield, Vice Chair

Susan Dwyer • Tom Collins • Chris Giunchigiani • Lawrence Weekly • Bruce Woodbury

00937

ER0937

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 doors 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 covered 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

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

00938

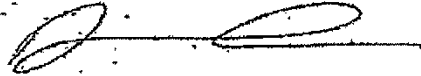
ER0938

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 Sakellide, 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, McCracken, Stemerman & Holsberg
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.

00939

ER0939

Bombardier Transportation Holdings USA, Inc.										
Contract CBE-552 Maintenance of Automated Transit System Equipment										
Employee Classifications and Pay Rates										
Name		2008		2009		2010		2011		Hourly Rate
Last Name	First Name	Classification	Hourly Rate	Classification	Hourly Rate	Classification	Hourly Rate	Classification	Hourly Rate	
Ayers	Charles	A Tech	\$29.82	A Tech	\$29.82	A Tech	\$29.82	N/A		\$0.00
Baugh	Nicholas	C Tech	\$18.68	C Tech	\$18.68	C Tech	\$18.68	C Tech		\$18.68
DePiero	Kenneth	Tech Admin	24.48	C Tech	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
Korpu	David	C Tech	\$25.42	C Tech	\$25.42	C Tech	\$25.42	N/A		\$0.00
Korpu	Robert	B Tech	\$26.44	B Tech	\$26.44	B Tech	\$26.44	B Tech		\$26.44
McChlain	Vernon	C Tech	\$21.25	C Tech	\$21.25	C Tech	\$21.25	C Tech		\$21.25
McCullough	Matthew	C Tech	\$23.80	C Tech	\$23.80	C Tech	\$23.80	C Tech		\$23.80
McGilleo	Mark	C Tech	\$23.26	C Tech	\$23.26	C Tech	\$23.26	C Tech		\$23.26
Rasmussen	Crifig	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	Pejer	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
Krauchi	Erik	N/A	N/A	N/A	N/A	C Tech	\$ 18.00	C Tech		19.19
Corwin	Andrew	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	\$ -	N/A		\$ -
Smith	Garrett	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	\$ -	N/A		\$ -
Custodio	Ivan	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	\$ -	N/A		\$ -
Dahlia	Erde	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	\$ -	N/A		\$ -
Rodriguez	Deumla	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	\$ -	N/A		\$ -
Rowell	Dafna	C Tech	\$ 19.05	N/A	\$ -	N/A	\$ -	N/A		\$ -

00940

ER0940

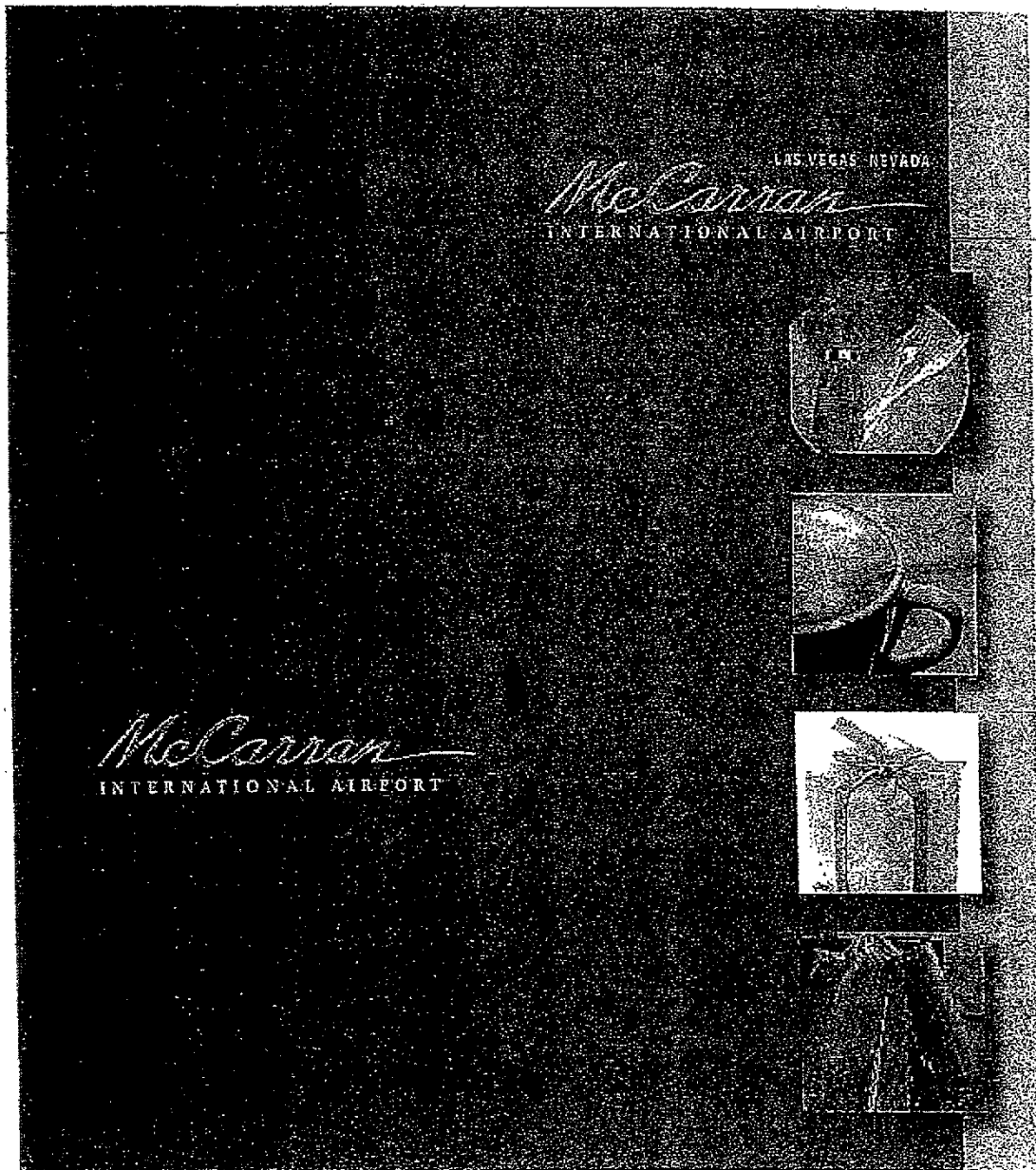
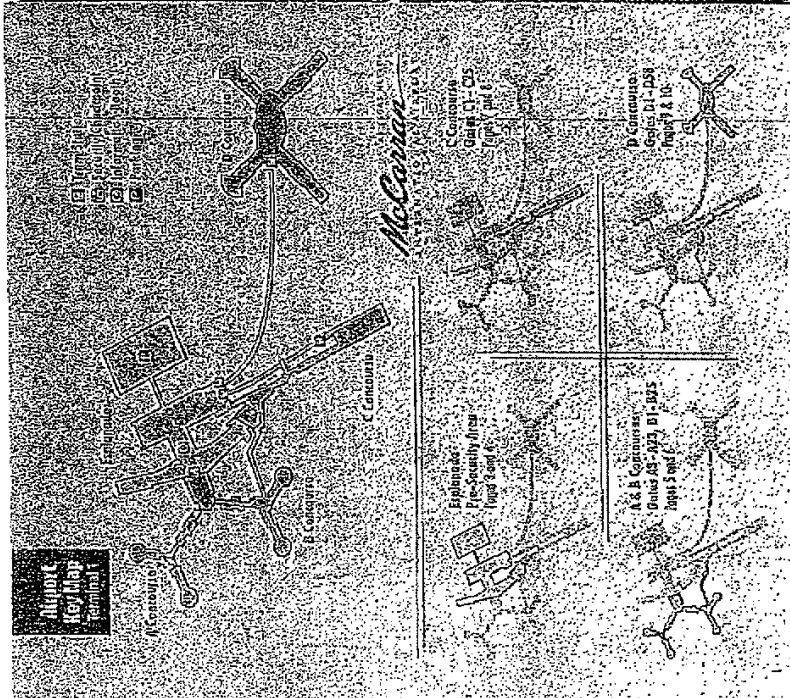
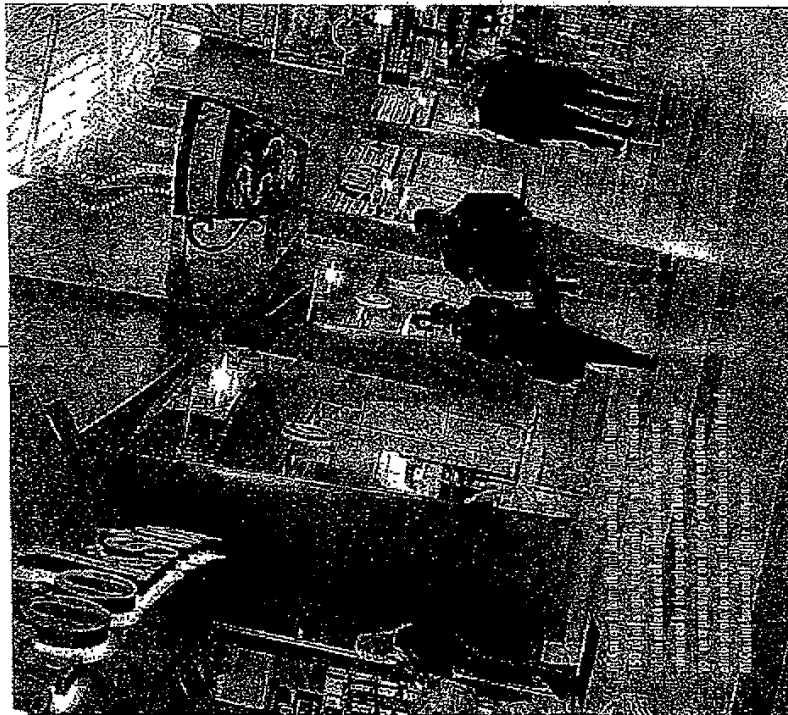


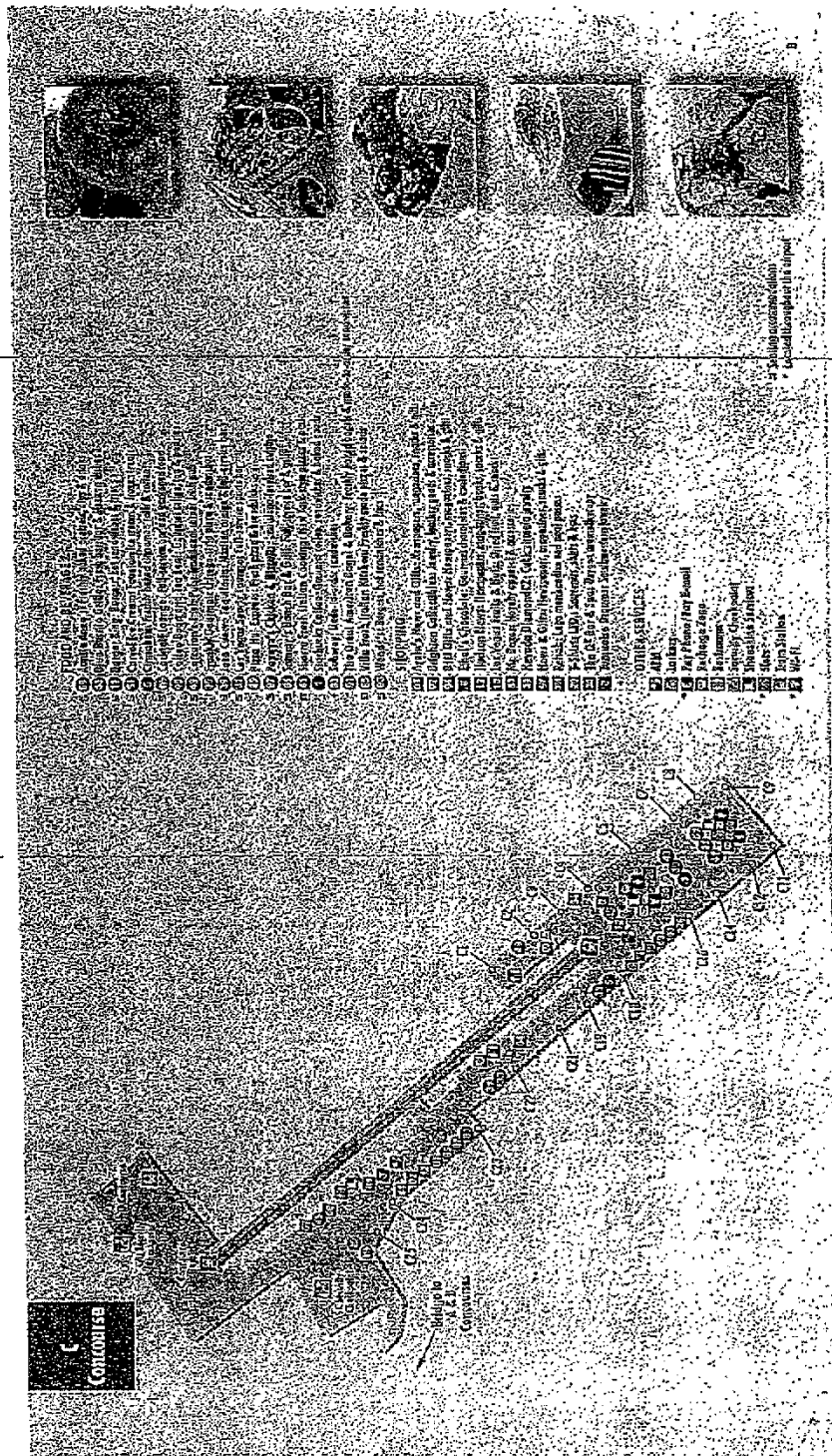
Exhibit No. 1
Witness Walter
Date 9/26/12

Form GCR # 711

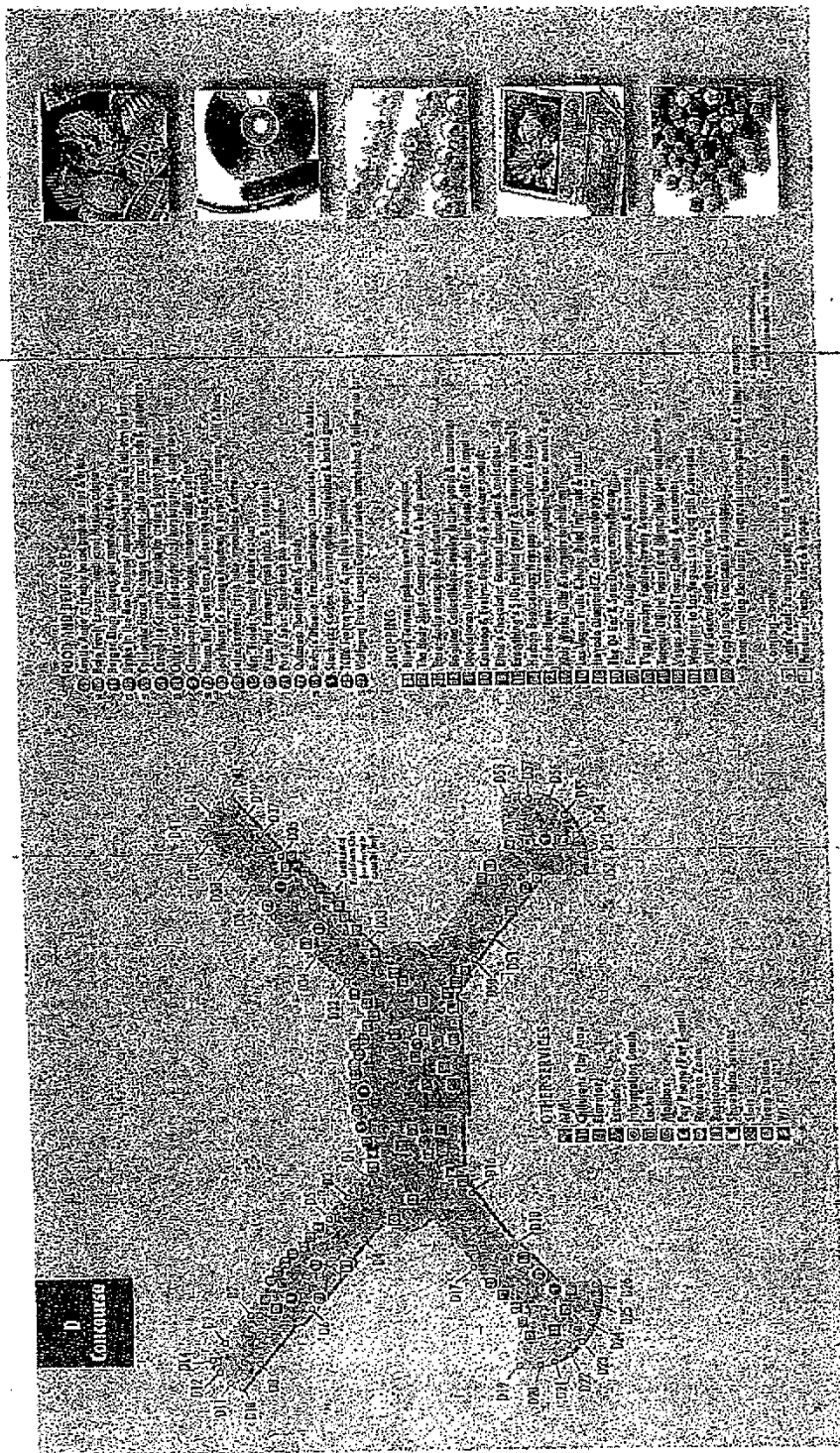
00941



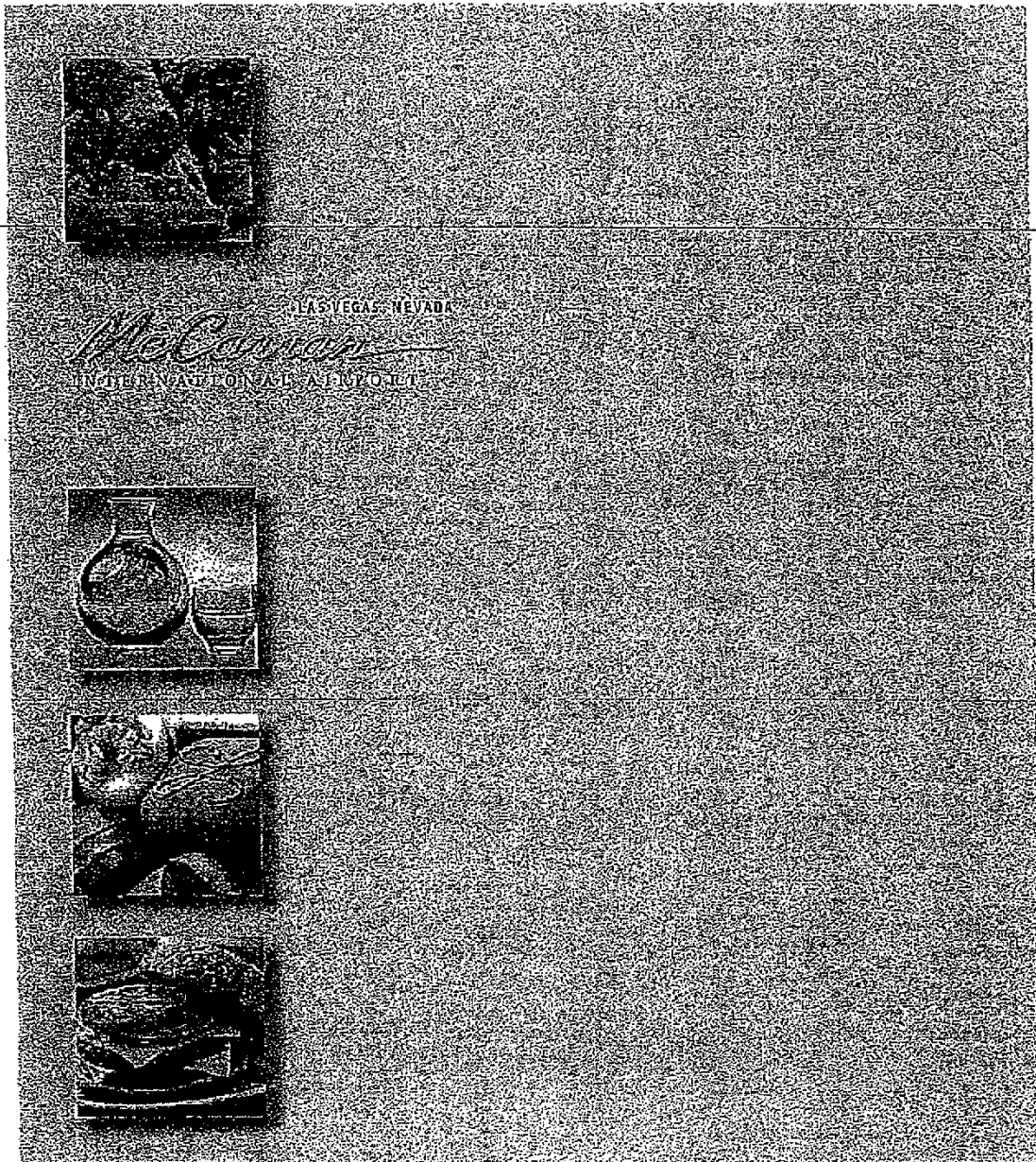
00942



00943



00944



00946

ER0946



Department of Aviation

RANDALL H. WALKER
DIRECTOR

ROSEMARY A. VASSILIADIS
DEPUTY DIRECTOR

POSTAL BOX 11008
LAS VEGAS, NEVADA 89111-0008
(702) 231-5211
FAX (702) 597-9553
E-MAIL: webmaster@dmccarran.com

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.

