

**VENDING SERVICES AGREEMENT BETWEEN
WILLIAMSON COUNTY, TEXAS
AND
MCLIFF PARTNERS LTD**

This Vending Services Agreement ("Agreement") is between Williamson County, Texas, a political subdivision of the State of Texas ("County") with premises located at Williamson County, Texas (the "Premises") and Mcliff Partners LTD, d/b/a Mcliff Vending & Office Coffee Service, a Texas partnership ("Contractor"), with principal offices located at 204 West Powell Lane, Building #4, Austin, Texas 78753, both of which are referred to herein as the parties.

WITNESSETH

WHEREAS, the County owns and/or operates various buildings, grounds and real property;

WHEREAS, the County requested proposals from vending firms that were trained, experienced and qualified in providing and servicing snack and beverage vending machines;

WHEREAS, on **August 17, 2011**, Contractor responded to County's request for proposals and the County determined that, after review of all proposals received, Contractor's proposal to provide vending machines, vending products and related services at County's facilities was in the best interest of the County;

THEREFORE, in consideration of the mutual benefits to be derived hereby, the County and the Contractor do hereby agree as follows:

I. TERM AND RENEWAL

A. Initial Term of Agreement

This Agreement shall commence on the date of the last party's execution hereof, and shall terminate on **September 30, 2012**, unless it is renewed as set forth herein.

B. Renewal of Agreement

At the end of the initial term of this Agreement, the parties, upon mutual agreement, shall have the option to renew this Agreement for up to two (2) additional and separate terms of twelve (12) months each upon the same terms and conditions contained herein and at the renewal prices indicated in Section III, Compensation. Exercise of the renewal option is at the County's sole discretion and shall be conditioned, at a minimum, on the Contractor's performance of this Agreement and subject to the availability of funds. The County, if it desires to

exercise its renewal option, will provide notice to the Contractor of its election to renew. The renewal term shall be considered separate and shall require exercise of the renewal option should the County choose to renew this Agreement. The County and the Vendor agree that termination shall be the Vendor's sole remedy if the County chooses not to extend this Agreement for an additional twelve (12) month term.

II. SCOPE OF SERVICE

A. Services to be Provided

The Contractor shall provide vending machines, vending products and related services for the County's properties and locations listed on Attachment 1 ("Sites"). The Contractor will be responsible for keeping its machines filled with the products identified on the Master Vending List, which is attached hereto as Attachment 2. The County reserves the right to reasonably add or delete Sites where vending machines are operated, on an as-needed basis. Each Site serviced by the Contractor shall be adequately supplied with the type and number of machines necessary to service the vending needs of the County at each particular Site. The type and number of machines at a specific Site will be dependent upon such factors as requests of the County, available space, available utility outlets, and sales.

B. Contractor's Responsibilities

1. Equipment to be Provided

The Contractor shall install, at no cost to the County, vending equipment at the Sites listed on Attachment 1. A list of all equipment installed at these Sites, including the name, type, serial number, counter or meter reading at time of installation and location of each piece of equipment, shall be provided to the County's Contract Manager within fifteen (15) days before execution of this Agreement. All equipment shall be equipped with "dollar bill" validators (Mars or an approved equivalent) as well as a coin and/or item counters. All equipment must have DEX/UCS included or DEX compatibility to be installed within thirty (30) days after execution of this Agreement. All equipment used in this Agreement shall be no older than five (5) years. If, within the first thirty (30) days following execution of this Agreement, the machines are not equipped with the DEX/UCS box, the Contractor must demonstrate a reliable system of accounting for sales. If the accounting system is not accepted by the County, the County reserves the right to immediately terminate this Agreement.

Either the County or the Contractor may initiate a written request for addition or deletion of vending equipment; provided, however, prior to the Contractor deleting any installed vending equipment (a vending machine), Contractor must first provide, in writing, sales data to the County Contract Manager which evidences that the vending equipment is underperforming in relation to other

vending equipment that is located at other Sites. With County Contract Manager authorization, the Contractor may then change the existing mix of products provided in the machine and/or prices for at least a thirty (30) day period in order to determine if sales improve to mutually agreeable and acceptable levels. The change in product mix would be performed based on feedback from the County's Contract Manager and the County's employees that use the machine in question. If sales do not improve to mutually agreeable and acceptable levels during the said thirty (30) day period, then the Contractor may ask for re-authorization, in writing, to either change the product mix for an additional thirty (30) day period, or contact the County's Contract Manager, in writing, providing supporting sales data including the most recent data, and request final removal of the vending machine from its then current location. If after the second thirty (30) day period sales have not improved to mutually agreeable and acceptable levels, the Contractor can, in writing, request final removal of the vending machine from its then current location.

Any disputes concerning equipment changes shall be resolved pursuant to Section VII., J., Disputes. The Contractor shall provide at each Site the type of vending equipment and supplies listed below:

- a. Cold drink and/or snack machines only;
- b. The types and number of machines that will be situated at each specific Site shall be determined as set forth herein; and
- c. Dollar validators will be required on each machine, and a separate currency changer may be required by the County.

The total number of machines allocated to each Site must be installed no later than thirty (30) days after the complete execution of this Agreement. If the County deems it necessary to delete or add additional machines after the initial installation, the County will notify the Contractor in writing. By execution of this Agreement, the Contractor agrees to such additions/deletions and shall have thirty (30) days to comply from date of the notification. Any additional machines shall be provided on the same terms and conditions as contained in this Agreement.

2. Products to be Provided

The approved list of products to be dispensed in the vending machines can be found on Attachment 2, Master Vending List. This list also establishes the maximum price that may be charged for each of the listed products. Contractor shall sell only those products listed on the Master Vending List or approved substitute products in vending machines placed at each Site. The County shall have the exclusive right to add or to delete any product to be dispensed in the vending machines based on volume of sales or other factors, without a formal amendment.

