

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 16-cv-21301-GAYLES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ARIEL QUIROS,
WILLIAM STENGER,
JAY PEAK, INC.,
Q RESORTS, INC.,
JAY PEAK HOTEL SUITES L.P.,
JAY PEAK HOTEL SUITES PHASE II. L.P.,
JAY PEAK MANAGEMENT, INC.,
JAY PEAK PENTHOUSE SUITES, L.P.,
JAY PEAK GP SERVICES, INC.,
JAY PEAK GOLF AND MOUNTAIN SUITES L.P.,
JAY PEAK GP SERVICES GOLF, INC.,
JAY PEAK LODGE AND TOWNHOUSES L.P.,
JAY PEAK GP SERVICES LODGE, INC.,
JAY PEAK HOTEL SUITES STATESIDE L.P.,
JAY PEAK GP SERVICES STATESIDE, INC.,
JAY PEAK BIOMEDICAL RESEARCH PARK L.P.,
AnC BIO VERMONT GP SERVICES, LLC,

Defendants, and

JAY CONSTRUCTION MANAGEMENT, INC.,
GSI OF DADE COUNTY, INC.,
NORTH EAST CONTRACT SERVICES, INC.,
Q BURKE MOUNTAIN RESORT, LLC,

Relief Defendants.

**RECEIVER'S MOTION FOR AUTHORIZATION
TO ENTER AND FOR APPROVAL OF
PASSENGER TRAMWAY MODIFICATION AGREEMENT**

Michael I. Goldberg (the "Receiver"), in his capacity as the court-appointed Receiver for Defendants, Jay Peak, Inc., Q Resorts, Inc., Jay Peak Hotel Suites L.P., Jay Peak Hotel Suites Phase II, L.P., Jay Peak Management, Inc., Jay Peak Penthouse Suites L.P., Jay Peak GP

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Services, Inc., Jay Peak Golf and Mountain Suites L.P., Jay Peak GP Services Golf, Inc., Jay Peak Lodge and Townhouses L.P., Jay Peak GP Services Lodge, Inc., Jay Peak Hotel Suites Stateside, L.P., Jay Peak GP Services Stateside, Inc., Jay Peak Biomedical Research Park L.P., and AnC Bio Vermont GP Services, LLC (collectively, "Receivership Defendants") and Relief Defendants Jay Construction Management, Inc., GS1 of Dade County, Inc., North East Contract Services, Inc., and Q Burke Mountain Resort, LLC (collectively, "Relief Defendants" and together with Receivership Defendants, the "Receivership Entities") files this Motion for Authorization to Enter and for Approval of the Passenger Tramway Modification Agreement (this "Motion").

The State of Vermont has issued an order directing that the Aerial Tram (defined below) be repaired and upgraded *before any further operation of the Aerial Tram*. The Aerial Tram is critical to Jay Peak Resort operations. The Court should enter an order allowing for the immediate commencement of the ordered repairs and upgrades.

BACKGROUND

The Complaint and Appointment of Receiver

1. On April 12, 2016, the Securities and Exchange Commission ("SEC") filed a complaint [ECF No. 1] ("Complaint") in the United States District Court for the Southern District of Florida (the "Court") against the Receivership Defendants, the Relief Defendants, William Stenger ("Stenger") and Ariel Quiros ("Quiros" and with the Receivership Defendants, Relief Defendants and Stenger, the "Defendants"), the principal of the Receivership Defendants, alleging that the Defendants violated the Securities Act of 1933 and the Securities Exchange Act of 1934 by making false or materially misleading representations to investors.

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2. The SEC alleged that Quiros and Stenger obtained and improperly utilized funds from foreign investors who made investments through the U.S. government's EB-5 investor program.

3. According to the Complaint, the scheme orchestrated by Quiros and managed by Stenger involved securities offerings made on behalf of seven limited partnerships connected to Defendant Jay Peak, Inc. The first six offerings were associated with construction and renovation at the Jay Peak ski resort and its accompanying facilities.

4. On April 12, 2016, the SEC filed an Emergency *Ex Parte Motion* for Temporary Restraining Order, Asset Freeze and Other Relief [ECF No. 4] (the "Asset Freeze Motion"). On April 13, 2016, the Court granted the Asset Freeze Motion [ECF No. 11].

5. On April 12, 2016, the SEC filed a Motion for Appointment of Receiver [ECF No. 7]. On April 13, 2016, the Court entered the Order Granting Plaintiff Securities and Exchange Commission's Motion for Appointment of Receiver [ECF No. 13] (the "Receivership Order"). Among other things, the Receivership Order appointed Michael Goldberg as the Receiver and identified the Receiver's authority.

The Passenger Tramway Modification Agreement

6. Jay Peak, Inc. is a Vermont Corporation with its principal place of business in Jay Vermont. Jay Peak operates the Jay Peak Resort, which contains, among other things, two base lodges and a small lodge at the summit where an aerial tramway (i.e., gondola) terminates. There are also hotel facilities and a large number of ski-in/ski-out condominium units on the lower part of the mountain. The majority of revenue for the Jay Peak Resort is generated from skiing.

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7. Through his investigation, the Receiver learned that Jay Peak, Inc., one of the Receivership Entities, has been negotiating an agreement for repairs, modifications, and an upgrade to its gondola system (the "Aerial Tram").

8. The Aerial Tram is 52 years old. In 2000, the hangars and cabins were replaced. In 2005, new electrical controls were installed. In 2015, an engineering assessment was completed and certain upgrades, which are the subject of the Contract (defined below), were recommended.

9. The Aerial Tram is critical to Jay Peak Resort operations. That gondola system, which is needed to transport skiers to the top of the Jay Peak mountain, requires major and immediate repairs to meet the State of Vermont's safety standards. On May 31, 2016, the State of Vermont, Department of Labor, issued Finding an Order for Corrective Action (the "Vermont Tram Order"). A copy of the Vermont Tram Order is attached as **Exhibit A**. The Vermont Tram Order directs repairs and upgrades to the Aerial Tram towers, electrical controls, evac drive, brake system, and cabin carriages. The Vermont Tram Order explicitly requires that the "work must be satisfactorily completed, or otherwise approved before operating the Tram..."

10. Doppelmayr USA, the Aerial Tram's manufacturer, is the only company in the world capable of properly repairing the Aerial Tram. Managers at Jay Peak Resort and Doppelmayr USA have negotiated a contract for repairs, modifications, and an upgrade to the Aerial Tram (the "Contract"). The upgrades include replacing of the electrical control, drive components, carriages, and track rope saddles on towers. The upgrades also include reinforcement of tower components where feasible. A copy of the Contract as negotiated, but not yet executed, is attached as **Exhibit B**. The Receiver's professionals have communicated with Doppelmayr USA to confirm that all directors in the Vermont Tram Order are covered by the statement of work in the Contract.

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11. The lead-time for the equipment and supplies to make the required repairs and modification is several months. Any delay on the front-end delays ultimate completion of the repairs and modifications and exposes that system to malfunctions and possible safety concerns.

12. Pursuant to the Contract, the price of the upgrades to the Aerial Tram total four million nine hundred thousand dollars (\$4,900,000). Those amounts are to be paid through a payment schedule contained in Exhibit 1 to the Contract.

13. According to Receiver's professionals, Jay Peak Resort is prepared to satisfy its obligations under the contract including all financial and non-monetary obligations. The funds for this necessary and required expense will come from Jay Peak Resort operations, existing bank accounts, sale of certain cell tower rights, settlement with third parties and potential other claims, and, if necessary, through borrowing of any remaining necessary funds. Specifically, the funds will come from Jay Peak, Inc. Operating Account No. *****1736.

14. If the gondola becomes non-operational, the Resort will not be able to transport skiers to the top of the mountain, which inability to transport skiers will have a detrimental financial impact on the receivership estate. Moreover, many wedding parties, which is a significant source of revenue for the Resort, also county on the gondola being operational to transport their group up the mountain for cocktail parties and pictures. Based on his business judgment and information provided by his professionals, therefore, the Receiver believes the Contract is a necessary expense for Jay Peak Resort.