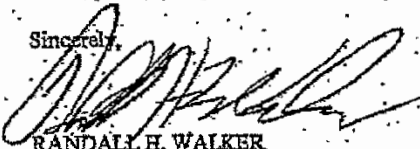
Dear Ms. Grein:

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 automated 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,


RANDALL H. WALKER
Director of Aviation



Clark County Board of Commissioners
Roy Edd, Chair • Susan Singer, Vice Chair
Larry Brown • Tom Collier • Chris Guichigast • Steve Sordak • Laurence Weekly

00947

ER0947

EXHIBIT 13

00948

**CLARK COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM**

Issue:	Approval of Maintenance Agreement	Back-up:
Petitioner:	Randall H. Walker, Director of Aviation	Clerk Ref. #
Recommendation:		
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).

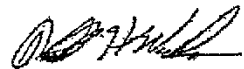
BACKGROUND:

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 attached 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 bidding process is not recommended because the maintenance of the equipment can be performed more efficiently by a certain company and in accordance with NRS 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,



RANDALL H. WALKER
Director of Aviation

Exhibit No. 3
Witness Walker
Date 9/26/12

KWD CCR# 711

Cleared for Agenda
6/3/2008

Agenda Item #

36

00949

EXHIBIT 14

00950

**CLARK COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM**

Issue:	Award of Bid	Back-up:
Petitioner:	Randall H. Walker, Director of Aviation	Clerk Ref. #
Recommendation:		
<p>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.</p>		

FISCAL IMPACT:

Fund #: 5201.701	Fund Name: McCarran Unrestricted Ops
Fund #: 5201.703	Fund Name: Henderson Unrestricted Ops
Fund Center: 2200600020	Fund Program/Grant: N/A
Fund Center: 2200900020	
Description: Annual Requirements Contract for Shuttle Services	
Amount: \$1,019,950.00	
Added Comments: N/A	

BACKGROUND:

<u>BIDDER</u>	<u>BID AMOUNT</u>	<u>CORRECTION</u>	<u>CORRECTED AMOUNT</u>
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 Limousines			
Bell Trans (NBE)	\$1,174,320.00		
Ryan's Express Transportation Services, Inc. (NBE)	\$1,204,472.00		
dba 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 Item #

00951

ER0951

<u>BIDDER</u>	<u>BID AMOUNT</u>	<u>CORRECTION</u>	<u>CORRECTED AMOUNT</u>
MV Transportation, Inc. (LBE)	\$1,440,641.00	(-\$19.00)	\$1,440,622.00 (3)
Airline Limousine Corporation (WBE)	\$1,478,560.00		
Y-Travel, LLC (NBE)	\$1,837,250.00 (4)		
dba Grand Canyon West Express			

- (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
2

00952

ER0952

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
- c. Lubricants
- d. Miscellaneous consumables
- e. Tow service
- f. Miscellaneous repairs
- g. Vandalism
- h. Insurance
- i. Clean vehicle
- j. Miscellaneous maintenance

5. 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).
- c. Driver must remain calm and in control in all situations.
- d. No solicitation of any type of gratuity from their passengers.
- e. Assist passengers with baggage, children or elderly at all times when boarding or disembarking.
- f. Observant of passenger intention for pick up and drop off at specified locations (do not leave if passenger is hurrying to board).

- g. Interior of vehicle must be kept clean at all times.
- h. Driver must complete the OWNER's shuttle sign-in sheet upon start and end of shift.
- i. 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.
- j. Driver's must be aware and monitor headway times. No congregating or lingering in any area is allowed.
- k. 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 cleanliness. 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.

11. REPORTING

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, cell 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.

16. BUS REQUIREMENTS

- 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 acceptable.

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. Lost/left items or bags switched accidentally 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

- a. 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.

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.

EXHIBIT 15

00956

CLARK COUNTY BOARD OF COMMISSIONERS AGENDA ITEM

Issue:	Approval of Contract	Back-up:
Petitioner:	Randall H. Walker, Director of Aviation	Clerk Ref. #
Recommendation:		
<p>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)</p>		

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 (MEA)	Added Comments: None
Amount: \$4,536,540.00	
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)	Added Comments: None
Amount: \$656,640.00	
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)	Added Comments: None
Amount: \$9,900.00	
Fund #: 5201.702	Fund Name: Airport - NLV Unrestricted Operations
Fund Center: 2200900030	Fund Program/Grant: N/A
Description: Elevator, Escalator, and Moving Walkway Maintenance Services (VGT)	Added Comments: None
Amount: \$4,800.00	

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 \$5,207,380.00.

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. currently maintains a Clark County business license.

Respectfully submitted,

RANDALL H. WALKER
Director of Aviation

Cleared for Agenda

Agenda Item #

11/15/2011

58

00957

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) 269-0919
FAX NUMBER (include area code)	(702) 269-0922
EMAIL ADDRESS	jeffrey.blum@kone.com

00958

ER0958

CBE 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 I. 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 aliens 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.
 - 1. 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.

- 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 entitled 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 terminate 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 reproduce all documentation supplied pursuant to this Contract.

- 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.
- L. 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
 - 1. 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 point.

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), Part 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.

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. Airport 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 security 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.

- 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.
 2. 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.
- F. 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 OWNER 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
1. 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.
 2. The OWNER'S representative shall notify the CONTRACTOR in writing within fourteen (14) calendar days of any disputed amount included on the invoice.
 3. No penalty will be imposed on OWNER if the OWNER fails 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.

4. 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.
7. 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

1. The content of this section shall apply to the entire Contract and shall take precedence over any conflicting terms and conditions, and shall limit the OWNER'S financial responsibility as indicated in Sections 2 and 3 below.
2. Notwithstanding any other provisions of this Contract, this Contract shall terminate and OWNER'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.
3. 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.

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. Termination

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.
2. 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 OWNER prior to termination.
3. 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:
 - a. no amount shall be allowed for anticipated profit on performed or unperformed services or other work; and
 - b. 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 I.
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.

3. 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, damages, 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 sole 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 non-infringing equipment, materials, or processes, or to modify such infringing 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.

I. Subcontractor 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.

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.

P. Contract Extension

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.

CBE-662
MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS AND MOVING WALKWAYS (RFP 11-003)
EXHIBIT A
SCOPE OF WORK

PART A – GENERAL

1.0 STATEMENT OF WORK

- 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

- 2.1 The DOA has Elevators, Escalators and/or Moving Walkways at the following facilities. All elevator, 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;
 - 2.2.1.2 Ticketing, Esplanade, Bridge Rotunda and Baggage Claim;
 - 2.2.1.3 Gold Garage;
 - 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:
 - 2.2.2.1 Ticketing, Baggage Claim, International Arrivals;
 - 2.2.2.2 Baggage Handling System Node 6.
 - 2.2.3 Terminal 3 Central Plant.
 - 2.2.4 Terminal 3:
 - 2.2.4.1 Ticketing, Baggage Claim, International Arrivals
 - 2.2.4.2 Parking Garage
 - 2.2.5 North Las Vegas Airport:
 - 2.2.5.1 Terminal Building.
 - 2.2.5.2 Vision Building (2704 Airport Dr).
 - 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.

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.

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 handle 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 OWNER'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 necessary 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 OWNER. A report of tests made shall be submitted to the OWNER 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 yellow 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 panels.
- 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 breach 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.

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 CONTRACTOR shall maintain a supply of contacts, coils, leads, generator brushes, lubricants, wiping cloths and other minor 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 AND/OR 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.

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 laws. 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 shutdowns 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 shut 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.

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.								
No.	Elevator Designation	Old ID	Location	Capacity	Stops	Manufacturer	Style	Equip. type
1	T1-NC-EL1	A-1	Terminal 1, A Concourse	3000	2	MCE	Micro P	HP
2	T1-CB4-EL1	A-2	Terminal 1, Cluster Bldg. 4	4000	2	KONE	Mono	TP
3	T1-SC-EL1	B-2	Terminal 1, B Concourse	3000	2	KONE	HS	HP
4	T1-SC-EL2	B-1	Terminal 1, B Concourse	2000	2	MCE	Micro P	HP
5	T1-S1-EL1	C-1	Terminal 1, C Concourse	4500	2	Montgomery	MProm	HP
6	T1-S1-EL2	C-2	Terminal 1, C Concourse	4000	2	Montgomery	MProm	HP
7	T1-S1-EL3	C-3	Terminal 1, C Concourse	3500	2	Montgomery	MProm	HP
8	T1-S1-EL4	C-4	Terminal 1, C Concourse	3500	2	Montgomery	MProm	HP
9	T1-S1-EL5	C-5	Terminal 1, C Concourse	3500	2	Montgomery	MProm	HP
10	T1-S1-EL6	C-6	Terminal 1, C Concourse	3500	2	Montgomery	MProm	HP
11	T1-BR-EL1	CT-3	Terminal 1, Bridge Rotunda	6000	2	MCE	Micro P	HP
12	T1-BR-EL2	CT-1	Terminal 1, Bridge Rotunda	2500	2	Dover	DMC	HP
13	T1-BR-EL3	CT-2	Terminal 1, Bridge Rotunda	4500	2	MCE	Micro P	HP
14	T1-TBN-EL1	CT-4	Terminal 1, Ticketing North	2500	2	Dover	DMC	HP
15	T1-TBS-EL1	CT-5	Terminal 1, Ticketing South	2500	2	Reliable	Relay	HP
16	T1-TBC-EL1	CT-6	Terminal 1, Esplanade	4500	2	MCE	Holeless	HP
17	T1-TBC-EL2	CT-9	Terminal 1, Esplanade	4500	6	KONE/Dover	Resolve 20	TP
18	T1-TBC-EL3	CT-8	Terminal 1, Esplanade	4500	6	MCE	Holeless	HP
19	T1-TBC-EL4	CT-7	Terminal 1, Esplanade	4500	2	KONE/Dover	Resolve 20	TP
20	T1-TBC-EL5	CT-10	Terminal 1, Esplanade	3000	7	Thyssen	Tac-50	TP
21	T1-BCN-EL1	CT-15	Terminal 1, Bag Claim North	7000	4	Dover	Relay Logic	HP
22	T1-BCN-EL2	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-EL2	CT-13	Terminal 1, Bag Claim Center	4500	6	KONE/Dover	Resolve 20	TP
25	T1-BCC-EL3	CT-17	Terminal 1, Bag Claim Center	4500	7	KONE/Dover	Resolve 20	TP
26	T1-BCC-EL4	CT-16	Terminal 1, Bag Claim Center	4500	7	KONE/Dover	Resolve 20	TP
27	T1-BCC-EL5	CT-22	Terminal 1, Bag Claim Center	3500	7	Thyssen	Tac-50	TP
28	T1-BCC-EL6	CT-23	Terminal 1, Bag Claim Center	3500	7	Thyssen	Tac-50	TP
29	T1-BCC-EL7	CT-24	Terminal 1, Bag Claim Center	3500	7	Thyssen	Tac-50	TP
30	T1-BCS-EL1	CT-18	Terminal 1, Bag Claim South	7000	4	Dover	Relay Logic	HP
31	T1-BCS-EL2	CT-19	Terminal 1, Bag Claim South	2500	2	Montgomery	MProm	HP
32	T1-BCS-EL3	CT-21	Terminal 1, Bag Claim South	12000	2	Dover	Relay Logic	HP
33	T1-BCS-EL4	CT-20	Terminal 1, Bag Claim South	3000	2	Dover	Relay Logic	HP
34	T1-BCS-EL5	CT-14	Terminal 1, Bag Claim South	7000	4	Dover	Relay Logic	HP
35	S2-RA-EL1	D-4	Terminal 1, D Concourse GH	5500	3	MCE	Traction	TP
36	S2-RA-EL2	D-2	Terminal 1, D Concourse GH	6000	2	MCE	Hydro	HP
37	S2-RA-EL3	D-1	Terminal 1, D Concourse GH	6000	2	MCE	Hydro	HP
38	S2-RA-EL4	D-3	Terminal 1, D Concourse GH	10000	4	MCE	Hydro	HP
39	S2-RA-EL5	D-5	Terminal 1, D Concourse GH	3500	2	MCE	Hydro	HP
40	S2-RA-EL6	D-6	Terminal 1, D Concourse GH	3500	2	MCE	Hydro	HP
41	S2-ERC-EL1	D-7	Terminal 1, D Concourse ERG	3500	4	Thyssen	Tac-50	TP
42	S2-SE-EL1	DSE-1	Terminal 1, D Concourse SE	3500	2	MCE	Hydro	HP
43	S2-SE-EL2	DSE-2	Terminal 1, D Concourse SE	3500	2	MCE	Hydro	HP
44	S2-SE-EL3	DSE-3	Terminal 1, D Concourse SE	3500	2	MCE	Hydro	HP
45	S2-SW-EL1	DSW-1	Terminal 1, D Concourse SW	3500	2	MCE	Hydro	HP
46	S2-SW-EL2	DSW-2	Terminal 1, D Concourse SW	3500	3	MCE	Hydro	HP
47	S2-SW-EL3	DSW-3	Terminal 1, D Concourse SW	3500	3	MCE	Hydro	HP
48	S2-NE-EL1	DNE-3	Terminal 1, D Concourse NE	3500	2	Thyssen	Tac-20	HP
49	S2-NE-EL2	DNE-1	Terminal 1, D Concourse NE	3500	2	Thyssen	Tac-20	HP
50	S2-NE-EL3	DNE-2	Terminal 1, D Concourse NE	3500	2	Thyssen	Tac-20	HP
51	S2-NW-EL1	DNW-1	Terminal 1, D Concourse NW	3500	2	MCE	Hydro	HP
52	S2-NW-EL2	DNW-2	Terminal 1, D Concourse NW	3500	2	MCE	Hydro	HP
53	S2-NW-EL3	DNW-3	Terminal 1, D Concourse NW	3500	2	MCE	Hydro	HP

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

EQUIPMENT AND LOCATIONS – ELEVATORS (MCCARRAN) (CONTINUED)								
* 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	Old ID	Location	Capacity	# of Stops	Manufacturer	Style	Equip. Type
54	S2-NW-EL4	DNW-4	Terminal 1, D Concourse NW	3500	2	MCE	Hydro	HP
55	T1-PK-GLD-EL11 *	G-2	Terminal 1, Gold Garage	5000	9	MCE	System 12	TP
56	T1-PK-GLD-EL12 *	G-1	Terminal 1, Gold Garage	5000	9	MCE	System 12	TP
57	T1-PK-GLD-EL13 *	G-4	Terminal 1, Gold Garage	5000	9	MCE	System 12	TP
58	T1-PK-GLD-EL14 *	G-5	Terminal 1, Gold Garage	5000	9	MCE	System 12	TP
59	T2-IAB-EL1	CIT-1	Terminal 2	2500	2	MCE	Hydro	HP
60	T2-CIT-EL1	CIT-5	Terminal 2	4500	2	SURGE	Relay Logic	HP
61	T2-CIT-EL2	CIT-4	Terminal 2	3500	2	SURGE	Relay Logic	HP
62	T2-CIT-EL3	CIT-3	Terminal 2	2500	2	MCE	Hydro	HP
63	T2-CIT-EL4	CIT-2	Terminal 2	4000	2	MCE	Hydro	HP
64	T1-CAX-EL1	CAX-1	Terminal 1, C Annex	4000	2	MCE	Micro P	HP
65	T1-SKY-EL1	CAX-2	Terminal 1, Sky Bridge	5500	2	MCE	Micro P	HP
66	T1-SKY-EL2	CAX-3	Terminal 1, Sky Bridge	5500	2	MCE	Micro P	HP
67	T1-CP-EL1	HR-1	Terminal 1, Central Plant	2100	2	Dover	Relay Logic	HP
68	5750MASON-EL1	CUP-1	Terminal 3, Central Plant	3500	2	MCE	Hydro	HP
69	T1-BHS-N3-EL1	N3-1	Terminal 1, BHS Node 3	4500	2	Otis	211	HP
70	T1-BHS-N4-EL1	N4-1	Terminal 1, BHS Node 4	4500	2	Otis	211	HP
71	T2-BHS-N6-EL1	CIT-6	Terminal 2, BHS Node 6	4500	2	Otis	211	HP