If the County deems it necessary to add or to delete products after the initial installation, the County will notify the Contractor in writing. By execution of this Agreement, the Contractor agrees to such additions/deletions and shall have thirty (30) days from the date of the notification to comply. Any additions shall be provided on the same terms and conditions as contained in this executed Agreement.

Any request by Contractor to provide alternate or substituted products shall be submitted in writing and must be approved in writing by the County. Substitute products must be of the same quality and must be packaged in the same manner (proportion size, volume and/or weight, as applicable) as the product sought to be substituted. The County reserves the right to reject any request for substitution if, in the County's sole discretion, the substituted product is not of the same quality or packaging (proportion, weight, volume, etc.) as the product sought to be substituted. Requests for alternate or substituted products shall be granted or denied within ten (10) days of receipt of written request.

3. Services to be Provided

The Contractor shall:

- a. Collect all money from each machine and record ending meter reading for an accurate accounting of sales and collections for each machine;
- b. Submit timely Monthly Sales Reports as required under Section II., 5., Reporting;
- c. Provide all maintenance and repairs to the machines at no cost to the County, as specified in Section II., 4., Operational Requirements;
- d. Return a minimum of once-per-week to each facility, on a regularly scheduled day as determined by the County, to replenish vending stock and vending supplies, if applicable, and to clean and sanitize all machines; provided, however, Contractor may adjust the time that it returns to certain Sites if it becomes unnecessary to replenish vending stock and vending supplies once-per-week due to lower sales volumes at such Sites;
- e. Return within 24 hours prior to a County holiday, to replenish vending stock and vending supplies, if applicable, and to clean and sanitize all machines;

County holidays are as follow:

1. New Years Day
2. Birthday of Martin Luther King, Jr.
3. Memorial Day
4. Independence Day
5. Labor Day
6. Veteran's Day Observance
7. Thanksgiving Day and the Friday after Thanksgiving
8. Christmas Eve and Christmas Day

- 9. President's Day
- 10. Good Friday

- f. Be responsible for the electrical connections for all vending machines;
- g. Respond to any request by the institution or facility for supplies, service or assistance within 24 hours of initial request; and
- h. Provide the County with an office telephone number and cell and/or pager number for at least two (2) individuals who can be reached twenty-four (24) hours per day, seven (7) days per week in regard to equipment or services to be provided.

4. Operational Requirements

- a. The Contractor shall be required to have all machines installed and fully operational at Sites, within thirty (30) days of Agreement execution.
- b. The Contractor shall repair any non-functioning machine to full operating capacity within twenty-four (24) hours of notice or replace said machine within the same time period.
- c. The Master Vending List (Attachment 2) establishes the price list for all approved products. Except for increases for renewal terms, these prices will not be increased except upon written request of the Contractor and only as a result of manufacturers' price increases or increases in the cost of raw materials. Any requests for price increases to products must be submitted in writing and be accompanied by supporting documentation (i.e., proof of Contractor's wholesale purchase price increase). Approval of the increase shall be made in writing by the County. It is anticipated that for every 2.5 cent increase in wholesale purchase price of an item, an increase of no more than 5 cents may be made for that item. Requests for price increases may only be submitted to the County for approval every six months.

5. Reporting

A Monthly Sales Report shall be submitted on a monthly basis to the County's Contract Manager no later than the tenth (10th) day of the previous month following the month reported. This report shall include the following:

- a. A list of gross sales of each vending machine by product name, product type and Site;
- b. Total gross sales for all Sites;
- c. Copy of the restocking reports by machine or by each institution;
- d. Commission payable to the County.

6. Refunds

The Contractor will be responsible for processing all refunds. The County's Contract Manager shall review and approve the process within 30 days of

Agreement execution. The Contractor shall post notices in clearly visible locations informing patrons how to request refunds. The Contractor is responsible for making refunds of monies lost due to malfunctions of vending machines within seventy-two (72) hours of report of loss.

7. Equipment Ownership

The Contractor is acknowledged to be the owner of all machines, equipment and/or merchandise which may be brought upon the County's property by the Contractor, and nothing in this agreement will give the County any interest, outside of the interest stated in this Agreement, in such machines, equipment or merchandise.

C. Contractor Staff Conduct for Facility Access

1. The Contractor or designee shall make prior arrangements with the County regarding access to the Sites for the purposes of delivering equipment, providing services or providing maintenance of equipment.

The Contractor's staff on-site shall adhere to the standards of conduct prescribed in any County personnel policy and procedure guidelines, particularly rules of conduct, employee uniform and clothing requirements (as applicable), security procedures, and any other applicable rules, regulations, policies and procedures of the County.

In addition, the Contractor shall ensure that all staff adhere to the following requirements:

- a. The Contractor's staff shall not engage in any conduct which is criminal in nature or which would bring discredit upon the Contractor or the County. In providing services pursuant to this Agreement, the Contractor shall ensure that its employees avoid both misconduct and the appearance of misconduct.
- b. Any violation or attempted violation of the restrictions referred to in this section regarding employee conduct shall be reported by phone and in writing to the County's Contract Manager or their designee, including proposed action to be taken by the Contractor. Any failure to report a violation or take appropriate disciplinary action against the offending party or parties shall subject the Contractor to appropriate action, up to and including termination of this Agreement.
- c. The Contractor shall report any incident described above, or requiring investigation by the Contractor, in writing, to the County's Contract Manager or their designee within twenty four (24) hours, of the Contractor's knowledge of the incident.

