

THE STATE OF TEXAS

§

COUNTY OF WILLIAMSON

§

**SERVICES CONTRACT
FOR ELEVATOR INSPECTIONS
AND REPAIR/MAINTENANCE
SERVICES
(ThyssenKrupp)**

Important Notice: County Purchase Orders and Contracts constitute expenditures of public funds, and all vendors are hereby placed on notice that any quotes, invoices or any other forms that seek to unilaterally impose contractual or quasicontractual terms are subject to the extent authorized by Texas law, including but not limited to Tex. Const. art. XI, § 7, the Texas Government Code, the Texas Local Government Code, the Texas Transportation Code, the Texas Health & Safety Code, and Opinions of the Texas Attorney General relevant to local governmental entities.

THIS CONTRACT is made and entered into by and between **Williamson County, Texas** (hereinafter "The County"), a political subdivision of the State of Texas, acting herein by and through its governing body, and **ThyssenKrupp Elevator Corporation** (hereinafter "Service Provider"). The County agrees to engage Service Provider as an independent contractor, to assist in providing certain operational services pursuant to the following terms, conditions, and restrictions:

I.

No Agency Relationship & Indemnification: It is understood and agreed that Service Provider shall not in any sense be considered a partner or joint venturer with The County, nor shall Service Provider hold himself out as an agent or official representative of The County unless expressly authorized to do so by a majority of the Williamson County Commissioners Court. Service Provider shall be considered an independent contractor for the purpose of this agreement and shall in no manner incur any expense or liability on behalf of The County other than what may be expressly allowed under this agreement. The County will not be liable for any loss, cost, expense or damage, whether indirect, incidental, punitive, exemplary, consequential of any kind whatsoever for any acts by Service Provider or failure to act relating to the services being provided. Service Provider agrees to indemnify, hold harmless, and defend The County against any claim,

demand, loss, injury, damages, action, or liability of any kind against The County resulting from any services Service Provider perform on behalf of The County.

II.

No Waiver of Sovereign Immunity or Powers: Nothing in this agreement will be deemed to constitute a waiver of sovereign immunity or powers of The County, the Williamson County Commissioners Court, or the Williamson County Judge.

III.

No Assignment: Service Provider may not assign this contract.

IV.

Compliance with All Laws: Service Provider agrees and will comply with any and all local, state or federal requirements with respect to the services rendered.

V.

Consideration and Compensation: Service Provider will be compensated based on the attached Statement of Work/Fee Proposal, dated October 3, 2017, which is marked as Exhibit "A" and incorporated herein as if copied in full. **The not-to-exceed amount under this agreement is \$9,724.00 (inspection services) and \$57,998.68 (maintenance services),¹ unless amended by a change order and approved by the Williamson County Commissioners Court.** Additionally, Texas law mandates as follows:

Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date The County receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by The County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of The County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

¹ There is a three percent (3%) discount for an annual lump sum payment or \$56,258.72.

VI.

Entire Contract & Incorporated Documents: This Contract constitutes the entire Contract between the parties and may not be modified or amended other than by a written instrument executed by both parties. Documents expressly incorporated (as if copied in full) into this Contract include the following:

1. **Statement of Work/Fee Proposal, dated October 3, 2017, which is marked as Exhibit "A"; and**
2. **TCPN Maintenance Contract #R150801.**

VII.

Insurance: Service Provider shall provide and maintain, until the services covered in this Contract is completed and accepted by The County, the minimum insurance coverage in the minimum amounts as described below. Coverage shall be written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company or otherwise acceptable to The County and name The County as an additional insured.

Type of Coverage		Limits of Liability
a.	Worker's Compensation	Statutory
b.	Employer's Liability	
	Bodily Injury by Accident	\$500,000 Ea. Accident
	Bodily Injury by Disease	\$500,000 Ea. Employee
	Bodily Injury by Disease	\$500,000 Policy Limit
c.	Comprehensive general liability including completed operations and contractual liability insurance for bodily injury, death, or property damages in the following amounts:	

COVERAGE	PER PERSON	PER OCCURRENCE
Comprehensive General Liability (including premises,	\$1,000,000	\$1,000,000

*completed operations
and contractual)*

Aggregate policy limits: \$2,000,000

- d. Comprehensive automobile and auto liability insurance (covering owned, hired, leased and non-owned vehicles):

COVERAGE	PER PERSON	PER OCCURRENCE
Bodily injury (including death)	\$1,000,000	\$1,000,000
Property damage	\$1,000,000	\$1,000,000
Aggregate policy limits	No aggregate limit	

Service Provider, as an independent contractor, meets the qualifications of an "Independent Contractor" under Texas Worker's Compensation Act, Texas Labor Code, Section 406.141, and must provide its employees, agents and sub-subcontractors worker's compensation coverage. Contactor shall not be entitled to worker's compensation coverage or any other type of insurance coverage held by The County.