EQUIPMENT AND LOCATIONS – ELEVATORS (NORTH LAS VEGAS AIRPORT)								
No.	Elevator Designation	Old ID	Location	Capacity	# of Stops	Manufacturer	Style	Equip. Type
1	2730-EL1	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	Old ID	Location	Capacity	# of Stops	Manufacturer	Style	Equip. Type
1	HEA-EL1	HEA-2	Henderson Executive Terminal	2500	2	Otis	211	HP
2	HEA-EL2	HEA-1	Henderson Executive Terminal	2500	2	Otis	211	HP
3	HT-EL1	HT-1	Henderson Executive Tower	2100	2	Otis	211	HP

EQUIPMENT AND LOCATIONS – ELEVATORS (MCCARRAN RENT-A-CAR CENTER)								
No.	Elevator Designation	Old ID	Location	Capacity	# of Stops	Manufacturer	Style	Equip. Type
1	CSB-EL120	EL-20	Customer Service Building	4500	4	Otis	211	HP
2	CSB-EL121	EL-21	Customer Service Building	4500	3	Otis	211	HP
3	CSB-EL130	EL-30	Customer Service Building	4500	4	Otis	211	HP
4	CSB-EL131	EL-31	Customer Service Building	4500	4	Otis	211	HP
5	CSB-EL140	EL-40	Customer Service Building	4500	4	Otis	211	HP
6	CSB-EL141	EL-41	Customer Service Building	4500	3	Otis	211	HP
7	SQTA-EL150	EL-50	South QTA	3000	2	Otis	211	HP
8	SQTA-EL151	EL-51	South QTA	3000	2	Otis	211	HP
9	WQTA-EL160	EL-60	West QTA	3000	2	Otis	211	HP
10	WQTA-EL161	EL-61	West QTA	3000	2	Otis	211	HP
11	WQTA-EL162	EL-62	West QTA	3000	2	Otis	211	HP
12	NQTA-EL170	EL-70	North QTA	3000	2	Otis	211	HP
13	NQTA-EL171	EL-71	North QTA	3000	2	Otis	211	HP

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

EQUIPMENT AND LOCATIONS – ELEVATORS (MCCARRAN NEW TERMINAL 3)								
No.	Elevator Designation	Old ID#	Location	Capacity	# of Stops	Manufacturer	Style	Equip. Type
1	T3-W-EL1	EA01	Terminal 3, West	6500	3	KONE	Micro P	Traction
2	T3-W-EL2	EA02	Terminal 3, West	6500	3	KONE	Micro P	Traction
3	T3-W-EL3	EA03	Terminal 3, West	6500	3	KONE	Micro P	Traction
4	T3-W-EL4	EA04	Terminal 3, West	6500	3	KONE	Micro P	Traction
5	T3-W-EL5	EA05	Terminal 3, West	6500	3	KONE	Micro P	Traction
6	T3-W-EL6	EA06	Terminal 3, West	6500	3	KONE	Micro P	Traction
7	T3-C-EL7	EA07	Terminal 3, Center	6500	3	KONE	Micro P	Traction
8	T3-C-EL8	EA08	Terminal 3, Center	6500	3	KONE	Micro P	Traction
9	T3-C-EL9	EA09	Terminal 3, Center	6500	3	KONE	Micro P	Traction
10	T3-C-EL10	EA10	Terminal 3, Center	6500	3	KONE	Micro P	Traction
11	T3-C-EL11	EA11	Terminal 3, Center	6500	3	KONE	Micro P	Traction
12	T3-C-EL12	EA12	Terminal 3, Center	6500	3	KONE	Micro P	Traction
13	T3-E-EL13	EA13	Terminal 3, East	6500	3	KONE	Micro P	Traction
14	T3-E-EL14	EA14	Terminal 3, East	6500	3	KONE	Micro P	Traction
15	T3-E-EL15	EA15	Terminal 3, East	6500	3	KONE	Micro P	Traction
16	T3-E-EL16	EA16	Terminal 3, East	6500	3	KONE	Micro P	Traction
17	T3-E-EL17	EA17	Terminal 3, East	6500	3	KONE	Micro P	Traction
18	T3-E-EL18	EA18	Terminal 3, East	6500	3	KONE	Micro P	Traction
19	T3-W-EL19	EA19	Terminal 3, West	5000	3	KONE	Micro P	Traction
20	T3-W-EL20	EA20	Terminal 3, West	5000	2	KONE	Micro P	Traction
21	T3-C-EL21	EA21	Terminal 3, Center	4500	2	KONE	Micro P	Traction
22	T3-C-EL22	EA22	Terminal 3, Center	4500	2	KONE	Micro P	Traction
23	T3-C-EL23	EA23	Terminal 3, Center	4500	2	KONE	Micro P	Traction
24	T3-C-EL24	EA24	Terminal 3, Center	4500	2	KONE	Micro P	Traction
25	T3-E-EL25	EA25	Terminal 3, East	5000	4	KONE	Micro P	Traction
26	T3-E-EL26	EA26	Terminal 3, East	5000	2	KONE	Micro P	Traction
27	T3-E-EL27	EA27	Terminal 3, East	5500	2	KONE	Micro P	Traction
28	T3-E-EL28	EA28	Terminal 3, East	5500	2	KONE	Micro P	Traction
29	T3-E-EL29	EA29	Terminal 3, East	5500	2	KONE	Micro P	Traction
30	T3-W-EL30	EA30	Terminal 3, West	5000	4	KONE	Micro P	Traction
31	T3-E-EL31	EA31	Terminal 3, East	5500	3	KONE	Micro P	Traction
32	T3-E-EL32	EA32	Terminal 3, East	5500	2	KONE	Micro P	Traction
33	T3-E-EL33	EA33	Terminal 3, East	10000	4	KONE	Micro P	Traction

EQUIPMENT AND LOCATIONS – ELEVATORS (MCCARRAN NEW GARAGE)								
* 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	Old ID#	Location	Capacity	# of Stops	Manufacturer	Style	Equip. Type
1	T3-PK-EL11*	—	Terminal 3 Garage	4000	8	KONE	Micro P	Traction
2	T3-PK-EL12*	—	Terminal 3 Garage	4000	8	KONE	Micro P	Traction
3	T3-PK-EL13*	—	Terminal 3 Garage	4000	8	KONE	Micro P	Traction
4	T3-PK-EL14*	—	Terminal 3 Garage	4000	8	KONE	Micro P	Traction
5	T3-PK-EL15*	—	Terminal 3 Garage	4000	8	KONE	Micro P	Traction
6	T3-PK-EL16*	—	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-EL18*	—	Terminal 3 Garage	4000	8	KONE	Micro P	Traction

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

EQUIPMENT AND LOCATIONS – ESCALATORS (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.						
No.	Escalator Designation	Old ID	Location	Manufacturer	Style	Equip. Type
1	T1-S1-ESC1	C-105	Terminal 1, C Concourse	KONE		EG
2	T1-S1-ESC2	C-106	Terminal 1, C Concourse	KONE		EG
3	T1-S1-ESC3	C-107	Terminal 1, C Concourse	KONE		EG
4	T1-TBC-ESC1 *	CT-104	Terminal 1, Ticketing Center	KONE		EG
5	T1-TBC-ESC2 *	CT-103	Terminal 1, Ticketing Center	KONE		EG
6	T1-TBC-ESC3 *	CT-102	Terminal 1, Ticketing Center	KONE		EG
7	T1-TBC-ESC4 *	CT-101	Terminal 1, Ticketing Center	KONE		EG
8	T1-BCC-ESC1 *	CT-109	Terminal 1, Bag Claim Center	KONE		EG
9	T1-BCC-ESC2 *	CT-107	Terminal 1, Bag Claim Center	KONE		EG
10	T1-BCC-ESC3 *	CT-108	Terminal 1, Bag Claim Center	KONE		EG
11	T1-BCC-ESC4 *	CT-106	Terminal 1, Bag Claim Center	KONE		EG
12	T1-BCC-ESC5 *	CT-105	Terminal 1, Bag Claim Center	KONE		EG
13	T1-BCS-ESC1	CT-117	Terminal 1, Bag Claim South	KONE		EG
14	T1-BCS-ESC2	CT-116	Terminal 1, Bag Claim South	KONE		EG
15	T1-BCS-ESC3	CT-115	Terminal 1, Bag Claim South	KONE		EG
16	T1-BCS-ESC4	CT-114	Terminal 1, Bag Claim South	KONE		EG
17	T1-BCS-ESC5	CT-113	Terminal 1, Bag Claim South	KONE		EG
18	T1-BCS-ESC6	CT-112	Terminal 1, Bag Claim South	KONE		EG
19	T1-BCS-ESC7	CT-110	Terminal 1, Bag Claim South	KONE		EG
20	T1-BCS-ESC8	CT-111	Terminal 1, Bag Claim South	KONE		EG
21	S2-RA-ESC1 *	D-101	Terminal 1, D Concourse GH	KONE		EG
22	S2-RA-ESC2 *	D-102	Terminal 1, D Concourse GH	KONE		EG
23	S2-RA-ESC3 *	D-103	Terminal 1, D Concourse GH	KONE		EG
24	S2-RA-ESC4 *	D-104	Terminal 1, D Concourse GH	KONE		EG
25	S2-RA-ESC5 *	D-109	Terminal 1, D Concourse GH	Thyssen		EG
26	S2-RA-ESC6 *	D-110	Terminal 1, D Concourse GH	Thyssen		EG
27	T2-IAB-ESC1	CIT-101	Terminal 2	KONE		EG
28	T2-CIT-ESC1	CIT-104	Terminal 2	Schindler		EG
29	T2-CIT-ESC2	CIT-105	Terminal 2	Schindler		EG
30	T2-CIT-ESC3	CIT-102	Terminal 2	KONE		EG
31	T2-CIT-ESC4	CIT-103	Terminal 2	KONE		EG
32	T1-CAX-ESC1	CAX-101	Terminal 1, C Annex	KONE		EG
33	T1-CAX-ESC2	CAX-102	Terminal 1, C Annex	KONE		EG

EQUIPMENT AND LOCATIONS – ESCALATORS (MCCARRAN RENT-A-CAR CENTER)						
No.	Escalator Designation	Old ID	Location	Manufacturer	Style	Equip. Type
1	CSB-ESC20	ES-20	Customer Service Building	Otis	OCE521	EG
2	CSB-ESC21	ES-21	Customer Service Building	Otis	OCE521	EG
3	CSB-ESC22	ES-22	Customer Service Building	Otis	OCE521	EG
4	CSB-ESC23	ES-23	Customer Service Building	Otis	OCE521	EG
5	CSB-ESC30	ES-30	Customer Service Building	Otis	OCE521	EG
6	CSB-ESC31	ES-31	Customer Service Building	Otis	OCE521	EG
7	CSB-ESC32	ES-32	Customer Service Building	Otis	OCE521	EG
8	CSB-ESC33	ES-33	Customer Service Building	Otis	OCE521	EG
9	CSB-ESC40	ES-40	Customer Service Building	Otis	OCE521	EG
10	CSB-ESC41	ES-41	Customer Service Building	Otis	OCE521	EG
11	CSB-ESC42	ES-42	Customer Service Building	Otis	OCE521	EG
12	CSB-ESC43	ES-43	Customer Service Building	Otis	OCE521	EG

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

EQUIPMENT AND LOCATIONS – ESCALATORS (MCCARRAN NEW TERMINAL 3)						
No.	Elevator Designation	Old ID	Location	Manufacturer	Style	Equip. Type
1	T3-W-ESC1	ES01	Terminal 3, West	KONE	Trans180	Heavy Duty
2	T3-W-ESC2	ES02	Terminal 3, West	KONE	Trans180	Heavy Duty
3	T3-W-ESC3	ES03	Terminal 3, West	KONE	Trans180	Heavy Duty
4	T3-W-ESC4	ES04	Terminal 3, West	KONE	Trans180	Heavy Duty
5	T3-C-ESC5	ES05	Terminal 3, Center	KONE	Trans180	Heavy Duty
6	T3-C-ESC6	ES06	Terminal 3, Center	KONE	Trans180	Heavy Duty
7	T3-C-ESC7	ES07	Terminal 3, Center	KONE	Trans180	Heavy Duty
8	T3-C-ESC8	ES08	Terminal 3, Center	KONE	Trans180	Heavy Duty
9	T3-E-ESC9	ES09	Terminal 3, East	KONE	Trans180	Heavy Duty
10	T3-E-ESC10	ES10	Terminal 3, East	KONE	Trans180	Heavy Duty
11	T3-E-ESC11	ES11	Terminal 3, East	KONE	Trans180	Heavy Duty
12	T3-E-ESC12	ES12	Terminal 3, East	KONE	Trans180	Heavy Duty
13	T3-W-ESC13	ES13	Terminal 3, West	KONE	Trans180	Heavy Duty
14	T3-W-ESC14	ES14	Terminal 3, West	KONE	Trans180	Heavy Duty
15	T3-W-ESC15	ES15	Terminal 3, West	KONE	Trans180	Heavy Duty
16	T3-W-ESC16	ES16	Terminal 3, West	KONE	Trans180	Heavy Duty
17	T3-C-ESC17	ES17	Terminal 3, Center	KONE	Trans180	Heavy Duty
18	T3-C-ESC18	ES18	Terminal 3, Center	KONE	Trans180	Heavy Duty
19	T3-C-ESC19	ES19	Terminal 3, Center	KONE	Trans180	Heavy Duty
20	T3-C-ESC20	ES20	Terminal 3, Center	KONE	Trans180	Heavy Duty
21	T3-E-ESC21	ES21	Terminal 3, East	KONE	Trans180	Heavy Duty
22	T3-E-ESC22	ES22	Terminal 3, East	KONE	Trans180	Heavy Duty
23	T3-E-ESC23	ES23	Terminal 3, East	KONE	Trans180	Heavy Duty
24	T3-E-ESC24	ES24	Terminal 3, East	KONE	Trans180	Heavy Duty
25	T3-E-ESC25	ES25	Terminal 3, East	KONE	Trans180	Heavy Duty

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

EQUIPMENT AND LOCATIONS – MOVING WALKWAYS (MCCARRAN)						
No.	Moving Walkway Designation	Old ID	Location	Manufacturer	Style	Equip. Type
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-MW4	A-103	Terminal 1, A Concourse	KONE		PS
5	T1-SC-L2-MW1	B-102	Terminal 1, B Concourse	KONE		PS
6	T1-SC-L2-MW2	B-101	Terminal 1, B Concourse	KONE		PS
7	T1-SC-L2-MW3	B-104	Terminal 1, B Concourse	KONE		PS
8	T1-SC-L2-MW4	B-103	Terminal 1, B Concourse	KONE		PS
9	T1-S1-L2-MW1	C-102	Terminal 1, C Concourse	KONE		PS
10	T1-S1-L2-MW2	C-101	Terminal 1, C Concourse	KONE		PS
11	T1-S1-L2-MW3	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-108	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	D-108	Terminal 1, D Concourse SW	KONE		PG
17	S2-NE-L2-MW1	D-112	Terminal 1, D Concourse NE	KONE		PG
18	S2-NE-L2-MW2	D-111	Terminal 1, D Concourse NE	KONE		PG
19	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	Terminal 1, Gold Garage	KONE		PG
22	T1-PK-GLD-L2-MW2	G-103	Terminal 1, Gold Garage	KONE		PG
23	T1-SKY-L2-MW1	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		PG
26	T1-SKY-L2-MW4	CAX-106	Terminal 1, Sky Bridge	KONE		PG

EQUIPMENT AND LOCATIONS – MOVING WALKWAYS (MCCARRAN NEW TERMINAL 3)						
No.	Moving Walkway Designation	Old ID	Location	Manufacturer	Style	Equip. Type
1	T3-W-L2-MW1	MW01	Terminal 3, West	KONE	Eco3000	Heavy Duty
2	T3-W-L2-MW2	MW02	Terminal 3, West	KONE	Eco3000	Heavy Duty
3	T3-E-L2-MW3	MW03	Terminal 3, East	KONE	Eco3000	Heavy Duty
4	T3-E-L2-MW4	MW04	Terminal 3, East	KONE	Eco3000	Heavy Duty
5	T3-W-L1-MW5	MW05	Terminal 3, West	KONE	Eco3000	Heavy Duty
6	T3-W-L1-MW6	MW06	Terminal 3, West	KONE	Eco3000	Heavy Duty
7	T3-C-L1-MW7	MW07	Terminal 3, Center	KONE	Eco3000	Heavy Duty
8	T3-C-L1-MW8	MW08	Terminal 3, Center	KONE	Eco3000	Heavy Duty
9	T3-E-L1-MW9	MW09	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	MW11	Terminal 3, East	KONE	Eco3000	Heavy Duty