Memorandum of Law

The Court should authorize the Receiver to enter the Contract for the upgrades to the Aerial Tram. The State of Vermont has directed immediate repairs and upgrades to the Aerial Tram, *which repairs and upgrades must be completed before further operations of this critical system. The State of Vermont has directed that the Aerial Tram may not be operated until the*

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repairs and upgrades have been completed. The Aerial Tram is critical to Jay Peak Resort operations. Completion of the upgrades to the Aerial Tram is necessary and in the best interest of the receivership estates.

Pursuant to the terms of the Receivership Order, the Receiver has the power and obligation to manage and administer the business affairs of the Receivership Entities and to take actions necessary for the protection of the investors. *See* Receivership Order, p. 2. The Receivership Order further directs to operate the Receivership Entities for the benefit of investors subject to order of the Court. Specifically, the Receivership Order provides in pertinent part:

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Michael Goldberg is hereby appointed the Receiver over Corporate Defendants and Relief Defendants, their subsidiaries, successors and assigns, and is hereby authorized, empowered, and directed to:

4. Appoint one or more special agents, employ legal counsel, actuaries, accountants, clerks, consultants and assistants as the Receiver deems necessary . . . This includes a management company or companies necessary to the continued operation of the Jay Peak and Burke Mountain ski resorts, the Phase I-V projects, and the portion of Phase VI (the Stateside Hotel) that has been fully built, *which the Receiver shall continue to operate for the benefit of investors subject to further order of this Court.*

The Receivership Order, ¶ 4 (emphasis added).

The Court should exercise its power and authorize the Receiver to enter the Contract. A district court has broad powers and wide discretion to determine relief in an equity receivership. *SEC v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992). The Receiver is seeking court authority because while lifts are ordinary part of operating a ski resort, seeking the Court's authorization is proper here due to the amount of the monetary obligations in the contract and the significance of the lift to the receivership entity's operations. The upgrades provided for in the Contract are not only necessary for preservation of the Aerial Tram, but *have been ordered completed by the*

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State of Vermont. Pursuant to an order from the State of Vermont, the Aerial Tram cannot be operated until the repairs and upgrades are completed. The Aerial Tram is a critical receivership estate asset and the inability to use the Aerial Tram causes severe and immediate harm to the receivership estate. Ski resorts such as the Jay Peak Resort must have safe, functioning ski lifts and tramways in order to operate. Even outside of the traditional "ski season," the Jay Peak Resort uses the Ariel Tram for its operations (e.g., parties, tours, etc.). The upgrades provided for in the Contract are reasonable and necessary in order for the Receiver to satisfy his duties to operate the Jay Peak Resort for the benefit of the investors. Absent the upgrades provided for in the Contract, the Aerial Tram may fall into disrepair or, worse, become a safety hazard.

In addition to the repairs, modifications, and upgrades identified in the Contract, it is not uncommon for unexpected repairs and issues to arise during the course of any project such as this. Such situations are typically handled through "change orders." In order to avoid any unnecessary delays, in addition to authority to enter and approval of the Contract, the Receiver is seeking authority to enter into change orders related to the Contract totaling no more than a 5% variation of the contract amount without further court approval.

WHEREFORE, the Receiver requests the Court enter an order

- i. authorizing the Receiver to enter the Contract for upgrades to the Aerial Tram;
- ii. authorizing the Receiver to enter into change orders related to the Contract totaling no more than a 5% variation of the Contract amount without further court approval;
and
- iii. granting such further relief as is just and equitable.

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LOCAL RULE 7.1 CERTIFICATION OF COUNSEL

Pursuant to Local Rule 7.1, undersigned counsel hereby certifies that the Receiver has conferred with to the Securities and Exchange Commission and to counsel for Defendants Ariel Quiros and William Stenger, all of whom have no objection to this Motion or the relief requested in this Motion.

Dated: June 1, 2016

Respectfully submitted,

By: /s/ Samuel A. Miller
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Counsel for Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this 1st day June, 2016 via the Court's notice of electronic filing on all CM/ECF registered users entitled to notice in this case as indicated on the attached Service List.

By: /s/ Samuel A. Miller
Samual A. Miller, Esq.

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SERVICE LIST

1:16-cv-21301-DPG Notice will be electronically mailed via CM/ECF to the following:

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Co-Counsel for Receiver

**DOPPELMAYR USA
PASSENGER TRAMWAY MODIFICATION AGREEMENT**

This Passenger Tramway Modification Agreement is made this 20th day of May, 2016, by and between:

Buyer:

Buyer's Corporate Identification Jay Peak, Inc. <hr/> 830 Jay Peak Road <hr/> Jay, Vermont 05859 <hr/> 802-988-2611 <hr/>  <hr/>  <hr/>  <hr/>  <hr/>	Name Address State, Zip Telephone Type of Organization State Entity Number Jurisdiction of Organization Federal EIN Number	Resort/Business Operating Name Jay Peak Resort <hr/> 830 Jay Peak Road <hr/> Jay, Vermont 05859 <hr/> 802-988-2611 <hr/>
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Installation Site Location (the "Site") Jay Peak Tram <hr/> Tram Modifications <hr/> <hr/> Jay Peak Rd. Tram Side Lot <hr/> Orleans <hr/> Vermont <hr/> Craig Parrish, Lift Manager 802-327-2200 <hr/>	Recognized Site Name Project/Lift Identification Property Legal Description Equipment Delivery Address County State Equipment Delivery Contact and Phone Number
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and **Seller:**

Doppelmayr USA, Inc., a Utah Corporation
 3160 West 500 South
 Salt Lake City, UT 84104
 Telephone: 801-973-7977
 Fax: 801-973-9580

Buyer and Seller agree as follows:

1. Contract. The contract between the parties consists of this Passenger Tramway Modification Agreement, exhibits and written addenda issued subsequent to the execution hereof (collectively, the "Contract"). The Contract represents the entire agreement between Buyer and Seller and supersedes prior negotiations, representations or agreements, whether oral or written. The Contract may not be modified except by a written instrument signed by both parties. The Contract includes the following exhibits, which are hereby incorporated herein:

- i. EXHIBIT 1: Quotation SAA0002525 Dated May 13, 2016
- ii. EXHIBIT 2: Project Schedule

2. Seller's Duties and Obligations. Seller shall design and manufacture the components to modify a passenger ropeway system (the "Lift") in conformance with the site plan specifications, requirements, plans, descriptions and specifications attached hereto as Exhibits 1, including without limitation, conformance with performance standards, appearance, material quality, workmanship and mechanics and customized to fit and function properly, both operationally and mechanically (the "Work") on or before the applicable dates set forth in Exhibit 2. Seller shall manufacture the Lift in a good and workmanlike manner using quality material, free from defects, and in conformance with this Contract. Seller warrants that the Work shall conform to ANSI B77.1-2011, the American National Standards Institute Safety Code B77 for Passenger Ropeways - Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Requirements ("ANSI B77").

3. Buyer's Duties and Obligations. Buyer shall provide labor, material, construction equipment and supplies to install the Lift in conformance with the design specifications and requirements supplied by Seller. Buyer shall cooperate fully with Seller in designing, engineering and manufacturing the Lift. In addition, Buyer shall provide the services set forth in Exhibit 2 on or before the applicable dates set forth in Exhibit 2 therein, and hereby agrees to pay all related costs and fees associated with such services. Buyer further agrees to pay the Purchase Price as set forth herein, and any and all additional costs, charges and fees arising hereunder, including without limitation, costs and expenses resulting from delays caused by Buyer. Any of Buyer's employees assisting Seller in the performance of the Work shall at times remain the employees of Buyer for all purposes.

4. The Site. The Lift shall be delivered to the Site as specified and the Site shall include the necessary equipment drop off areas required to take delivery of the Lift equipment.

