



COOPERATIVE PURCHASE AGREEMENT

This **COOPERATIVE PURCHASE AGREEMENT** (“Agreement”) is made and entered into by and between the **CITY OF FORT WORTH** (“City”), a Texas home rule municipal corporation, acting by and through its duly authorized Deputy City Manager, and **OTIS ELEVATOR COMPANY**, a Connecticut corporation (“Vendor”), acting by and through its duly authorized representative, each individually referred to as a “**party**” and collectively referred to as the “**parties**.”

AGREEMENT DOCUMENTS:

The Agreement documents include the following:

1. This Cooperative Purchase Agreement;
2. Exhibit A – Scope of Services
3. Exhibit B – Verification of Signature Authority Form.

Exhibits A and B, which are attached hereto and incorporated herein, are made a part of this Agreement for all purposes. In the event of any conflict between the terms and conditions of Exhibits A or B and the terms and conditions set forth in the body of this Agreement, the terms and conditions of this Agreement control.

1. Scope of Services. Vendor will provide maintenance and repair services of escalators and elevators at the Will Rogers Memorial Center and the Fort Worth Convention Center on a non-exclusive basis in accordance with this Agreement and **Exhibit “A”** - Scope of Services, which more specifically describes the goods and services to be provided hereunder (“Services”). Vendor will provide all labor, equipment, and material necessary to perform and complete the Services.

2. Term.

2.1 Initial Term. This Agreement will be binding on the date of execution by the Parties and effective beginning on August 1, 2020 (“Effective Date”) and expires on September 30, 2021 (“Expiration Date”), unless terminated earlier in accordance with this Agreement (“Initial Term”).

2.2 Renewal Terms. City will have the option, in its sole discretion, to renew this Agreement under the same terms and conditions, for up to four (4) consecutive one-year renewal options (each a “Renewal Term”).

3. Compensation.

3.1 Compensation. Total compensation under this Agreement will not exceed **One Million, One Hundred Sixty-Six Thousand Six Hundred Fifty-Two Dollars and No Cents (\$1,166,652.00)** (“Fee”) for all Services performed under this Agreement.

(a) Routine Maintenance Fee. As part of the Fee, the City will pay Vendor an amount up to **Six Hundred Eighty-Five Thousand One Hundred Dollars and Zero Cents (\$685,100.00)** as a maintenance fee (“**Maintenance Fee**”) for those Services that are part of the Vendor’s Maintenance Management System Program set out in Exhibit A. The Maintenance Fee will be paid as follows:

- i. Initial Term (August 1, 2020 – September 30, 2021). During the Initial Term, City will pay Vendor a total of **One Hundred Fifty-Four Thousand, Seven Hundred Dollars and Zero Cents (\$154,700.00)** in equal monthly installments of **Eleven Thousand Fifty Dollars and Zero Cents (\$11,050.00)**.
- ii. First Renewal Term (October 1, 2021 – September 30, 2022). During the First Renewal Term, City will pay Vendor a total of **One Hundred Thirty-Two Thousand, Six Hundred Dollars and Zero Cents (\$132,600.00)** in equal monthly installments of **Eleven Thousand Fifty Dollars and Zero Cents (\$11,050.00)**.
- iii. Second Renewal Term (October 1, 2022 – September 30, 2023). During the Second Renewal Term, City will pay Vendor a total of **One Hundred Thirty-Two Thousand, Six Hundred Dollars and Zero Cents (\$132,600.00)** in equal monthly installments of **Eleven Thousand Fifty Dollars and Zero Cents (\$11,050.00)**.
- iv. Third Renewal Term (October 1, 2023 – September 30, 2024). During the Third Renewal Term, City will pay Vendor a total of **One Hundred Thirty-Two Thousand, Six Hundred Dollars and Zero Cents (\$132,600.00)** in equal monthly installments of **Eleven Thousand Fifty Dollars and Zero Cents (\$11,050.00)**.
- v. Fourth Renewal Term (October 1, 2024 – September 30, 2025). During the Fourth Renewal Term, City will pay Vendor a total of **One Hundred Thirty-Two Thousand, Six Hundred Dollars and Zero Cents (\$132,600.00)** in equal monthly installments of **Eleven Thousand Fifty Dollars and Zero Cents (\$11,050.00)**.

(b) Repair, Replacement, and New Installation Fee. As part of the Fee, the City will pay Vendor an amount up to **Four Hundred Eighty-One Thousand Five Hundred Fifty-Two Dollars and Zero Cents (\$481,552.00)** during the entire term of this Agreement for the performance of Services that are not included as part of Vendor’s Maintenance Management System Program (“**RRI Fee**”). City will pay Vendor the RRI Fee on an hourly basis for Services rendered in accordance with the price schedule set forth in Exhibit A.

3.2. Miscellaneous

(a) Vendor will not perform any additional services or bill for expenses incurred for City not specified by this Agreement unless City requests and approves in writing the additional costs for such services. City will not be liable for any additional expenses of Vendor not specified by this Agreement unless City first approves such expenses in writing.