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

MINIMUM MAINTENANCE REQUIREMENTS					
No.	Elevator Designation	Location	Manufacturer	Minimum PM Hours per Week	Minimum PM Hours per Month
1	T1-NC-EL1	Terminal 1, A Concourse	MCE	.75	3.25
2	T1-CB4-EL1	Terminal 1, Cluster Bldg. 4	KONE	.75	3.25
3	T1-SC-EL1	Terminal 1, B Concourse	KONE	.5	2.17
4	T1-SG-EL2	Terminal 1, B Concourse	MCE	.75	3.25
5	T1-S1-EL1	Terminal 1, C Concourse	Montgomery	.75	3.25
6	T1-S1-EL2	Terminal 1, C Concourse	Montgomery	.75	3.25
7	T1-S1-EL3	Terminal 1, C Concourse	Montgomery	.75	3.25
8	T1-S1-EL4	Terminal 1, C Concourse	Montgomery	.75	3.25
9	T1-S1-EL5	Terminal 1, C Concourse	Montgomery	.75	3.25
10	T1-S1-EL6	Terminal 1, C Concourse	Montgomery	.75	3.25
11	T1-BR-EL1	Terminal 1, Bridge Rotunda	MCE	.75	3.25
12	T1-BR-EL2	Terminal 1, Bridge Rotunda	Dover	.75	3.25
13	T1-BR-EL3	Terminal 1, Bridge Rotunda	MCE	.75	3.25
14	T1-TBN-EL1	Terminal 1, Ticketing North	Dover	.75	3.25
15	T1-TBS-EL1	Terminal 1, Ticketing South	Reliable	.75	3.25
16	T1-TBC-EL1	Terminal 1, Esplanade	MCE	.75	3.25
17	T1-TBC-EL2	Terminal 1, Esplanade	KONE/Dover	.75	3.25
18	T1-TBC-EL3	Terminal 1, Esplanade	MCE	.75	3.25
19	T1-TBC-EL4	Terminal 1, Esplanade	KONE/Dover	.75	3.25
20	T1-TBC-EL5	Terminal 1, Esplanade	Thyssen	.75	3.25
21	T1-BCN-EL1	Terminal 1, Bag Claim North	Dover	.75	3.25
22	T1-BCN-EL2	Terminal 1, Bag Claim North	Dover	.75	3.25
23	T1-BCC-EL1	Terminal 1, Bag Claim Center	KONE/Dover	.75	3.25
24	T1-BCC-EL2	Terminal 1, Bag Claim Center	KONE/Dover	.75	3.25
25	T1-BCC-EL3	Terminal 1, Bag Claim Center	KONE/Dover	.75	3.25
26	T1-BCC-EL4	Terminal 1, Bag Claim Center	KONE/Dover	.75	3.25
27	T1-BCC-EL5	Terminal 1, Bag Claim Center	Thyssen	.75	3.25
28	T1-BCC-EL6	Terminal 1, Bag Claim Center	Thyssen	.75	3.25
29	T1-BCC-EL7	Terminal 1, Bag Claim Center	Thyssen	.75	3.25
30	T1-BCS-EL1	Terminal 1, Bag Claim South	Dover	.75	3.25
31	T1-BCS-EL2	Terminal 1, Bag Claim South	Montgomery	.75	3.25
32	T1-BCS-EL3	Terminal 1, Bag Claim South	Dover	.75	3.25
33	T1-BCS-EL4	Terminal 1, Bag Claim South	Dover	.75	3.25
34	T1-BCS-EL5	Terminal 1, Bag Claim South	Dover	.75	3.25
35	S2-RA-EL1	Terminal 1, D Concourse GH	MCE	.5	2.17
36	S2-RA-EL2	Terminal 1, D Concourse GH	MCE	.75	3.25
37	S2-RA-EL3	Terminal 1, D Concourse GH	MCE	.75	3.25
38	S2-RA-EL4	Terminal 1, D Concourse GH	MCE	.5	2.17
39	S2-RA-EL5	Terminal 1, D Concourse GH	MCE	.5	2.17
40	S2-RA-EL6	Terminal 1, D Concourse GH	MCE	.5	2.17
41	S2-ERC-EL1	Terminal 1, D Concourse ERC	Thyssen	1.25	5.41
42	S2-SE-EL1	Terminal 1, D Concourse SE	MCE	.75	3.25
43	S2-SE-EL2	Terminal 1, D Concourse SE	MCE	.75	3.25
44	S2-SE-EL3	Terminal 1, D Concourse SE	MCE	.5	2.17
45	S2-SW-EL1	Terminal 1, D Concourse SW	MCE	.75	3.25
46	S2-SW-EL2	Terminal 1, D Concourse SW	MCE	.75	3.25
47	S2-SW-EL3	Terminal 1, D Concourse SW	MCE	.5	2.17
48	S2-NE-EL1	Terminal 1, D Concourse NE	Thyssen	.75	3.25
49	S2-NE-EL2	Terminal 1, D Concourse NE	Thyssen	.75	3.25
50	S2-NE-EL3	Terminal 1, D Concourse NE	Thyssen	.5	2.17
51	S2-NW-EL1	Terminal 1, D Concourse NW	MCE	.75	3.25
52	S2-NW-EL2	Terminal 1, D Concourse NW	MCE	.75	3.25
53	S2-NW-EL3	Terminal 1, D Concourse NW	MCE	.5	2.17

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

MINIMUM MAINTENANCE REQUIREMENTS					
No.	Elevator Designation	Location	Manufacturer	Minimum PM Hours per Week	Minimum PM Hours per Month
54	S2-NW-EL14	Terminal 1, D Concourse NW	MCE	.75	3.25
55	T1-PK-GLD-EL11 *	Terminal 1, Gold Garage	MCE	1.25	5.41
56	T1-PK-GLD-EL12 *	Terminal 1, Gold Garage	MCE	1.25	5.41
57	T1-PK-GLD-EL13 *	Terminal 1, Gold Garage	MCE	1.25	5.41
58	T1-PK-GLD-EL14 *	Terminal 1, Gold Garage	MCE	1.25	5.41
59	T2-IAB-EL11	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	3.25
63	T2-CIT-EL14	Terminal 2	MCE	.75	3.25
64	T1-CAX-EL11	Terminal 1, C Annex	MCE	.75	3.25
65	T1-SKY-EL11	Terminal 1, Sky Bridge	MCE	.75	3.25
66	T1-SKY-EL12	Terminal 1, Sky Bridge	MCE	.75	3.25
67	T1-CP-EL11	Terminal 1, Central Plant	Dover	.75	3.25
68	5750MASON-EL11	Terminal 3, Central Plant	MCE	.75	3.25
69	T1-BHS-N3-EL11	Terminal 1, BHS Node 3	Otis	.75	3.25
70	T1-BHS-N4-EL11	Terminal 1, BHS Node 4	Otis	.75	3.25
71	T2-BHS-N6-EL11	Terminal 2, BHS Node 6	Otis	.75	3.25
1	Z730-EL11	North Las Vegas Terminal	Dover	.75	3.25
2	Vertical Platform Lift	Vision Building North Las Vegas (2704 Airport Dr)	Porch Lift	.75	3.25
1	HEA-EL11	Henderson Executive Terminal	Otis	.75	3.25
2	HEA-EL12	Henderson Executive Terminal	Otis	.75	3.25
3	HT-EL11	Henderson Executive Tower	Otis	.75	3.25
1	CSB-EL120	Customer Service Building	Otis	.75	3.25
2	CSB-EL121	Customer Service Building	Otis	.75	3.25
3	CSB-EL130	Customer Service Building	Otis	.75	3.25
4	CSB-EL131	Customer Service Building	Otis	.75	3.25
5	CSB-EL140	Customer Service Building	Otis	.75	3.25
6	CSB-EL141	Customer Service Building	Otis	.75	3.25
7	SQTA-EL150	South QTA	Otis	.75	3.25
8	SQTA-EL151	South QTA	Otis	.75	3.25
9	WQTA-EL160	West QTA	Otis	.75	3.25
10	WQTA-EL161	West QTA	Otis	.75	3.25
11	WQTA-EL162	West QTA	Otis	.75	3.25
12	NQTA-EL170	North QTA	Otis	.75	3.25
13	NQTA-EL171	North QTA	Otis	.75	3.25
TOTAL HOURS FOR ELEVATORS				67	290.33

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

MINIMUM MAINTENANCE REQUIREMENTS (MCCARRAN NEW TERMINAL 3)						
No.	Elevator Designation	QID ID	Location	Manufacturer	Minimum PM Hours per Week	Minimum PM Hours per Month
1	T3-W-EL11	EA01	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-EL14	EA04	Terminal 3, West	KONE	.75	3.25
5	T3-W-EL15	EA05	Terminal 3, West	KONE	.75	3.25
6	T3-W-EL16	EA06	Terminal 3, West	KONE	.75	3.25
7	T3-C-EL17	EA07	Terminal 3, Center	KONE	.75	3.25
8	T3-C-EL18	EA08	Terminal 3, Center	KONE	.75	3.25
9	T3-C-EL19	EA09	Terminal 3, Center	KONE	.75	3.25
10	T3-C-EL110	EA10	Terminal 3, Center	KONE	.75	3.25
11	T3-C-EL111	EA11	Terminal 3, Center	KONE	.75	3.25
12	T3-C-EL112	EA12	Terminal 3, Center	KONE	.75	3.25
13	T3-E-EL113	EA13	Terminal 3, East	KONE	.75	3.25
14	T3-E-EL114	EA14	Terminal 3, East	KONE	.75	3.25
15	T3-E-EL115	EA15	Terminal 3, East	KONE	.75	3.25
16	T3-E-EL116	EA16	Terminal 3, East	KONE	.75	3.25
17	T3-E-EL117	EA17	Terminal 3, East	KONE	.75	3.25
18	T3-E-EL118	EA18	Terminal 3, East	KONE	.75	3.25
19	T3-W-EL119	EA19	Terminal 3, West	KONE	.75	3.25
20	T3-W-EL120	EA20	Terminal 3, West	KONE	.75	3.25
21	T3-C-EL121	EA21	Terminal 3, Center	KONE	.75	3.25
22	T3-C-EL122	EA22	Terminal 3, Center	KONE	.75	3.25
23	T3-C-EL123	EA23	Terminal 3, Center	KONE	.75	3.25
24	T3-C-EL124	EA24	Terminal 3, Center	KONE	.75	3.25
25	T3-E-EL125	EA25	Terminal 3, East	KONE	.75	3.25
26	T3-E-EL126	EA26	Terminal 3, East	KONE	.75	3.25
27	T3-E-EL127	EA27	Terminal 3, East	KONE	.75	3.25
28	T3-E-EL128	EA28	Terminal 3, East	KONE	.75	3.25
29	T3-E-EL129	EA29	Terminal 3, East	KONE	.75	3.25
30	T3-W-EL130	EA30	Terminal 3, West	KONE	.75	3.25
31	T3-E-EL131	EA31	Terminal 3, East	KONE	.75	3.25
32	T3-E-EL132	EA32	Terminal 3, East	KONE	.75	3.25
33	T3-E-EL133	EA33	Terminal 3, East	KONE	.75	3.25
1	T3-PK-EL11*	—	Terminal 3 Garage	KONE	.75	3.25
2	T3-PK-EL12*	—	Terminal 3 Garage	KONE	.75	3.25
3	T3-PK-EL13*	—	Terminal 3 Garage	KONE	.75	3.25
4	T3-PK-EL14*	—	Terminal 3 Garage	KONE	.75	3.25
5	T3-PK-EL15*	—	Terminal 3 Garage	KONE	.75	3.25
6	T3-PK-EL16*	—	Terminal 3 Garage	KONE	.75	3.25
7	T3-PK-EL17*	—	Terminal 3 Garage	KONE	.75	3.25
8	T3-PK-EL18*	—	Terminal 3 Garage	KONE	.75	3.25
TOTAL HOURS FOR ESCALATORS					30.75	133.25

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

MINIMUM MAINTENANCE REQUIREMENTS					
No.	Escalator Designation	Location	Manufacturer	Minimum PM Hours per Week	Minimum PM Hours per Month
1	T1-S1-ESC1	Terminal 1, C Concourse	KONE	1.5	6.50
2	T1-S1-ESC2	Terminal 1, C Concourse	KONE	1.5	6.50
3	T1-S1-ESC3	Terminal 1, C Concourse	KONE	1.5	6.50
4	T1-TBC-ESC1 *	Terminal 1, Ticketing Center	KONE	1.5	6.50
5	T1-TBC-ESC2 *	Terminal 1, Ticketing Center	KONE	1.5	6.50
6	T1-TBC-ESC3 *	Terminal 1, Ticketing Center	KONE	1.5	6.50
7	T1-TBC-ESC4 *	Terminal 1, Ticketing Center	KONE	1.5	6.50
8	T1-BCC-ESC1 *	Terminal 1, Bag Claim Center	KONE	1.5	6.50
9	T1-BCC-ESC2 *	Terminal 1, Bag Claim Center	KONE	1.5	6.50
10	T1-BCC-ESC3 *	Terminal 1, Bag Claim Center	KONE	1.5	6.50
11	T1-BCC-ESC4 *	Terminal 1, Bag Claim Center	KONE	1.5	6.50
12	T1-BCC-ESC5 *	Terminal 1, Bag Claim Center	KONE	1.5	6.50
13	T1-BCS-ESC1	Terminal 1, Bag Claim South	KONE	1.5	6.50
14	T1-BCS-ESC2	Terminal 1, Bag Claim South	KONE	1.5	6.50
15	T1-BCS-ESC3	Terminal 1, Bag Claim South	KONE	1.5	6.50
16	T1-BCS-ESC4	Terminal 1, Bag Claim South	KONE	1.5	6.50
17	T1-BCS-ESC5	Terminal 1, Bag Claim South	KONE	1.5	6.50
18	T1-BCS-ESC6	Terminal 1, Bag Claim South	KONE	1.5	6.50
19	T1-BCS-ESC7	Terminal 1, Bag Claim South	KONE	1.5	6.50
20	T1-BCS-ESC8	Terminal 1, Bag Claim South	KONE	1.5	6.50
21	S2-RA-ESC1 *	Terminal 1, D Concourse GH	KONE	1.5	6.50
22	S2-RA-ESC2 *	Terminal 1, D Concourse GH	KONE	1.5	6.50
23	S2-RA-ESC3 *	Terminal 1, D Concourse GH	KONE	1.5	6.50
24	S2-RA-ESC4 *	Terminal 1, D Concourse GH	KONE	1.5	6.50
25	S2-RA-ESC5 *	Terminal 1, D Concourse GH	Thyssen	1.5	6.50
26	S2-RA-ESC6 *	Terminal 1, D Concourse GH	Thyssen	1.5	6.50
27	T2-IAB-ESC1	Terminal 2	KONE	1.5	6.50
28	T2-CIT-ESC1	Terminal 2	Schindler	1.5	6.50
29	T2-CIT-ESC2	Terminal 2	Schindler	1.5	6.50
30	T2-CIT-ESC3	Terminal 2	KONE	1.5	6.50
31	T2-CIT-ESC4	Terminal 2	KONE	1.5	6.50
32	T1-CAX-ESC1	Terminal 1, C Annex	KONE	1.5	6.50
33	T1-CAX-ESC2	Terminal 1, C Annex	KONE	1.5	6.50
1	CSB-ESC20	Customer Service Building	Otis	1.5	6.50
2	CSB-ESC21	Customer Service Building	Otis	1.5	6.50
3	CSB-ESC22	Customer Service Building	Otis	1.5	6.50
4	CSB-ESC23	Customer Service Building	Otis	1.5	6.50
5	CSB-ESC30	Customer Service Building	Otis	1.5	6.50
6	CSB-ESC31	Customer Service Building	Otis	1.5	6.50
7	CSB-ESC32	Customer Service Building	Otis	1.5	6.50
8	CSB-ESC33	Customer Service Building	Otis	1.5	6.50
9	CSB-ESC40	Customer Service Building	Otis	1.5	6.50
10	CSB-ESC41	Customer Service Building	Otis	1.5	6.50
11	CSB-ESC42	Customer Service Building	Otis	1.5	6.50
12	CSB-ESC43	Customer Service Building	Otis	1.5	6.50
TOTAL HOURS FOR ESCALATORS				67.5	292.5

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

MINIMUM MAINTENANCE REQUIREMENTS (MCCARRAN NEW TERMINAL 3)						
No.	Escalator Designation	Old ID	Location	Manufacturer	Minimum PM Hours per Week	Minimum PM Hours per Month
1	T3-W-ESC11	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-ESC14	ES04	Terminal 3, West	KONE	1.50	6.50
5	T3-C-ESC15	ES05	Terminal 3, Center	KONE	1.50	6.50
6	T3-C-ESC16	ES06	Terminal 3, Center	KONE	1.50	6.50
7	T3-C-ESC17	ES07	Terminal 3, Center	KONE	1.50	6.50
8	T3-C-ESC18	ES08	Terminal 3, Center	KONE	1.50	6.50
9	T3-E-ESC19	ES09	Terminal 3, East	KONE	1.50	6.50
10	T3-E-ESC110	ES10	Terminal 3, East	KONE	1.50	6.50
11	T3-E-ESC111	ES11	Terminal 3, East	KONE	1.50	6.50
12	T3-E-ESC112	ES12	Terminal 3, East	KONE	1.50	6.50
13	T3-W-ESC113	ES13	Terminal 3, West	KONE	1.50	6.50
14	T3-W-ESC114	ES14	Terminal 3, West	KONE	1.50	6.50
15	T3-W-ESC115	ES15	Terminal 3, West	KONE	1.50	6.50
16	T3-W-ESC116	ES16	Terminal 3, West	KONE	1.50	6.50
17	T3-C-ESC117	ES17	Terminal 3, Center	KONE	1.50	6.50
18	T3-C-ESC118	ES18	Terminal 3, Center	KONE	1.50	6.50
19	T3-C-ESC119	ES19	Terminal 3, Center	KONE	1.50	6.50
20	T3-C-ESC120	ES20	Terminal 3, Center	KONE	1.50	6.50
21	T3-E-ESC121	ES21	Terminal 3, East	KONE	1.50	6.50
22	T3-E-ESC122	ES22	Terminal 3, East	KONE	1.50	6.50
23	T3-E-ESC123	ES23	Terminal 3, East	KONE	1.50	6.50
24	T3-E-ESC124	ES24	Terminal 3, East	KONE	1.50	6.50
25	T3-E-ESC125	ES25	Terminal 3, East	KONE	1.50	6.50
TOTAL HOURS FOR NEW TERMINAL 3 ESCALATORS					37.50	162.50

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

MINIMUM MAINTENANCE REQUIREMENTS					
No.	Moving Walkway Designation	Location	Manufacturer	Minimum PM Hours per Week	Minimum PM Hours per Month
1	T1-NC-L2-MW1	Terminal 1, A Concourse	KONE	1.5	6.50
2	T1-NC-L2-MW2	Terminal 1, A Concourse	KONE	1.5	6.50
3	T1-NC-L2-MW3	Terminal 1, A Concourse	KONE	1.5	6.50
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-MW2	Terminal 1, B Concourse	KONE	1.5	6.50
7	T1-SC-L2-MW3	Terminal 1, B Concourse	KONE	1.5	6.50
8	T1-SC-L2-MW4	Terminal 1, B Concourse	KONE	1.5	6.50
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	S2-SW-L2-MW1	Terminal 1, D Concourse SW	KONE	1.5	6.50
16	S2-SW-L2-MW2	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-MW2	Terminal 1, Gold Garage	KONE	1.5	6.50
23	T1-SKY-L2-MW1	Terminal 1, Sky Bridge	KONE	1.5	6.50
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	6.50
26	T1-SKY-L2-MW4	Terminal 1, Sky Bridge	KONE	1.5	6.50
TOTAL HOURS FOR MOVING WALKWAYS				39.0	169.0
TOTAL HOURS FOR ALL EQUIPMENT				172.75	746.59

MINIMUM MAINTENANCE REQUIREMENTS (MCCARRAN NEW TERMINAL 3)						
No.	Moving Walkway Designation	Old ID	Location	Manufacturer	Minimum PM Hours per Week	Minimum PM Hours per Month
1	T3-W-L2-MW1	MW01	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	MW04	Terminal 3, East	KONE	1.50	6.50
5	T3-W-L1-MW5	MW05	Terminal 3, West	KONE	1.50	6.50
6	T3-W-L1-MW6	MW06	Terminal 3, West	KONE	1.50	6.50
7	T3-C-L1-MW7	MW07	Terminal 3, Center	KONE	1.50	6.50
8	T3-C-L1-MW8	MW08	Terminal 3, Center	KONE	1.50	6.50
9	T3-E-L1-MW9	MW09	Terminal 3, East	KONE	1.50	6.50
10	T3-E-L1-MW10	MW10	Terminal 3, East	KONE	1.50	6.50
11	T3-E-L1-MW11	MW11	Terminal 3, East	KONE	1.50	6.50
TOTAL HOURS FOR NEW TERMINAL 3 MOVING WALKWAYS					16.50	71.50
TOTAL HOURS FOR NEW TERMINAL 3 EQUIPMENT					64.75	367.25