5. Manufacturing Schedule and Completion. The Work shall be undertaken in accordance with the terms of this Contract and as set forth in Exhibit 2. Buyer agrees that it will cooperate in good faith in the performance and completion of the Work. The Work shall be deemed to be completed upon the successful completion of the load test. Buyer shall be deemed to have accepted the Work and the Lift when Buyer operates the Lift for use by its patrons. In the event that minor equipment items remain to be

supplied after the load test which do not involve the safety, operability or fitness for license of the Lift, the Work shall nonetheless be deemed completed; provided however; Buyer shall be entitled to withhold from the payment of the Final Billing (as hereinafter defined) the aggregate cost of the items remaining to be completed. Within five (5) days of the load test, the parties shall cooperate in good faith to prepare a "punch list" of items remaining to be supplied (the "Punch List") including but not limited to the items that must be completed before the lift can be operated for the beneficial use or for the transport of persons or personnel. If Buyer's Punch List is not received timely the Seller's Punch List will be assumed to be complete and accepted by the Buyer as complete. Following delivery of each item specified in the Punch List, Seller shall invoice Buyer for the cost of such items specified in the Punch List, which invoice shall be paid in full within fifteen (15) days following receipt of the invoice or as specified in Exhibit 1. In the event the parties cannot in good faith negotiate a resolution of any dispute regarding items on the Punch List, either party may submit such dispute to binding arbitration, as provided in this Contract. However, the existence of any such dispute shall not reduce or delay Buyer's obligation to pay the Purchase Price in accordance with the terms of this Contract.

6. Purchase Price. Buyer hereby agrees to pay Seller the sum of Four Million Nine Hundred Thousand Dollars (\$4,900,000.00) in United States currency at par for the Seller's performance of the Contract, subject to additions and deductions as provided herein (the "Purchase Price"). Buyer shall pay the Purchase Price as follows:

i. The parties' allocation of the Purchase Price among the various portions of the Work to be performed and/or equipment to be provided is attached hereto as Exhibit 1. In accordance with Exhibit 1 Seller shall provide a billing invoice to Buyer for the portion of Work performed and/or equipment delivered (the "Billing"). Within fifteen (15) days of receipt of the Billing, Buyer shall pay to Seller the amount reflected in the Billing.

ii. Upon completion of the Work, Seller shall provide a final billing constituting the entire unpaid balance of the Purchase Price, including change orders and interest as provided in this Contract (the "Final Billing"). Buyer shall pay the Final Billing within fifteen (15) days of receipt of the Final Billing. In the event of a dispute over the amount of the Final Billing, Buyer shall pay all amounts not in dispute as provided herein. In the event of a dispute, the parties agree to negotiate in good faith in an attempt to resolve any dispute regarding the Final Billing. In the event that the parties cannot reach a resolution over the disputed portions of the Final Billing, the dispute shall be submitted to arbitration as provided in this Contract.

iii. Any payment amounts not received by Seller on or before the date due, shall bear interest at the rate of eighteen percent (18%) from the date due until paid. In the event that any amounts are not paid when due, at Seller's sole discretion, Seller shall have the right, in addition to any other remedies, to immediately cease further performance hereunder until such payment is made in full, together with interest. If Seller incurs any additional costs as a result of ceasing its performance Buyer shall

reimburse Seller for its actual additional costs within fifteen (15) days following receipt of Seller's invoice providing reasonable detail regarding such additional costs. Additionally, the parties hereby acknowledge that Buyer's failure to timely fulfill its payment obligations may also result in delays, including without limitation, shipping, production and/or testing. All progress payments due must be paid two weeks prior to Load Test or the Load Test may be delayed day for day until the progress payments due are paid. Buyer shall be solely responsible for any and all costs and expenses associated with such delays.

Notwithstanding anything in this Contract to the contrary, the parties agree that the Purchase Price shall be adjusted to reflect Seller's actual increased costs incurred in the event that subsurface rock or other unknown subsurface physical conditions are encountered during the Buyers installation of the Lift, which are at variance with the conditions specified in this Contract or which are different from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract.

7. Taxes and Bonds. In addition to any other amounts due and owing by Buyer under the Contract and notwithstanding anything in the Contract to the contrary, in the event that Seller is required to pay or collect any taxes associated with the Work, regardless of how characterized, including without limitation, sales tax, use tax, ad valorem tax, business opportunity tax, personal property tax and/or real estate tax, and whether imposed by any federal, state, county, local or foreign taxing entity, such taxes shall constitute an additional amount due and owing by Buyer to Seller. Such tax shall be added to the Purchase Price and shall be included in the Billing during the period in which the tax is paid by Seller and shall be paid by Buyer in accordance with Paragraph 6 of the Contract. In addition to the foregoing, in the event that Seller is required to obtain a bond associated with the Work, any and all costs associated with such bond shall be an additional amount due and owing by Buyer to Seller, shall be added to the Purchase Price and included in the Billing during the period in which such cost is incurred and shall be paid in accordance with Paragraph 6 of the Contract. Notwithstanding the foregoing, Buyer shall have no obligation to pay any tax imposed on Seller as a result of income received by Seller for its performance of the Work.

8. Changes in the Work. If Buyer requests a change in the Work or if changes in the specifications are required by any governmental authority having jurisdiction over the Work or are necessitated by material differences between the physical conditions upon which the specifications are based and actual on-site physical conditions, the Purchase Price shall be equitably increased or decreased, as the case may be. No changes except those that are critical in Seller's sole but reasonable discretion to the ongoing shall be made in the Work unless first agreed to in writing by Buyer and Seller (signed "Change Order"). In the event the parties are unable to agree on equitable price adjustments for such Change Orders, the parties shall submit such price disputes to binding arbitration, as provided in this Contract.

9. Regulatory Approval. Except as otherwise agreed to in writing by the

parties, all permits, licenses, approvals and authorizations (the "Required Permits") required to permit Buyer to accept the Work and install the Lift without any restriction, condition or limitations which would prevent or unduly hinder Seller's ability to perform the Work hereunder or result in any unreasonable economic burden to Seller, shall be secured by Buyer and shall be in the name of Buyer. Seller agrees to cooperate in good faith to assist Buyer in obtaining the Required Permits. Buyer shall notify Seller in writing of any conditions contained in the Required Permits. Buyer agrees to notify Seller of any violations or potential violations of any Required Permits. After being so notified, Seller shall attempt to comply with the Required Permits if such compliance is within the scope of the Work of Seller and can be achieved in a commercially reasonable manner. In the event that the Required Permits are not granted on a timely basis through no fault of Seller, Buyer shall be deemed to have materially breached this Contract.

10. Risk of Loss and Title. The risk of loss of the Lift shall pass to Buyer upon delivery at the work site, regardless of whether the Purchase Price has been paid in full. Title to the Lift shall pass to Buyer upon Seller's receipt of full payment of the Purchase Price. Upon receipt of full payment of the Purchase Price, Seller shall deliver to Buyer a bill of sale to evidence transfer of title to Buyer.

11. Buyer's Insurance. Buyer shall purchase and maintain in full force and effect the following insurance:

i. Adequate Comprehensive General Liability Insurance on an ISO standard form or its equivalent with minimum limits of US \$5,000,000 for bodily injury, including death, or property damage arising out of any one occurrence or in the aggregate.

ii. Business Automobile Liability Insurance with minimum limits of US \$5,000,000 per occurrence single limit for bodily injury and property damage combined covering all vehicles owned or operated by the Buyer.

iii. If requested, Buyer shall provide Seller with a Certificate of Insurance evidencing the insurance policies described in this section. The Certificate of Insurance shall provide for a minimum of (30) thirty days written notice to Seller prior to cancellation of any policy.

12. Seller's Insurance. Seller shall purchase and maintain in full force and effect the following insurance:

i. Commercial General Liability Insurance including Product/Completed Operations Liability insurance on an ISO standard form or its equivalent with limits of US \$5,000,000 for bodily injury, including death or property damage arising out of any one occurrence or in the aggregate.

ii. Business Automobile Liability Insurance on all vehicles used by Seller

in connection with this Contract with minimum limits of US \$5,000,000 per occurrence single limit for bodily injury and property damage combined.

13. Public Operation. Buyer agrees that it will not operate the Lift , except for testing, unless all Contract payments are current or the Purchase Price has been paid in full. In the event that Buyer operates the Lift while in default under the terms of this Contract or prior to full payment of the Purchase Price without Seller's written consent, the Seller shall have the right to enter upon the Site and render the Lift inoperable until such time as the full Purchase Price including interest has been paid in full.