(b) Vendor must submit a signed invoice to the City on a monthly basis to receive payment. The signed invoice must detail (i) the Service(s) that have been rendered, inclusive of the monthly maintenance Services and any hourly billings for repairs, replacements, or new installations, and (ii) the charge for each Service. If the City requires additional reasonable information, it will request the same promptly after receiving the above information, and the Vendor must provide such additional reasonable information to the extent the same is available. Invoices must be submitted to the City of Fort Worth, attention Director, Public Events Department, 1201 Houston Street, Fort Worth, Texas 76102.

(c) The City will make payment within thirty (30) calendar days after receipt of an invoice from the Vendor unless there is a dispute as to the information provided in the invoice for the Goods and Services.

4. Termination.

4.1. Written Notice. City or Vendor may terminate this Agreement at any time and for any reason by providing the other party with 30 days' written notice of termination.

4.2. Non-appropriation of Funds. In the event no funds or insufficient funds are appropriated by City in any fiscal period for any payments due hereunder, City will notify Vendor of such occurrence and this Agreement will terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to City of any kind whatsoever, except as to the portions of the payments herein agreed upon for which funds have been appropriated.

5. Disclosure of Conflicts and Confidential Information.

5.1. Disclosure of Conflicts. Vendor hereby warrants to City that Vendor has made full disclosure in writing of any existing or potential conflicts of interest related to Vendor's Goods and Services under this Agreement. In the event that any conflicts of interest arise after the Effective Date of this Agreement, Vendor hereby agrees immediately to make full disclosure to City in writing.

5.2. Confidential Information. Vendor, for itself and its officers, agents and employees, agrees that it will treat all information provided to it by City ("City Information") as confidential and will not disclose any such information to a third party without the prior written approval of City.

5.3. Public Information Act. City is a government entity under the laws of the State of Texas and all documents held or maintained by City are subject to disclosure under the Texas Public Information Act. In the event there is a request for information marked Confidential or Proprietary, City will promptly notify Seller. It will be the responsibility of Seller to submit reasons objecting to disclosure. A determination on whether such reasons are sufficient will not be decided by City, but by the Office of the Attorney General of the State of Texas or by a court of competent jurisdiction.

5.3. Unauthorized Access. Vendor will store and maintain City Information in a secure manner and will not allow unauthorized users to access, modify, delete or otherwise corrupt City Information in any way. Vendor will notify City immediately if the security or integrity of any City Information has been compromised or is believed to have been compromised, in which event,

Vendor will, in good faith, use all commercially reasonable efforts to cooperate with City in identifying what information has been accessed by unauthorized means and will fully cooperate with City to protect such City Information from further unauthorized disclosure.

6. **Right to Audit.** Vendor agrees that City will, until the expiration of three (3) years after final payment under this contract, or the final conclusion of any audit commenced during the said three years, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records, including, but not limited to, all electronic records, of Vendor involving transactions relating to this Agreement at no additional cost to City. Vendor agrees that City will have access during normal working hours to all necessary Vendor facilities and will be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. City will give Vendor reasonable advance notice of intended audits.

7. **Independent Contractor.** It is expressly understood and agreed that Vendor will operate as an independent contractor as to all rights and privileges and work performed under this Agreement, and not as agent, representative or employee of City. Subject to and in accordance with the conditions and provisions of this Agreement, Vendor will have the exclusive right to control the details of its operations and activities and be solely responsible for the acts and omissions of its officers, agents, servants, employees, Vendors and subVendors. Vendor acknowledges that the doctrine of *respondeat superior* will not apply as between City, its officers, agents, servants and employees, and Vendor, its officers, agents, employees, servants, Vendors and subVendors. Vendor further agrees that nothing herein will be construed as the creation of a partnership or joint enterprise between City and Vendor. It is further understood that City will in no way be considered a Co-employer or a Joint employer of Vendor or any officers, agents, servants, employees or subVendor of Vendor. Neither Vendor, nor any officers, agents, servants, employees or subVendor of Vendor will be entitled to any employment benefits from City. Vendor will be responsible and liable for any and all payment and reporting of taxes on behalf of itself, and any of its officers, agents, servants, employees or subVendor.

8. **Liability and Indemnification.**

8.1 **LIABILITY - VENDOR WILL BE LIABLE AND RESPONSIBLE FOR ANY AND ALL PROPERTY LOSS, PROPERTY DAMAGE AND/OR PERSONAL INJURY, INCLUDING DEATH, TO ANY AND ALL PERSONS, OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, TO THE EXTENT CAUSED BY THE NEGLIGENT ACT(S) OR OMISSION(S), MALFEASANCE OR INTENTIONAL MISCONDUCT OF VENDOR, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES.**

8.2 **INDEMNIFICATION - VENDOR HEREBY COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS OR LAWSUITS OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, FOR EITHER PROPERTY DAMAGE OR LOSS (INCLUDING ALLEGED DAMAGE OR LOSS TO VENDOR'S BUSINESS AND ANY RESULTING LOST PROFITS) AND PERSONAL INJURY, INCLUDING, BUT NOT LIMITED TO, DEATH, TO ANY AND ALL PERSONS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OR MALFEASANCE OF VENDOR, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEES.**

9. **Assignment and Subcontracting.**

9.1 Assignment. Vendor will not assign or subcontract any of its duties, obligations or rights under this Agreement without the prior written consent of City. If City grants consent to an assignment, the assignee will execute a written agreement with City and Vendor under which the assignee agrees to be bound by the duties and obligations of Vendor under this Agreement. Vendor and Assignee will be jointly liable for all obligations of Vendor under this Agreement prior to the effective date of the assignment.

