

THE STATE OF TEXAS     )  
   :  
 COUNTY OF WINKLER     )

On this the 20th day of October, 2014, the Commissioners' Court of Winkler County, Texas, met in Special Term of Court at the Courthouse in Kermit, Texas, with the following members present, to-wit:

Bonnie Leck	County Judge
Billy Stevens	Commissioner, Precinct No. 1
Robbie Wolf	Commissioner, Precinct No. 2
Randy Neal	Commissioner, Precinct No. 3
Billy Ray Thompson	Commissioner, Precinct No. 4
Shethelia Reed	County Clerk and Ex-Officio Clerk of Commissioners' Court

constituting the entire Court, at which time the following among other proceedings were had:

At 9:00 o'clock A.M. Judge Leck called the meeting to order.

The Court heard presentation of Joe Carter, CPA and Dr. John Littlejohn concerning West Texas Regional Transportation Authority.

A motion was made by Commissioner Thompson and seconded by Commissioner Stevens to table approving Resolution supporting the creation of West Texas Regional Transportation Authority; which motion became an order of the Court upon the following vote:

Ayes:           Commissioners Stevens, Wolf, Neal and Thompson  
 Noes:           None

A motion was made by Commissioner Thompson and seconded by Commissioner Stevens to table approving Articles of Incorporation for West Texas Regional Transportation Authority; which motion became an order of the Court upon the following vote:

Ayes:           Commissioners Stevens, Wolf, Neal and Thompson  
 Noes:           None

A motion was made by Commissioner Thompson and seconded by Commissioner Stevens to table approving Proposed ByLaws for West Texas Regional Transportation Authority; which motion became an order of the Court upon the following vote:

Ayes:           Commissioners Stevens, Wolf, Neal and Thompson  
 Noes:           None

A motion was made by Commissioner Thompson and seconded by Commissioner Stevens to table approving Resolution appointing a director to the Board of West Texas Regional Transportation Authority; which motion became an order of the Court upon the following vote:

Ayes: Commissioners Stevens, Wolf, Neal and Thompson  
Noes: None

A motion was made by Commissioner Thompson and seconded by Commissioner Neal to approve purchase and installation of door restrictor for elevator in Courthouse in the amount of \$10,995.00 from Otis Elevator Company from budgeted funds; which motion became an order of the Court upon the following vote:

Ayes: Commissioners Stevens, Wolf, Neal and Thompson  
Noes: None



Otis Service and Repair Order

DATE: 10/14/2014

TO:  
Winkler County Courthouse  
C/O County Auditor  
P.O. Drawer 0  
Kermit, TX 79745

FROM:  
Otis Elevator Company  
1308 S Midkiff, #221, Box #9  
Midland, TX 79701

Daniel Andrus  
Phone: (817) 590-4932  
Fax: (817) 284-6342

EQUIPMENT LOCATION:  
Winkler Co Courthouse  
100 East Winkler  
Kermit, TX 79745

PROPOSAL NUMBER: DMA120113140916

MACHINE NUMBER(S) : 150256

We will provide labor and material to furnish and install on the above referenced machine(s) the following:

**Payment Terms**

The base proposal price is contingent upon receiving a pre-payment of 100% of the base contract amount. The pre-payment amount is due in full prior to Otis ordering material and/or mobilizing. If you choose one the alternative down-payment amount listed below, the corresponding Add shall be applied to the base contract amount:

Down Payment Amount	Price Adjustment Percentage	Authorization (Initial)
0%	10% Add	

PRICE: **\$ 10,995.00**  
**Ten thousand nine hundred ninety-five dollars**

This price is based on a fifty percent (50 %) downpayment in the amount of \$ 5,497.50. This proposal, including the provisions printed on the last page(s), and the specifications and other provisions attached hereto shall, when accepted by you below and approved by our authorized representative, constitute the entire contract between us, and all prior representations or agreements not incorporated herein are superseded.