14. Warranties. When used and maintained in accordance with the maintenance and operation manual provided by Seller to Buyer, Seller warrants that the Lift when delivered to Buyer shall be as stated in Exhibit 1.

15. Limitation on Liability. During the period of this Contract and thereafter, Seller shall not be liable for any damage including without limitation property damage, bodily injury or loss of life, if such occurrences are caused by, including but not limited to, any of the following:

i. Unauthorized alterations or changes to the Lift including relocation of the Lift or any of its components and/or use of parts supplied by persons other than Seller, except with Seller's written consent or in accordance with plans and specifications supplied to Buyer by Seller or its agents.

ii. Any error in any estimate of snow depth, soil engineering, or in any engineering or other information supplied by Buyer or its agents to Seller.

iii. Force majeure, which shall include without limitation, the occurrence of war, embargoes, hostilities, riots, governmental restrictions, terrorism, transoceanic shipping casualty, delays in obtaining governmental or other official permits, avalanches, earthquakes, floods, lightning, or other natural, physical disasters, strikes, labor conflicts or other concerted acts of workmen, beyond the reasonable control of Seller which prevents or impedes, increases the cost of or delays Seller's performance under this Contract. In the event of any of the foregoing events, Seller shall be entitled to suspend or cancel the Contract. Seller shall give Buyer written notice within ten (10) days of the date Seller becomes aware of circumstances constituting force majeure. In the event that Seller elects to continue the Work under the Contract, the time for the completion of the Work shall automatically be extended for an amount of time equal to the time that the circumstances constituting the force majeure continue. In the event of an increase in costs as a result of a force majeure, the Purchase Price shall be increased by the amount of such increased costs. Neither party shall be in default of its contractual obligations under this Contract if such obligations cannot be satisfied as a result of force majeure.

iv. Failure of Buyer to operate or maintain the Lift in accordance with: (a) the provisions set forth in the maintenance and operation manual provided by Seller; (b)

any standards or procedures provided by Seller through its written service or similar bulletins; (c) any then applicable Federal, State, or local laws, regulations or codes; or (d) Buyer's own policies and procedures for the operation and maintenance of the Lift.

v. Any incorrect or inappropriate use, lack of experience by any person involved in the operation of the Lift, overloading of the Lift or negligence of Buyer in the operation or in maintenance of the Lift.

vi. Operation of the Lift: (a) during any unsafe conditions, including unsafe ice accumulation, high winds, lightning, excessive snow depths or lack of adequate visibility; (b) while any safety system is bypassed; or (c) with any obstructions that may interfere with the Lift operation.

vii. Claims by third parties arising as a result of or following the sale or disposition of the Lift by Buyer.

viii. Improper or defective installation of the Lift, including without limitation, foundations, placement, alignment or assembly.

ix. Seller shall not be liable for loss of business, consequential damages, other direct or indirect damages of any kind or nature, whether founded on breach of contract, tort, strict liability or otherwise, resulting from breach of the afore stated warranties and whether at law or in equity.

Notwithstanding anything in this Contract to the contrary, in no event shall Seller's liability for any breach of the terms and provisions hereof exceed the amount of the Purchase Price paid by Buyer to the Seller.

16. Grant of Security Interest. Buyer does hereby grant to Seller a first priority security interest in the Lift which security interest shall be a lien on the Lift until all obligations of Buyer under this Contract have been fulfilled, including without limitation, the full payment of all amounts due and owing under this Contract. Until such time as all financial or payment obligations of Buyer under this Contract have been fulfilled: (a) the Lift shall be and remain personal property and shall not be deemed part of real property even though affixed or attached thereto, whether or not placed upon a permanent foundation; and (b) Buyer shall not permit the Lift to be encumbered by any other lien, security interest, pledge, or any other interest. Buyer further agrees to execute any instruments or documents that Seller deems appropriate to protect or perfect the security interest granted hereby, including Uniform Commercial Code financing statements or similar documents to perfect Seller's interest in the Lift as a first priority lien. In the event that Buyer fails to fulfill any obligation required under this Contract or otherwise defaults in the performance of any of its obligations hereunder, then Seller shall have all the rights and remedies of a secured creditor under the Uniform Commercial Code or similar laws in force in the jurisdiction where the Lift is located, including the right to repossession of the Lift, in addition to any and all other rights and remedies under this Contract or otherwise provided by law or in equity.

17. Proprietary Information and Confidentiality. Buyer agrees that all drawings, sketches, specifications, operation and maintenance manuals and other technical documents, as well as samples, illustrations and related documents provided by Seller (the "Proprietary Information"): (a) constitutes proprietary information of Seller; (b) may be used by Buyer and its agents or representatives solely in connection the construction, maintenance and operation of the Lift; (c) may only be used by Buyer or its agents or representatives for the design and installation as provided in the Contract; and (d) shall only be disclosed to applicable governmental authorities to the extent required.

Seller and Buyer further agree and acknowledge that the Proprietary Information and the provisions of this Contract, including without limitation, the Purchase Price and Seller's warranties, are and shall forever be confidential and held by the parties and their respective agents and representatives in the strictest confidence. The parties agree to use their best efforts to prevent disclosure of the Proprietary Information; provided however, that each party may make necessary disclosures to their respective subcontractors, employees or agents who have a direct and specific need for such information, including any court having jurisdiction over the assets of Buyer. In the event of a breach or threatened breach of these provisions, the nonbreaching party shall be entitled to all remedies available to it at law or in equity, including but not limited to, a temporary restraining order and injunction prohibiting the disclosure of such information.

18. Reproductions. This Agreement and all documents which have been or may be hereafter furnished by Seller to Buyer may be reproduced by Seller by any photographic, photo static, xerographic or similar process, and any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding whether or not the original is in existence.

19. Indemnification. Subject to the terms of this Contract, each party agrees to indemnify, defend and hold harmless the other party and its partners, subsidiaries and affiliates, their respective agents, officers, directors, owners, employees, former employees, successors and assigns from any and all liability, claims, liens, demands, actions and causes of action of any kind or nature, including reasonable attorneys' fees and costs arising out of or related to the misconduct or negligent acts, errors or omissions of Seller or Buyer, as the case may be, their subcontractors, materialmen or any other person directly or indirectly employed by them, while engaged in any activity associated with their performance under the Contract.

20. This Section Left Intentionally Blank

21. Federal and State Clean Air Act Compliance. Buyer acknowledges that when an EPA Rated Tier 3 diesel engine for the Standby Power Unit ("APU") is specified in Exhibit 1, Buyer is purchasing an APU which includes a Tier 3 stationary diesel engine manufactured after January 1, 2011 ("Emergency Engine"), which

Emergency Engine type is subject to certain laws, regulations, restrictions and limitations, including but not by way of limitation, that the Emergency Engine may only be used for emergency purposes and may not be used for "Peaking", or for "peak shaving", or "load shedding", as those terms are commonly used in the industry, or any other non-emergency use. Buyer acknowledges and agrees to operate the Emergency Engine only in compliance with the Federal and State laws, including, but not limited to, the Clean Air Act as well as the Code of Federal Regulations ("CFR") for stationary diesel emergency engines (collectively the "Laws" or "Law"). Buyer assumes all responsibility and risks associated with complying with the Laws and regulations associated with the operation of the Emergency Engine. Buyer further agrees that it will not operate the Emergency Engine in any way to violate the Laws or regulations and provisions for emergency engines. Buyer will not use the Emergency Engine for non-emergency purposes as defined in the CFR regulations and provisions. Buyer acknowledges that it is familiar with the Laws and regulations and recognizes that the Laws and regulations and provisions may change from time to time and Buyer agrees to remain familiar with any such changes and to insure compliance with the same. Buyer acknowledges that Seller is selling the Emergency Engine to Buyer in reliance on Buyer's representations and agreements herein. Should Buyer be found in violation of any Law or regulation or provision of the CFR or breach of this Contract, Buyer agrees to immediately cease and desist and rectify any violation. In addition, Buyer specifically agrees to indemnify and hold harmless Seller for Buyer's use of the Emergency Engine and violations, including the investigation of potential violations, regardless of the outcome of such investigation, in accordance with the provisions of Section 18.