9.2 Subcontract. If City grants consent to a subcontract, sub Vendor will execute a written agreement with Vendor referencing this Agreement under which sub Vendor will agree to be bound by the duties and obligations of Vendor under this Agreement as such duties and obligations may apply. Vendor will provide City with a fully executed copy of any such subcontract.

10. Insurance. Vendor will provide City with certificate(s) of insurance documenting policies of the following types and minimum coverage limits that are to be in effect prior to commencement of any work pursuant to this Agreement:

10.1 Coverage and Limits

(a) Commercial General Liability:

\$1,000,000 - Each Occurrence
\$2,000,000 - Aggregate

(b) Automobile Liability:

\$1,000,000 - Each occurrence on a combined single limit basis

Coverage will be on any vehicle used by Vendor, its employees, agents, representatives in the course of providing Goods and Services under this Agreement. "Any vehicle" will be any vehicle owned, hired and non-owned.

(c) Worker's Compensation:

Statutory limits according to the Texas Workers' Compensation Act or any other state workers' compensation laws where the work is being performed

Employers' liability

\$100,000 - Bodily Injury by accident; each accident/occurrence
\$100,000 - Bodily Injury by disease; each employee
\$500,000 - Bodily Injury by disease; policy limit

10.2 General Requirements

(a) The commercial general liability and automobile liability policies must name City as an additional insured thereon, as its interests may appear. The term City must include its employees, officers, officials, agents, and volunteers in respect to the contracted Goods and Services.

(b) The workers' compensation policy must include a Waiver of Subrogation (Right of Recovery) in favor of City.

(c) A minimum of Thirty (30) days' notice of cancellation or reduction in limits of coverage must be provided to City. Ten (10) days' notice must be acceptable in the event of non-payment of premium. Notice must be sent to the Risk Manager, City of Fort Worth, 200 Texas Street, Fort Worth, Texas 76102, with copies to the Fort Worth City Attorney at the same address.

(d) The insurers for all policies must be licensed and/or approved to do business in the State of Texas. All insurers must have a minimum rating of A- VII in the current A.M. Best Key Rating Guide, or have reasonably equivalent financial strength and solvency to the satisfaction of Risk Management. If the rating is below that required, written approval of Risk Management is required.

(e) Any failure on the part of City to request required insurance documentation will not constitute a waiver of the insurance requirement.

(f) Certificates of Insurance evidencing that Vendor has obtained all required insurance will be delivered to the City prior to Vendor proceeding with any work pursuant to this Agreement.

11. **Compliance with Laws, Ordinances, Rules and Regulations.** Vendor agrees that in the performance of its obligations hereunder, it will comply with all applicable federal, state and local laws, ordinances, rules and regulations and that any work it produces in connection with this Agreement will also comply with all applicable federal, state and local laws, ordinances, rules and regulations. If City notifies Vendor of any violation of such laws, ordinances, rules or regulations, Vendor will immediately desist from and correct the violation.

12. **Non-Discrimination Covenant.** Vendor, for itself, its personal representatives, assigns, subVendors and successors in interest, as part of the consideration herein, agrees that in the performance of Vendor's duties and obligations hereunder, it will not discriminate in the treatment or employment of any individual or group of individuals on any basis prohibited by law. **IF ANY CLAIM ARISES FROM AN ALLEGED VIOLATION OF THIS NON-DISCRIMINATION COVENANT BY VENDOR, ITS PERSONAL REPRESENTATIVES, ASSIGNS, SUBVENDORSS OR SUCCESSORS IN INTEREST, VENDOR AGREES TO ASSUME SUCH LIABILITY AND TO INDEMNIFY AND DEFEND CITY AND HOLD CITY HARMLESS FROM SUCH CLAIM.**

13. **Notices.** Notices required pursuant to the provisions of this Agreement will be conclusively determined to have been delivered when (1) hand-delivered to the other party, its agents, employees, servants or representatives, (2) delivered by facsimile with electronic confirmation of the transmission, or (3) received by the other party by United States Mail, registered, return receipt requested, addressed as follows:

To CITY: City of Fort Worth Attn: Assistant City Manager 200 Texas Street Fort Worth, TX 76102-6314	To VENDOR: Otis Elevator Company Attn: Kameron Gilpin 2516 Gravel Road, Bldg. 18 Fort Worth, TX 76118
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With copy to Fort Worth City Attorney's Office at same address	
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14. **Solicitation of Employees.** Neither City nor Vendor will, during the term of this Agreement and additionally for a period of one year after its termination, solicit for employment or employ, whether as employee or independent contractor, any person who is or has been employed by the other during the term of this Agreement, without the prior written consent of the person's employer. Notwithstanding the foregoing, this provision will not apply to an employee of either party who responds to a general solicitation of advertisement of employment by either party.