Submitted by: Daniel Andrus  
Title: Sr. Account Manager

Accepted in Duplicate

CUSTOMER  
Approved by Authorized Representative

Otis Elevator Company  
Approved by Authorized Representative

Date: October 20, 2014 Date: \_\_\_\_\_

Signed: _____	Signed: _____
Print Name: <u>- Bonnie Leck</u>	Print Name: <u>CJ Curtsinger</u>
Title <u>- Winkler County Judge</u>	Title <u>Branch Manager</u>
E-mail: <u>.vida.simpson@co.winkler.tx.us</u>	
Name of Company <u>- Winkler County</u>	

Principal, Owner or Authorized Representative of Principal or Owner

Agent: \_\_\_\_\_  
(Name of Principal or Owner)

**Otis Service and Repair Order**

**TERMS AND CONDITIONS**

1. This quotation is subject to change or withdrawal by us prior to acceptance by you.
  2. The work shall be performed for the agreed price plus any applicable sales, excise or similar taxes as required by law. In addition to the agreed price, you shall pay to us any future applicable tax imposed on us, our suppliers or you in connection with the performance of the work described.
  3. Payments shall be made as follows: A down payment of fifty percent (50 %) of the price shall be paid by you upon your signing of this document. Full payment shall be made on completion if the work is completed within a thirty day period. If the work is not completed within a thirty day period, monthly progress payments shall be made based on the value of any equipment ready or delivered, if any, and labor performed through the end of the month less a five percent (5%) retainage and the aggregate of previous payments. The retainage shall be paid when the work is completed. We reserve the right to discontinue our work at any time until payments shall have been made as agreed and we have assurance satisfactory to us that subsequent payments will be made when due. Payments not received within thirty (30) days of the date of invoice shall be subject to interest accrued at the rate of eighteen percent (18%) per annum or at the maximum rate allowed by applicable law, whichever is less. We shall also be entitled to reimbursement from you of the expenses, including attorney's fees, incurred in collecting any overdue payments.
  4. Our performance is conditioned upon your securing any required governmental approvals for the installation of any equipment provided hereunder and your providing our workmen with a safe place in which to work. Additionally, you agree to notify us if you are aware or become aware prior to the completion of the work of the existence of asbestos or other hazardous material in any elevator hoistway, machine room, hallway or other place in the building where Otis personnel are or may be required to perform their work. In the event it should become necessary to abate, encapsulate or remove asbestos or other hazardous materials from the building, you agree to be responsible for such abatement, encapsulation or removal, and in such event Otis shall be entitled to delay its work until it is determined to our satisfaction that no hazard exists and compensation for delays encountered if such delay is more than sixty (60) days. In any event, we reserve the right to discontinue our work in the building whenever in our opinion this provision is being violated.
  5. Unless otherwise agreed in writing, it is understood that the work shall be performed during our regular working hours of our regular working days. If overtime work is mutually agreed upon and performed, an additional charge therefore, at our usual rates for such work, shall be added to the contract price. The performance of our work hereunder is conditioned on your performing the preparatory work and supplying the necessary data specified on the front of this proposal or in the attached specification, if any. Should we be required to make an unscheduled return to your site to begin or complete the work due to your request, acts or omissions, then such return visits shall be subject to additional charges at our then current labor rates.
  6. Title to any material to be furnished hereunder shall pass to you when final payment for such material is received. In addition, we shall retain a security interest in all material furnished hereunder and not paid for in full. You agree that a copy of this Agreement may be used as a financing statement for the purpose of placing upon public record our interest in any material furnished hereunder, and you agree to execute a UCC-1 form or any other document reasonably requested by us for that purpose.
  7. Except insofar as your equipment may be covered by an Otis maintenance or service contract, it is agreed that we will make no examination of your equipment other than that necessary to do the work described in this contract and assume no responsibility for any part of your equipment except that upon which work has been done under this contract.
  8. Neither party shall be liable to the other for any loss, damage or delay due to any cause beyond either parties reasonable control, including but not limited to acts of government, strikes, lockouts, other labor disputes, fire, explosion, theft, weather damage, flood, earthquake, not, civil commotion, war, mischief or act of God.
