

EXHIBIT "B"

RESTRICTIVE COVENANT AND RESERVATION OF AVIGATION & CLEARANCE
EASEMENT

This Restrictive Covenant and Reservation of Avigation and Clearance Easement (this "Restriction") is attached to and made a part of that certain Deed dated _____ from Clark County, as grantor ("COUNTY") to **insert name**, as ("GRANTEE"), related to certain real property (the "Property") that is legally described on Exhibit "A" to the Deed. Whenever "GRANTEE(S)" is used in this Restriction, it refers to GRANTEE, its legal representatives, successors, assigns and any subsequent owner of all or part of any interest in the Property, including lessees, licensees and tenants. Whenever "COUNTY" is used in this Restriction, it refers to the COUNTY and its successors in interest and assigns as owners, operators, or users of the Airports.

1. Definitions. Unless otherwise specifically noted in this Restriction, the words and phrases defined below shall have the following meanings:

(a) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air or space regardless of the form of propulsion which powers said Aircraft in flight.

(b) "Airports" means the facilities now known as, or any future name or common reference that may be promulgated, adopted or referred to, Harry Reid International Airport, Nellis Air Force Base, North Las Vegas Airport, Overton Airport, Creech Air Force Base, Henderson Executive Airport, Laughlin-Bullhead International Airport, Searchlight Airport, Mesquite Airport, Boulder City Airport, and Jean Airport; or any and all future facility or facilities developed in the Ivanpah Valley, Pahrump Valley, and in the vicinity of the City of Mesquite, collectively or individually.

(c) "Airport Environs Maps" means the Harry Reid International Airport Environs Overlay District Map, adopted in Title 30 of the Clark County Unified Development Code, effective June 30, 2008; the North Las Vegas Airport Environs Overlay District Map, adopted in Title 30 of the Clark County Unified Development Code, effective June 30, 2008; the Henderson Executive Airport Environs Overlay District Map, adopted in Title 30 of the Clark County Unified Development Code, effective June 30, 2008, or any subsequent version of any of such maps as may be updated from time to time by the Department of Aviation.

(d) "Airport Hazard Areas Board of Adjustment" means the Board of Adjustment established pursuant to Section 20.13.100 of the Clark County Code or any successor thereto.

(e) "Compatible Uses" means land uses which are appropriate given the area's exposure to Aircraft over flight and noise, and the limitations on development necessary to preclude potential hazards to air navigation. Compatible Uses which may conform with the preceding definition include, but are not limited to: commercial uses such as office, business, professional, wholesale and retail; communication uses; transportation uses such as railroad, motor vehicle, rapid transit and street railway transportation; street and highway rights-of-way; utility rights-of-way; parking; general dispersed recreation; golf courses; and drainage facilities.

(f) "Department of Aviation" means the Clark County Department of Aviation or successor charged with responsibility for operation of the Airports.

(g) "FAA" means the United States Department of Transportation Federal Aviation Administration or any successor agency thereto.

(h) "Hazardous Substances" means any substance, material now, or hereafter included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials" or "toxic substances" under any applicable federal, state or local laws or regulations.

(i) "Improvement" means any building, structure or other improvement or object, including trees, shrubbery or other Vegetation.

(j) "Incompatible Uses" means uses which potentially expose persons to elevated levels of Aircraft generated noise or to areas identified as necessary to protect the safe passage of Aircraft, or which have been determined by the FAA, the Director of the Department of Aviation, and/or the Airport Hazard Areas Board of Adjustment to be hazardous to or incompatible with air navigation, and:

(i) For property located outside the AE-60 defined by the Airport Environs Maps include, but are not limited to uses that are hazardous to or incompatible with air navigation, uses that may in the future be accessory to or enhance any of the uses described above in this section (j) on adjacent parcels located within the AE-60, and uses intended to fulfill development and/or zoning requirements for any of the uses described above in this section (j) on adjacent parcels located within the AE-60 (including, without limitation, open space, parking and landscaping requirements). The fact that any of the foregoing uses is permitted under the Clark County Code shall have no bearing on whether they constitute an Incompatible Use under this Restriction.