15. **Governmental Powers.** It is understood and agreed that by execution of this Agreement, City does not waive or surrender any of its governmental powers or immunities.

16. **No Waiver.** The failure of City or Vendor to insist upon the performance of any term or provision of this Agreement or to exercise any right granted herein will not constitute a waiver of City's or Vendor's respective right to insist upon appropriate performance or to assert any such right on any future occasion.

17. **Governing Law / Venue.** This Agreement will be construed in accordance with the laws of the State of Texas. If any action, whether real or asserted, at law or in equity, is brought pursuant to this Agreement, venue for such action will lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas, Fort Worth Division.

18. **Severability.** If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired.

19. **Liens.** Vendor does not have the authority to engage in any act or to make any contract that may create or be the foundation for any lien upon any real property and improvements owned or to be owned by the City. If any such purported lien is created or filed, Vendor, at no cost to the City, must liquidate and discharge the same within thirty (30) calendar days of such creation or filing. Vendor's failure to discharge any such purported lien within this time frame will constitute a breach of this Agreement. Vendor's financial obligation to the City to liquidate and discharge such lien will continue in effect following termination or expiration of this Agreement and until such a time as the lien is discharged.

20. **Permits and Licenses.** Vendor must obtain and pay for all necessary permits and licenses incurred or required in connections with the Goods and Services.

21. **Force Majeure.** City and Vendor will exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement, but shall not be held liable for any delay or omission in performance due to force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any government law, ordinance or regulation, acts of God, acts of the public enemy, fires, strikes, lockouts, natural disasters, wars, riots, material or labor restrictions by any governmental authority, transportation problems and/or any other similar causes. The Parties acknowledge that this Agreement is being entered into during a state of emergency following the COVID-19 pandemic outbreak. The Parties agree that this provision will not apply to the COVID-19 pandemic outbreak unless a subsequent binding order is issued by an entity with direct jurisdiction over Vendor or City that prohibits the continuation of the services.

22. **Headings not Controlling.** Headings and titles used in this Agreement are for reference purposes only, will not be deemed a part of this Agreement, and are not intended to define or limit the scope of any provision of this Agreement.

23. **Review of Counsel.** The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or Exhibits A, B, and C.

24. **Amendments / Modifications / Extensions.** No amendment, modification, or extension of this Agreement will be binding upon a party hereto unless set forth in a written instrument, which is executed by an authorized representative of each party.

25. **Entirety of Agreement.** This Agreement, including Exhibits A, B and C, contains the entire understanding and agreement between City and Vendor, their assigns and successors in interest, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.

26. **Counterparts.** This Agreement may be executed in one or more counterparts and each counterpart will, for all purposes, be deemed an original, but all such counterparts will together constitute one and the same instrument.

27. **Warranty.**

27.1 Vendor warrants that its Goods and Services (1) will be of a high quality; (2) conform to generally prevailing industry standards; (3) are not currently known to be harmful to the public health and safety; and (3) free from any defect in material, design, or workmanship performed by the Vendor or any of its subcontractors or suppliers. All work will be warranted for a period of two (2) years from the date of final acceptance of each applicable Service by the City.

27.2 Vendor agrees to cure any breach satisfactorily and consistent with industry standards. Vendor must commence any work in accordance with this warranty within fourteen (14) calendar days from receipt of written notice from the City and complete such work within thirty (30) business days thereafter at no expense to the City. If the City observes any breach of warranty as described herein that is not curable by the Vendor, then the Vendor is responsible for reimbursing the City for damages, expenses, and losses incurred by the City as a result of such breach. The representations and warranties in this section will survive the termination or other extinction of this Agreement.

27.3 The warranty will not be construed to limit or in any way modify any warranties or guarantees placed upon any materials, fixtures, or devices by their manufacturers, or any components for which a longer period of warranty is required in this Agreement. Vendor will furnish City with all manufacturers' and suppliers' written guarantees, warranties, and operating instructions covering materials furnished under this Agreement, together with any documentation required for validation.

28. **Immigration Nationality Act.** Vendor must verify the identity and employment eligibility of its employees who perform work under this Agreement, including completing the Employment Eligibility Verification Form (I-9). Upon request by City, Vendor must provide City with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this Agreement. Vendor must adhere to all Federal and State laws as well as establish appropriate procedures

and controls so that no services will be performed by any Vendor employee who is not legally eligible to perform such services. **VENDOR WILL INDEMNIFY CITY AND HOLD CITY HARMLESS FROM ANY PENALTIES, LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY VENDOR, VENDOR'S EMPLOYEES, SUBCONTRACTORS, AGENTS, OR LICENSEES.** City, upon written notice to Vendor, will have the right to immediately terminate this Agreement for violations of this provision by Vendor.

29. **Signature Authority.** The person signing this Agreement hereby warrants that he/she has the legal authority to execute this Agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. This Agreement and any amendment hereto, may be executed by any authorized representative of Vendor whose name, title and signature is affixed on the Verification of Signature Authority Form, which is attached hereto as Exhibit "C". Each party is fully entitled to rely on these warranties and representations in entering into this Agreement or any amendment hereto.