  9. We warrant that all services furnished will be performed in a workmanlike manner. We also warrant that any equipment provided hereunder shall be free from defects in workmanship and material. Our sole responsibility under this warranty shall be at our option to correct any defective services and to either repair or replace any component of the equipment found to be defective in workmanship or material provided that written notice of such defects shall have been given to us by you within ninety (90) days after completion of the work or such longer period as may be indicated on the front of this form. All defective parts that are removed and replaced by us shall become our property. We do not agree under this warranty to bear the cost of repairs or replacements due to vandalism, abuse, misuse, neglect, normal wear and tear, modifications not performed by us, improper or insufficient maintenance by others, or any causes beyond our control. We shall conduct, at our own expense, the entire defense of any claim, suit or action alleging that, without further combination, the use by you of any equipment provided hereunder directly infringes any patent, but only on the conditions that (a) we receive prompt written notice of such claim, suit or action and full opportunity and authority to assume the sole defense thereof, including settlement and appeals, and all information available to you for such defense; (b) said equipment is made according to a specification or design furnished by us; and (c) the claim, suit or action is brought against you. Provided all of the foregoing conditions have been met, we shall, at our own expense, either settle said claim, suit or action or shall pay all damages excluding consequential damages and costs awarded by the court therein and, if the use or resale of such equipment is finally enjoined, we shall, at our option, (i) procure for you the right to use the equipment, (ii) replace the equipment with equivalent noninfringing equipment, (iii) modify the equipment so it becomes noninfringing but equivalent, or (iv) remove the equipment and refund the purchase price (if any) less a reasonable allowance for use, damage and obsolescence.
- THE EXPRESS WARRANTIES SET FORTH IN THIS ARTICLE 9 ARE THE EXCLUSIVE WARRANTIES GIVEN; WE MAKE NO OTHER WARRANTIES EXPRESS OR IMPLIED, AND SPECIFICALLY MAKE NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE; AND THE EXPRESS WARRANTIES SET FORTH IN THIS ARTICLE ARE IN LIEU OF ANY SUCH WARRANTIES AND ANY OTHER OBLIGATION OR LIABILITY ON OUR PART.
10. Under no circumstances shall either party be liable for special, indirect, liquidated, or consequential damages in contract, tort, including negligence, warranty or otherwise, notwithstanding any indemnity provision to the contrary. Notwithstanding any provision in any contract document to the contrary, our acceptance is conditioned on being allowed additional time for the performance of the Work due to delays beyond our reasonable control. Your remedies set forth herein are exclusive and our liability with respect to any contract, or anything done in connection therewith such as performance or breach thereof, or from the manufacture, sale, delivery, installation, repair or use of any equipment furnished under this contract, whether in contract, in tort (including negligence), in warranty or otherwise, shall not exceed the price for the equipment or services rendered.
  11. To the fullest extent permitted by law, you agree to hold us harmless, and defend us and indemnify us against any claim or suit for personal injury or property damage arising out of this contract unless such damage or injury arises from our sole negligence.
  12. It is agreed that after completion of our work, you shall be responsible for ensuring that the operation of any equipment being furnished hereunder is periodically inspected. The interval between such inspections shall not be longer than what may be required by the applicable governing safety code. Notwithstanding any other provisions hereof, if any part delivered hereunder incorporates software, the transaction is not a sale of such software; rather, you are hereby granted merely a license to use such software solely for operating the equipment for which such part was ordered. By accepting delivery of such part, you agree not to copy or let others copy such software for any purpose whatsoever, to keep such software in confidence as a trade secret, and not to transfer possession of such part to others except as a part of a transfer of ownership of the equipment in which such part is installed, provided that you inform us in writing about such ownership transfer and the transferee agrees in writing to abide by the above license terms.
  13. This Agreement constitutes the entire understanding between the parties regarding the subject matter hereof and may not be modified by any terms on your order form or any other document, and supersedes any prior written or oral communication relating to the same subject. Any amendment or modifications to this Agreement shall not be binding upon either party unless agreed to in writing by an authorized representative of each party.