(ii) For property located within the AE-60 defined by the Airport Environs Maps include, but are not limited to any type of residential use or where an occupant can remain on the property for 30 days or more, such as: rural estate uses, residential uses, single family homes, mobile homes, low density, medium density and high density housing, apartments, group quarters, condominiums, time-sharing apartments, townhouses, bed and breakfasts, fraternity and sorority housing, recreational vehicle parks; schools (excluding undergraduate and graduate classroom settings higher than the 12th grade, and training facilities); hospitals; care centers (including nursing homes and overnight recovery centers); religious institutions; uses that may in the future be accessory to or enhance any of the uses described above in this section (j) on adjacent parcels located within the AE-60 or greater (including, without limitation, tennis courts, swimming pools and playgrounds), and uses intended to fulfill development and/or zoning requirements for any of the uses described above in this section (j) on adjacent parcels located within the AE-60 or greater (including, without limitation, open space, parking and landscaping requirements). The fact that any of the foregoing uses is permitted under the Clark County Code shall have no bearing on whether they constitute an Incompatible Use under this Restriction.

(iii) For property located within the AE-65 and AE-70 defined by the Airport Environs Maps include, but are not limited to any type of residential use or where an occupant can remain on the property for 30 days or more, such as: rural estate uses, residential uses, single family homes, mobile homes, low density, medium density and high density housing, apartments, group

quarters, condominiums, time-sharing apartments, townhouses, bed and breakfasts, fraternity and sorority housing, recreational vehicle parks; schools (including undergraduate and graduate classroom settings higher than the 12th grade, but excluding training facilities [where degrees and diplomas are not awarded]); hospitals; care centers (including nursing homes and overnight recovery centers); religious institutions; churches; auditoriums and concert halls; condominium hotels or motels, transient lodging, hotels, motels, inns, lodges; amusement parks, outdoor sports arenas, zoos; uses that may in the future be accessory to or enhance any of the uses described above in this section (j) on adjacent parcels located within the AE-60 or greater (including, without limitation, tennis courts, swimming pools and playgrounds), and uses intended to fulfill development and/or zoning requirements for any of the uses described above in this section (j) on adjacent parcels located within the AE-60 or greater (including, without limitation, open space, parking and landscaping requirements). The fact that any of the foregoing uses is permitted under the Clark County Code shall have no bearing on whether they constitute an Incompatible Use under this Restriction.

(k) "Property" means the real property described on Exhibit "A" to the Deed.

(l) "Vegetation" shall include trees, plants, weeds, shrubs and grass, however, this list is not intended to be exhaustive.

2. Reservation of Avigation and Clearance Easement and Waiver of Claims

(a) COUNTY, its successors in interest and assigns, for the use and benefit of Aircraft owners, operators and the general public, shall have the continuing right to cause or allow in all of the airspace above the surface of the Property such noise, fumes, vibrations, dust, fuel, particles and all other effects that may be caused by or result from the operation of Aircraft, whether or not said Aircraft overfly or intrude into the airspace above the Property.

(b) COUNTY reserves unto itself, its successors and assigns, for the use and benefit of Aircraft owners, operators and the general public, a right of flight for the passage of Aircraft in the airspace above the surface of the Property, together with the right to cause in said airspace such noise as may be inherent in the operation of Aircraft, now known or hereafter used, for navigation of or flight in said airspace, and for use of said airspace for landing at, taking off from or operating at the facilities now known as, or any future name or common reference that may be promulgated, adopted or referred to, Harry Reid International Airport, Nellis Air Force Base, North Las Vegas Airport, Overton Airport, Creech Air Force Base, Henderson Executive Airport, Laughlin-Bullhead International Airport, Searchlight Airport, Mesquite Airport, Boulder City Airport, and Jean Airport; or any and all future facility or facilities developed in the Ivanpah Valley, Pahrump Valley, and in the vicinity of the City of Mesquite (the "Airports").

(c) GRANTEE(S) covenants and agrees not to allow any Improvement to become constructed on the Property which is, will be or has been erected to a height and does extend into the airspace where, upon making application of a FAA form 7460-1 if required, the Federal Aviation Administration ("FAA") determines such Improvement to be an obstruction and/or hazard to air navigation pursuant to the rules and regulations of the FAA under Code of Federal Regulations ("CFR") Title 14, Chapter I, Part 77 ("Part 77"). Should FAA determine such proposed, erected, or grown Improvement to be an obstruction and/or hazard to air navigation, the Improvement is to be removed, demolished, and/or lowered to a height which FAA determines not to be an obstruction and/or hazard to air navigation and until such compliance is determined by the FAA, GRANTEE(S) will not be granted a permit under Clark County Code Chapter 20 and Chapter 30, including but not

limited to 20.13 and 30.48 Part B "Airport Airspace Overlay District" as amended; or any similar federal, state, or local regulation which may hereinafter be enacted in total or in part.