2. Staff Background/Criminal Record Checks

- a. The Contractor's staff assigned to this project may, at County's option, be subject, at the County's expense, to a background/criminal records check. This background check may be conducted by the County and may occur or re-occur at any time during the Agreement period. In order to carry out this background check, upon request, the Contractor shall provide the County with the following data for any individual Contractor or subcontractor's staff assigned to provide services under this Agreement: Full Name, Race, Sex, Date of Birth, Social Security Number, Driver's License Number and State of Issue. The County may review the submitted proposed employee information and make a determination within five (5) business days. If requested, the Contractor shall also submit to fingerprinting for submission by the County to the Federal Bureau of Investigation (FBI) for all temporarily approved new hires.
- b. No person who has been barred from any County work release center or other facility shall provide services under this Agreement.
- c. The County has full discretion to require the Contractor to reasonably disqualify, prevent, or remove any staff from any work under this Agreement. The County is under no obligation to inform the Contractor of background check findings or criteria for disqualifications or removal.
- d. The Contractor shall not employ any individual under this Agreement who is under supervision or jurisdiction of any parole, probation or correctional authority. Persons under any such supervision may work for other elements of the Contractor's agency that are independent of the service to be provided under this Agreement. The objective of this provision is to ensure that no employee of the Contractor, under any such legal constraints, has contact with or access to any records of the County.
- e. The Contractor shall immediately report to the County of any new arrest, criminal charges or convictions and any active felony or misdemeanor supervision of any current employee performing services under this Agreement.
- f. The Contractor shall screen all prospective employees through referral and employment checks. The Contractor shall require that all prospective employees provide the details of any of the following criminal background information:
 1. Conviction for a felony or Class A misdemeanor.
 2. Plea of nolo contendere or plea of guilty to a crime that is a felony or Class A misdemeanor.
 3. Had adjudication of guilt withheld to a crime that is a felony or Class A misdemeanor.
 4. Current pending charges for a for a felony or Class A misdemeanor.

- g. Note that a felony or Class A misdemeanor conviction, a plea of guilty or nolo contendere to a felony or Class A misdemeanor crime, or adjudication of guilt withheld to a felony or Class A misdemeanor crime does not automatically bar the Contractor from hiring the proposed employee. However, the County reserves the right to prior approval in such cases. Generally, two (2) years with no criminal history is preferred. The Contractor shall make full written report to the County within three (3) calendar days whenever an employee has a criminal charge filed against them, or an arrest, or receives a Notice to Appear for violation of any criminal law involving a misdemeanor, or felony, or ordinance (except minor violations for which the penalty is a fine only and no jail time can be assessed) or when Contractor or Contractor's staff has knowledge of any violation of the laws, rules, directives or procedures of the County.

3. Facility and Staff Security

- a. The Contractor employees shall display a current picture identification of the employee and be prepared to provide the County, upon request, with his/her Driver's License or State of Texas ID card.
- b. The Contractor shall ensure that staff wears attire suitable for the position, either a standard uniform or business casual dress.
- c. Contractor staff shall be subject to searches of their person or searches of equipment and/or products at any time when entering any County detention or jail facility.
- d. The Contractor's staff shall be subject to the requirements of Section II., C., of this Agreement and may be denied access to the facility by the County.

D. County's Responsibilities

The County will:

- 1. Verify the counter or meter reading of Contractor's machines at time of installation;
- 2. Provide utilities to operate machines;
- 3. At its sole option and discretion, conduct background checks on Contractor employees, at no cost to the Contractor, who are responsible for carrying out the services under this Agreement.
- 4. Grant the Contractor or designee access to the County's Sites, subject to any safety concerns or issues, between the hours of 8:00 a.m. and 5:00 p.m. for the purposes of providing service, equipment or maintenance. The Contractor may be granted access to a facility at times other than 8:00 a.m. to 5:00 p.m. to complete these services only if approved by the County in advance; and
- 5. Assume no liability for damage to equipment or loss of inventory or funds and shall not be liable for same.

E. Monitoring and Evaluation

The County's Contract Manager or designated County staff will perform monitoring during the term of this Agreement, but not less than once a year to ensure contract compliance. Monitoring shall include periodic review of compliance with contract service delivery including but not limited to, review of the specific Agreement requirements such as:

1. Reporting Submission
2. Operations performance
3. Equipment performance
4. Equipment maintenance

If issues of non-compliance are identified during County's monitoring, the County may provide a written report to the Contractor following the monitoring visit. When issues of non-compliance are identified in the monitoring report, a written Corrective Action Plan (CAP) will be required of the Contractor. The CAP is to be submitted to the County's Contract Manager within ten (10) days of receipt of the monitoring report. If necessary, a follow-up monitoring visit will be scheduled by the Contract Manager, and will occur within thirty (30) days of the original monitoring visit at which time full compliance must be met. Failure to correct deficiencies after thirty (30) days of receipt of a written monitoring report notating the deficiencies may result in County's determination of breach of contract and termination of this Agreement.

The County reserves the right for any County staff to make scheduled or unscheduled, announced or unannounced visits to the Contractor's place of business.

III. COMPENSATION

A. Payment

The Contractor will compensate the County for services specified in Section II, Scope of Service, as delineated below:

1. The Contractor will compensate the County with a commission of 23.25% of gross revenues after taxes (ex: \$1.00 – \$0.08 sales tax = \$0.92 x 23.25% = \$.21 commission) from the operation of said equipment and the sale of food and beverages. Such payments shall be made by the 10th day of each month for the previous month revenue.
2. The County shall have the right to accompany the Contractor when the revenue is collected from the equipment and conduct a hard count of

the money on-site, which consists of counting the money with a portable coin counter that shall be provided by the Contractor.

B. Official Payee

The Contractor agrees that each payment will include a detailed accounting of how the commission was arrived at in detail sufficient for a pre-audit and post-audit thereof. The Contractor shall submit monthly payments and records to the Williamson County Auditor and a copy of the records to the County's Contract Manager as identified in Section IV., A. The Williamson County Auditor's Office shall review, verify, deny and/or approve the above referenced accountings, reports and payments provided by Contractor.