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

247 SCHEDULE				
ELEVATORS				
ITEM NO.	NUMBERS	MONTHLY UNIT COST	MONTHS	EXTENDED TOTAL
"TERMINAL 1, A-CONCOURSE"				
1.	T1-NC-EL1 (A-1)	\$1,440.00	x 12	\$17,280.00
2.	T1-CB4-EL1 (A-2)	\$2,040.00	x 12	\$24,480.00
"TERMINAL 1, B-CONCOURSE"				
3.	T1-SC-EL1 (B-2)	\$1,440.00	x 12	\$17,280.00
4.	T1-SC-EL2 (B-1)	\$1,440.00	x 12	\$17,280.00
"TERMINAL 1, C-CONCOURSE"				
5.	T1-S1-EL1 (C-1)	\$1,440.00	x 12	\$17,280.00
6.	T1-S1-EL2 (C-2)	\$1,440.00	x 12	\$17,280.00
7.	T1-S1-EL3 (C-3)	\$1,440.00	x 12	\$17,280.00
8.	T1-S1-EL4 (C-4)	\$1,440.00	x 12	\$17,280.00
9.	T1-S1-EL5 (C-5)	\$1,440.00	x 12	\$17,280.00
10.	T1-S1-EL6 (C-6)	\$1,440.00	x 12	\$17,280.00
"TERMINAL 1, BRIDGE ROTUNDA"				
11.	T1-BR-EL1 (CT-3)	\$1,440.00	x 12	\$17,280.00
12.	T1-BR-EL2 (CT-1)	\$1,440.00	x 12	\$17,280.00
13.	T1-BR-EL3 (CT-2)	\$1,440.00	x 12	\$17,280.00
"TERMINAL 1, TICKETING NORTH"				
14.	T1-TBN-EL1 (CT-4)	\$1,440.00	x 12	\$17,280.00
"TERMINAL 1, TICKETING SOUTH"				
15.	T1-TBS-EL1 (CT-5)	\$1,440.00	x 12	\$17,280.00
"TERMINAL 1, ESPLANADE"				
16.	T1-TBC-EL1 (CT-6)	\$1,440.00	x 12	\$17,280.00
17.	T1-TBC-EL2 (CT-9)	\$2,040.00	x 12	\$24,480.00
18.	T1-TBC-EL3 (CT-8)	\$1,440.00	x 12	\$17,280.00
19.	T1-TBC-EL4 (CT-7)	\$2,040.00	x 12	\$24,480.00
20.	T1-TBC-EL5 (CT-10)	\$2,040.00	x 12	\$24,480.00
"TERMINAL 1, BAG CLAIM NORTH"				
21.	T1-BCN-EL1 (CT-15)	\$1,440.00	x 12	\$17,280.00
22.	T1-BCN-EL2 (CT-11)	\$1,440.00	x 12	\$17,280.00

24/7 SCHEDULE				
ELEVATORS (CONTINUED)				
ITEM #	NUMBERS	MONTHLY UNIT COST	MONTHS	EXTENDED TOTAL
"TERMINAL 1, BAG CLAIM CENTER"				
23.	T1-BCC-EL1 (CT-12)	\$2,040.00	x12	\$24,480.00
24.	T1-BCC-EL2 (CT-13)	\$2,040.00	x12	\$24,480.00
25.	T1-BCC-EL3 (CT-17)	\$2,040.00	x12	\$24,480.00
26.	T1-BCC-EL4 (CT-16)	\$2,040.00	x12	\$24,480.00
27.	T1-BCC-EL5 (CT-22)	\$2,040.00	x12	\$24,480.00
28.	T1-BCC-EL6 (CT-23)	\$2,040.00	x12	\$24,480.00
29.	T1-BCC-EL7 (CT-24)	\$2,040.00	x12	\$24,480.00
"TERMINAL 1, BAG CLAIM SOUTH"				
30.	T1-BCS-EL1 (CT-18)	\$1,440.00	x12	\$17,280.00
31.	T1-BCS-EL2 (CT-19)	\$1,440.00	x12	\$17,280.00
32.	T1-BCS-EL3 (CT-21)	\$1,440.00	x12	\$17,280.00
33.	T1-BCS-EL4 (CT-20)	\$1,440.00	x12	\$17,280.00
34.	T1-BCS-EL5 (CT-14)	\$1,440.00	x12	\$17,280.00
"TERMINAL 1, D-CONCOURSE"				
35.	S2-RA-EL1 (D-4)	\$2,040.00	x12	\$24,480.00
36.	S2-RA-EL2 (D-2)	\$1,440.00	x12	\$17,280.00
37.	S2-RA-EL3 (D-1)	\$1,440.00	x12	\$17,280.00
38.	S2-RA-EL4 (D-3)	\$1,440.00	x12	\$17,280.00
39.	S2-RA-EL5 (D-5)	\$1,440.00	x12	\$17,280.00
40.	S2-RA-EL6 (D-6)	\$1,440.00	x12	\$17,280.00
41.	S2-ERC-EL1 (D-7)	\$2,040.00	x12	\$24,480.00
42.	S2-SE-EL1 (DSE-1)	\$1,440.00	x12	\$17,280.00
43.	S2-SE-EL2 (DSE-2)	\$1,440.00	x12	\$17,280.00
44.	S2-SE-EL3 (DSE-3)	\$1,440.00	x12	\$17,280.00
45.	S2-SW-EL1 (DSW-1)	\$1,440.00	x12	\$17,280.00
46.	S2-SW-EL2 (DSW-2)	\$1,440.00	x12	\$17,280.00
47.	S2-SW-EL3 (DSW-3)	\$1,440.00	x12	\$17,280.00
48.	S2-NE-EL1 (DNE-3)	\$1,440.00	x12	\$17,280.00
49.	S2-NE-EL2 (DNE-1)	\$1,440.00	x12	\$17,280.00
50.	S2-NE-EL3 (DNE-2)	\$1,440.00	x12	\$17,280.00
51.	S2-NW-EL1 (DNW-1)	\$1,440.00	x12	\$17,280.00
52.	S2-NW-EL2 (DNW-2)	\$1,440.00	x12	\$17,280.00
53.	S2-NW-EL3 (DNW-3)	\$1,440.00	x12	\$17,280.00
54.	S2-NW-EL4 (DNW-4)	\$1,440.00	x12	\$17,280.00

24/7 SCHEDULE				
ELEVATORS (CONTINUED)				
ITEM #	NUMBERS	MONTHLY UNIT COST	MONTHS	EXTENDED TOTAL
"TERMINAL 1 - GOLD PARKING GARAGE"				
55.	T1-PK-GLD-EL11 (G-2)	\$2,040.00	x12	\$24,480.00
56.	T1-PK-GLD-EL12 (G-1)	\$2,040.00	x12	\$24,480.00
57.	T1-PK-GLD-EL13 (G-4)	\$2,040.00	x12	\$24,480.00
58.	T1-PK-GLD-EL14 (G-5)	\$2,040.00	x12	\$24,480.00
"TERMINAL 1 - C ANNEX & SKYBRIDGE"				
59.	T1-CAX-EL11 (CAX-1)	\$1,440.00	x12	\$17,280.00
60.	T1-SKY-EL11 (CAX-2)	\$1,440.00	x12	\$17,280.00
61.	T1-SKY-EL11 (CAX-3)	\$1,440.00	x12	\$17,280.00
"TERMINAL 1 - CENTRAL PLANT"				
62.	T1-CP-EL11 (HR-1)	\$1,440.00	x12	\$17,280.00
"TERMINAL 1 - BHS NODES 3 & 4"				
63.	T1-BHS-NE-EL11 (N3-1)	\$1,440.00	x12	\$17,280.00
64.	T1-BHS-N4-EL11 (N4-1)	\$1,440.00	x12	\$17,280.00
"TERMINAL 2"				
65.	T2-IAB-EL11 (CIT-1)	\$1,440.00	x12	\$17,280.00
66.	T2-CIT-EL11 (CIT-5)	\$1,440.00	x12	\$17,280.00
67.	T2-CIT-EL12 (CIT-4)	\$1,440.00	x12	\$17,280.00
68.	T2-CIT-EL13 (CIT-3)	\$1,440.00	x12	\$17,280.00
69.	T2-CIT-EL14 (CIT-2)	\$1,440.00	x12	\$17,280.00
"TERMINAL 2 - BHS NODE 6"				
70.	T2-BHS-NS-EL11 (CIT-6)	\$1,440.00	x12	\$17,280.00
"TERMINAL 3 - CENTRAL PLANT"				
71.	5750MASON-EL11 (CUP-1)	\$1,440.00	x12	\$17,280.00
"NORTH LAS VEGAS TERMINAL"				
72.	2730-EL11 (HP-1)	\$200.00	x12	\$2,400.00
73.	Vertical Platform Lift	\$200.00	x12	\$2,400.00
"HENDERSON EXECUTIVE TERMINAL"				
74.	HEA-EL11 (HEA-2)	\$275.00	x12	\$3,300.00
75.	HEA-EL12 (HEA-1)	\$275.00	x12	\$3,300.00

24/7 SCHEDULE				
ELEVATOR MAINTENANCE				
ITEM #	NUMBERS	MONTHLY UNIT COST	MONTHS	EXTENDED TOTAL
"HENDERSON EXECUTIVE TOWER"				
76.	HT-EL11 (HT-1)	\$275.00	x12	\$3,300.00
"MRACC - CUSTOMER SERVICE BUILDING"				
77.	CSB-EL20 (EL-20)	\$1,440.00	x12	\$17,280.00
78.	CSB-EL21 (EL-21)	\$1,440.00	x12	\$17,280.00
79.	CSB-EL30 (EL-30)	\$1,440.00	x12	\$17,280.00
80.	CSB-EL31 (EL-31)	\$1,440.00	x12	\$17,280.00
81.	CSB-EL40 (EL-40)	\$1,440.00	x12	\$17,280.00
82.	CSB-EL41 (EL-41)	\$1,440.00	x12	\$17,280.00
"MRACC - SOUTH QTA"				
83.	SQTA-EL50 (EL-50)	\$1,440.00	x12	\$17,280.00
84.	SQTA-EL51 (EL-51)	\$1,440.00	x12	\$17,280.00
"MRACC - WEST QTA"				
85.	WQTA-EL60 (EL-60)	\$1,440.00	x12	\$17,280.00
86.	WQTA-EL61 (EL-61)	\$1,440.00	x12	\$17,280.00
87.	WQTA-EL62 (EL-62)	\$1,440.00	x12	\$17,280.00
"MRACC - NORTH QTA"				
88.	NQTA-EL70 (EL-70)	\$1,440.00	x12	\$17,280.00
89.	NQTA-EL71 (EL-71)	\$1,440.00	x12	\$17,280.00
24/7 SCHEDULE TOTAL ELEVATOR MAINTENANCE				\$1,538,620.00

24/7 SCHEDULE				
NEW TERMINAL ELEVATORS				
ITEM #	NUMBERS	MONTHLY UNIT COST	MONTHS	EXTENDED TOTAL
IT IS ANTICIPATED THAT NEW TERMINAL 3 ELEVATORS WILL COME OUT OF WARRANTY IN JANUARY 2013. THE CONTRACTOR SHALL PROVIDE A COST PROPOSAL FOR EACH PIECE OF EQUIPMENT USING JANUARY 2013 DOLLARS. AT THE TIME THESE ELEVATORS COME OUT OF WARRANTY, THE MONTHLY UNIT COST SHOWN TIMES THE NUMBER OF MONTHS REMAINING WILL BE ADDED TO THE BASE CONTRACT AMOUNT FOR THE REMAINDER OF THE CURRENT CONTRACT TERM.				
1.	T3-W-EL11 (EL01)	\$560.00	x12	\$6,720.00
2.	T3-W-EL12 (EL02)	\$560.00	x12	\$6,720.00
3.	T3-W-EL13 (EL03)	\$560.00	x12	\$6,720.00
4.	T3-W-EL14 (EL04)	\$560.00	x12	\$6,720.00
5.	T3-W-EL15 (EL05)	\$560.00	x12	\$6,720.00
6.	T3-W-EL16 (EL06)	\$560.00	x12	\$6,720.00
7.	T3-C-EL17 (EL07)	\$560.00	x12	\$6,720.00
8.	T3-C-EL18 (EL08)	\$560.00	x12	\$6,720.00
9.	T3-C-EL19 (EL09)	\$560.00	x12	\$6,720.00
10.	T3-C-EL110 (EL10)	\$560.00	x12	\$6,720.00
11.	T3-C-EL111 (EL11)	\$560.00	x12	\$6,720.00
12.	T3-C-EL112 (EL12)	\$560.00	x12	\$6,720.00
13.	T3-E-EL113 (EL13)	\$560.00	x12	\$6,720.00
14.	T3-E-EL114 (EL14)	\$560.00	x12	\$6,720.00
15.	T3-E-EL115 (EL15)	\$560.00	x12	\$6,720.00
16.	T3-E-EL116 (EL16)	\$560.00	x12	\$6,720.00
17.	T3-E-EL117 (EL17)	\$560.00	x12	\$6,720.00
18.	T3-E-EL118 (EL18)	\$560.00	x12	\$6,720.00
19.	T3-W-EL119 (EL19)	\$560.00	x12	\$6,720.00
20.	T3-W-EL120 (EL20)	\$560.00	x12	\$6,720.00
21.	T3-C-EL121 (EL21)	\$560.00	x12	\$6,720.00
22.	T3-C-EL122 (EL22)	\$560.00	x12	\$6,720.00
23.	T3-C-EL123 (EL23)	\$560.00	x12	\$6,720.00
24.	T3-C-EL124 (EL24)	\$560.00	x12	\$6,720.00
25.	T3-E-EL125 (EL25)	\$560.00	x12	\$6,720.00
26.	T3-E-EL126 (EL26)	\$560.00	x12	\$6,720.00
27.	T3-E-EL127 (EL27)	\$560.00	x12	\$6,720.00
28.	T3-E-EL128 (EL28)	\$560.00	x12	\$6,720.00
29.	T3-E-EL129 (EL29)	\$560.00	x12	\$6,720.00
30.	T3-W-EL130 (EL30)	\$560.00	x12	\$6,720.00
31.	T3-E-EL131 (EL31)	\$560.00	x12	\$6,720.00
32.	T3-E-EL132 (EL32)	\$560.00	x12	\$6,720.00

24/7 SCHEDULE				
NEW TERMINAL ELEVATORS				
ITEM #	NUMBERS	MONTHLY UNIT COST	MONTHS	EXTENDED TOTAL
33.	T3-E-EL133 (EL33)	\$580.00	x12	\$6,720.00
24/7 SCHEDULE TOTAL NEW TERMINAL 3 ELEVATOR MAINTENANCE				\$221,760.00

24/7 SCHEDULE				
NEW GARAGE ELEVATORS				
ITEM #	NUMBERS	MONTHLY UNIT COST	MONTHS	EXTENDED TOTAL
THE NEW GARAGE ELEVATORS WILL COME OUT OF WARRANTY IN LATE APRIL 2012. THE CONTRACTOR SHALL PROVIDE A COST PROPOSAL FOR EACH PIECE OF EQUIPMENT USING MAY 2012 DOLLARS. AT THE TIME THESE ELEVATORS COME OUT OF WARRANTY, THE MONTHLY UNIT COST SHOWN TIMES THE NUMBER OF MONTHS REMAINING WILL BE ADDED TO THE BASE CONTRACT AMOUNT FOR THE REMAINDER OF THE CURRENT CONTRACT TERM.				
1.	T3-PK-EL1	\$560.00	x12	\$6,720.00
2.	T3-PK-EL2	\$560.00	x12	\$6,720.00
3.	T3-PK-EL3	\$560.00	x12	\$6,720.00
4.	T3-PK-EL4	\$560.00	x12	\$6,720.00
5.	T3-PK-EL5	\$560.00	x12	\$6,720.00
6.	T3-PK-EL6	\$560.00	x12	\$6,720.00
7.	T3-PK-EL7	\$560.00	x12	\$6,720.00
8.	T3-PK-EL8	\$560.00	x12	\$6,720.00
24/7 SCHEDULE TOTAL NEW GARAGE ELEVATOR MAINTENANCE				\$83,760.00

24/7 SCHEDULE				
ESCALATION				
ITEM	NUMBERS	MONTHLY UNIT COST	MONTHS	EXTENDED TOTAL
"TERMINAL 1, C-CONCOURSE"				
1.	T1-S1-ESC1 (C-105)	\$3,000.00	x 12	\$36,000.00
2.	T1-S1-ESC2 (C-106)	\$3,000.00	x 12	\$36,000.00
3.	T1-S1-ESC3 (C-107)	\$3,000.00	x12	\$36,000.00
"TERMINAL 1, TICKETING CENTER"				
4.	T1-TBC-ESC1 (CT-104)	\$3,000.00	x12	\$36,000.00
5.	T1-TBC-ESC2 (CT-103)	\$3,000.00	x12	\$36,000.00
6.	T1-TBC-ESC3 (CT-102)	\$3,000.00	x12	\$36,000.00
7.	T1-TBC-ESC4 (CT-101)	\$3,000.00	x12	\$36,000.00
"TERMINAL 1, BAG CLAIM CENTER"				
8.	T1-BCC-ESC1 (CT-109)	\$3,000.00	x12	\$36,000.00
9.	T1-BCC-ESC2 (CT-107)	\$3,000.00	x12	\$36,000.00
10.	T1-BCC-ESC3 (CT-108)	\$3,000.00	x12	\$36,000.00
11.	T1-BCC-ESC4 (CT-106)	\$3,000.00	x12	\$36,000.00
12.	T1-BCC-ESC5 (CT-105)	\$3,000.00	x12	\$36,000.00
"TERMINAL 1, BAG CLAIM SOUTH"				
13.	T1-BCS-ESC1 (CT-117)	\$3,000.00	x12	\$36,000.00
14.	T1-BCS-ESC2 (CT-116)	\$3,000.00	x12	\$36,000.00
15.	T1-BCS-ESC3 (CT-115)	\$3,000.00	x12	\$36,000.00
16.	T1-BCS-ESC4 (CT-114)	\$3,000.00	x12	\$36,000.00
17.	T1-BCS-ESC5 (CT-113)	\$3,000.00	x12	\$36,000.00
18.	T1-BCS-ESC6 (CT-112)	\$3,000.00	x12	\$36,000.00
19.	T1-BCS-ESC7 (CT-110)	\$3,000.00	x12	\$36,000.00
20.	T1-BCS-ESC8 (CT-111)	\$3,000.00	x12	\$36,000.00
"TERMINAL 1, D-CONCOURSE"				
21.	S2-RA-ESC1 (D-101)	\$3,000.00	x12	\$36,000.00
22.	S2-RA-ESC2 (D-102)	\$3,000.00	x12	\$36,000.00
23.	S2-RA-ESC3 (D-103)	\$3,000.00	x12	\$36,000.00
24.	S2-RA-ESC4 (D-104)	\$3,000.00	x12	\$36,000.00
25.	S2-RA-ESC5 (D-109)	\$3,000.00	x12	\$36,000.00
26.	S2-RA-ESC6 (D-110)	\$3,000.00	x12	\$36,000.00