30. **Change in Company Name or Ownership.** Vendor must notify City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of Vendor or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to provide the specified documentation so may adversely impact future invoice payments.

31. **No Boycott of Israel. If Vendor has fewer than 10 employees or this Agreement is for less than \$100,000, this section does not apply.** Vendor acknowledges that in accordance with Chapter 2270 of the Texas Government Code, the City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" will have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. **By signing this contract, Vendor certifies that Vendor's signature provides written verification to the City that Vendor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiples.

(signature page follows)

ACCEPTED AND AGREED

CITY OF FORT WORTH:

<p>By: _____ Jay Chapa Deputy City Manager</p> <p>Date: _____, 20__</p> <p>APPROVAL RECOMMENDED:</p> <p>By: _____ Michael E. Crum Director, Public Events Department</p> <p>ATTEST:</p> <p>By: _____ Mary Kayser City Secretary</p>	<p>CONTRACT COMPLIANCE MANAGER: By signing I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.</p> <p>By: _____ Cynthia Serrano Assistant Director</p> <p>APPROVED AS TO FORM AND LEGALITY:</p> <p>By: _____ Tyler F. Wallach Assistant City Attorney</p> <p>CONTRACT AUTHORIZATION: Ordinances: 24089-03-2020 (March 19, 2020) and 24161-04-2020 (April 7, 2020)</p>
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VENDOR:

<p>OTIS ELEVATOR COMPANY a Connecticut corporation</p> <p>By: <u>Corey von Merveldt</u></p> <p>Name: Kameron Gilpin Corey von Merveldt</p> <p>Title: Service Account Manager General Manager</p> <p>Date: <u>July 13</u>, 20<u>20</u></p>
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**EXHIBIT A
SCOPE OF SERVICES**



OTIS MAINTENANCE

DATE: 04/14/20

TO:
City of Fort Worth
200 Texas St
Fort Worth, TX 76107

FROM:

Otis Elevator Company
2516 Gravel Road, Bldg 18
Fort Worth, TX 76118

EQUIPMENT LOCATIONS:
Will Rogers Memorial Center
3401 W Lancaster Ave
Fort Worth, TX 76107

Kameron Gilpin
Phone: 919-407-9944
Email: Kameron.Gilpin@otis.com

Fort Worth Convention Center
1201 Houston St
Fort Worth, TX 76102

PROPOSAL NUMBER: AOW980-REVISED
EQUIPMENT DESCRIPTION:

Will Rogers Memorial Center:

<u># of Units</u>	<u>Type of Units</u>	<u>Manufacturer</u>	<u>Customer Designation</u>	<u>Machine Number</u>
4	Escalator	Westinghouse	1-4	AF2416-AF2419
1	Geared	Otis Elevator Co	Only Elv	AF2412
2	Hydraulic	Independent	1, 2	AF2414-AF2415
1	Hydraulic	Schindler	Only Elv	AF2421
1	Hydraulic	Westinghouse	Only Elv	AF2420
2	W/C Lifts	Independent	1, 2	AF2422-AF2423

Fort Worth Convention Center:

<u># of Units</u>	<u>Type of Units</u>	<u>Manufacturer</u>	<u>Customer Designation</u>	<u>Machine Number</u>
8	Escalator	Westinghouse	1-8	AF2438-AF2445
1	Hydraulic	Dover	5	AF2451
4	Hydraulic	Schindler	1, 2, 3, Freight	AF2446-AF2449
1	Hydraulic	Thyssen	4	AF2450

OTIS MAINTENANCE

We propose to furnish Otis Maintenance on the equipment ("Units") described above. Otis Maintenance is a full preventive maintenance service intended to protect your investment, extend equipment life, and provide a high level of performance and reliability.

OTIS MAINTENANCE MANAGEMENT SYSTEMSM

We will use the Otis Maintenance Management System preventive maintenance program to deliver service tailored to your specific building needs. Equipment type, component life, equipment usage, and building environment will be taken into account by the OMMS[®] scheduling system, which will be used to plan maintenance activities in advance. The Units will be provided with devices to monitor equipment usage. We will use OMMS standard work processes developed and continuously improved by Otis.

Under this Contract, we will maintain the Units on the following terms and conditions:

PERFORMANCE

MAINTENANCE

We will maintain the Units using trained personnel directly employed and supervised by us. The maintenance will include inspection, lubrication, and adjustment of the following parts:

- Controller parts, selectors and dispatching equipment, relays, solid-state components, transducers, resistors, condensers, power amplifiers, transformers, contacts, leads, dashpots, timing devices, computer and microcomputer devices, steel selector tapes, mechanical and electrical driving equipment, signal lamps, and position indicating equipment.
- Door operators, car door hangers, car door contacts, door protective devices, load weighing equipment, car frames, car safety mechanisms, platforms, car and counterweight guide shoes including rollers and gibs, and emergency car lighting.
- Hoistway door interlocks and hangers, bottom door guides, and auxiliary door closing devices.
- Machines, worms, gears, thrust bearings, drive sheaves, drive sheave shaft bearings, brake pulleys, brake coils, contacts, linings, and component parts.
- Motors, brushes, brush holders, and bearings.
- Governor components, governor sheaves and shaft assemblies, bearings, contacts, governor jaws, deflector or secondary sheaves, car and counterweight buffers, car and counterweight guide rails, car and counterweight sheave assemblies, top and bottom limit switches, governor tension sheave assemblies, and compensating sheave assemblies.
- Pumps, pump motors, operating valves, valve motors, leveling valves, plunger packings, exposed piping, above ground plungers and cylinders, and hydraulic fluid tanks.
- Escalator handrails, handrail drive chains, handrail brush guards, handrail guide rollers, alignment devices, steps, step treads, step wheels, step chains, step axle bushings, comb plates, floor plates, tracks, external gearing, and drive chains.
- Escalator upper drives, upper drive bearings, tension sprocket bearings, upper newel bearings and lower newel bearings, demarcation lights, and comb lights.

RELIABILITY

PARTS COVERAGE

If necessary, due to normal usage and wear, Otis will repair or replace any of the parts specified above at their sole discretion, unless specifically excluded elsewhere in the contract. Any parts under this Contract requiring replacement will be replaced with parts selected by Otis.

In addition, we will replace all wire ropes or coated steel belts as often as necessary to maintain an appropriate factor of safety. As conditions, usage, or Code warrants, we will equalize the tension on hoisting ropes, resocket ropes for drum machines, and repair or replace conductor cables and hoistway and machine-room elevator wiring

PARTS INVENTORY

We will during the term of this Contract maintain a supply of frequently used replacement parts and lubricants selected by Otis to meet the specific routine requirements of the Units. Any replacement parts stored in the machine room remain our property until installed in the Units. We further agree to maintain a supply of routine replacement parts available for express delivery in case of emergencies.

QUALITY CONTROL

We will periodically conduct field audits of our personnel and the Units to maintain quality standards. Otis field engineers will provide technical assistance, technical information, and Code consultation to support our maintenance organization.

RESPONSIVENESS

24-HOUR DISPATCHING

We will, at your request, provide you with access to eService and our OTISLINE 24-hour, year-round dispatching service. In the event a Unit malfunction occurs between regular examinations, you will be able to place a service call on eService or through an OTISLINE customer service representative, who will, at your request, dispatch an examiner to

perform service. In the event Otis receives an emergency call from the phone in the elevator and a passenger indicates a need for assistance, Otis shall attempt to contact a building representative for an assessment of the situation and authorization to respond to the call. If Otis is unable to reach a building representative, Otis shall respond to the emergency call from the phone in the elevator. The visit will be treated as a Callback. It is your responsibility to: (a) have a representative available to receive and respond to OTISLINE calls; and (b) maintain working telephone equipment.

COMMUNICATION

CUSTOMER REPRESENTATIVE

As a service to you, and at your request an Otis representative will be available to discuss with you your elevator needs in the areas of modernization, traffic handling ability, recommendations and requirements of Code authorities, proper use and care of the Units, and the OMMS program. There is no additional charge for this consulting service, but by making this service available to you, Otis does not assume any duty to warn.

REPORTS – eSERVICE

We will use the OMMS program to record completion of maintenance procedures. We will, at your request, provide you access to eService. You will be able to access twelve (12) months of repair, completed maintenance procedure and service call history for the Unit(s). You will be responsible for obtaining Internet access to use eService.

SAFETY AND ENVIRONMENT

SAFETY TESTS – TRACTION ELEVATORS

We will periodically examine safety devices and governors of the Units. We will conduct an annual no load test and perform at each fifth year a full load, full speed test of safety mechanisms, overspeed governors, and car and counterweight buffers. If required, the governor will be recalibrated and sealed for proper tripping speed, and elevator car balances will be checked.

As required by Code, or once every five years at a minimum, we will measure the coated steel belts for safety using a method approved by the manufacturer.

SAFETY TESTS – HYDRAULIC ELEVATORS

We will conduct an annual no load test and annual pressure relief valve test.

FIREFIGHTERS' SERVICE TEST

If the equipment has firefighters' service, you assume responsibility for performing and keeping a record of any Code required tests and for the maintenance, functioning and testing of the smoke and/or heat detectors.

If during the initial firefighters' service test any elevator firefighters' service is found to be inoperable, the building will be responsible for all of the cost associated with the repairs necessary to bring the unit in compliance with the applicable Codes.

If any applicable Code or governing authority mandates that such required tests be performed by a licensed elevator mechanic, Otis will provide such testing and service on an Open Order basis. You will be responsible for the costs associated with such testing and service.

SAFETY TRAINING

We will instruct our personnel to use appropriate personal protection equipment and follow safe work practices.

ENVIRONMENTAL PROTECTION

Otis endeavors to reduce generation of waste materials, to minimize risks to the environment, customers, the general public and Otis employees, and to comply with all federal and state environmental laws and regulations. Material Safety Data Sheet (MSDS) Manuals are available for review at your request.

You assume responsibility for removal of wastes, including but not limited to hydraulic oil, spoils, asbestos, etc., as it is not part of this Contract.