Williamson County Auditor
Accounts Payable Department
710 S. Main Street
Georgetown, Texas 78626

C. Travel Expenses

The County shall not be responsible for the payment of any travel expense for the Contractor that occurs as a result of this Agreement.

D. Contractor's Expenses

The Contractor shall pay for all licenses, permits, and inspection fees or similar charges required for this Agreement, and shall comply with all laws, ordinances, regulations, and any other requirements applicable to the work to be performed under this Agreement.

E. Tax Exemption

County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes under Texas Tax Code Ann. § 151.309, as amended, and the services and materials subject hereof are being secured for use by County. Exemption certificates will be provided to contractors and suppliers upon request.

F. Renewal Prices

In the event the County chooses to extend this Agreement and the Contractor agrees to such extension, the prices of the food and beverages for each extended period shall be adjusted based on the seasonally adjusted Consumer Price Index for All Urban Consumers (CPI-U) for food and beverages in the State of Texas.

G. Change of Circumstance

The commission rate(s) and prices are based, in part, on assumptions regarding population, hours of operation, other conditions on the Premises, labor costs, product costs, fuel costs, Federal, state, and local tax structure, and any other levy or tax that impacts Contractor's services ("Factors"). If there are changes in such Factors, Contractor may modify the commission rate(s) and/or prices upon thirty (30) days prior written notice to County, which shall be noted on commission statements and/or the remittance advice. Furthermore, in lieu of price increases per Section F above, Contractor may, upon thirty (30) days prior written notice, modify the commission rate(s). It is acknowledged and understood that County may terminate this Agreement, at its will upon thirty (30) calendar days notice in accordance with the termination rights set forth under Section VI below, if County determines, in its sole discretion, that Contractor's modification of the commission rates and/or prices is unreasonable or excessive.

IV. CONTRACT MANAGEMENT

A. County's Contract Manager

The Contract Manager for this Agreement will be:

Gary Wilson
Director of Facilities
3101 SE Inner Loop
Georgetown, TX 78626
Phone: (512) 943-1636

The Contract Manager will perform the following functions:

1. Serve as the liaison between the County and the Contractor;
2. Verify receipt of deliverables from the Contractor;
3. Monitor the Contractor's progress;
4. Assist in evaluating the Contractor's performance;
5. Process all amendments, renewals and terminations of this Agreement;
and
6. Assist in evaluating Contractor performance upon completion of the overall Agreement. This evaluation will be placed on file and will be considered if the Agreement is subsequently used as a reference in future procurements;
7. Maintain the official Agreement file; and
8. Maintain the official records of all formal correspondence between the County

and the Contractor.

B. Contractor's Representative

The name, title, address and telephone number of the Contractor's representative responsible for administration and performance under this Agreement is:

Rich Denver
Operations Manager
204 W. Powell Lane, Building # 4
Austin, TX 78753
Phone: 512-441-8424
Fax: 512-334-1099
Email: rdenver@mcliff.com

D. Contract Management Changes

After execution of this Agreement, any changes in the information contained in Section IV., Contract Management, will be provided to the other party in writing and a copy of the written notification shall be maintained in the official record.

V. MODIFICATIONS

Modifications to the provisions of this Agreement, with the exception of Section IV., Contract Management, shall be valid only through execution of a formal amendment.

VI. TERMINATION

A. Termination at Will

This Agreement may be terminated by either party upon no less than thirty (30) calendar days' notice, without cause, unless a lesser time is mutually agreed upon by both parties. Notices of termination shall be delivered by certified mail (return receipt requested) to the non-terminating party.

B. Termination for Cause

If either party commits an Event of Breach (a breach of any of the covenants, terms and/or conditions of this Agreement), the non-breaching party shall deliver written notice of such Event of Breach to the breaching party. Such notice must specify the nature of the Event of Breach and inform the breaching party that unless the Event of Breach is cured within three (3) business days of receipt of the notice, additional steps may be taken to terminate this Agreement. If the

breaching party begins a good faith attempt to cure the Event of Breach within three (3) business days, then and in that instance, the three (3) business day period may be extended by the non-breaching party, so long as the breaching party continues to prosecute a cure diligently to completion and continues to make a good faith attempt to cure the Event of Breach. If, in the opinion of the non-breaching party, the breaching party does not cure the breach within three (3) business days or otherwise fails to make any diligent attempt to correct the Event of Breach, the breaching party shall be deemed to be in breach and the non-breaching party may, in addition to seeking the remedies available hereunder and under the law, terminate this Agreement.

C. Termination for Unauthorized Employment

Violation of the provisions of Section 274A of the Immigration and Nationality Act shall be grounds for unilateral cancellation of this Agreement.

VII. CONDITIONS

A. Records

1. Public Records Law

It is expressly understood and agreed that County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to County as to whether or not the same are available to the public. It is further understood that County's officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that County, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to County by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.

2. Audit Records

- a. The Contractor agrees to maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the County under this Agreement, and agrees to provide a financial and compliance audit to the County or to the Office of the Williamson County Auditor and to ensure that all related party transactions are disclosed to the auditor.

- b. The Contractor agrees to include all record-keeping requirements in all subcontracts and assignments related to this Agreement.

3. Retention of Records

The Contractor agrees to retain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertaining to this Agreement for a period of five (5) years following the termination of this Agreement. The Contractor shall maintain complete and accurate record-keeping and documentation as required by the County and the terms of this Agreement. Copies of all records and documents shall be made available for the County upon request. All records and documentation must be clear and legible for audit purposes. All documents must be retained by the Contractor at the address listed in Section IV., B., Contractor's Representative for the duration of the period referenced above. All documents must be retained by the Contractor at the Contractor's primary place of business for a period of five (5) years following termination of the Agreement, or, if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings. The Contractor shall cooperate with the County to facilitate the duplication and transfer of any said records or documents during the required retention period. The Contractor shall advise the County of the location of all records pertaining to this Agreement and shall notify the County by certified mail within ten (10) days if/when the records are moved to a new location.