(d) GRANTEE(S) covenants and agrees not to allow any Vegetation to be planted or grown on the Property which is, will be or has been grown to a height and does extend into the airspace where, upon making application of a FAA form 7460-1 if required, the Federal Aviation Administration ("FAA") determines such Vegetation to be an obstruction and/or hazard to air navigation pursuant to the rules and regulations of the FAA under Code of Federal Regulations ("CFR") Title 14, Chapter I, Part 77 ("Part 77"). Should FAA determine such proposed or grown Vegetation to be an obstruction and/or hazard to air navigation, the Vegetation is to be removed, trimmed, and/or lowered to a height which FAA determines not to be an obstruction and/or hazard to air navigation and until such compliance is determined by the FAA, GRANTEE(S) will not be granted a permit under Clark County Code Chapter 20 and Chapter 30, including but not limited to 20.13 and 30.48 Part B "Airport Airspace Overlay District" as amended; or any similar federal, state, or local regulation which may hereinafter be enacted in total or in part.

(e) GRANTEE(S) shall, prior to 1) construction of any applicable Improvement; 2) planting any applicable Vegetation; or 3) at such time as any Vegetation is grown to a height on the Property; file notice with the FAA if any of the above meets or exceeds the notification requirements of Part 77 as applied to the Airports via FAA form 7460-1, as amended, or any similar regulations which may hereinafter be enacted, and where required by the Clark County Code, receive either a Director's Permit from the Department of Aviation or a Variance, as set forth in Clark County Code Chapter 20, as amended, from the COUNTY'S Airport Hazard Areas Board of Adjustment.

(f) GRANTEE(S), in addition to all rights, terms, and conditions contained herein, expressly acknowledges and consents to the right of Aircraft flight set forth in Title 49 United States Code ("USC") §40102(a)(30), 49 USC§40103(a)(2), Title 14 CFR, Chapter I, Part 91, Part 101, and Part 103 as amended, including but not limited to 14 CFR Part 91.119, or any similar statute or regulation which may hereinafter be enacted in total or in part; and Nevada Revised Statute ("NRS") Chapters including but not limited to NRS 493.030, NRS 493.040 and NRS 493.050 as amended, or any similar regulation or statute which may hereinafter be enacted in total or in part; as may be undertaken by Aircraft arriving to or departing from the Airports.

(g) GRANTEE(S), its successors, assigns, licensees, invitees, and tenants, hereby waive, remise, and release any right, claim, or cause of action which they may now have or may have in the future against COUNTY, and its officers and employees, or operators or users, and their officers, directors, employees, and agents, of the above described Airports, for losses or psychological or physical effects on account of or arising out of noise, vibrations, fumes, dust, fuel, particles and all other effects that may be caused or may have been caused by the operation of Aircraft landing at, taking off from, or operating at or on the Airports, or in or near the airspace above the Property. GRANTEE(S), its successors, assigns, licensees, invitees, and tenants specifically waives any and all claims, including a claim that the easement is burdened by increases in noise, fumes, vibrations, dust, fuel, particles, or any other effects that may be caused by or result from the operation of Aircraft; changes in the type or frequency of Aircraft operations, the airport layout, or flight patterns; or increases in nighttime operations.

Further, GRANTEE(S), its successors, assigns, licensees, invitees, and tenants, hereby waive, remise, and release any right, claim, or cause of action as to use and/or regulation of all airspace more than 35 feet above ground level above the Property, except as may be granted by the COUNTY.

This Reservation of Easement and Waiver does not require the removal of an Improvement or Vegetation in the condition as either is existing on the Property at the time this Reservation of Easement and Waiver is conveyed.