22. Termination. Except as otherwise set forth in this Contract, if either party to this Contract materially breaches any of the terms, covenants or conditions of this Contract, the nonbreaching party, so long as it is not in material breach hereof, upon giving thirty (30) days written notice of the alleged default, shall have the right to terminate this Contract or stop the Work and pursue any remedy available at law or in equity. Without limitation, a material breach shall include: (a) Seller reasonably believes that the prospect of payment or performance by Buyer is impaired, and (b) Buyer fails to make any payment or perform any obligation hereunder when due.

23. Alternative Dispute Resolution. If a dispute arises out of or relates to this Contract and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation conducted by a mutually agreed upon mediator before filing any action in any court..

24. Waiver. Failure or delay by either party to insist upon strict compliance by the other party with any of the terms, covenants and conditions hereof shall not be deemed a waiver of any breach of such terms, covenants and conditions, nor shall any waiver or relinquishment of any right or power hereunder at any one or more times be deemed a waiver or relinquishment of such right or power at any other time or times. No waiver shall be valid unless in writing and signed by authorized officers of the parties hereto.

25. Notices. Any notices to be given by either party to the other pursuant to this Contract or other communications shall be faxed, e-mailed, hand delivered or mailed by certified mail, return receipt requested, at the address of the respective parties as follows:

If to Seller: Doppelmayr USA, Inc.
3160 West 500 South
Salt Lake City, Utah 84104
Attn: Mark Bee
E-mail: mark.bee@doppelmayrusa.com
Fax: (801) 973-9580

With a copy to (which shall not constitute notice):
Doppelmayr USA, Inc.
3160 West 500 South
Salt Lake City, Utah 84104
Attn: F. Scott Pierpont
E-mail: scott.pierpont@doppelmayrusa.com
Fax: (801) 973-9580

If to Buyer: Jay Peak, Inc.
830 Jay Peak Road
Jay, Vermont 05859
Attn: Walter Elander
E-mail: welande@jaypeakresort.com
Fax: (802) 988-4049

With a copy to (which shall not constitute notice):
Jay Peak, Inc.
830 Jay Peak Road
Jay, Vermont 05859
Attn: Craig Parrish
E-mail: cparrish@jaypeakresort.com
Fax: (802) 988-4049

The time of the giving of such notice shall be deemed to be the time when it is faxed, e-mailed, personally hand delivered or, if mailed, the third day following mailing. Either party may change the address, E-mail address or Fax number to which notice shall be given by notice so given to the other party in writing.

26. Assignment. Neither party to this Contract shall assign this Contract without the written consent of the other party.

27. Miscellaneous. The parties acknowledge that Michael I. Goldberg is the Court Appointed Receiver ("Receiver") under the United States District Court, Southern District of Florida (the "Receivership Court"), for Jay Peak, Inc. This Contract is subject

to approval by the Receivership Court. The Receiver's counsel shall file a motion seeking court approval of this Contract with the Receivership Court within forty-eight (48) hours after Seller executes the Contract. The Receiver shall obtain court approval on or before June 30, 2016. In the event the Receiver has not obtained court approval by such date, this Contract shall terminate on that date unless the approval date is extended by the parties in writing. Section headings are inserted for convenient reference and do not define, limit or prescribe the provisions of any section. Each term, condition and provision of this Contract shall be valid and enforceable to the fullest extent permitted by law. If any term, condition or provision of this Contract is held invalid or unenforceable to any extent, then the remainder of this Contract shall not be affected thereby. The relationship between Buyer and Seller is that of independent contracting parties. This Contract shall not be construed to create any partnership or joint venture between Buyer and Seller. This Contract shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns. This Contract shall be subject to and construed and interpreted in accordance with laws of the State of Utah, United States of America. This Contract may be executed in multiple counterparts, each of which shall be deemed an original hereof and all of which shall be deemed one and the same instrument. This Contract, including all exhibits and addenda hereto, contains the entire agreement between the parties and may not be modified except by written instrument signed by both parties.

This Agreement and all documents which have been or may be hereafter furnished by Seller to Buyer may be reproduced by Seller by any photographic, photo static, xerographic or similar process, and any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding whether or not the original is in existence.

This Contract is entered into as of the day and year first written above.

BUYER:
Jay Peak Inc.

SELLER:
Doppelmayr USA, Inc.

(Signature)

(Signature)

(Printed name and title)

(Printed name and title)

(Date)

(Date)

EXHIBIT 1

Jay Peak Tram
Quotation
Project number SAA0002525
May 13, 2016

Attached as follows:



Doppelmayr USA, Inc.
PO Box 237
Ballston Spa, NY 12020
T: 518-796-2586
F: 518-885-7373

May 13, 2016

Jay Peak Resort
Craig Parrish, Lift Manager
Jay Peak Resort
217 Stateside Road
Jay, Vermont 05859

Attached below is the equipment description and pricing from Maurice Andrey, Garaventa

Quotation Project Number SA0002525

Your Inquiry: **Electrical control replacement and drive upgrade**

Subject: **Replacing of the electrical control, drive components, carriages, replacing track rope saddles on towers, and reinforcing some tower components (where feasible)**

Quotation validity: 30days

Price: see chapter 9

Conditions of payment:	\$408,334	Partial down payment with Contract Signing
	\$408,333	June 1, 2016 – Partial down payment
	\$408,333	July 1, 2016 – Partial down payment
	\$1,225,000	August 1, 2016 – Balance of 50% down payment
	\$1,225,000	November 1, 2016 - progress payment
	\$735,000	Prior to Shipment
	\$490,000	At Startup

Term of delivery: Ready for shipment: 7 - 9 months after reception of down payment

Delivery: DAP Lower Terminal at Jay Peak Tramway, VT (Incoterms 2010)

Installation: see separate chapter 7

Guarantee: 1 year according VSM

The general conditions of VSM are integrated part of this quotation unless otherwise agreed in writing, they are binding in all respects.

Thank our very much for your inquiry. We assure you our best servicer and look forward to your order.

Yours very truly
GARAVENTA LTD, GOLDAU

DOPPELMAYR USA,

Beat Musfeld
Project Manager

Maurice Andrey
Project Manager

Tom Sanford
VP of Sales



UPGRADE OF THE JAY PEAK TRAMWAY

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UPGRADE OF THE JAY PEAK TRAMWAY

1. Introduction

The existing Jay Peak Tramway (VT) was installed in 1966. In 2000, the hangers and cabins were replaced. In 2005, a new control had been installed. In the summer of 2015, an Engineering Assessment was completed.

This quotation is one of the results of the Engineering Assessment

2. Main Technical Data

Difference in elevation		≈ 595 m / 1,953 ft.
Travel length		≈ 2,370 m / 7,776 ft.
Towers		2
<u>Operational data:</u>		
Cabin capacity	Original designed	60
Travel speed, max		10 m/s
Travel speed, towers		6 m/s
<u>Drive:</u>		
AC-motor Power	Nominal	≈ 310 kW



UPGRADE OF THE JAY PEAK TRAMWAY

3. Upgrade of the Electrical Control and Drive Components

Concept in general:

- New electrical controls
- New coupling between new AC-motor and main gear box
- New hydraulic unit (dual-unit) for Brakes and Evac Drive
- New Service Brake; acting on two new brake disks mounted on high speed shaft; deceleration controlled, spring loaded, hydraulically opened
- New Evac Drive (Diesel-Hydraulic drive unit); Acting onto the high-speed shaft of the main gearbox. The unit is engageable by means of special coupling. No more additional installing of the separate gearing is required.
- Emergency Brake system remains at the drive bull wheel. Some measures regarding the new control: replacing hydraulic cylinder (spring loaded, hydraulically opened) and oil-splash protection are required.
- New carriages
- Replacing the track rope saddles on tower 1 and 2
- Isolated measures for the steel structure at tower 1 and 2.