MAINLINE DISCONNECTS

You agree to engage a qualified electrician to service at least once annually the elevator mainline disconnects located in the elevator equipment room.

SHARED RESPONSIBILITY

You agree to provide us unrestricted ready and safe access to all areas of the building in which any part of the Units are located and to keep all machine rooms and pit areas free from water, stored materials, and debris. You agree to provide a safe work place for our personnel, and to remove and remediate any waste or hazardous materials in accordance with applicable laws and regulations.

If any Unit is malfunctioning or is in a dangerous condition, you agree to immediately notify us using the 24-hour OTISLINE service. Until the problem is corrected, you agree to remove the Unit from service and take all necessary precautions to prevent access or use.

You agree to properly post, maintain, and preserve any and all instructions or warnings to passengers in connection with the use of any Units.

In furtherance of OSHA’s directive contained in 29 C.F.R. § 1910.147(f)(2)(i), which requires that a service provider (an “outside employer”) and its customer (an “on-site employer”) must inform each other of their respective lock out/tag out (“LOTO”) procedures whenever outside servicing personnel are to be engaged in control of hazardous energy activities on the customer’s site, Otis incorporates by reference its mechanical LOTO procedures and its electrical LOTO procedures. These procedures can be obtained at www.otis.com by (1) clicking on “The Americas” tab on the left side of the website; (2) choosing “US/English” to take you to the “USA” web page; (3) clicking on the “Otis Safety” link on the left side of the page; and (4) downloading the “Lockout Tagout Policy Otis 6.0” and “Mechanical Energy Policy Otis 7.0,” both of which are in .pdf format on the right side of the website page. Customer agrees that it will disseminate these procedures throughout its organization to the appropriate personnel who may interact with Otis personnel while Otis personnel are working on site at Customer’s facility.

WORK SCHEDULE

NORMAL HOURS

All maintenance procedures and repairs will be performed during our regular working hours of our regular working days for the examiners who perform the service. All lamp and signal replacements will be performed during regular examinations.

For purposes of this Contract, a Callback is a response by Otis to a request for service or assistance made (a) by the customer or customer representative, (b) by the building or building representative; (c) by emergency personnel; (d) through the ADA phone line, and/or (e) through REM@ monitoring system, for service or assistance, on an as needed basis, excluding regularly scheduled maintenance.

Regular working hours: 8:00 AM – 4:30 PM.

Regular working days: Monday – Friday excluding holidays observed by the City.

OVERTIME

Callbacks outside of regular working hours will be billed at standard overtime rates.

OWNERSHIP AND LICENSES

WIRING DIAGRAMS

You agree to provide us with current wiring diagrams reflecting all previously made changes for Units covered by this Contract to facilitate proper maintenance of the equipment. We shall maintain the wiring diagrams so that they properly reflect any changes made by Otis to the equipment. These diagrams will remain your property.

OTIS SERVICE EQUIPMENT

Any counters, meters, tools, remote monitoring devices, or communication devices which we may use or install under this Contract remain our property, solely for the use of Otis employees. Such service equipment is not considered a part of the Units. You grant us the right to store or install such service equipment in your building and to electrically connect it to the Units. You will restrict access to the service equipment to authorized Otis personnel. You agree to keep the software resident in the service equipment in confidence as a trade secret for Otis. You will not permit others to use, access, examine, copy, disclose or disassemble the service equipment or the software resident in the service equipment for any purpose whatsoever. If the service is terminated for any reason, we will be given access to your premises to remove the service equipment, including the resident software, at our expense.

OTIS SOFTWARE

Software owned by Otis may be embedded in parts or otherwise provided by Otis as part of this maintenance agreement. You have the right to use this software only for operation of the units for which the part was provided. You may also make a backup or archival copy of the software, provided you reproduce the copyright notice and any other legend of ownership on the copy. You may not otherwise copy, display, adapt, modify, distribute, reverse assemble, reverse compile, or otherwise translate the software. You will not transfer possession of the software except as part of a transfer of ownership of the Units and the assumption of the rights and obligations under this agreement by the transferee.

NON-OTIS SOFTWARE

You retain your rights to any software not provided by Otis contained in the Units and agree to allow Otis to make one backup or archival copy for you.

SERVICE TOOLS

You are responsible to secure our right to use any special service tools required to maintain your non- Otis equipment. These tools must be provided prior to us beginning maintenance on such equipment.

THE UNITS

It is agreed that we do not assume possession or control of the Units, that such Units remain yours solely as owner and operator, lessee, or agent of the owner or lessee, and that you are solely responsible for all requirements imposed by any federal, state, or local law, Code, ordinance or regulation.

CLARIFICATIONS

This Contract does not cover car enclosures (including, but not limited to, wall panels, door panels, car gates, plenum chambers, hung ceilings, lighting, light diffusers, light tubes and bulbs, handrails, mirrors and floor coverings), rail alignment, hoistway enclosures, hoistway gates, hoistway inserts and brackets, mainline disconnect switches, doors, door frames, sills, swing door hinges and closing devices, below ground or unexposed hydraulic cylinders and plungers, buried or unexposed piping, escalator balustrades, escalator lighting or wedge guards. Without affecting our obligation to provide service under this Contract, you agree to permit us to train our personnel on the Units. This Contract does not cover computer and microcomputer devices, such as terminal keyboards and display units that are not exclusively dedicated to the elevator system. This Contract does not cover telephones installed by others, intercoms, heat sensors, smoke sensors, communications equipment, or safety signaling equipment, or instructions or warnings in connection with use by passengers.