B. Materials with Recycled Content

It is expressly understood and agreed that Contractor must provide recycling receptacles in and around the Sites where any recyclable products or materials are sold pursuant to this Agreement.

D. Employment of County Personnel

The Contractor shall not knowingly engage in this project, on a full-time, part-time, or other basis during the period of this Agreement, any current employee of the County.

E. Non-Discrimination

No person, on the grounds of race, creed, color, national origin, age, gender, marital status or disability, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to, discrimination in the performance of this Agreement.

F. Americans with Disabilities Act

The Contractor shall comply with the Americans with Disabilities Act. In the event of the Contractor's noncompliance with the nondiscrimination clauses, the Americans with Disabilities Act, or with any other such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further contracts with the County.

G. Indemnification

THE CONTRACTOR SHALL BE LIABLE, AND AGREES TO BE LIABLE FOR, AND SHALL INDEMNIFY, DEFEND, AND HOLD THE COUNTY, ITS EMPLOYEES, AGENTS, OFFICERS, HEIRS, AND ASSIGNEES HARMLESS FROM ANY AND ALL CLAIMS, SUITS, JUDGMENTS, OR DAMAGES INCLUDING COURT COSTS AND ATTORNEY'S FEES ARISING OUT OF NEGLIGENT ACTS OR OMISSIONS BY THE CONTRACTOR, OR ITS EMPLOYEES OR AGENTS, IN THE COURSE OF THE OPERATIONS OF THIS AGREEMENT, INCLUDING ANY CLAIMS OR ACTIONS BROUGHT UNDER TITLE 42 USC §1983, THE CIVIL RIGHTS ACT.

H. Contractor's Insurance

The Contractor agrees to provide adequate insurance coverage on a comprehensive basis and to hold such insurance at all times during the existence of this Agreement. The Contractor accepts full responsibility for identifying and determining the type(s) and extent of insurance necessary to provide reasonable financial protection for the Contractor and the County under this Agreement. Upon the execution of this Agreement, the Contractor shall furnish the County's Contract Manager written verification of such insurance coverage. The County reserves the right to require additional insurance where appropriate. Contractor's insurance shall be primary as to any other existing, valid, and collectible insurance that is maintained or carried by County.

I. County's Insurance

County does not carry or maintain general liability insurance coverage since tort claims against the County are subject to the liability and damage limitations of the Texas Tort Claims Act. Thus, County has chosen to self-insure rather than to obtain insurance coverage for such residual liability, if any. The full faith and credit of the County, therefore, stands behind any lawful tort claims against it, its officials, employees, or agents.

J. Independent Contractor Status

The Contractor shall be considered an independent contractor in the performance of its duties and responsibilities under this Agreement. The County shall neither have nor exercise any control or direction over the methods by which the Contractor shall perform its work and functions other than as provided herein. Nothing in this Agreement is intended to, nor shall be deemed to constitute, a partnership or a joint venture between the parties.

K. Disputes

The parties to this Agreement will work together in good faith to resolve any controversy, dispute or claim between them which arises out of or relates to this Agreement, whether stated in tort, contract, statute, claim for benefits, bad faith, professional liability or otherwise ("Claim"). If the parties are unable to resolve the Claim within thirty (30) days following the date in which one party sent written notice of the Claim to the other party, and if a party wishes to pursue the Claim, such Claim shall be addressed through non-binding mediation under the Commercial Mediation Rules of the American Arbitration Association ("AAA"). A single mediator engaged in the practice of law, who is knowledgeable about subject matter of this Agreement, will conduct the mediation under the then current rules of the AAA. Any mediation under this Agreement shall be conducted in Williamson County, Texas. All costs involved in the mediation shall be borne equally between the parties, except that each party shall bear its own attorneys fees. Nothing herein is intended to prevent either party from seeking any other remedy available under this Agreement or at law, including seeking redress in a court of competent jurisdiction. This provision shall survive the termination of this Agreement.

L. Copyrights, Right to Data, Patents and Royalties

The County shall have unlimited rights to use, disclose or duplicate, for any purpose whatsoever, all non-confidential/non-proprietary information and data developed, derived, documented, or furnished by the Contractor under this Agreement. All documentation produced as part of the Agreement shall become the exclusive property of the County, and may not be copied or removed by any employee of the Contractor without express written permission of the County.

M. Subcontracts

The Contractor is fully responsible for all work performed under this Agreement. The Contractor may, upon receiving written consent from the County's Contract Manager, enter into written subcontract(s) for performance of certain of its functions under this Agreement. No subcontract, which the Contractor enters into with respect to performance of any of its functions under this Agreement, shall in any way relieve the Contractor of any responsibility for the performance

of its duties. All payments to subcontractors shall be made by the Contractor. If a subcontractor is utilized by the Contractor, the Contractor shall pay the subcontractor within seven (7) working days after receipt of full or partial payments from the County. It is understood and agreed that the County shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the Contractor shall be solely liable to the subcontractor for all expenses and liabilities under this Agreement. Failure by the Contractor to pay the subcontractor within seven (7) working days result in the County's termination of this Agreement.

N. Assignment

Except to an affiliated entity, neither party shall assign its responsibilities or interests under this Agreement to another party without prior written approval of the other party.

O. Force Majeure

If the party obligated to perform is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of said party, the other party shall grant such party relief from the performance of this Agreement. The burden of proof for the need of such relief shall rest upon the party obligated to perform. To obtain release based on force majeure, the party obligated to perform shall file a written request with the other party.

P. Severability

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision was omitted, so long as the material purposes of this Agreement can still be determined and effectuated.

