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## Support for AB 401

TO: Senate Government Affairs Committee

FROM: Michael Lasko

DATE: April 30, 2003

Thank you Honorable Chairperson,

For the record, I am Michael Lasko, a registered professional engineer in the State of Nevada and transportation project manager for CH2MHILL, a global project delivery and solutions firm, with state offices in Las Vegas and Reno Nevada. Today, I am testifying in support of AB 401, which provides the following improvements to NRS 338 and 408, our current design build law:

- AB 401 brings current the NRS language to the Federal Highway Administration's Final Rule on Design Build Contracting dated December 10, 2002
- AB 401 more clearly defines a transportation facility and clearly defines the term of governing body, department or entity desiring to use the design build method
- AB 401 allows unsolicited proposals by persons on projects that meet the public need and are included in the Regional and Statewide Transportation improvement plans
- AB 401 provides greater flexibility on the size of transportation design build projects by lowering the limits from \$5million to \$30million to \$2.5million to \$20million
- AB 401 allow public/private ventures
- AB 401 requires long term quality performance on design build projects
- AB 401 requires design build projects in the state to use prevailing wages

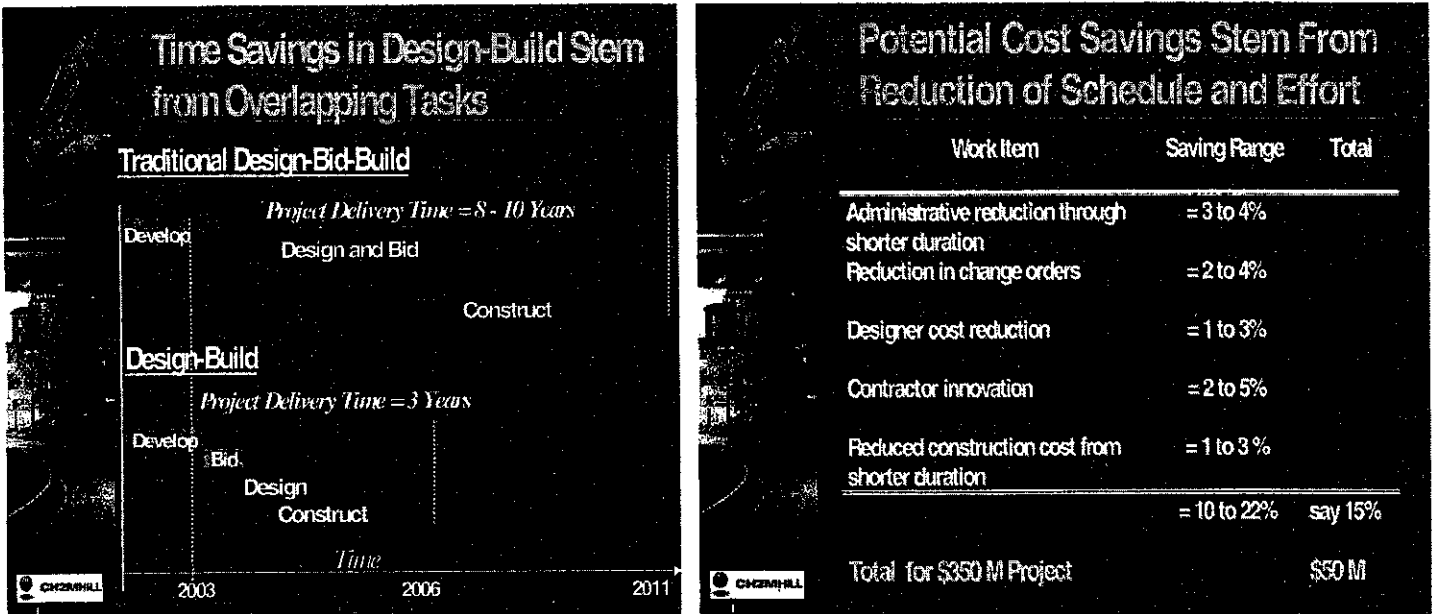
### Benefits Achieved from AB 401

The following table depicts a summary of benefits that can be achieved through the design-build contracting method:

<ul style="list-style-type: none"> <li>➤ Shortened project duration</li> <li>➤ Early establishment of fixed cost and schedule</li> <li>➤ Reduced cost</li> <li>➤ constructibility/Innovation</li> <li>➤ Single point responsibility</li> <li>➤ Sole source liability</li> <li>➤ Better utilization of resources</li> </ul>	<ul style="list-style-type: none"> <li>➤ Design to constructor strengths</li> <li>➤ Partnering among Owner, Designer and Contractor</li> <li>➤ Focussed project performance</li> <li>➤ Owner/Design-Builder risk sharing</li> <li>➤ Reduction of design error and omission impacts to the Owner</li> </ul>
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### Potential Schedule and Cost Savings

The following slides summarize the potential time saving and cost benefits that can be achieved using the design build approach. The slides depict a typical design bid build project to a design build project. In summary, employing the design build process can reduce the time it takes to design and construct a project using traditional methods by nearly half the time and can achieve potential savings between 10% and 22% with a reduction in schedule and effort.



### Responses to Questions Raised by Richard Daly Representing Laborer's Local 169 regarding AB 401

The following responses are provided for your use in responding to Laborers Local 169 comments and questions.

#### LL169 Comment:

I am sending this note to urge you to vote NO on AB-401 this bill allows private ownership of roads, bridges, etc. "Transportation Facilities".

#### Response:

AB-401 does not call for private ownership of a transportation facility, however, it provides for a mutual agreement between a public agency and a person (person is defined by NRS as a private entity) desiring to deliver a project meeting the public need to develop, build, operate and maintain a transportation facility. The agreement between the public agency and a person defines the obligations between both parties to develop, operate and maintain a transportation facility. Public/private partnerships allowed by this legislation have already been implemented in the State. For example, the Las Vegas Monorail Phase I project and a portion of the western segment of the Beltway through Summerlin have used a public/private venture principles.

#### LL169 Comment:

Just a few of the questions I would have that are not answered in this bill, aside from the belief that private enterprise will not have the public's best interests, when proposing, designing, building, and maintaining, the road system.

They will want to make a profit on their investment, through tolls, Nevada citizens essentially would be paying the tax for roads to private investors.

**Response:**

Only one element of the proposed AB-401 legislation allows user fees to be used on highways, and only if the projects are economically viable based on detailed financial analyses. No road will be constructed that the people of Nevada do not want and will not use. A new highway, with no users (traffic) has no value to anyone, especially those who invested to construct and now own the facility, either private owners, the state of Nevada, or a new public agency formed to develop and construct a public use facility. If traffic demand requires construction of a new facility, and the public insists on the new facility, then either the State (through new taxes or user fees) or a private investor must provide the construction capital to construct the facility.

**LL169 Comment:**

Who will own and be responsible for the facility if bankruptcy occurs?

**Response:**

If bankruptcy occurs by the person desiring to develop, build, operate and maintain a transportation facility, performance bonds are called on. Relative to the bankruptcy of the facility itself, bondholders take the risk that the facility will generate forecasted user fees to pay off any capital improvement bonds. This is the same as any current investment, whether it's public or private.

**LL169 Comment:**

What happens and who will be responsible if the facility is not properly maintained? T

**Response:**

The long term performance or maintenance of a transportation facility may be considered in the project agreement prior to the implementation of the project between the public agency and person. If the agreement includes long term maintenance, the public agency determines if the long term operations and performance requirements are being met. Generally, a person will be held to a higher standard by the public agency in maintaining roads and highways. The public agency and person will endeavor to meet the requirements of the agreement in operating and maintaining the transportation facility. Performance bonds can be called on again for final resolution in operating and maintaining a transportation facility. If the agreement doesn't include facility maintenance, the public agency such as NDOT would be responsible and funded appropriately through the agreement .

I respectfully urge your committee's support and quick passage of this bill.

Respectfully submitted,

Michael S. Lasko, PE

CH2MHILL Las Vegas Office Transportation Business Group Manager