A motion was made by Commissioner Thompson and seconded by Commissioner Neal to approve agreement between Winkler County and TJ's Snack and Refreshment for vending equipment in Winkler County Courthouse and Winkler County Memorial Hospital for the term of October 20, 2014 through October 20, 2016; which motion became an order of the Court upon the following vote:

Ayes: Judge Leck, Commissioners Neal and Thompson  
 Noes: Commissioners Stevens and Wolf

Full Service Agreement

Date: October 16, 2014

TJ's Snack & Refreshments  
836 Jeffee Dr. Kermit, Texas 79745

Cell: 432-438-5025

Customer: Winkler County Courthouse		
100 East Winkler St.		
City: Kermit	State: Texas	Zip: 79745

Customer: Winkler County Memorial Hospital		
821 Jeffee Dr.		
City: Kermit	State: Texas	Zip: 79745

**Dear Customer:**

Customer Agrees to permit TJ's to place coin-operated Vending Equipment in your establishments located at the addresses shown above, as a convenience to those who work or visit your facilities.

TJ's will furnish the vending equipment with all service and supplies of choice required for stocking. TJ's may change frequency of schedule stocking and snack inventory.

**Terms & Agreement:** The County of Winkler hereby grants to TJ's Snack & Refreshments Co. the right to provide food, snacks and or beverage vending services for County Staff and visitors of Winkler County Buildings located in Kermit, Texas. TJ's herby agrees to furnish a variety of foods, snacks and beverages to County Staff and visitors in accordance with this agreement.

The term of this agreement will be for a one year period with the county reserving the right to renew the agreement at the end of the term, for an additional one year period, allowing the current agreement to stay enforce. If it is determined that a contract or renegotiation agreement is necessary or if the county wishes to dissolved the relationship after the one year term period, provide a written notice within a 90 of the end of the term. Term to Begin: Date 10/20/2014 till 10/20/2016

**Commission:** TJ's will pay the County a commission of 5% on monthly snack revenue to be paid by check every 90 days / quarterly. TJ's may reduce and or change commission, frequency of schedule or vendor price based on monthly Sales and the approval of the customer.

**Refund Policy:** There will be a decal located on each machine providing a local phone number for the county and general public to use when calling in any issue with the machine. County facility will not provide refunds to the general public.

**Liability and indemnity:** Customer herby agrees to indemnify and hold TJ's harmless from and against any and all claims, actions, suits or proceedings of any kind, including all damages, liabilities, penalties, cost, expenses, and legal fees ("claims") based on, arising out of, connected with or resulting from the agreement, including without limitations and manufactured, selection, delivery, acceptance, installation, possession, use, operation, return or disposition of the EQUIPMENT and claims arising in contract or tort ( including negligence, strict liability or otherwise). CUSTOMER shall not be obligated to indemnify or hold TJ harmless from or against any Claims resulting from or against any Claims resulting from TJ's Snacks gross negligence or willful misconduct.

Full Service Agreement

Date: October 16, 2014

TJ's Snack & Refreshments  
836 Jeffee Dr. Kermit, Texas 79745

Cell: 432-438-5025

**Installation and Operation:** TJ's shall deliver and install the EQUIPMENT at the locations herein. CUSTOMER, at its expense, shall provide all necessary service connections and shall be responsible for any necessary physical alterations to the premises. Title to the EQUIPMENT shall remain in and as TJ's Snacks. CUSTOMER hereby guarantees that (a) No logo, advertisement or other indications of TJ'S SNACKS ownership of the EQUIPMENT shall be obstructed defaced or removed and no other logo or advertisement shall be attached to the EQUIPMENT, and (b) the EQUIPMENT shall not be obstructed, Move or removed without the prior written consent of TJ Snacks. Customer shall use the EQUIPMENT in the manner for which it was designed and intended.

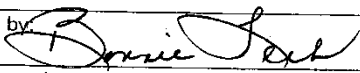
Should you desire to have this equipment moved to other locations from the place of its original installation, we will be glad to do so, therefore, you agree that you will not allow these vending machines to be move by anyone except our authorized personnel.

**Maintenance and Repair:** TJ's shall maintain and repair the equipment. It is further understood that: (1) you will not allow anyone except our authorized personnel to unlock, open or in any way have access to the interior of said vending equipment; (2) That the authorized representatives or our Company shall have free access to said vending equipment during all hours that you are open for business, in order to inspect and or service same; (3) That all equipment, accessories, and unsold snacks shall at all times remain our property. We shall, at our option, have the right, without notice, to enter upon your premises and take possession and remove therefrom, without necessity of any legal process, all vending equipment, accessories, snacks and containers.

It is understood that this agreement is to include our vending equipment, accessories and may include snacks, beverage and or frozen food units placed at this location regardless of time and date of placement.

**Entire Agreement:** This Agreement represents the entire Agreement and understanding between the County and TJ's Snack & Refreshments and supersedes all prior negotiations, representations or agreements either written or oral. This Agreement may be amended only by written instrument signed by both the County and TJ's Snacks & Refreshments

If this agreement meets with your approval, please indicate your acceptance by signing in the place provided.

Accepted by: 		Title: Winkler County Judge
Date Accepted: Bonnie Leck October 20, 2014		
Firm Name: Winkler County	<input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Individual County Government	
Street Address: 110 East Winkler	P.O. Box P.O. Drawer 0	
City: Kermit	State: Texas	Zip: 79745

A motion was made by Commissioner Wolf and seconded by Commissioner Stevens to adjourn the meeting; which motion became an order of the Court upon the following vote:

Ayes: Commissioners Stevens, Wolf, Neal and Thompson  
Noes: None

MINUTES approved the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
COUNTY CLERK