Q. Verbal Instructions

No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any County employee. Only those communications that are in writing from the County's staff identified in Section IV., Contract Management, of this Agreement shall be considered a duly authorized expression on behalf of the County. Only communications from the Contractor's representative identified in Section IV., B., which are in writing and signed, will be recognized by the County as duly authorized expressions on behalf of the Contractor.

R. Conflict of Interest

The Contractor shall not compensate in any manner, directly or indirectly, any officer, agent or employee of the County for any act or service that he/she may do, or perform for, or on behalf of, any officer, agent, or employee of the Contractor. No officer, agent, or employee of the County shall have any interest, directly or indirectly, in any contract or purchase made, or authorized to be made, by anyone for, or on behalf of, the County.

The Contractor shall have no interest and shall not acquire any interest that shall conflict in any manner or degree with the performance of the services required under this Agreement.

S. Governing Law and Venue

Each party to this Agreement hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in either Texas or in the Austin Division of the Western Federal District of Texas, and the parties hereto expressly consent and submit to such jurisdiction. Furthermore, except to the extent that this Agreement is governed by the laws of the United States, this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding, however, its choice of law rules.

T. No Third Party Beneficiaries

Except as otherwise expressly provided herein, neither this Agreement, nor any amendment, addendum or exhibit attached hereto, nor term, provision or clause contained therein, shall be construed as being for the benefit of, or providing a benefit to, any party not a signatory hereto.

U. Waiver

The failure or delay of any party to enforce at any time or any period of time any of the provisions of this Agreement shall not constitute a present or future waiver of such provisions nor the right of either party to enforce each and every provision. Furthermore, no term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of or excuse for any other, different or subsequent breach.

V. No Waiver of Immunities

Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to County, its past or present officers, employees, or agents, nor to create any legal rights or claim on behalf of any third party. County does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

W. No Indemnification by County

Contractor acknowledges and agrees that under the Constitution and the laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless any other party, including but not limited to Contractor; therefore, all references of any kind to County indemnifying, holding or saving harmless any other party, including but not limited to Contractor, for any reason whatsoever are hereby deemed void and deleted.

X. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of parties hereto and their respective successors, executors, administrators, and assigns.

Y. Incorporation of Exhibits and Attachments

All of the Attachments referred to in this Agreement are incorporated by reference as if set forth verbatim herein.

Z. Construction

Each party to this Agreement acknowledges that it and its counsel have reviewed this Agreement and that the normal rules of construction are not applicable and there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Agreement.

AA. Execution in Counterparts

This Agreement may be executed in counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which together shall constitute one and the same document.

BB. Conflicting Terms

In interpreting this Agreement, the County's Request for Proposal for Snack and Beverage Machine Services (Proposal No. 11WCP706), and the Contractor's Proposal in response to said Request for Proposal, and resolving any conflicts

and/or ambiguities between the terms and conditions of said documents, the terms and conditions of this Agreement shall take precedence over the terms and conditions of the County's Request for Proposal for Snack and Beverage Machine Services (Proposal No. 11WCP706) and the Contractor's Proposal in response to said Request for Proposal; as well as any inconsistencies between this Agreement and said documents.

CC. Entire Agreement

This Agreement represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either oral or written. This Agreement may be amended only by written instrument signed by each party to this Agreement.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized to be effective as the last party's execution hereof.

CONTRACTOR:

Mcliff Vending & Office Coffee Service

SIGNED BY: David Clayton

PRINTED NAME: David Clayton

TITLE: Sales Manager

DATE: October 03, 2011

FEID #: 20-0174626

WILLIAMSON COUNTY, TEXAS

SIGNED BY: Dan A. Gattis
Dan A. Gattis,
Williamson County Judge

DATE: 10 13, 20 11

ATTACHMENT 1 SITES

Central Maintenance Facility, 3151 SE Inner Loop, Georgetown. Hall Entrance and Training Room, 1 snack and 3 soda machines

Inner Loop Annex, 301 SE Inner Loop, Georgetown. Break Room, 1 snack and 1 soda machine

Adult Probation, 301 SE Inner Loop, Georgetown. Door Entrance, 1 soda machine

Juvenile Justice Center, 1821 SE Inner Loop, Georgetown. Lobby and Academy, 2 snack and 2 soda machines

Criminal Justice Center, 405 Martin Luther King St, Georgetown. 1st Floor Break Room 134 and in basement near Jury Impaneling Room, 2 snack and 3 soda machines

Round Rock Annex, 211 Commerce Blvd, Round Rock. Break Room, 1 snack and 1 soda/juice machine

Cedar Park Annex, 350 Discovery Blvd, Cedar Park. 2nd Floor Hallway by Justice of the Peace office, 1 snack and 1 soda machine

Taylor Annex, 412 Vance Street, Taylor. Sheriff's Office on 2nd Floor, 1 soda machine

Show Barn, 425 E. Morrow Street, Georgetown. Front Entrance, 1 soda machine

Sheriff's Office, 508 S. Rock Street, Georgetown. Down hallway off of Lobby, 1 soda machine, 1 energy drink machine, 1 snack machine, 1 refrigerated snack/meal machine

County Jail, 306 W. 4th Street, Georgetown. Front Reception Area, 2 soda machines

Regional Animal Shelter, 1855 SE Inner Loop, Georgetown. Front Reception Area, 1 snack and 1 soda machine.

County Tax Office, 904 S. Main Street, Georgetown. Front Reception Area, 1 soda Machine

Jester Annex, 1801 East Old Settlers Blvd, Round Rock. 1 snack and 1 soda machine

Lott Training Center, 107 Holly Street, Georgetown. 1 snack and 1 soda machine

ATTACHMENT 2
Master Vending List

Vending Product List for Williamson County

MCLIFF VENDING & OFFICE COFFEE SERVICE WILL PAY WILLIAMSON
COUNTY A COMMISSION RATE OF **23.25%** OF NET SALES EACH MONTH
ON THE VEND PRICE TABLE LISTED BELOW.