Upon execution of this Contract, Service Provider shall provide The County with insurance certificates evidencing compliance with the insurance requirements of this Contract.

VIII.

INDEMNIFICATION - EMPLOYEE PERSONAL INJURY CLAIMS: TO THE FULLEST EXTENT PERMITTED BY LAW, THE SERVICE PROVIDER SHALL INDEMNIFY, DEFEND (WITH COUNSEL OF THE COUNTY'S CHOOSING), AND HOLD HARMLESS THE COUNTY, AND THE COUNTY'S EMPLOYEES, AGENTS, REPRESENTATIVES, PARTNERS, OFFICERS, AND DIRECTORS (COLLECTIVELY, THE "INDEMNITEES") AND SHALL ASSUME ENTIRE RESPONSIBILITY AND LIABILITY (OTHER THAN AS A RESULT OF INDEMNITEES' GROSS NEGLIGENCE) FOR ANY CLAIM OR ACTION BASED ON OR ARISING OUT OF THE PERSONAL INJURY, OR DEATH, OF ANY EMPLOYEE OF THE SERVICE PROVIDER, OR OF ANY SUBCONTRACTOR, OR OF ANY OTHER ENTITY FOR WHOSE ACTS THEY MAY BE LIABLE, WHICH OCCURRED OR WAS ALLEGED TO HAVE OCCURRED ON THE WORK SITE OR IN CONNECTION WITH THE PERFORMANCE OF THE WORK. SERVICE PROVIDER HEREBY INDEMNIFIES THE INDEMNITEES EVEN TO THE EXTENT THAT SUCH PERSONAL INJURY WAS CAUSED OR ALLEGED TO HAVE BEEN CAUSED BY THE SOLE, COMPARATIVE OR CONCURRENT NEGLIGENCE OF THE STRICT LIABILITY OF ANY INDEMNIFIED PARTY. THIS INDEMNIFICATION SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION, OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS COMPENSATION ACTS, DISABILITY BENEFITS ACTS, OR OTHER EMPLOYEES BENEFIT ACTS.

INDEMNIFICATION - OTHER THAN EMPLOYEE PERSONAL INJURY CLAIMS: TO THE FULLEST EXTENT PERMITTED BY LAW, SERVICE PROVIDER SHALL INDEMNIFY, DEFEND (WITH COUNSEL OF THE COUNTY'S CHOOSING), AND HOLD HARMLESS THE COUNTY, AND THE COUNTY'S EMPLOYEES, AGENTS, REPRESENTATIVES, PARTNERS, OFFICERS, AND DIRECTORS (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR ALLEGED TO BE RESULTING FROM THE PERFORMANCE OF THIS AGREEMENT OR THE WORK DESCRIBED HEREIN, TO THE EXTENT CAUSED BY THE NEGLIGENCE, ACTS, ERRORS, OR OMISSIONS OF SERVICE PROVIDER OR ITS SUBCONTRACTORS, ANYONE EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN WHOLE OR IN PART BY A PARTY INDEMNIFIED HEREUNDER.

IX.

Services: Service Provider shall provide services *as an independent contractor* pursuant to terms and policies of the Williamson County Commissioners Court. Service Provider expressly acknowledges that he or she is not an employee of The County. The services include, but are not limited to the following items in order to complete the project:

As described in the Statement of Work/Fee Proposal, dated October 3, 2016, which is incorporated herein as if copied in full.

X.

Good Faith Clause: Service Provider agrees to act in good faith in the performance of this agreement.

XI.

Confidentiality: Service Provider expressly agrees that he or she will not use any incidental confidential information that may be obtained while working in a governmental setting for his or her own benefit, and agrees that he or she will not enter any unauthorized areas or access confidential information and he or she will not disclose any information to unauthorized third parties, and will take care to guard the security of the information at all times.

XII.

Termination: This agreement may be terminated at any time at the option of either party, without *future or prospective* liability for performance upon giving thirty (30) days written notice thereof.

XIII.

Venue and Applicable Law: Venue of this contract shall be Williamson County, Texas, and the laws of the State of Texas shall govern all terms and conditions.

XIV.

Effective Date and Term: This contract shall be in full force and effect when signed by all parties and shall continue for a reasonable time period for the specific project and shall terminate upon project completion or when terminated pursuant to paragraph XII above.