Reservation regarding implantation of the upgrade:

- Findings of the Engineering Assessment of the concrete foundations of the towers
- Objections from the authorities (verification/recalculation of the towers)



UPGRADE OF THE JAY PEAK TRAMWAY

4. Scope of Work and Delivery

4.1. Engineering Services

- Rope line calculation
- Detailed design of the aerial tramway for Garaventa scope of work
- Load information for civil engineer (where required)
- Tower structure reinforcement drawings (where applicable)
- Operating manuals including data sheets, functional description, maintenance schedule in English (for the new equipment)
- Providing documents for P.E. approvals
- CE-Certification
- Training of electricians in Wolfurt (el. controls)
- Training will be held in English language. Board and lodging during training in Switzerland included. Travel expenses by customer
- Experienced project management, including an initial site visit and commissioning

4.2. Electrical Control

- 1 power cabinet to be placed in the drive room
- 1 control cabinet to be placed in the control room
- 1 touch screen panel to be placed in the control room based on SPS/PSS system acc. to the latest state of the art
- 1 monitor for cabin indicator, fault indication etc.
- 1 control cabinet for recovery drive
- 1 control cabinet for return terminal
- Information system on PC
- Telephone: machine room – control room – upper station – both cabins
- Provide equipment for cabins such as remote control, supervision of cabin doors, and load-measuring device.
- 1 wind speed measuring device incl. Indication of wind direction
- Electric cables from main disconnect switch of electric cabinet in the stations to the electrical equipment of the subject tramway.
- Lightning protection for electrical equipment
- Optional: Equipment for remote diagnosis via internet;
- Power requirements according to the current rope line calculation
- Evac Drive unit (control unit)
- Platform doors: only supervision, operated manually (existing)
- Cabin doors: only supervision, operated manually (existing)

Remark

- A generator set without some special measures cannot power the new frequency converter. If operation with a Genset is foreseen, additional brake choppers (regenerative braking) must be installed. (Be aware of additional costs regarding engineering/design)



UPGRADE OF THE JAY PEAK TRAMWAY

4.2.1. Miscellaneous Descriptions

4.2.1.1. Technical documentation

All technical description such as operating manual, parts lists, electrical diagram, wiring diagram and manual will be delivered in English.

4.2.1.2. In-company training

Before shipment, the controls will be temporarily connected and tested in the factory. During this time, 1 to 3 technical employees from your company are welcome to attend this factory test (in-company pre-commissioning) for 2-3 days to familiarize you to the new system. (The cost of this training is free. The only charges for you will be the airfare and transport cost to and from Switzerland).

4.2.1.3. Lateral swing supervision on cabins

A 2-stage lateral swing unit will be installed in the vehicles. Including analyses of the limit values of warning and alarm transfer of this information to the drive station via remote supervision system. Warning results in a speed reduction, the alarm triggers a normal stop of the tram.

4.2.1.4. Auxiliary drive

Nothing is foreseen (existing installation doesn't have one)

4.2.1.5. Load weighing system

The new weighing system will check the load in the cabin at the terminals before the system starts up. If the cabin is overloaded, the carrier will not leave the terminal. The system is not activated at track.

4.2.1.6. Track Rope supervision on Towers; Optional

Usually this supervision could only build in if a messenger rope would be installed. Tower 1 could be connected with Lower Terminal and Tower 2 could be connected to Upper Terminal. Since this installation is strongly affected by wind and ice rime it would not be a good idea to have an additional rope installed. We strongly recommend laying the messenger cable on the ground. Such landlines (messenger cable) are included in the price.

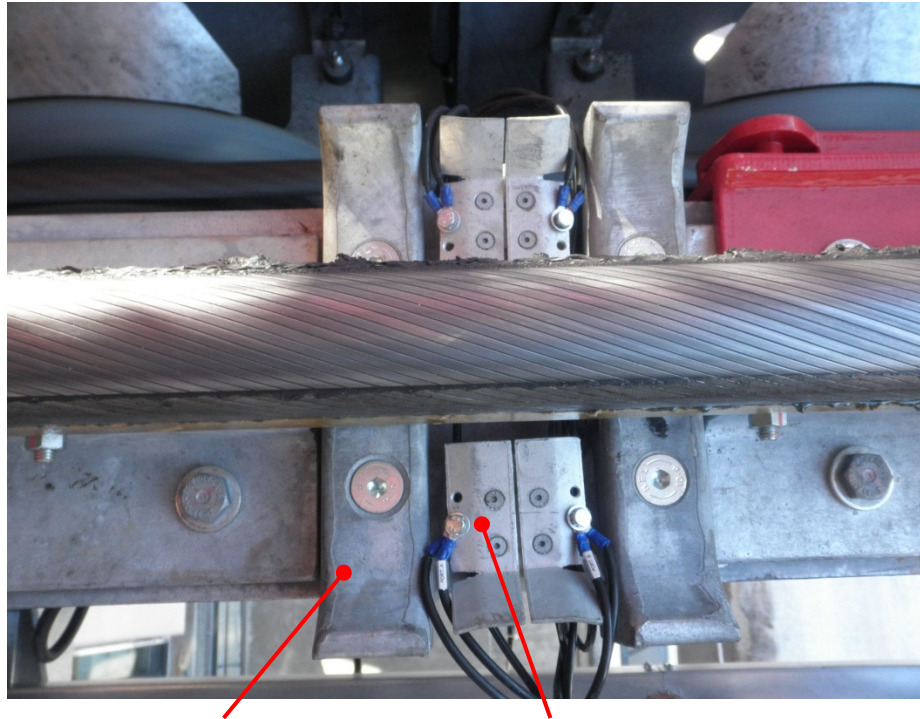
Function of the supervision (if installed). Installation is at costs for the client.

Isolated plates in the track rope catchers on the rope saddles will monitor any derail of a track rope by a ground fault of the messenger rope (low voltage current flow through the steel wires) via the grounded track rope.

The new Track rope saddles will be equipped with the mechanical equipment for this supervision.



UPGRADE OF THE JAY PEAK TRAMWAY



Rope Catcher – Plates with low voltage tension



UPGRADE OF THE JAY PEAK TRAMWAY

4.3. New Evac Drive

To improve the operation in an emergency we recommend replacing the existing equipment. On the opposite side of the AC-motor at the output shaft of the first gearbox stage, there is already the second brake disk. Additionally, we would install an engageable coupling that connects Evac drive's hydraulic motor. Travel speed would be 1.0 m/s. This equipment will be designed only to evacuate passengers from the track back to the terminals. This equipment cannot cover any failure of the main gearbox.

Example for an Evac Drive equipment (see also picture in clause 3.4)





UPGRADE OF THE JAY PEAK TRAMWAY

4.4. New Hydraulic dual-unit

The new hydraulic unit (dual-unit) will serve for the brake system: Service Brake (controlled regulated deceleration rate) and Emergency Brake (controlled deceleration time). The new unit also serves for the Evac drive.

The double unit increases the availability of the system. In case of any failure in system 1, just switch over to system 2. It also means to reduce the number of spare parts.

In regular operation every month, you have to switch over from one system to the other.

To operate you just have to move some levers and you are ready to start the other equipment of the Evac drive (e.g. Diesel engine)



Hydraulic unit (twin-unit)