24/7 SCHEDULE				
ESCALATORS (CONTINUED)				
ITEM #	NUMBERS	MONTHLY UNIT COST	MONTHS	EXTENDED TOTAL
"TERMINAL 1 - C ANNEX"				
27.	T1-CAX-ESC1 (CAX-101)	\$3,000.00	x12	\$36,000.00
28.	T1-CAX-ESC2 (CAX-102)	\$3,000.00	x12	\$36,000.00
"TERMINAL 2"				
29.	T2-IAB-ESC1 (CIT-101)	\$3,000.00	x12	\$36,000.00
30.	T2-CIT-ESC1 (CIT-104)	\$3,000.00	x12	\$36,000.00
31.	T2-CIT-ESC2 (CIT-105)	\$3,000.00	x12	\$36,000.00
32.	T2-CIT-ESC3 (CIT-102)	\$3,000.00	x12	\$36,000.00
33.	T2-CIT-ESC4 (CIT-103)	\$3,000.00	x12	\$36,000.00
"MRCC - CUSTOMER SERVICE BUILDING"				
34.	CSB-ESC120 (ES-20)	\$3,000.00	x12	\$36,000.00
35.	CSB-ESC121 (ES-21)	\$3,000.00	x12	\$36,000.00
36.	CSB-ESC122 (ES-22)	\$3,000.00	x12	\$36,000.00
37.	CSB-ESC123 (ES-23)	\$3,000.00	x12	\$36,000.00
38.	CSB-ESC130 (ES-30)	\$3,000.00	x12	\$36,000.00
39.	CSB-ESC131 (ES-31)	\$3,000.00	x12	\$36,000.00
40.	CSB-ESC132 (ES-32)	\$3,000.00	x12	\$36,000.00
41.	CSB-ESC133 (ES-33)	\$3,000.00	x12	\$36,000.00
42.	CSB-ESC140 (ES-40)	\$3,000.00	x12	\$36,000.00
43.	CSB-ESC141 (ES-41)	\$3,000.00	x12	\$36,000.00
44.	CSB-ESC142 (ES-42)	\$3,000.00	x12	\$36,000.00
45.	CSB-ESC143 (ES-43)	\$3,000.00	x12	\$36,000.00
24/7 SCHEDULE TOTAL ESCALATOR MAINTENANCE				\$1,620,000.00

24/7 SCHEDULE				
NEW TERMINAL 3 ESCALATORS				
ITEM #	NUMBERS	MONTHLY UNIT COST	MONTHS	EXTENDED TOTAL
IT IS ANTICIPATED THAT NEW TERMINAL 3 ESCALATORS WILL COME OUT OF WARRANTY IN JANUARY 2013. THE CONTRACTOR SHALL PROVIDE A COST PROPOSAL FOR EACH PIECE OF EQUIPMENT USING JANUARY 2013 DOLLARS. AT THE TIME THESE ESCALATORS COME OUT OF WARRANTY, THE MONTHLY UNIT COST SHOWN TIMES THE NUMBER OF MONTHS REMAINING WILL BE ADDED TO THE BASE CONTRACT AMOUNT FOR THE REMAINDER OF THE CURRENT CONTRACT TERM.				
1.	T3-W-ESC1 (ES01)	\$950.00	x12	\$11,400.00
2.	T3-W-ESC2 (ES02)	\$950.00	x12	\$11,400.00
3.	T3-W-ESC3 (ES03)	\$950.00	x12	\$11,400.00
4.	T3-W-ESC4 (ES04)	\$950.00	x12	\$11,400.00
5.	T3-C-ESC5 (ES05)	\$950.00	x12	\$11,400.00
6.	T3-C-ESC6 (ES06)	\$950.00	x12	\$11,400.00
7.	T3-C-ESC7 (ES07)	\$950.00	x12	\$11,400.00
8.	T3-C-ESC8 (ES08)	\$950.00	x12	\$11,400.00
9.	T3-E-ESC9 (ES09)	\$950.00	x12	\$11,400.00
10.	T3-E-ESC10 (ES10)	\$950.00	x12	\$11,400.00
11.	T3-E-ESC11 (ES11)	\$950.00	x12	\$11,400.00
12.	T3-E-ESC12 (ES12)	\$950.00	x12	\$11,400.00
13.	T3-W-ESC13 (ES13)	\$950.00	x12	\$11,400.00
14.	T3-W-ESC14 (ES14)	\$950.00	x12	\$11,400.00
15.	T3-W-ESC15 (ES15)	\$950.00	x12	\$11,400.00
16.	T3-W-ESC16 (ES16)	\$950.00	x12	\$11,400.00
17.	T3-C-ESC17 (ES17)	\$950.00	x12	\$11,400.00
18.	T3-C-ESC18 (ES18)	\$950.00	x12	\$11,400.00
19.	T3-C-ESC19 (ES19)	\$950.00	x12	\$11,400.00
20.	T3-C-ESC20 (ES20)	\$950.00	x12	\$11,400.00
21.	T3-E-ESC21 (ES21)	\$950.00	x12	\$11,400.00
22.	T3-E-ESC22 (ES22)	\$950.00	x12	\$11,400.00
23.	T3-E-ESC23 (ES23)	\$950.00	x12	\$11,400.00
24.	T3-E-ESC24 (ES24)	\$950.00	x12	\$11,400.00
25.	T3-E-ESC25 (ES25)	\$950.00	x12	\$11,400.00
24/7 SCHEDULE TOTAL NEW TERMINAL 3 ESCALATOR MAINTENANCE				\$285,000.00

24/7 SCHEDULE				
MOVING WALKWAYS				
ITEM #	NUMBERS	MONTHLY UNIT COST	MONTHS	EXTENDED TOTAL
"TERMINAL 1, A-CONCOURSE"				
1.	T1-NC-L2-MW1 (A-102)	\$4,000.00	x 12	\$48,000.00
2.	T1-NC-L2-MW2 (A-101)	\$4,000.00	x 12	\$48,000.00
3.	T1-NC-L2-MW3 (A-104)	\$4,000.00	x12	\$48,000.00
4.	T1-NC-L2-MW4 (A-103)	\$4,000.00	x12	\$48,000.00
"TERMINAL 1, B-CONCOURSE"				
5.	T1-SC-L2-MW1 (B-102)	\$4,000.00	x12	\$48,000.00
6.	T1-SC-L2-MW2 (B-101)	\$4,000.00	x12	\$48,000.00
7.	T1-SC-L2-MW3 (B-104)	\$4,000.00	X12	\$48,000.00
8.	T1-SC-L2-MW4 (B-103)	\$4,000.00	x12	\$48,000.00
"TERMINAL 1, C-CONCOURSE"				
9.	T1-S1-L2-MW1 (C-102)	\$4,000.00	x12	\$48,000.00
10.	T1-S1-L2-MW2 (C-101)	\$4,000.00	x12	\$48,000.00
11.	T1-S1-L2-MW3 (C-104)	\$4,000.00	x12	\$48,000.00
12.	T1-S1-L2-MW4 (C-103)	\$4,000.00	x12	\$48,000.00
"TERMINAL 1, D-CONCOURSE"				
13.	S2-SE-L2-MW1 (D-105)	\$4,000.00	x12	\$48,000.00
14.	S2-SE-L2-MW2 (D-106)	\$4,000.00	x12	\$48,000.00
15.	S2-SW-L2-MW1 (D-107)	\$4,000.00	x12	\$48,000.00
16.	S2-SW-L2-MW2 (D-108)	\$4,000.00	x12	\$48,000.00
17.	S2-NE-L2-MW1 (D-112)	\$4,000.00	x12	\$48,000.00
18.	S2-NE-L2-MW2 (D-111)	\$4,000.00	x12	\$48,000.00
"TERMINAL 1, GOLD PARKING GARAGE"				
19.	T1-PK-GLD-L1-MW1 (G-101)	\$4,000.00	x12	\$48,000.00
20.	T1-PK-GLD-L1-MW2 (G-102)	\$4,000.00	x12	\$48,000.00
21.	T1-PK-GLD-L2-MW1 (G-104)	\$4,000.00	x12	\$48,000.00
22.	T1-PK-GLD-L2-MW2 (G-103)	\$4,000.00	x12	\$48,000.00
"TERMINAL 1, SKYBRIDGE"				
23.	T1-SKY-L2-MW1 (CAX-103)	\$4,000.00	x12	\$48,000.00
24.	T1-SKY-L2-MW2 (CAX-104)	\$4,000.00	x12	\$48,000.00
25.	T1-SKY-L2-MW3 (CAX-105)	\$4,000.00	x12	\$48,000.00
26.	T1-SKY-L2-MW4 (CAX-106)	\$4,000.00	x12	\$48,000.00
24/7 SCHEDULE TOTAL MOVING WALKWAY MAINTENANCE				\$1,248,000.00

24/7 SCHEDULE				
NEW TERMINAL 3 MOVING WALKWAYS				
ITEM #	NUMBERS	MONTHLY UNIT COST	MONTHS	EXTENDED TOTAL
IT IS ANTICIPATED THAT NEW TERMINAL 3 MOVING WALKWAYS WILL COME OUT OF WARRANTY IN JANUARY 2013. THE CONTRACTOR SHALL PROVIDE A COST PROPOSAL FOR EACH PIECE OF EQUIPMENT USING JANUARY 2013 DOLLARS. AT THE TIME THESE MOVING WALKWAYS COME OUT OF WARRANTY, THE MONTHLY UNIT COST SHOWN TIMES THE NUMBER OF MONTHS REMAINING WILL BE ADDED TO THE BASE CONTRACT AMOUNT FOR THE REMAINDER OF THE CURRENT CONTRACT TERM.				
1.	T3-W-L2-MW01 (MW01)	\$1,445.00	x12	\$17,340.00
2.	T3-W-L2-MW02 (MW02)	\$1,445.00	x12	\$17,340.00
3.	T3-E-L2-MW03 (MW03)	\$1,445.00	x12	\$17,340.00
4.	T3-E-L2-MW04 (MW04)	\$1,445.00	x12	\$17,340.00
5.	T3-W-L1-MW05 (MW05)	\$1,445.00	x12	\$17,340.00
6.	T3-W-L1-MW06 (MW06)	\$1,445.00	x12	\$17,340.00
7.	T3-C-L1-MW07 (MW07)	\$1,445.00	x12	\$17,340.00
8.	T3-C-L1-MW08 (MW08)	\$1,445.00	x12	\$17,340.00
9.	T3-E-L1-MW09 (MW09)	\$1,445.00	x12	\$17,340.00
10.	T3-E-L1-MW10 (MW10)	\$1,445.00	x12	\$17,340.00
11.	T3-E-L1-MW11 (MW11)	\$1,445.00	x12	\$17,340.00
24/7 SCHEDULE TOTAL NEW TERMINAL 3 MOVING WALKWAY MAINTENANCE				\$190,740.00

MAINTENANCE SERVICES FOR ELEVATORS, ESCALATORS & MOVING WALKWAYS	
MAINTENANCE COST TOTALS (24/7 SCHEDULE)	
24/7 Schedule Grand Total (To include T3 Building and Parking Garage elevators, escalators and moving walkways.)	\$5,207,890.00

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

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
Bombardier Transportation (Holdings) USA, Exhibit 12		2231–2240
Bombardier Transportation (Holdings) USA, Exhibit 13		2241–2246
Bombardier Transportation (Holdings) USA, Exhibit 14		2247–2249

Bombardier Transportation (Holdings) USA, Exhibit 15		2250–2253
Bombardier Transportation (Holdings) USA, Exhibit 16		2254–2461
Bombardier Transportation (Holdings) USA, Exhibit 17		2462–2467
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
Bombardier Transportation (Holdings) USA, Exhibit 25		2584
Bombardier Transportation (Holdings) USA, Exhibit 26		2585–2598
Bombardier Transportation (Holdings) USA, Exhibit 27		2599–2602
Bombardier Transportation (Holdings) USA, Exhibit 28		2603–2606
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
Bombardier Transportation (Holdings) USA, Inc. Unopposed Motion to Seal	June 17, 2013	1295–1310
Clark County Department of Aviation Exhibit 1		2810
Clark County Department of Aviation Exhibit 2		2811
Clark County Department of Aviation Exhibit 3		2812–2814
Clark County Department of Aviation Exhibit 4		2815–2817
Clark County Department of Aviation Exhibit 5		2818–2822

Clark County Department of Aviation Exhibit 13		2823–299
Clark County Department of Aviation Exhibit 14		3000–3026
Clark County Department of Aviation Exhibit 16		3027–3030
Clark County Department of Aviation Exhibit 17		3031
Clark County Department of Aviation Exhibit 18		3032–3034
Clark County Department of Aviation Exhibit 19		3035–3041
Clark County Department of Aviation Exhibit 20		3042–3044
Clark County Department of Aviation Exhibit 20A		3045–3046
Clark County Department of Aviation Exhibit 20B		3047–3050
Clark County Department of Aviation Exhibit 22		3051–3115
Clark County Department of Aviation Exhibit 23		3116–3134
Clark County Department of Aviation Exhibit 25		3135–3208
Clark County Department of Aviation Exhibit 26		3209–3286
Clark County Department of Aviation Exhibit 27		3287–3343

Clark County Department of Aviation Exhibit 30		3344–3391
Clark County Department of Aviation Exhibit 32		3392–3453
Clark County Department of Aviation Exhibit 33		3454–3456
Clark County Department of Aviation Exhibit 34		3457–3459
Clark County Department of Aviation Exhibit 35		3460–3463
Clark County Department of Aviation Exhibit 36		3464–3466
Clark County Department of Aviation Exhibit 37		3467–3469
Clark County Department of Aviation Exhibit 38		3470–3472
Clark County Department of Aviation Exhibit 39		3473–3507
Clark County Department of Aviation Exhibit 40		3508–3511
Clark County Department of Aviation Exhibit 41		3512–3524
Clark County Department of Aviation Exhibit 42		3525–3526
Clark County Department of Aviation Exhibit 43		3527–3532
Clark County Department of Aviation Exhibit 44		3533–3534

Clark County Department of Aviation Exhibit 141		3535–3539
Clark County Department of Aviation List of Documents		0837–0840
Clark County Department of Aviation Pre-Hearing Brief		0800–0832
Clark County Department of Aviation Post-Hearing Brief		1320–1365
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
Hearing Transcript (Volume 2)	June 26, 2013	1556–1660
Hearing Transcript (Volume 3)	June 27, 2013	1661–1774
Hearing Transcript (Volume 4)	June 28, 2013	1775–1810
Hearing Transcript (Volume 5)	September 9, 2013	1811–1884
Hearing Transcript (Volume 6)	September 10, 2013	1885–1928
Interim Order	June 7, 2011	0009–0017
International Union of Elevator Constructors Exhibit 1		3540–3722

International Union of Elevator Constructors Exhibit 2		3723–3725
International Union of Elevator Constructors Exhibit 3		3726–3727
International Union of Elevator Constructors Exhibit 4		3728–3751
International Union of Elevator Constructors Exhibit 5		3752–3753
International Union of Elevator Constructors Exhibit 7		3754–3760
International Union of Elevator Constructors Exhibit 8		3761–3770
International Union of Elevator Constructors Exhibit 9		3771–3802
International Union of Elevator Constructors Exhibit 10		3803–3810
International Union of Elevator Constructors Exhibit 13		3811–3823
International Union of Elevator Constructors Exhibit 17		3824
International Union of Elevator Constructors Exhibit 18		3825–3829
International Union of Elevator Constructors Exhibit 19		3830–3838
International Union of Elevator Constructors Exhibit 21		3839–3840
International Union of Elevator Constructors Exhibit 22		3841–3843

International Union of Elevator Constructors Exhibit 23		3844
International Union of Elevator Constructors Exhibit 24		3845–3846
International Union of Elevator Constructors Exhibit 25		3847–3860
International Union of Elevator Constructors Exhibit 27		3861–3870
International Union of Elevator Constructors Exhibit 28		3871–3938
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 Department of Aviation	March 30, 2010	0006–0008
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

[illegible]

[illegible]

[illegible]

[illegible]

C-2013-343	CCDC	Allegiance in North Las Vegas, Inc.	Lease and Short Term to Rental Unit	\$242,000.00	9/1/2012	9/1/2013	9/1/2013
C-2013-340	ICC	2013 Project 1, Truck & Collector Street Reconstruction		\$1,400,000.00	9/1/2012	9/1/2013	9/1/2013
C-2013-341	CCSD	RL Reed, Inc	Wash Roadway in Washoe Park Eastland Training Center	\$292,500.00	8/30/2012	10/01/13	10/01/13
C-2013-342	CCSD	Coal Combustion	CCV and Wash Roadway in Washoe Park Eastland Training Center	\$10,000.00	8/31/12	9/1/2013	9/1/2013
C-2013-341	CCV	Completed by Funding Body	Trail Improvements in Washoe Park Eastland Training Center	\$100,000.00	8/30/2012	10/01/13	10/01/13
C-2013-344	SPWD	12/1/2012	Real Personal Service	\$400,000.00	9/1/2012	9/1/2013	9/1/2013
C-2013-343	SPWD	NEW PAV 2013-53	Shasta Personal Service	\$160,000.00	9/1/2012	9/1/2013	9/1/2013
C-2013-346	LVVA	Cherokee Lake 2013-000	Shasta Personal Service	\$45,300.49	9/23/2012	9/1/2013	9/1/2013
C-2013-347	CCV	CCV for Nevada Recreation & Shasta Personal Service	Shasta Personal Service	\$2,300,000.00	9/20/2012	9/1/2013	9/1/2013
C-2013-348	CCC	2013-348	Shasta Personal Service	\$160,000.00	9/20/2012	9/1/2013	9/1/2013
C-2013-345	CCDC	Shasta Personal Service	Shasta Personal Service	\$178,444.40	9/20/2012	9/1/2013	9/1/2013
C-2013-346	CCDC	Shasta Personal Service	Shasta Personal Service	\$22,000.00	9/20/2012	9/1/2013	9/1/2013
C-2013-347	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-348	CCDC	Shasta Personal Service	Shasta Personal Service	\$2,300,000.00	9/20/2012	9/1/2013	9/1/2013
C-2013-349	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-350	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-351	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-352	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-353	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-354	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-355	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-356	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-357	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-358	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-359	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-360	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-361	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-362	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-363	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-364	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-365	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-366	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-367	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-368	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-369	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-370	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-371	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-372	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-373	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-374	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-375	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-376	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-377	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-378	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-379	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-380	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-381	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-382	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-383	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-384	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-385	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-386	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-387	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-388	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-389	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-390	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-391	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-392	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-393	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-394	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-395	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-396	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-397	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-398	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-399	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-400	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-401	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-402	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-403	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-404	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-405	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-406	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-407	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-408	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-409	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-410	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-411	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-412	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-413	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-414	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-415	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-416	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-417	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-418	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-419	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-420	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-421	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-422	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-423	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-424	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-425	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-426	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-427	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-428	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-429	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-430	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-431	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-432	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-433	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-434	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-435	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-436	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-437	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-438	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-439	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-440	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-441	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-442	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-443	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-444	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-445	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-446	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-447	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-448	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-449	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-450	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-451	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-452	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-453	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-454	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-455	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-456	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-457	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-458	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-459	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/2012	9/1/2013	9/1/2013
C-2013-460	CCDC	Shasta Personal Service	Shasta Personal Service	\$182,500.00	9/20/201		

BEFORE THE NEVADA LABOR COMMISSIONER

CARSON CITY, NEVADA

FILED

MAY 31 2013

NEVADA
LABOR COMMISSIONER - CC

IN THE MATTER OF:

INTERNATIONAL UNION OF ELEVATOR
CONSTRUCTORS,

Claimant,

v.