XV.

Severability: In case any one or more of the provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision in this agreement and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

XVI.

Right to Audit: Service Provider agrees that The County or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Service Provider which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Service Provider agrees that The County shall have access during normal working hours to all necessary Service Provider facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The County shall give Service Provider reasonable advance notice of intended audits.

XVII.

County Judge or Presiding Officer Authorized to Sign Contract: The presiding officer of The County's governing body who is authorized to execute this instrument by order duly recorded may execute this contract on behalf of The County.

WITNESS the signatures of all parties in duplicate originals this the ____ day of _____, 2017.

WILLIAMSON COUNTY:

Authorized Signature

SERVICE PROVIDER:


Authorized Signature

ThyssenKrupp Elevator Americas



ThyssenKrupp

Repair Order - Inspection Proposal

Date: October 3, 2017
Attention: Todd Imboden / Shirley Taylor
Williamson County Facilities
Address: 3101 SE Inner Loop
City: Georgetown, TX 78626-6317

Building: Williamson County
Address: see attached list
Contract #: US33672 (C201US)
Serial #: 24 units; see attached list

Rte#: 4 & 23

Purchaser authorizes ThyssenKrupp Elevator to perform the following described work on the subject elevators in the above referenced building:

Our records indicate the Annual Safety Test for your elevators are due by December 14, 2017. The following is our proposal to have the annual safety tests, as required by the State of Texas and the American National Standard Safety Code, witnessed by a QEI Inspector and certified with the State. This covers the cost of providing your choice of a QEI inspector from a list of TKE-approved vendors, plus coordination, notification, transportation, scheduling, handling, and processing.

The cost for providing the inspection and the additional services listed above will be \$9,724.00. Inspection fees are not taxable. This does not include the filing fee for the Certificate of Compliance.

ThyssenKrupp Elevator will exercise caution and care in the performance of this testing, but will not be responsible for any damage done to the building structure or equipment occasioned by these tests.

IMPORTANT OWNER INFORMATION:

Once you have received your Inspection Report, you as the real property owner, or agent for the real property owner, are required by law to file a copy of each Inspection Report, one (1) per elevator or escalator, and a \$20.00 filing fee per unit, with: The Commissioner of the Texas Department of Licensing and Regulation Executive Offices, P.O. Box 12157, Austin, Texas 78711. There is a 30-day period from the actual date of inspection to comply with the TDLR letter of code violations.

This Repair Order is submitted for acceptance within 30 days from the date executed by ThyssenKrupp Elevator.

Purchaser's acceptance of this Repair Order together with the terms and conditions printed on subsequent pages hereof and which are expressly made a part of this proposal and agreed to, and its approval by an executive officer of ThyssenKrupp Elevator will constitute exclusively and entirely the agreement for the work herein described. All prior representations or agreements regarding this work, whether written or verbal, will be deemed to be merged herein, and no other changes in or additions to this agreement will be recognized unless made in writing and properly executed by both parties. This Repair Order specifically contemplates work outside the scope of any maintenance contract currently in effect between the parties; any such contract shall be unaffected by this Repair Order.

No agent or employee shall have the authority to waive or modify any of the terms of this Agreement without the written approval of an authorized ThyssenKrupp Elevator manager.

AGREEMENT: unless otherwise stated, you agree to pay as follows: a minimum of 50% upon signed acceptance and the balance upon completion. If this proposal meets with your approval, please return one (1) signed copy with your payment to the **Austin address** listed below.

Accepted: Please execute completely to ensure current contact information in our data base
WILLIAMSON COUNTY FACILITIES

By: _____
(Signature of Authorized Individual)

(Printed or Typed Name)

Title: _____ Date: _____

Contact Person _____

Telephone No: _____ Ext: _____

Send report(s) to this _____

Email Address: _____

Advance Notice Required? Yes No

THYSSENKRUPP ELEVATOR CORPORATION

3615 Willow Springs Road
Austin, Texas 78704

By: Tana Harper
(ThyssenKrupp Elevator Representative)
Tana Harper, QEI Coordinator
(512) 486-1013, fax: (866) 768-9304
tana.harper@thyssenkrupp.com