PRODUCT LIST – CANDY

Item	Size	PRICE
Mounds	1.75 oz.	\$.80
Almond Joy	1.61 oz.	\$.80
Hershey Plain	1.55 oz.	\$.80
Hershey Almond	1.45 oz.	\$.80
Mr. Goodbar	1.75 oz.	\$.80
Whatchamacallit	1.60 oz.	\$.80
Kit Kat	1.50 oz.	\$.80
Kit Kat Big Kat	1.94 oz.	\$.80
Nutrageous	1.80 oz.	\$.80
Milky Way	2.05 oz.	\$.80
Reese's Peanut Butter Cups	1.50 oz.	\$.80
Reese's Pieces	1.53 oz.	\$.80
Reese's Stix's	1.50 oz.	\$.80
Reese's White Choc.	1.50 oz.	\$.80
Junior Mints	1.60 oz.	\$.80
Whoppers	1.75 oz.	\$.80
Reese's Fast Break	2.00 oz.	\$.80
100 Grand's	1.50 oz.	\$.80
Nestle's Crunch	1.55 oz.	\$.80
Nestle's Caramel Crunch	1.52 oz.	\$.80
Nestle's Crunch Crisp	1.52 oz.	\$.80
Butterfingers	2.10 oz.	\$.80
Baby Ruth	2.10 oz.	\$.80
Twix	2.00 oz.	\$.80
M & M's Almond	1.31 oz.	\$.80
M & M's Plain	1.69 oz.	\$.80
M & M's Peanut	1.74 oz.	\$.80
M & M's Crispy	1.50 oz.	\$.80
Snickers	2.07 oz.	\$.80
Snickers Almond	1.76 oz.	\$.80
3 Musketeers	2.13 oz.	\$.80
Payday	1.85 oz.	\$.80

Strawberry Twizzler	2.50 oz.	\$.80
Starburst	2.07 oz.	\$.80
Skittles	2.17 oz.	\$.80
Shocktarts	1.80 oz.	\$.80
Sprees	1.77 oz.	\$.80

PRODUCT LIST – CANDY

(continued)

<u>Item</u>	<u>Size</u>	<u>PRICE</u>
Sweettarts	1.80 oz.	\$.80
Sugar Babies	1.70 oz.	\$.80
Peppermint Mints	.72 oz.	\$0.75
Five Flavor Mints	.95 oz.	\$0.75
Wintergreen Mints	.72 oz.	\$0.75
Spear-O-Mint Mints	.72 oz.	\$0.75
Spearmint Gum	6-Stix	\$0.75
Doublemint	6-Stix	\$0.75
Big Red	6-Stix	\$0.75
Juicy Fruit	6-Stix	\$0.75
Wintergreen	6-Stix	\$0.75

PRODUCT LIST - PASTRIES

<u>Item</u>	<u>Size</u>	<u>PRICE</u>
Honey Buns	3.50 oz.	\$1.50
Chocolate Cupcakes	3.50 oz.	\$1.50
Butter Cups	3.50 oz.	\$1.50
Chocolate Donuts	3.00 oz.	\$1.50
White Donuts	3.00 oz.	\$1.50
Cinnamon Donuts	3.00 oz.	\$1.50
Cinnamon Rolls	4.00 oz.	\$1.50
Apples Cinnamon Rolls	4.25 oz.	\$1.50
Cherry Cinnamon Rolls	4.25 oz.	\$1.50
Ind. Butter Rings	2.00 oz.	\$1.50
Ind. Pecan Rings	2.00 oz.	\$1.50
Apples Pies	4.20 oz.	\$1.50
Cherry Pies	4.20 oz.	\$1.50

PRODUCT LIST – BAG COOKIES

Item	Size	PRICE
Fam Amos Choc Cookies	2.00 oz.	\$.85
Knott's Raspberry	2.00 oz.	\$.85
Knott's Blueberry	2.00 oz.	\$.85
Grandma's Choc Chip	2.75 oz.	\$.85
Grandma's Nutty Fudge	2.75 oz.	\$.85
Grandma's Peanut Butter	2.75 oz.	\$.85
Grandma's Oat & Raisin	2.75 oz.	\$.85
Grandma's Vanilla Bits	2.25 oz.	\$.85
Grandma's Rich-N-Chewy	2.00 oz.	\$.85
Ruger's Vanilla Wafers	2.12 oz.	\$.85
Ruger's Chocolate Wafers	2.12 oz.	\$.85
Austin Zoo Animal Crackers	2.12 oz.	\$.85
Pop Tarts Strawberry	3.60 oz.	\$.85
Pop Tarts Blueberry	3.60 oz.	\$.85
Rice Krispie Treats	1.70 oz.	\$.85
Popcorn (Microwave)	3.50 oz.	\$.85

PRODUCT LIST - SNACKS

Item	Size	PRICE
5-Hour Energy Shots	2.0 oz.	\$4.00
Rip-it Energy Shorts	2.0 oz.	\$4.00
Worx Energy Shots	2.0 oz.	\$4.00
CornNuts Org.	1.40 oz.	\$.85
Chs & Peanut Butter Cr	1.46 oz.	\$.80
CornNuts BBQ	1.40 oz.	\$.85
Toasty	1.46 oz.	\$.80
CornNuts Nacho	1.40 oz.	\$.80
Nab. Oreo Cookies	1.80 oz.	\$.80
CornNuts Ranch	1.40 oz.	\$.85
Lemon Oh's	1.80 oz.	\$.80
CornNuts Chili	1.40 oz.	\$.85
Nab. Swiss Cookies	1.75 oz.	\$.80
Ff Fig Newtons	2.00 oz.	\$.85
Fig Newtons	2.00 oz.	\$.80
Beef & Ch Stix	1.50 oz.	\$.80