3. Use Restrictions. To ensure that the Property is developed and used in a manner that is compatible with the Airports and does not interfere with or inhibit operations or growth of the Airports, GRANTEE(S) covenants and agrees as follows:

(a) The Property shall only be used for Compatible Uses, which must also be compatible with uses of the Airports, and must comply with applicable federal, state or local laws or regulations, including zoning and land use restrictions and conditions. The Property shall not be used for Incompatible Uses.

(b) With respect to any Improvement located, to become constructed or to be located on the Property, prior to the time, if ever, that all of the Airports shall be abandoned and shall cease to be used for public airport purposes, GRANTEE(S) covenants and agrees:

(i) to submit to the COUNTY plans showing exterior building finishes, including but not limited to glass surfaces and exterior lighting, which potentially may make it difficult for Aircraft pilots to distinguish between airport lights and other lights, produce glare or reflection which would impair Aircraft pilots landing or taking off at the Airports, impair visibility in the vicinity of the Airport, or otherwise endanger the landing, take off, or maneuvering of Aircraft. GRANTEE(S) shall not use, permit or suffer the use of the Property in such a manner as to create electrical interference with radio communications to or from any Aircraft or between any airport installation or navigational aid ("NAVAID") and any Aircraft.

(ii) not to allow any Improvement to become constructed or Vegetation to be grown on the Property which encroaches upon or extends into the areas where the FAA would determine such Improvement or Vegetation would be an obstruction and/or hazardous to or incompatible with air navigation pursuant to the rules and regulations of the FAA under Code of Federal Regulations ("CFR") Title 14, Chapter I, Part 77 ("Part 77") and be prohibited or not granted a permit under Clark County Code Chapter 20 and Chapter 30, including but not limited to 20.13 and 30.48 Part B "Airport Airspace Overlay District" as amended; or any similar federal, state, or local regulation which may hereinafter be enacted in total or in part.

(iii) not to authorize the construction of any Improvement on the Property that attracts or results in the concentration of birds or other wildlife which would interfere with the safe operation of Aircraft in flight.

(iv) that prior to construction or erection of any applicable Improvement or Vegetation on the Property, file notice with the FAA in accordance with the requirements of Part 77 as applied to the Airports via FAA form 7460-1, as amended, or any similar regulations which may hereinafter be enacted and, where required by the Clark County Code, receive either a Director's Permit from the Department of Aviation or a Variance from the COUNTY'S Airport Hazard Areas Board of Adjustment.

(v) to use construction practices and materials designed to achieve the exterior to interior noise level reduction required by local development codes, based on Aircraft noise

contours shown on the Airport Environs Maps. Land and Improvements shall be deemed to be impacted by the specific noise contours that cross them as shown on the Airport Environs Maps. Where a building is or would be impacted by one or more noise contours, the entire building shall be considered to be within the most restrictive noise contour. For residential uses located outside the 60 DNL contours of the Airport Environs Maps, the twenty-five decibel noise attenuation construction standard must be incorporated into construction practices and materials.

(vi) to record a stand-alone noise disclosure form and flight track proximity map against the land, separate from other recorded documents. The flight track proximity map shall highlight the project location and associated flight tracks. The flight track proximity map shall be obtained from the Department of Aviation, upon request.

(vii) to present a copy of the recorded stand-alone noise disclosure form and proximity map referenced in section 3(b)(vi) to subsequent residential property owners.

(viii) to provide a copy of the recorded stand-alone noise disclosure form and proximity map referenced in section 3(b)(vi) to any residential tenant who enters into a rental arrangement or lease which exceeds 30 days.

4. Indemnity. To the maximum extent permitted by Nevada law, GRANTEE(S) shall indemnify, save harmless, and defend the COUNTY, its officers and employees, individually and collectively, from all damages, fines, liens, suits, claims, demands, actions, reasonable costs of investigation and litigation, reasonable attorneys' fees and expenses, reasonable consultants' fees and expenses, and reasonable expert witnesses' fees and expenses, judgments or liability of any kind arising out of or in any way connected with the use of the Property, including, without limitation, (i) the installation, construction, operation, maintenance, or condition of any Improvement on the Property and (ii) releases or threatened releases of Hazardous Substances from the Property or by GRANTEE(S) on, into, or under land, property and other interests of the COUNTY.