BOMBARDIER TRANSPORTATION
(HOLDINGS) USA, INC.,

Respondent.

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

CLAIMANT IUEC's PRE-TRIAL BRIEF

Trial Date: June 25, 2013

ANDREW KAHN, SBN 3751
McCRACKEN, STEMERMAN & HOLSBERRY
1630 S. Commerce St., Suite A-1
Las Vegas, NV 89102
Telephone: (702) 386-5107
Fax: (702) 386-9848
Email: ajk@dcbsf.com

Attorney for Claimant IUEC

00766

ER0766

TABLE OF CONTENTS

I.	ISSUES PRESENTED:.....	1
II.	SUMMARY OF EVIDENCE AND ARGUMENT	1
III.	LIST OF WITNESSES AND SUMMARY OF TESTIMONY	3
IV.	ARGUMENT	5
	A. CONTRACT CBE 552 ENJOYS NO BLANKET EXEMPTION FROM PREVAILING WAGE COVERAGE	5
	B. REPAIRING THE VEHICLES IS COVERED WORK	11
	C. MORE THAN \$100,000 WORTH OF ATS WORK WAS REPAIR RATHER THAN MAINTENANCE/OPERATION	13
	D. THE RAILROAD COMPANY EXEMPTION DOES NOT APPLY HERE	14
	E. THE PROPER WAGES WERE NOT PAID TO THE ATS TECHS	17
	F. THE APPROPRIATE REMEDY	19
V.	CONCLUSION	20

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>Abhe & Svoboda, Inc. v. Chao</i> , 2006 WL 2474202 (D.D.C. Aug. 25, 2006), aff'd., 508 F.3d 1052 (D.C. Cir. 2007).....	18
<i>Amaral v. Cintas Corp.</i> , 163 Cal.App.4th 1157, 78 Cal.Rptr.3d 572 (2008).....	20
<i>Anderson v. Alyeska Pipeline Serv. Co.</i> , 234 P.3d 1282 (Alaska 2010)	7
<i>Anderson v. Mt. Clemens Pottery Co.</i> , 327 US 680, 66 S. Ct. 1187 (1946)	20
<i>Arco Materials, Inc. v. State, Taxation and Revenue Dept. Court of Appeals of New Mexico</i> , 878 P.2d 330 (N.M. 1994)	7
<i>Associated Builders & Contractors, Inc. v. So. Nev. Water Auth.</i> , 115 Nev. 151, 979 P.2d 224 (1999)	8
<i>Atchison, T. & S.F. Ry. Co. v. La Prade</i> , 2 F.Supp. 855 (D. Ariz. 1933)	15
<i>Blake-McFall Co. v. Wilson</i> , 193 P. 902 (Or. 1920).....	12
<i>Board of Trade, Inc. v. State, Dept. of Labor, Wage and Hour Admin.</i> , 968 P.2d 86 (Alaska 1998).....	5
<i>Bockelman v. Prevailing Wage Appeals Bd.</i> , 30 A. 3d 616, 620-21 (Pa. Comm. 2011).....	5
<i>Borough of Schuylkill Haven v. Prevailing Wage Appeals Bd.</i> , 6 A.3d 580, 584 (Pa. Commw. Ct. 2010)	14
<i>Borough of Youngwood v. Pennsylvania Prevailing Wage Appeals Bd.</i> , 596 Pa. 603, 947 A.2d 724 (Pa. 2008).....	14
<i>Brasi Development Corp. v. Attorney General</i> , 925 N.E.2d 826(Mass. 2010)	8
<i>Cary Hardware Co. v. McCarty</i> , 10 Colo. App. 200, 50 P. 744 (1897)(Ex. I)	13
<i>Chester Bross Const. Co. v. Missouri Dept. of Labor and Indus.</i> , 111 S.W.3d 425,427 (Mo.App. 2003)	11

<i>City of Las Vegas v. Macchiaverna</i> , 99 Nev. 256, 661 P.2d 879 (1983)	16
<i>City of Long Beach v. Dept. of Industrial Relations</i> , 34 Cal.4th 942, 102 P.3d 904, 22 Cal.Rptr.3d 518 (2004)	5
<i>Curran v. Smith</i> , 37 Ill. App. 69 (1890)	13
<i>D.W. Close Co., Inc. v. Wash. State Dept. of Labor and Industries</i> , 177 P.3d 143 (Wash.App. 2008)	5
<i>Dobschuetz v. Holliday</i> , 82 Ill. 371 (1876)	13
<i>Easton v. Strassburger</i> , 152 Cal. App.3d 90 CR 383 (1984)	6
<i>FFC, Ltd. V. N.J. DOL</i> , 720 A. 2d 619, 316 NJ Super. 437 (NJ App. Div. 1998)	5
<i>Fondren v. K/L Complex, Ltd.</i> , 106 Nev. 705, 800 P.2d 719 (1990)	12
<i>Friends of Mammoth v. Board of Supervisors</i> , 8 Cal.3d 247	7
<i>Gamble v. Silver Peak Mines</i> , 35 Nev. 319, 133 P. 936 (Nev. 1913)	15
<i>General Motors Corp. v. City of Linden</i> , 20 N.J.Tax 242 (N.J.Tax 2002)	13
<i>Gulf Oil Corp. v. Clark County</i> , 94 Nev. 116, 575 P.2d 1332 (1978)	8
<i>Heller v. McClure & Sons, Inc.</i> , 963 P.2d 923	11
<i>Henkels & McCoy, Inc. v. Dept. of Labor & Industry</i> , 598 A.2d 1065 (Pa. Commw. Ct. 1991)	14
<i>Hinkley & Egery Iron Co. v. Black</i> , 70 Me. 473 (1880)	13
<i>Hous. by Vogue, Inc. v. State, Dept. of Revenue</i> , 403 So. 2d 478 (Fla. Dist. Ct. App. 1981)	11

<i>Idaho State Tax Comm'n v. Haener Bros,</i> 828 P.2d 304 (1992)	10
<i>In re Asousa Partnership,</i> 2005 WL 2857983 (Bkrcty. E.D.Pa. 2005)	6
<i>In re Heflin,</i> 326 B.R. 696 (Bkrcty.W.D.Ky. 2005).....	13
<i>In re Vecellio & Grogan. Inc.,</i> 1984 WL 161749 (DOL WAB 1984).....	11
<i>International Game Technology, Inc. v. Second Judicial Dist. Court ex rel. County of Washoe</i> 179 P.3d 556	5
<i>Labor Commissioner v. Universal Electric Inc.,</i> Nev. S.Ct. Case No. 38073 (Nov. 21, 2002).....	18
<i>Las Vegas Plywood v. D & D Enterprises,</i> 98 Nev. 378, 649 P.2d 1367 (1982)	5
<i>Leasepartners Corp. v. Robert L. Brooks Trust,</i> 942 P.2d 182 (Nev. 1997).....	12
<i>Long Island R. Co. v. Dept. of Labor of State of New York,</i> 256 N.Y. 498, 177 N.E. 17 (N.Y. App. 1931), (N.Y. Special Term 1931).....	15
<i>Lusardi Const. Co. v. Aubry,</i> 1 Cal.4th 976, 4 Cal.Rptr.2d 837, 824 P.2d 643 (Cal.1992).....	8, 19
<i>Manson Const. and Engineering Co. v. State,</i> 600 P.2d 643 (Wash. App. 1979).....	8
<i>Marshall v. Pasadena Unified School District,</i> 119 Cal.App.4th 1241 (2004)	8
<i>Matter of Stephens & Rankins Inc. v. Hartnett,</i> 160 AD 2d 1201, 555 NYS 2d 208 (NYAD 1990).....	5
<i>McKay v. Board of Sup'rs of Carson City,</i> 730 P. 2d 438 (1986)	16
<i>Medical Tower Corp. v. Otis Elevator Co.,</i> 104 F.2d 133 (CA 3 1939).....	12
<i>Miller v. McKinnon,</i> 20 Cal.3d 83 (1942)	8

<i>Napier v. Atlantic Coast Line R. Co.</i> , 272 U.S. 605, 47 S.Ct. 207 (1926).....	15
<i>Oelsner v. US</i> , 2003 WL 1564255, 60 Fed. Appx. 412 (3d Cir. 2003)	10
<i>Ohio Asphalt Paving, Inc. v. Ohio Dept. of Indus. Relations et al.</i> , 63 Ohio St.3d 512, 589 N.E.2d 35 (1992).....	19
<i>Oliver & Williams Elevator Corp. v. State Bd. of Equalization</i> , 48 Cal.App.3d 890 (1975)	12
<i>Pendleton v. State</i> , 103 Nev. 95, 734 P.2d 693 (Nev.1987).....	7
<i>Pennsylvania R. Co. v. U.S. Railroad Labor Board</i> , 261 U.S. 72, 43 S.Ct. 278 (U.S. 1923)	15
<i>People ex rel. Van De Kamp v. Tahoe Reg'l Planning Agency</i> , 766 F.2d 1319 (9th Cir. 1985) amended, 775 F.2d 998 (9th Cir. 1985).....	7
<i>Pritchard Petroleum Co. v. Farmers Co-op. Oil & Supply Co.</i> , 117 Mont. 467, 161 P.2d 526 (1945)	13
<i>Rich v. State Bd. of Optometry</i> , 235 Cal. App. 2d 591, 45 Cal. Rptr. 512 (1965).....	9
<i>Searle v. Town of Bucksport</i> , 3 A.3d 390, 396 (Me. 2010).....	13
<i>Seatrains Terminals of California, Inc. v. County of Alameda</i> , 83 Cal.App.3d 69, 147 Cal.Rptr. 578 (1978).....	12
<i>Skakel v. North Bergen Tp.</i> 181 A.2d 473 (N.J. 1962).....	8
<i>Southern Pac. Co. v. Mashburn</i> , 18 F. Supp. 393 (D. Nev. 1937).....	15
<i>State of Nev. v Granite Constr. Co.</i> , 40 P.3d 423	10
<i>Staten Island Bus, Inc. v. Board of Ed. of City of New York</i> , 82 A.D.2d 891, 440 N.Y.S.2d 293 (N.Y.A.D.1981).....	8
<i>Taco Bell v. Commonw. Transp. Comm'r</i> , 710 S.E.2d 478 (Va. 2011)	13

<i>Tidewater Marine Western v. Bradshaw</i> , 927 P. 2d 296, 59 Cal. Rptr. 2d 186, 14 Cal. 4th 557 (1996)	19
<i>Title Guaranty & Trust Co. v. Crane Co.</i> , 219 U. S. 24, 31 S.Ct. 140 (1910)	11
<i>Twin State CCS Corp. v. Roberts</i> , 125 A.D.2d 185, 11 N.Y.S.2d 958 (N.Y. Supr. 1987), aff'd, 72 N.Y.2d 897, 528 N.E.2d 1219, 532 NYS 2d 746 (N.Y. App. 1988)	11
<i>U.S. ex rel Plumbers v. C.W. Roen Construction Co.</i> , 183 F.3d 1088 (CA 9 1999)	18
<i>U.S. v. Sparks</i> , 939 F. Supp. 636 (C.D. Ill. 1996)	11
<i>United States v. County of San Diego</i> , 53 F.3d 965 (9th Cir.1995)	13
<i>United States v. West Indies Transp., Inc.</i> , 127 F.3d 299 (3d Cir.1997)	10
<i>Westinghouse Elec. Corp. v. Williams</i> , 325 S.E.2d 460 (Ga. App. 1984)	15
STATUTES	
29 USC 5.2(i)	10
45 USC 151 et seq.	15
National Labor Relations Act	16
NRS 338	6
NRS 338.010(16)	5
NRS 338.011	7
NRS 338.020	3
NRS 338.080	14
NRS 338.16985	11
NRS 357.250	5
NRS 455C.110	9

NRS 704.309.....	15
NRS 705.005.....	15
NRS 705.690.....	15
OTHER AUTHORITIES	
38 U.S. Op. Atty. Gen. 418, 1936 WL 1683 (U.S.A.G. 1936).....	11
Civil Engineers, Title 21, <i>Automated People Mover Standards – Part 4</i> , section 15.7.2	6

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 Safborn, and William Maier~~. See UX 16-17.*

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 Castodio.*

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 “programmatically 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

¹Accord, *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.² 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”.⁴ 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 *Seatrail 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

"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 Ill. 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.E.2d 460, 463-64 (Ga. App. 1984).⁹ 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). See UX4; *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.¹¹

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.

¹² 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.arena.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 Kusz/Universal 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.").¹³ 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), aff'd., 508 F.3d 1052, 1056 (D.C. Cir. 2007)(no excuse that contractor unaware of rules announced in Fry Brothers: "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.").¹⁵ 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.

¹⁵ Accord, *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: May 30, 2013

Respectfully submitted,

McCRACKEN, STEMERMAN & HOLSBERRY

By: Andrew J. Kahn
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

00794

ER0794

1 **BEFORE THE NEVADA STATE LABOR COMMISSIONER**

2 **CARSON CITY, NEVADA**

3 IN THE MATTER OF:

4 INTERNATIONAL UNION OF ELEVATOR
5 CONSTRUCTORS,
6 Complainant,

7 vs.

8 BOMBARDIER TRANSPORTATION
9 (HOLDINGS) USA, INC.,
10 Respondent,

11 Clark County Department of Aviation
12 Contract CBE-552

FILED

JUN 03 2013

**NEVADA
LABOR COMMISSIONER - CC**

13 **ORDER DENYING RESPONDENT'S MOTION FOR SUMMARY JUDGMENT**

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

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

25 ///

26 ///

27 ///

28 **00795**

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.

///

///

///

00796

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.

///

///

///

///

///

///

00797


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

00798

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 ORDER DENYING RESPONDENT'S MOTION FOR SUMMARY JUDGMENT to the persons listed below at their last known addresses:

Andrew J. Kahn, Esq.
McCracken, Stemerman & Holsberry
1630 S. Commerce Street, Ste. A-1
Las Vegas, NV 89102

Counsel for International Union of Elevator
Constructors

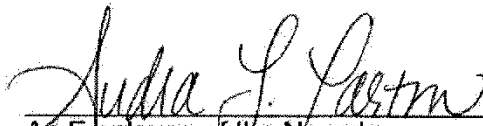
Gary C. Moss, Esq. & Paul T. Trimmer, Esq.
Jackson Lewis, LLP
3800 Howard Hughes Parkway, Ste. 600
Las Vegas, NV 89169

Counsel for Bombardier Transportation
(Holdings) USA, Inc.

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

Counsel for Clark County

Dated this 3 day of June, 2013.



An Employee of the Nevada
State Labor Commissioner

00799

BEFORE THE NEVADA LABOR COMMISSIONER

INTERNATIONAL UNION OF ELEVATOR
CONSTRUCTORS,

Complainant,

v.

BOMBARDIER TRANSPORTATION
(HOLDINGS) USA, INC.,

Respondent.

Contract CBE-552

ORIGINAL

RECEIVED

MAY 31 2013

NEVADA
LABOR COMMISSIONER - LV

CLARK COUNTY'S
PRE-HEARING BRIEF

FILED

JUN 03 2013

NEVADA
LABOR COMMISSIONER - CC

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.

00800

ER0800

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

00801

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

00802

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.¹

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

00804

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.

00805

ER0805

\$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 1 & 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.

00806

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.⁵ 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 repair⁶ (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.

⁶IUEC'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."

00807

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 or 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.

00808

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.⁷ 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.⁸

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

⁷IUEC 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.

⁸Former 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).

00809

ER0809

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.veyes.com/PlaybackPortal.aspx?SavedEditID=364bf916-e5d7-4a66-a111-1e9146fd4ea>

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).

00810

ER0810

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).¹¹ 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

¹¹ IUEC 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.

00811

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"¹⁴ 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.

00812

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

00813

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.

00814

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.

00815

ER0815

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.”¹⁸ 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.

00816

ER0816

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

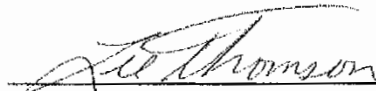
00817

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

00818

CERTIFICATE OF SERVICE

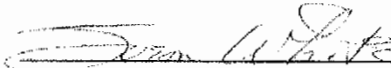
Pursuant to NAC 607.160, I hereby certify that the original and three (3) copies of Clark County's Pre-Hearing Brief were served on the 31st day of May, 2013 via hand-delivery to the following:

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

00819

Attachment “1”

00820

ER0820



Department of Aviation

RANDALL H. WALKER
DIRECTOR

ROSEMARY A. VASSILIADIS
DEPUTY DIRECTOR

POSTAL BOX 11005
LAS VEGAS, NEVADA 89111-1005
(702) 681-5811
FAX (702) 597-8553
E-MAIL: webmaster@dmccarran.com

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 Reid, Chair • Myrna Williams, Vice-Chair

ER0821

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

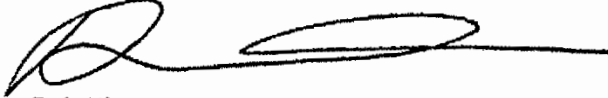
00822

ER0822

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,

A handwritten signature in black ink, appearing to read 'Bob Kingston', with a long horizontal flourish extending to the right.

Bob Kingston
Assistant Director, Facilities

cc: 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

00823

ER0823

Attachment “2”

00824

ER0824



Department of Aviation

RANDALL H. WALKER
DIRECTOR

ROSEMARY A. VASSILIADIS
DEPUTY DIRECTOR

POSTAL BOX 11005
LAS VEGAS, NEVADA 89111-1005
(702) 261-5811
FAX (702) 597-9553
E-MAIL: webmaster@mcarran.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.



Clark County Board of Commissioners

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

00825

ER0825

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

00826

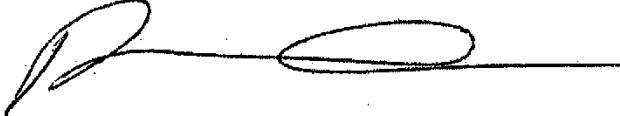
ER0826

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,

A handwritten signature in black ink, appearing to read 'Bob Kingston', followed by a horizontal line.

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

00827

ER0827

Attachment “3”

00828

ER0828



July 25, 2011

Department of Aviation

RANDALL N. WALKER
DIRECTOR

ROSEMARY A. VASSILIADIS
DEPUTY DIRECTOR

POSTAL BOX 11005
LAS VEGAS, NEVADA 89111-1005
(702) 261-6211
FAX (702) 597-9552
E-MAIL: walker@nvaa.com

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 Grunichant • Lawrence Weekly • Bruce Woodbury

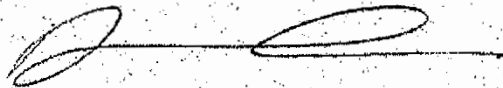
00829

ER0829

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, McCracken, Stemerman & Holsbery
Gary C. Moss, Esquire, Jackson Lewis LLP
Bombardier Transportation (Holdings) USA, Inc.