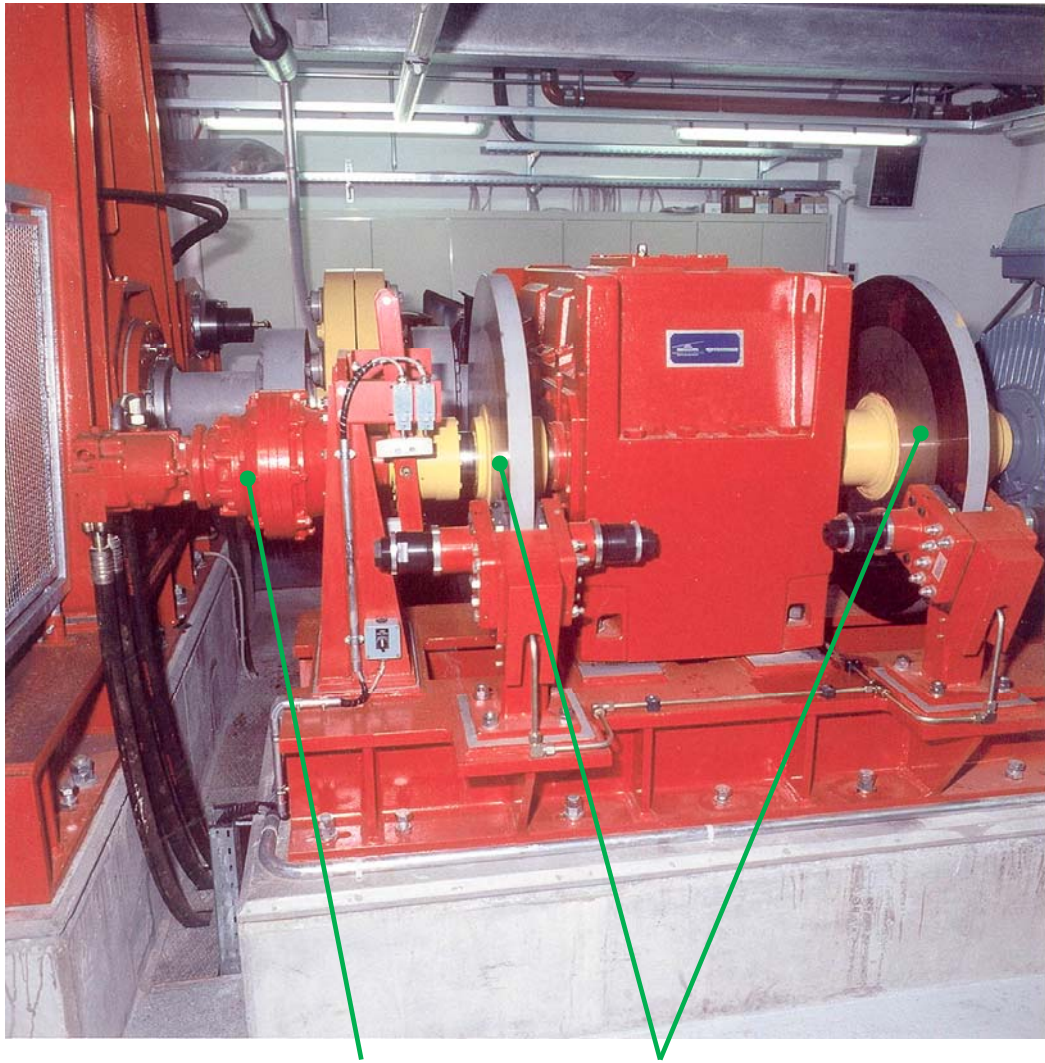


UPGRADE OF THE JAY PEAK TRAMWAY

4.5. New Service Brake

4.5.1. Service Brake

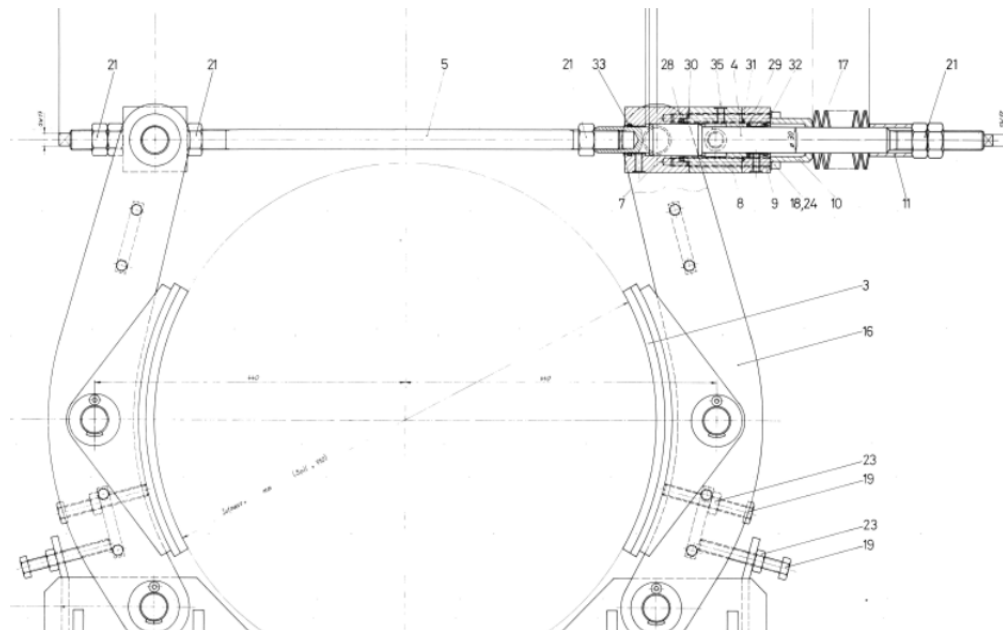
The new Service Brake, which will brake in a regulated manner (deceleration rate), is located basically at the same position in the drive chain as the existing brakes. Instead of brake drums, we will have brake disks.



Example for an Evac Drive and 2 Service brakes resp. 2 disks



UPGRADE OF THE JAY PEAK TRAMWAY



Concept of the modification of the Emergency Brake

4.6. Modified Emergency Brake

A spring-loaded hydraulic cylinder needs to be installed. This cylinder will open the brake. The mechanical parts of the existing Emergency brake, which acts onto the drive bull wheel, will remain.

4.7. Miscellaneous parts

- Mandatory: New Tacho / Pulse generators / Encoder at Bull wheel
- Mandatory: Supports for Capacitors (sender and receiver)
- Mandatory: New limit position switches for the travels of the counterweights
- Optional: replacing the axles of the bull wheels at the terminals (notch impact strength of the existing axles does not meet state of the art)

5. Towers

5.1. Track Rope saddles

We learned from the verification (recalculation) of Tower 2 that the track rope saddles are an issue. They also impact very much the resistance of the entire steel structure of the tower (e.g. wind load out of operation)

The track rope saddles need to be replaced. Since the geometry of the new rope saddles will be optimized the influence to the steel structure of the towers will be reduced (especially wind load affected load cases)



UPGRADE OF THE JAY PEAK TRAMWAY



5.2. Steel structure

According to the Engineering Assessment, a general reinforcement is not possible. Some single measurements to improve the resistance can be done after the recalculations are done. First thing, Garaventa will prepare a design basic, which is necessary to do the verification. This document needs to be approved by a P.E. or authorities of VT.

5.3. Foundation (concrete)

A civil engineer need to establish an Engineering assessment for the foundations. As soon as Garaventa receives the order for this contract, we start with the recalculation to provide the reaction loads onto the foundations. At that time together, the civil engineer and our steel structure specialist can define the way to upgrade anchor fixations.

Important Note: Before we start any modifications at the towers, the inspection for the bolted connections (according to the Engineering Assessment) must be fully completed.



UPGRADE OF THE JAY PEAK TRAMWAY

6. Replacing Carriages

Initial position: the carriage, which is in operation since 1966, has accomplished approximately 350'000 to 400'000 trips.

Last known overhaul of the carriages was done in 2000.

Doppelmayr/Garaventa specifies at least a 6-year interval to overhaul the carriage (complete disassembling). If cracks, deformations or any other anomalies are detected the interval goes down to 4 years or even less.

Together with the new control, a new carriage will be much more efficient and cause less maintenance.

As a result, from the Engineering Assessment the carriages need to be replaced.

A new carriage will weigh more than the existing one. The weight of the loaded carrier will be no more than 8'137 kg (17'939 lbs.). Why 8'137 kg? Original design load plus 3%. That is the acceptable tolerance range.

The weight of the cabin and hanger is 2'439 kg. The new carriage weighs approx. 2'150 kg. We expect to allow operating the tram with approx. 45 passengers plus 1 attendant after the upgrade.

The water tank needs to be removed when passengers are being transported.

If the water tank is mounted for water transport only about 820 gallons are allowed to transport.



