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MAILING ADDRESS

December 4, 2018

VIA EMAIL

Steven Olson
O'Melveny & Myers, LLP
400 South Hope Street, 18th Floor
Los Angeles, CA 90071-2899

Dear Mr. Olson:

In response to your letter of November 30, 2018, I first will address the new issues you raise and then propose that we engage in mediation to resolve our dispute.

Damages to Bus 1705

The City recognizes the damage to the front-end of Bus 1705, and accepts responsibility for the reasonable cost of that damage. The City will offset that cost against the damages for which BYD is liable to the City. The City requests that BYD provide the City with a detailed description and related costs of the repair of the front-end damage to Bus 1705.

As to the "numerous paint and body scratches on the other buses," the City disagrees that it caused those damages and thus is not responsible for their repairs.

Charging Station Removal

The City plans to contract with an independent electrical company, at its expense, to disconnect the chargers. The City will then prepare and store the chargers for removal by BYD.

Bus Tires

The City appreciates that BYD will return the tires to the City. The City, however, reiterates that BYD is responsible for the lease costs of the tires. Upon the City's rightful rejection or justified revocation of acceptance of the buses, the City was holding the buses for removal by BYD. BYD was responsible for paying for the removal of the buses. It could have elected to replace the City's tires with its own tires. Instead, it decided to drive the buses to Lancaster, California using the City's tires. BYD is therefore responsible for reimbursing the City for the City's costs related to BYD's decision to drive the buses with the City's tires.

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Electric Services

Likewise, BYD is responsible for reimbursing the City for its increased electrical cost related to BYD's charging the buses in preparation of their removal from the City's facility.

Mediation

The City and BYD during approximately the past year have attempted to resolve any issues, with no success. In an attempt to prevent escalation of this matter and a lawsuit, the City proposes that BYD and it engage in mediation conducted by a mutually agreed upon mediator to attempt to settle this matter.

The City requests that BYD respond by 5:00 p.m. MST, 4:00 p.m. PST, on Thursday, December 6, 2018 to the City's proposal that the parties submit the matter to mediation. If BYD does not agree to mediation by December 6, 2018 at 5:00 p.m. MST, 4:00 p.m. PST, the City is prepared to proceed with a lawsuit.

Sincerely,



Robert J. Desiderio

RJD/cl

cc: Timothy Keller, Mayor, City of Albuquerque
Esteban Aguilar, Jr., Albuquerque City Attorney