5. Non-Waiver. No waiver by the COUNTY at any time of any of GRANTEE(S) obligations under this Restriction shall be deemed or taken as a waiver at any time thereafter of the same or any other obligation or of the strict and prompt performance thereof. No waiver shall be valid against the COUNTY unless reduced to writing and authorized by the Board of County Commissioners, the Airport Hazards Area Board of Adjustment or the Director of the Department of Aviation.

6. Default. If GRANTEE(S) defaults in or violates the obligations set forth in this Restriction and fails reasonably to cure such default or violation following reasonable written notice from the COUNTY, then the COUNTY shall be entitled to exercise any rights or remedies available at law or in equity or under the express terms of the Deed or this Restriction including injunctive relief as provided below.

7. Damages Inadequate. GRANTEE(S) acknowledges and agrees that damages as a result of any default in or violation of any obligation of GRANTEE(S) set forth in this Restriction are not readily ascertainable, that money damages or other legal relief will not adequately compensate the COUNTY for any such breach, and, in addition to any entitlement to monetary damages, that the COUNTY is entitled to injunctive relief compelling the specific performance of those obligations under the Deed and this Restriction. GRANTEE(S) further acknowledges that the breach of any of the provisions of the Deed or this Restriction would constitute irreparable harm to the COUNTY, and

GRANTEE(S) hereby waives any defenses to the grant of a temporary restraining order related to any such breach based on the adequacy of legal remedies.

8. Remedies Cumulative. GRANTEE(S) agrees that COUNTY may pursue all remedies now or hereafter existing at law or in equity and to enforce the performance and observance of any obligation of GRANTEE(S) under the Deed or this Restriction. All remedies shall be cumulative and not exclusive of one another or of statutory remedies not specifically referenced herein. The exercise of any one or more remedies described above, or of any one or more remedies existing at law, in equity or by statute, shall not constitute a waiver or election with respect to any other available remedy. COUNTY'S failure to exercise its remedies reserved herein shall not be construed to waive any rights COUNTY may have to enforce GRANTEE(S) obligations through any and all rights and remedies which COUNTY or its successors and assigns may have at law or in equity for the enforcement of covenants. No delay or omission to exercise any right or power accruing upon any default shall impair that right or power or shall be construed to be waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

9. Changed Circumstances. GRANTEE(S) acknowledges that changes in circumstances shall not forgive compliance with the terms of this Restriction, except as otherwise provided in paragraphs 2(a) and 3(b) above with respect to the abandonment and non-use of the Airports.

10. Termination by GRANTEE(S). The COUNTY may terminate this Restriction or any specific provision hereof by recording a release in recordable form with directions for delivery of same to GRANTEE(S) at its last address given pursuant hereto whereupon the obligations described in such release shall terminate, except for any liabilities incurred prior to the date of such release. For convenience such instrument may run to "the owner or owners and parties interested" in the Property.

11. Severability. In the event any one or more of the provisions contained in the Deed or this Restriction shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of the Deed or this Restriction but the Deed and this Restriction shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

12. Covenants Running with the Property. GRANTEE(S) acknowledges that the restrictions, easements and reservations contained herein shall be binding on itself, its legal representatives, assigns and any subsequent owner of all or part of any interest in the Property, and shall attach to and run with the Property. The obligations and burdens set forth in the foregoing restrictions and reservations shall be enforceable by the COUNTY against GRANTEE(S) and any future owner(s) of the Property or any part thereof or interest therein, including, but not limited to, any lessee, licensee or tenant of the Property or any part thereof. The acceptance of the Deed by GRANTEE(S) shall constitute acceptance of the foregoing restrictions and reservations. GRANTEE(S) expressly agrees that the restrictions and reservations described herein or attached to the Deed shall be inserted in full in all future deeds of all or part of the Property.

13. Captions. The paragraph headings and titles are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or the intent of any provision thereof.

14. No Third Party Beneficiaries. The provisions of this Restriction are for the exclusive benefit of the COUNTY, except as otherwise provided in paragraph 3 with respect to the FAA, and

no person not included within the definition of the term "GRANTEE(S)" or "COUNTY" (other than the FAA as aforesaid) shall be entitled to the rights and benefits hereof.

15. GRANTEE(S) Certification. The person(s) signing below on behalf of the GRANTEE(S) hereby certifies, under penalty of perjury, that he or she has been duly authorized to sign this Restriction on behalf of the GRANTEE(S).

[Signature on following pages]

SAMPLE