Carriage



UPGRADE OF THE JAY PEAK TRAMWAY

6.1 Hangers

Note:

For technical reasons it might be necessary to replace the hangers as well. Technical reasons can be:

- Connection system new carriage – hanger
- Application of the sensors for the load weighing system
- Maintenance reasons (according to Craig Parrish)

This modification will cause some additional costs: USD 163,936.-

7. Installation works

7.1. Upgrade control / drive components

Installation works are based on following assumptions:

- 1 chief erector to conduct through dismantling and installing the new equipment
- 1 Hydraulic specialist to install the new equipment and also to instruct
- 2 Mechanics from Garaventa to replace the track rope saddle. 2-4 employees from Jay Peak Resort expected to support our riggers.
- 1 Electrical technician (installer) as supervisor (approx. 7 weeks)
- 1 Electrical Engineer (Start-up, commissioning, approx. 2 weeks)
- 1 – 2 employees (mechanics) from Jay Peak Resorts to assist our chief erector to rebuild the drive components;
- 3 – 4 employees (electrical) from Jay Peak Resorts to assist the installation; estimated work load: 750 hours
- Working schedule: approx. 8 weeks; each week 6 working days, each day 10 working hours
- Total 8 weeks (complete calendar weeks) shut down of the installation

8. Shipment

DAP (Incoterms 2010) Lower Terminal Jay Peak Tramway.
Electrical control equipment by Air Freight.
All other equipment in containers by sea freight.

It is not foreseen to ship any major installation tools (e.g. winches, hoisting equipment). Only standard tools (toolbox) to accomplish the drive upgrade.



UPGRADE OF THE JAY PEAK TRAMWAY

9. Prices

Prices: Excluding any taxes, VAT, duties, fees and/or levies that might be imposed outside Switzerland. See also chapter 9

9.1. Upgrade as described

Complete Alteration as described in the quotation: USD 4,659,127.--
=====

Optional: 2 new hangers (see chapter 6 (2 hangers) USD 150,027.--

We strongly recommend to replace the existing hangers to avoid system problems: e.g. connection Hanger tube – Carriage; hydraulic equipment for track rope brake

Spare part package (electrical / hydraulic parts) USD 90,846.--
=====

IMPORTANT NOTE: before Doppelmayr/Garaventa starts with any part of the upgrade Jay Peak Resort shall inform the authorities and apply for declaration of consent.

Please note chapters:

- 6 , Installation works
- 7 , Shipment
- 9 , Exclusions
- 10, General scheduling of works



UPGRADE OF THE JAY PEAK TRAMWAY

10. Exclusions

We assume that following works will be carried out by third parties or by the client (Jay Peak Resort):

- Disposal of old equipment
- Exhaust pipe work for the new diesel engines
- Power supply, transformer, main disconnect (existing; suitable for new configuration needs to be checked)
- Installing signal rope (messenger). New signal rope would be laid onto the ground / terrain. If necessary even laid in the ground due to the environmental conditions.
- Civil works (if any), any adaptation of any foundations (if any), architecture works
- Cranes or other hoisting equipment. If Jay Peak Resort has no equipment to hoist the new track rope saddles Doppelmayr/Garaventa needs to be informed. Additional costs may apply (rental and shipping costs of the special tools, e.g. 5 to winches or other equipment)
- Local transports of equipment
- Rope detensioning tools (clamp plates, pulley blocks, slings, others), if required
- Fees for authorities; any taxes / VAT / duties, fees and/or levies that might be imposed outside Switzerland
- Expenses to get the approvals from authorities
- Reconditioning of buildings
- Overhauling of existing equipment (e.g. bearings)
- Safety guards (acc to OHSA)
- Shipping: Import customs clearance and Import taxes (DAP Incoterms 2010)
- All works related to buildings as cable ducts, paint, access doors, fire protection etc.
- Cabin: required modifications for the control rack
- Cables and wiring from transformer (high voltage) to the main switch in the control cabinet (drive room).
- Engineering works and choppers in case of installing of a separate Genset, which supply/energize the main drive (covers a power loss / power outage)
- Any costs due to refusals of authorities or other statutory corporation

11. General scheduling of works (electrical control upgrade)

It is our main target to accomplish this job within 8 weeks (working weeks). After placing the order a schedule will be fixed (established together by all parties involved to the contract).

EXHIBIT 2

PROJECT SCHEDULE

Sellers Performance Schedule

1. Shipment of all equipment from factory in Switzerland 7 to 9 months after receipt of signed agreement and down payment.
2. Installation supervision as described in Exhibit 1 (8 weeks).
3. Subject to Buyer's timely performance of its duties, including providing adequate site labor and equipment to perform the installation, the planned completion date is June 15, 2017.

Buyers Performance Schedule

1. Provide personnel and equipment to perform the demolition and installation work under the supervision of Seller's personnel. Anticipated start date is between April 1, 2017 and April 15, 2017.



VERMONT

Vermont Department of Labor

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Passenger Tramway Program

In Re: JAY Peak, Lift No. 806 Aerial Tram

Findings and Order for Corrective Action

The Vermont Passenger Tramway statute, section 708, provides:

If, after investigation, the department finds that a violation of any of the rules exists, or that there is a condition in passenger tramway construction, operation or maintenance endangering the safety of the public, it shall forthwith issue its written order setting forth its findings, the corrective action to be taken, and fixing a reasonable time for compliance therewith. The order shall be served upon the operator involved by registered mail and shall become final unless the operator applies to the board for a hearing in the manner provided in section 709 of this title.

Findings

1. Prior to the start of the 2015- 2016 ski season the department's tramway inspectors expressed concern over the condition of this tram. After communicating with Jay Peak and the manufacturer of the Tram, Doppelmayr, It was agreed that if Jay Peak completed certain work labeled a priority one recommendation by Doppelmayr, the Tram would be permitted to operate for the winter season, with the understanding that the remaining work would be completed at the completion of the ski season.
2. The ski season has ended but the Tramway inspectors have been advised that Jay Peak has not taken steps to begin the work needed before the Tram is permitted to operate again.



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3. The following work must be satisfactorily completed, or otherwise approved before operating the Tram:

Engineering: detail design, load information, tower structure drawings, operating manuals, P.E. approvals must be provided to the Passenger Tramway program.

Towers: An Engineering Assessment of all tower foundations must be done by Civil Engineer and a Steel Structure Specialist. The Anchor Fixations must be upgraded. The Track Rope Saddles need to be redone, they are too long, and this impacts the entire tower's steel structures. Garaventa (Doppelmayr) shall provide Jay with a new design.

Electrical Controls: New Power and Control cabinets, new touch screen panels, New electrical controls and Drive Components, New wiring with drawings, training at Factory on new Controls, Load weighing System, Track Rope Supervision. Training on New Electrical systems must be provided to appropriate staff

New Evac Drive: New engage able coupling that connects Evac drive to Hydraulic motor.

Brake systems: Install a New Hydraulic Brake System with new controls for the Service Brake and Emergency Brake; install a new brake disk on the Service Brake; new spring-loaded Hydraulic cylinder on the Modified Emergency Brake,

Cabin Carriages: Two New Carriages need to be installed; the Water Tank on one cabin will need to be removed when passengers are being transported. The capacity for the cabins will be limited to 45 passengers plus One Attendant. In addition, the Cabin Hangers must be replaced.



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ORDER

Therefore in order to protect the public is ORDERED:

1. The lift shall not be operated until the Tramway inspector(s) is satisfied that the corrective action until the following corrective action described in paragraph number 3 has been successfully completed and approved by the Passenger Tramway program..
2. Failure to comply with this order shall subject the operator to the per day monetary penalties provided in 31 VSA §712, in addition to other legal action.

Dated this 31st day of May, 2016

A handwritten signature in black ink, appearing to read "J. Stephen Monahan".

J. Stephen Monahan

Workers Compensation and Safety Division

Vermont Department of Labor

P.O. Box 488

Montpelier VT 05601-0488



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Notice of Appeal Rights

Title 31 VSA § 709 provides:

Any operator who is aggrieved by department order may, within ten days after service thereof upon him, apply to the board for a review of the order. The board shall hold a hearing thereon at the earliest convenient day. At the hearing, the operator shall have a right to a full hearing, including the right to be heard personally and by counsel, to cross-examine witnesses and to produce evidence in his own behalf. After the hearing, the board shall report its findings, in writing, and make such order as the facts may require.

An operator who wishes to contest this order shall within 10 days of receiving the order, submit a written notice requesting a hearing before the Passenger Tramway Board. The written notice shall be submitted to the attention of:

Erin Sylvia
Workers Compensation and Safety Division
Vermont Department of Labor
P.O. Box 488
Montpelier VT 05601-0488