Granola Peanut Butter	1.13 oz.	\$.85
Stick Salami	1.60 oz.	\$.85
Welchs Fruit Snacks	1.50 oz.	\$.85
Sn'wells Cream Sandwich	1.50 oz.	\$.85
Sn'wells Choc Sandwich	1.70 oz.	\$.85
Kellogg's Nutri Gr Ap Bar	1.70 oz.	\$.85
Kellogg's Nutri G StrBar	1.30 oz.	\$.85
Kellogg's Nutri GrStr NYog	1.30 oz.	\$.85
Granola Oats & Honey	1.60 oz.	\$.85
Golden Sugar Free Wafers	1.30 oz.	\$.85
Red Fat Sugar Free Wafers	1.75 oz.	\$.85
Cheese On Cheese Crackers	1.00 oz.	\$.80
Planters Peanuts	2.00 oz.	\$.85
Planters Peanuts Hot	2.00 oz.	\$.80
Kar Nut Sweet N Salty Mix	2.00 oz.	\$.85
Microwave Popcorn Butter	3.50 oz.	\$.85
Microwave Popcorn Lite	3.00 oz.	\$.85

PRODUCT LIST – LSS CHIPS

Item	Size	PRICE
Fritos LSS	2.00 oz	\$.85
Cheetos Crunch LSS	2.00 oz	\$.85
Fritos Chili Cheese LSS	2.00 oz	\$.85
Doritos Nacho LSS	1.75 oz	\$.85
Doritos Cool Ranch LSS	1.75 oz	\$.85
Lays Regular LSS	1.50 oz	\$.85
Rold Gold Pretzels LSS	2.00 oz	\$.85
Ruffles Reg. LSS	1.50 oz	\$.85
Ruffles Ched Sour Cr LSS	1.50 oz	\$.85
Sunchips Original LSS	1.50 oz	\$.85
Sunchips Harvest Ched	1.50 oz	\$.85

LSS		
Baked Lays LSS	1.125 oz	\$.85
Baked BBQ LSS	1.125 oz	\$.85
Funyuns LSS	1.25 oz	\$.85
Fritos BBQ LSS	2.00 oz	\$.85
Lays Sour Cr & Onion LSS	1.50 oz	\$.85
Lays BBQ LSS	1.50 oz	\$.85
Ruffles KCM BBQ LSS	1.50 oz	\$.85
Sunchips Garden Salsa LSS	1.50 oz	\$.85
Cheetos Flamin Hot LSS	2.00 oz	\$.85
Poore Bro.'s Jalapeno LSS	1.75 oz	\$.85
Poore Bro'S Tater SkinsLSS	1.75 oz	\$.85
Andy Capp's Hot Fries LSS	1.25 oz	\$.85
Cheez-it Snack Cracker LSS	2.00 oz	\$.85
Snyder's Mini Pretzels LSS	2.25 oz	\$.85

PRODUCT LIST –COLD BEVERAGES

<u>Item</u>	<u>Size</u>	<u>PRICE</u>
Can Drinks	12 oz Cans	\$.75
Bottle Drinks	20 oz. Bottles	\$1.25
Bottle Water	20 oz. Bottles	\$1.25
Powerade	20 oz. Bottles	\$1.25
Energy Drinks	16 oz. Cans	\$2.50
Juices	15.2 oz. Bottles	\$1.50

PRODUCT LIST – HEALTHY SNACKS

PRODUCTS	CASE/PACK	PRICE PER CASE/PACK
Baked Lays Chips	1.125 oz.	\$0.85
Baked Doritos .	1.375 oz.	\$0.85
Baked Cheetos	1.50 oz.	\$0.85
Quaker Baked Cheddar Snack Mix LSS	1.75 oz.	\$0.85
Sun Chips Original	1.50 oz.	\$0.85
Sun Chips Harvest Cheddar	1.50 oz.	\$0.85
Sun Chips French Onion	1.50 oz.	\$0.85
Rold Gold Pretzels	2.00 oz.	\$0.85
Snyders Thin Pretzels Fat Free	1.50 oz.	\$0.85
Pepperidge Farm Goldfish	1.50 oz.	\$0.85
Chex Mix	1.75 oz.	\$0.85
Baked Bugles	1.50 oz.	\$0.85
Gardettos Reduced Fat	1.65 oz.	\$0.85
Nabisco Wheat Thins	1.55 oz.	\$0.85
Act II Popcorn Lite	2.90 oz	\$0.85
Kelloggs Rice Krispy Treats	1.70 oz.	\$0.85
Zoo Animal Cookies	2.00 oz.	\$0.85
Famous Amos Oat Meal Raisin	2.00 oz.	\$0.85
Fat Free Fig Newtons	2.10 oz.	\$0.85
Snackwell Vanilla Cream Cookies	1.70 oz.	\$0.85
Nature Valley Granola Bars	1.50 oz	\$0.85
Nutri-Grain Bars Asst. Flavors	1.30 oz.	\$0.85
Kar's Energy Trail Mix	2.00 oz	\$0.85
Kar's Sweet & Salty Mix	1.50 oz.	\$0.85
Sugar Free Reduced Fat Vanilla Wafers	2.12 oz.	\$0.85
Planters Peanut	2.00 oz.	\$0.85
Welch's Fruit Snacks	1.50 oz.	\$0.85
Kellogg Special K Bar	0.81 oz.	\$0.85
Cheez It Reduced Fat	1.50 oz.	\$0.85
100 Cal Chips Ahoy	0.81 oz.	\$0.85
100 Cal Oreo Thin Crisps	0.81 oz.	\$0.85
Mr Nature Unsalted Trail Mix	2.00 oz.	\$0.85
Mr Nature Unsalted Mix n Yogurt	2.00 oz.	\$0.85
Quaker Oatmeal to Go	1.40 oz.	\$0.85
Quaker Mini Caramel Rice Cakes	0.91 oz.	\$0.85