Date: October 3, 2017

TKE Approval: _____

Title: Service Sales/Ops Mgr Date: _____

Building	Address	Serial #s	No of	Legacy	Oracle	10/1/2017
			Landings	Contract	Contract	3.45%
				(TKE)	(TKE)	TCPN/National IPA
						Quarterly \$
Justice Center - S	405 Martin Luther King	EA3608	3	IF0951	US33672	598.11
		EA3609	2		for all	598.11
		EA3610	2			598.11
		EA3611	3			598.11
		EA3612	2			598.11
Jail	508 S Rock St.	EA3613	2	IF0952		569.12
		EA3614	4			569.12
		EA3615	4			569.12
		EA3616	4			569.12
		EA3617	2			569.12
Precint 2, Cedar Pk	350 Discovery Blvd	EH3580	2	ID01287		630.79
Annex, Taylor	412 Vance St.	EK0318	2	ID01289		630.79
Museum	716 S Austin Ave	EP7846	2	IF01627		560.71
Jail Expansion	508 S Rock St.	EP1623	5	IF01727		654.16
		EP1624	5			654.16
		EP1625	5			654.16
		EP1626	5			654.19
		EP1628	n/a-jack hole	x		-
Garage, #5	305 W. 4th St.	EP1627	4	IF01626		630.79
Justice Center - N						
Annex	405 Martin Luther King	ER2073	4	IF01728		598.11
		ER2074	4			598.11
		ER2075	4			598.08
Justice Center - N						
Annex	405 Martin Luther King	EV4307	3	IF01881		560.00
Courthouse	104 S Main	C643401	3	N/A		638.76
355 Texas Ave Bldg	355 Texas Ave	465076	2	N/A		600.71
Quarterly						14,499.67
Annual						57,998.68

Pricing submitted is per TCPN/National IPA Contract #R150801

Less 3% discount for annual payment

Less 3% 1,739.96

Net 2017 56,258.72

CONTRACT #: US33572 (C201US)

JOB NAME AND ADDRESS	ELEV #	SERIAL #	US #	ELBI	DECAL #	CAPACITY	SPEED	PRICE
JUSTICE CENTER - SOUTH 405 MARTIN LUTHER KING GEORGETOWN 78626	1 2 3 4 5	DOVER OIL DOVER OIL DOVER OIL DOVER OIL DOVER OIL	EA3608 EA3609 EA3610 EA3611 EA3612	US90099 US90100 US90101 US90102 US90103	2654 013824 013823 013822 043117 013821	2500 2500 2100 2100 2100	125 125 100 100 100	\$398 \$398 \$398 \$398 \$398
JUSTICE CENTER - NORTH 405 MARTIN LUTHER KING GEORGETOWN 78626	6 7 8 9	TKE OIL TKE OIL TKE OIL TKE OIL	ER2073 ER2075 EV4307 ER2074	US90388 US90390 US90521 US90389	18599 057608 057754 057607	5000 3500 3500 3500	150 125 125 125	\$398 \$398 \$398 \$398
WILLIAMSON COUNTY JAIL 508 S ROCK ST GEORGETOWN 78626	1 2 3 4 5	DOVER OIL DOVER OIL DOVER OIL DOVER OIL DOVER OIL	EA3613 EA3614 EA3615 EA3616 EA3617	US80104 US90105 US90106 US90107 US90108	2525 013814 013813 013820 013819 013818	3500 4000 4000 2500 4500	125 125 125 125 125	\$398 \$398 \$398 \$398 \$398
JAIL EXPANSION 508 S ROCK ST GEORGETOWN 78626 out of srvc per inspdm 1/22/07	6 7 8 9** 10	TKE OIL TKE OIL TKE OIL TKE OIL TKE OIL	EP1623 EP1624 EP1625 N/A EP1626	US90384 US90385 US90386 US90387	2525 055628 055649 055650 055651	4500 2500 4500 2500	150 200 200 200	\$398 \$398 \$398 \$398
GARAGE 305 W 4TH ST GEORGETOWN 78626	1G	TKE OIL	EP1627	US90325	16963	3500	150	\$398
PRECINCT 2, CEDAR PARK ANNEX 350 DISCOVERY BLVD CEDAR PARK 78613	1	DOVER OIL	EH3580	US89519	12088	2100	100	\$398
TAYLOR ANNEX 412 VANCE ST TAYLOR 76574	1	DOVER OIL	EK0318	US89521	14247	2500	95	\$570
HISTORY MUSEUM 716 S AUSTIN AVE GEORGETOWN 78626	1	TKE OIL	EP7848	US90326	17244	2000	100	\$398
355 TEXAS 355 TEXAS AVE ROUND ROCK 78664	1	OTIS OIL	465076	US333766	16725	2500	100	\$398
COURTHOUSE 710 S MAIN ST GEORGETOWN 78626	1	SCHINDLER OIL	C643401	US313004	30170	2100	150	\$398
TOTAL PRICE FOR 24 ELEVATORS 24 OILDRAULIC								TOTAL \$9,724