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

Bombardier Transportation Holdings USA, Inc.										
Contract CBE-552 Maintenance of Automated Transit System Equipment										
Employee Classifications and Pay Rates										
Name		2008		2009		2010		2011		
Last Name	First Name	Classification	Hourly Rate	Classification	Hourly Rate	Classification	Hourly Rate	Classification	Hourly Rate	
Ayers	Charles	A Tech	\$29.82	A Tech	\$29.82	A Tech	\$29.82	N/A	\$0.00	
Banas	Nicholas	C Tech	\$18.68	C Tech	\$18.68	C Tech	\$18.68	C Tech	\$18.68	
DePiero	Kenneth	Tech Admin	24.48	C Tech	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	
Karpa	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	Vernon	C Tech	\$21.25	C Tech	\$21.25	C Tech	\$21.25	C Tech	\$21.25	
McCullough	Matthew	C Tech	\$23.80	C Tech	\$23.80	C Tech	\$23.80	C Tech	\$23.80	
McGhee	Mark	C Tech	\$23.26	C Tech	\$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	19.19	
Corwin	Andrew	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	\$ -	N/A	\$ -	
Smith	Garrett	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	\$ -	N/A	\$ -	
Custodio	Ivan	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	\$ -	N/A	\$ -	
Dahlin	Eric	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	\$ -	N/A	\$ -	
Rodriguez	Dennis	C Tech	\$ 18.00	C Tech	\$ 18.00	N/A	\$ -	N/A	\$ -	
Rowell	Daina	C Tech	\$ 19.05	N/A	\$ -	N/A	\$ -	N/A	\$ -	
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 & (2/21/10 to Present)
South				
Car 8	24-Apr-09	5/7/2009	5/7/2010	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	5/7/2009	5/7/2010	7/1/08 to 4/24/09 & (5/7/10 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, cleaning, replacing missing hardware or tightening of loose 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)

C-System	Number of Times Replaced	Approximate Labor Cost **	D-System	Number of Times Replaced	Approximate Labor Cost **
* Auto-Locks	46	\$ 1,022.58	* Auto-Locks	91	\$ 2,022.93
# Motor	14	\$ 466.83	# Motor	8	\$ 266.76
+ Controller	6	\$ 133.38	+ Controller	8	\$ 177.84
Totals		\$ 1,622.79			\$ 2,467.53
Contract Total Fixed Asset Costs to Date by Bombardier Employees					\$ 4,090.32

** = Average rate of pay at \$22.23
 * = One Technician per hour
 # = One Technician per hour and one half
 + = One Technician per hour

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 DQA.

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

00832

ER0832

ORIGINAL
BEFORE THE NEVADA LABOR COMMISSIONER

INTERNATIONAL UNION OF ELEVATOR
CONSTRUCTORS,

Complainant,

v.

BOMBARDIER TRANSPORTATION
(HOLDINGS) USA, INC.,

Respondent.

Contract CBE-552

RECEIVED

MAY 31 2013

NEVADA
LABOR COMMISSIONER - LV

**CLARK COUNTY'S
DEPARTMENT OF AVIATION'S
WITNESS LIST**

FILED

JUN 03 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:

1. 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.

00833

2. **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.

3. **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.

00834

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

Dated this 31st day of May, 2013.

CLARK COUNTY

STEVEN B. WOLFSON, DISTRICT ATTORNEY

A handwritten signature in cursive script, appearing to read "E. Lee Thomson", is written over a horizontal line.

E. Lee Thomson, Chief Deputy District Attorney
P.O. Box 552215
Las Vegas, NV 89155-2215
(702) 455-4761

00835

CERTIFICATE OF SERVICE

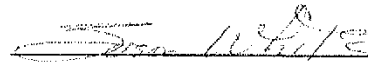
Pursuant to NAC 607.160, I hereby certify that the original and three (3) copies of Clark County Department of Aviation's Witness List were served on the 31st day of May, 2013 via hand-delivery to the following:

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, & HOLSBERY
1630 S. Commerce Street, Suite A-1
Las Vegas, NV 89102


An Employee of Clark County

00836

ORIGINAL

BEFORE THE NEVADA LABOR COMMISSIONER

FILED

JUN 03 2013

NEVADA
LABOR COMMISSIONER - CC

INTERNATIONAL UNION OF ELEVATOR
CONSTRUCTORS,

Complainant,

v.

BOMBARDIER TRANSPORTATION
(HOLDINGS) USA, INC.,

Respondent.

Contract CBE-552

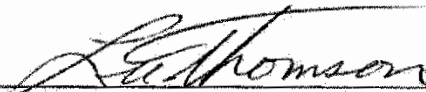
**CLARK COUNTY'S
DEPARTMENT OF AVIATION'S
LIST OF DOCUMENTS**

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

00837

CERTIFICATE OF SERVICE

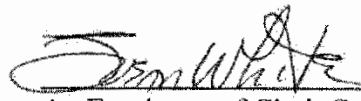
Pursuant to NAC 607.160, I hereby certify that the original and three (3) copies of Clark County Department of Aviation's List of Documents were served on the 31st day of May, 2013 via hand-delivery to the following:

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 List of Documents 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

00838

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

McCarran Maintenance Contracts

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
8. 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
9. 06/01/1998, Maintenance Agreement between Clark County and ABB Daimler – 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

Contract Warranty 2305

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

00839

ER0839

-
18. Contract 2305, Notices of Acceptance for each ATS Car
 19. Contract 2305, Notice of Acceptance/substantial completion for wayside (terminal) doors
 20. 10/07/2010, Contract 2305, Notice of substantial completion

Additional Contracts

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
32. CBE 662, Airport Elevator Maintenance

Purchase Orders

33. 07/05/2008, Contractor, Truesdel, Guideway Work
34. 03/31/2009, Contractor, Truesdel, C-guideway drain and stair concrete work
35. 08/04/2009, Contractor, Truesdel, South guideway concrete work
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

00840

ER0840

RECEIVED

JUN 08 2013

LABOR COMMISSIONER-00

BEFORE THE NEVADA LABOR COMMISSIONER

**INTERNATIONAL UNION OF ELEVATOR
CONSTRUCTORS,**

Complainant,

v.

**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:

1. 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 Missouri 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.¹ 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

¹ 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

1. . 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.

2. ~~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 testimony 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

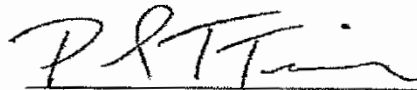
Bombardier expects to use certain compilations of the vast amounts of electronic data that have been produced, as well as certain other documentary evidence. Those exhibits are enclosed in both hard copy and, to the extent appropriate, electronic format. Bombardier reserves the right to introduce other 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

TABLE OF CONTENTS

Tab No.

Contract for Maintenance of Automated Transit System Equipment (CBE-552).....	1
Letter from Keith Sakelhide dated October 13, 2009 regarding Notice of Prevailing Wage Claim/Complaint (Contract CBE-552).....	2
Letter from DOA to Michael Tanchek dated November 24, 2009 regarding ATS Maintenance Contract CBE-552	3
Memorandum from William Stanley to Michael Tanchek dated December 17, 2009 re Appeal from Decision of Clark County Dept. of Aviation re Bombardier Contract CBE 552	4
Letter from Keith Sakelhide dated December 31, 2009 regarding IUEC v. Bombardier Transportation Holdings, USA, Inc.	5
Letter from DOA to Michael Tanchek dated March 30, 2010 regarding ATS Maintenance Contract CBE-552	6
Labor Commissioner's Interim Order dated June 7, 2011	7
Order (granting Stipulation to Dismiss Without Prejudice) filed August 9, 2011	8
Letter from DOA to Michael Tanchek dated July 25, 2011 regarding ATS Maintenance Contract CBE-552.....	9
Letter from Gary Moss to Larry Dizon dated August 17, 2011 regarding IUEC v. Bombardier Transportation (Holdings) USA, Inc.	10
McCarran Airport maps (of terminal and concourses).....	11
Letter from DOA to Margi Grein dated October 16, 2009 regarding Application for License – Bombardier Transportation (Holdings) USA, Inc.	12
Clark County Board of Commissioners Agenda Item (Issue: Approval of Maintenance Agreement)	13
Clark County Board of Commissioners Agenda Item (Issue: Award of Bid)	14

Clark County Board of Commissioners Agenda Item (Approval of Contract)	15
Clark County Board of Commissioners Agenda Item (Approval of Contract)	16
Legislative history which supports Bombardier's position	17
Report on the Classifications and Wages of Workers Maintaining the Automated People Mover System (by Alan L. Moss, Ph.D.).....	18
Exhibits to Deposition of Randall Walker.....	19
Exhibits to Deposition of Dr. Kevin Murphy	20
Railroad Operations	21
Turnkey Transportation Systems.....	22
BT News (Jan/Feb 2011).....	23

EXHIBIT 1

00853

ER0853

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) 655-6841
EMAIL ADDRESS	rick.foster@us.transport.bombardier.com

00854

ER0854

MAINTENANCE CONTRACT - TABLE OF CONTENTS

Paragraph No.	Page No.
1.0 General Provisions.....	6
1.1 Statement of Work.....	8
1.2 Term of Contract.....	6
1.2.1 Fiscal Funding Requirements.....	8
1.3 Payment Provisions.....	6
1.3.1 Terminal 3 ATS.....	7
1.3.1.1 Terminal 3 Costs.....	8
1.3.2 Contract Amount.....	9
1.3.3 Method of Payment.....	9
1.3.4 Payment for Upgrades and Enhancements.....	10
1.3.5 Credits for System Availability.....	10
1.4 Indemnification.....	10
1.5 Insurance.....	11
1.6 Ownership of Documents.....	13
1.7 Independent Contractor.....	13
1.8 Termination.....	13
1.9 Governing Law and Venue.....	14
1.10 Character of Workmen and Equipment.....	14
1.11 No Waiver of Legal Rights.....	15
1.12 Force Majeure.....	15
1.13 Nondiscrimination.....	15
1.14 Proprietary Information.....	16
1.15 Laws and Regulations.....	16
1.16 Claims and Disputes.....	17
1.17 Notice and Service Thereof.....	18
1.18 Warranty.....	18
1.19 Miscellaneous Provisions.....	19
1.20 Airport Security.....	19
1.21 Owner/Contractor Cooperation.....	22
1.22 Changes.....	23
1.23 Entire Contract.....	23

MAINTENANCE CONTRACT - TABLE OF CONTENTS- *Continued.*

2.0	Maintenance Requirements.....	23
2.1	General.....	23
2.1.1	Owner's Operations.....	23
2.1.2	Owner Provided Work and Services.....	24
2.1.2.1	Guideway and Facility Maintenance.....	24
2.1.2.2	Services.....	25
2.1.3	Extent of Work.....	25
2.1.4	Contractor's Personnel.....	25
2.1.5	Maintenance Plan and Procedures.....	26
2.1.6	Manual Vehicle Movements.....	26
2.1.7	Records.....	26
2.1.8	Subcontracts.....	27
2.2	Subsystem Maintenance.....	27
2.2.1	Vehicle Maintenance.....	27
2.2.1.1	Routine Vehicle Maintenance.....	28
2.2.1.2	Scheduled Vehicle Maintenance.....	28
2.2.1.3	Non-scheduled Vehicle Maintenance.....	28
2.2.2	Guideway Equipment Maintenance.....	29
2.2.2.1	Routine Guideway Equipment Maintenance.....	29
2.2.2.2	Scheduled Guideway Equipment Maintenance.....	29
2.2.2.3	Non-scheduled Guideway Equipment Maintenance.....	29
2.2.3	Station Equipment Maintenance.....	29
2.2.3.1	Routine Station Equipment Maintenance.....	30
2.2.3.2	Scheduled Station Equipment Maintenance.....	30
2.2.3.3	Non-scheduled Station Equipment Maintenance.....	30
2.2.4	Power Distribution Equipment Maintenance.....	30
2.2.4.1	Routine Power Distribution Equipment Maintenance.....	30
2.2.4.2	Scheduled Power Distribution Equipment Maintenance.....	30
2.2.4.3	Non-scheduled Power Distribution Equipment Maintenance.....	30
2.2.5	Automatic Vehicle Control Equipment Maintenance.....	31
2.2.5.1	Routine Maintenance- Automatic Vehicle Control Equipment.....	31
2.2.5.2	Scheduled Maintenance- Automatic Vehicle Control Equipment.....	31
2.2.5.3	Non-scheduled Maintenance- Automatic Vehicle Control Equipment.....	31
2.2.6	Upgrades and Enhancements.....	31
2.2.6.1	Heavy Maintenance and Overhaul.....	32
2.2.7	Maintenance Equipment/Tools and Janitorial.....	33
2.2.8	Maintenance Administration.....	33
2.2.8.1	Maintenance Management.....	33
2.2.8.2	Personnel Training.....	34
2.2.8.3	Inventory Control.....	34
2.2.8.4	Obsolescence.....	34
2.3	Annual Determination.....	34

MAINTENANCE CONTRACT - TABLE OF CONTENTS- *Continued.*

Exhibit A	ATS Maintenance Agreement.....	35
A1.0	Service Dependability.....	35
A1.1	Downtime Event.....	35
A1.2	Downtime and Downtime Limits.....	35
A1.3	System Availability and Equipment History.....	35
A1.4	System Availability (SA).....	36
A1.5	Exclusions.....	36
A1.6	System Operating Schedule.....	36
Forms		
Form A	Insurance Requirements.....	37
Form B	Business Designation.....	41
Form C	Subcontractor Information.....	42
Form D	Affidavit.....	43
Form E	Disclosure of Ownership/Principals.....	44

CONTRACT FOR MAINTENANCE OF
AUTOMATED TRANSIT SYSTEM EQUIPMENT
CBE-552

June 3
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 covenants and agrees to undertake and execute all of the said named work in a good, substantial and workmanlike manner and to furnish 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 OWNER 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

BY: *E. Lee Thomson*
E. LEE THOMSON
Chief Deputy District Attorney

CLARK COUNTY, NEVADA

BY: *Handalk H. Walker*
HANDALK H. WALKER
Director of Aviation

CONTRACTOR:

Bombardier Transportation (Holdings) USA Inc

BY: *Edward A. Gordon*
EDWARD A. GORDON
Vice President APM Marketing

BY: *Keith Orton*
KEITH ORTON
Vice President, Finance

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

**CONTRACT FOR MAINTENANCE OF
AUTOMATED TRANSIT SYSTEM EQUIPMENT
CBE-552**

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.

1.2 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 commencing 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".

Bombardier Trans.
Automated Transit System Equipment
C8E-552

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 + * Compressed maintenance fee = \$377,165

= A total fixed price of Three Million One Hundred Sixty Five Thousand Two Hundred Fifty and no/100 Dollars (\$ 3,165,250).

Year Three: July 1, 2010 -- June 30, 2011

Base Price = \$2,924,702 + * Compressed maintenance fee = \$395,646

= A total fixed price of Three Million Three Hundred Twenty Thousand Three Hundred Forty Seven and no/100 Dollars (\$ 3,320,347).

Year Four: July 1, 2011 -- June 30, 2012

Base Price = \$3,070,937 + * Compressed maintenance 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.

Bombardier Trans.
Automated Transit System Equipment
CSE-552

Table 1.3.1.1- Terminal 3 Costs (includes escalation)
Terminal 3 Automated Transit System (ATS)
Pricing Per Contract No. 2273

	2005 Reference Price	Year 2011	Year 2012	Year 2013	Year 2014	Year 2015	Year 2016	Year 2017	Year 2018
Year 1 Price =	\$850,393	\$1,034,621	\$1,078,006	\$1,119,046					
Year 2 Price =	\$1,006,740		\$1,273,847	\$1,324,801	\$1,377,793				
Year 3 Price =	\$1,017,462			\$1,338,911	\$1,392,467	\$1,448,166			
Year 4 Price =	\$1,058,160				\$1,448,166	\$1,506,092	\$1,566,336		
Year 5 Price =	\$1,100,487					\$1,566,336	\$1,628,989	\$1,694,149	
Year 6 Price =	\$1,144,506						\$1,694,149	\$1,761,915	\$1,832,392
Year 7 Price =	\$1,190,287							\$1,832,392	\$1,905,687

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.

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 inventories 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 2.2.8.1, 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 will 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-twelfth (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 OWNER 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 fifteenth (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.

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 fixed-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:

<u>SYSTEM AVAILABILITY (%)</u>	<u>PAYMENT FACTOR</u>
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 - 98.99	0.918
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
98.05 - 98.24	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.

1.4 INDEMNIFICATION

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 OWNER harmless from any and all claims, demands, actions, attorney's fees, 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 while performing services under this contract. The CONTRACTOR shall indemnify, defend, and hold harmless the OWNER for any attorney's fees or other costs of defense, even if the allegations of the claim are groundless, false or fraudulent.

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 aggregate, to two million dollars (\$2,000,000).

Patent Indemnity

CONTRACTOR hereby indemnifies and shall defend and hold harmless OWNER and its representatives respectively from and against all claims, losses, costs, damages, and expenses, including attorney's fees, incurred by OWNER and its representatives, respectively, 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 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 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 non-infringing equipment, materials, or processes, or to modify such infringing 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.

1.6 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.300.

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, will provide the OWNER with 30-day advance notice of any cancellation of the policies, except for nonpayment 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 Seventy Five Thousand Dollars (\$175,000) without the written approval of the OWNER.

Bombardier Trans.
Automated Transit System Equipment
CBE-552

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 OWNER 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 CONTRACTOR will obtain and maintain, for the duration of this contract, automobile coverage which must include, but need not be limited to, coverage against claims for injuries to persons or damages to property 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 bodily 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.

00865

ER0865

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.

1.7 INDEPENDENT CONTRACTOR

In the performance of this contract, the CONTRACTOR's status is that of an independent CONTRACTOR, and not as an agent or employee of the OWNER. The CONTRACTOR will conduct themselves in accordance with that status.

1.8 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 termination 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.

Bombardier Trans,
Automated Transit System Equipment
CBE-552

- 4 Assign to the OWNER, 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.

- 5 Transfer title to the OWNER and deliver in the manner, at the times, and to the extent, if any, directed by the OWNER:
 - 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.
- 6 Complete performance of such part of the work which have not been terminated by the Notice of Termination; and
- 7 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.
- 8 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 OWNER 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.
- 9 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.
- 10 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

00867

ER0867

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 himself/herself or is incompetent or negligent in the proper performance of its duties or neglects 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, tools, 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 RIGHTS

Any waiver of any breach of this contract shall not be held 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 OWNER nor the CONTRACTOR shall be deemed in violation of this contract if 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 affirmative action compliance program for each of its establishments consistent with the rules, regulations and orders of the Department of Labor.