We will not be required: (i) to make any tests other than that as specifically set forth herein; (ii) to make any replacements with parts of a different design or type; (iii) to make any changes in the existing design of the Units; (iv) to alter, update, modernize or install new attachments to any Units, whether recommended or directed by governmental authorities or by any third party; (v) to make repairs or replacements necessitated by failures detected during or due to testing of the Units or buried or unexposed hydraulic cylinders or piping and (vi) to replace or repair any component or system utilizing obsolete or discontinued parts, including parts for which the original design is no longer manufactured by the original equipment manufacturers, or parts where the original item has been replaced by an item of different design or is replaceable only by fabrication; (vii) to provide reconditioned or used parts; (viii) to make any replacements, renewals, or repairs necessitated by reason of any cause beyond our control including, but not limited to, fire, explosion, theft, floods, water, weather, earthquake, vandalism, misuse, abuse, mischief, or repairs by others.

You assume responsibility for the cost of correcting all Elevator Code violations existing on the date we enter into this Contract. If such Code violations or other outstanding safety violations are not corrected in accordance with this Contract, Otis may with respect to the equipment not meeting Code requirements cancel this Contract without penalty by providing thirty (30) days written notice.

Should you require us to interface with a third party work order, insurance or safety systems, Otis will add an appropriate fee to cover the additional cost associated with this service.

You agree to provide us unrestricted ready and safe access to all areas of the building in which any part of the Units are located, to keep all machine rooms and pit areas free from water, stored materials, and debris, to provide a safe work place for our personnel, to remove and remediate any waste or hazardous materials in accordance with applicable laws and regulations, and to provide a grounded, 3-prong electrical system and proper lighting in the machine rooms and pits. We shall not be obliged to perform until such unsafe condition has been remedied.

If any Unit is malfunctioning or is in a dangerous condition, you agree to notify us as soon as possible using the 24-hour OTISLINE® service. Until the problem is corrected, you agree to remove the Unit from service and take all necessary precautions to prevent access or use.

Escalator Units are designed only for transporting passengers. For escalator Units, you agree to take all necessary measures to prevent other items from being conveyed, so that features designed to protect passengers and prevent property damage are not damaged. When stationary, escalators are to be properly barricaded and not to be used as steps.

You agree to properly post, maintain, and preserve any and all instructions or warnings to passengers in connection with the use of any Units.

In the event of an entrapment, Customer will call Otis and wait for a trained and licensed elevator mechanic to arrive, except for a medical emergency situation where it may be appropriate to summon a professional first responder such as police or firemen. Customer agrees that its agents, contractors, employees or representatives shall not attempt to extricate any passengers from an elevator that becomes stalled within the hoistway.

Otis will not be required to make renewals or repairs necessitated by fluctuations in the building AC power systems, adverse hoistway or machine room conditions (including temperature variations below 60 degrees and above 90 degrees Fahrenheit), excessive humidity, adverse environmental conditions, water damage, rust, fire, explosion, acts of God, misuse, or vandalism.

Replacement & New Installation for Elevators, Escalators, & Chair/Platform Lifts

Pricing Description	Unit Amount	Unit
Certified Technician Rate - Normal Hours (7:00 AM to 5:00 PM, Monday-Friday)	\$ 160.00	Hourly Rate
Certified Technician Rate - Outside Normal Hours (including weekends)	\$ 320.00	Hourly Rate
Certified Technician Rate - Emergency Call Out	\$ 320.00	Hourly Rate
Certified Technician Rate - Holiday Hours	\$ 320.00	Hourly Rate
Helper Technician - Normal Hours (7:00 AM to 5:00 PM, Monday-Friday)	\$ 120.00	Hourly Rate
Helper Technician - Outside Normal Hours (including weekends)	\$ 240.00	Hourly Rate
Helper Technician - Emergency Call Out	\$ 240.00	Hourly Rate
Helper Technician - Holiday Hours	\$ 240.00	Hourly Rate
Preventative Maintenance Rate	\$ 160.00	Hourly Rate
TOTAL A		
Percentage discount off MSRP pricing for Elevator Equipment Parts (Documentation of Offeror's cost will be required, when applicable)	No discount to be offered. A 15% increase for profit	Percentage Discount

Note: The Hourly Rates should be all-inclusive of labor, travel, and any additional fees of service.

Maximum Percentage of Escalation		5.00%
Year	Escalation Increase on Hourly Rates	
2	\$ 168.00	
3	\$ 176.40	
4	\$ 185.22	
5	\$ 194.48	

On-Site Response Times	Hours/Minutes
State guaranteed on-site response time for service calls during <i>normal business hours</i> .	2
State guaranteed on-site response time for service calls <i>outside normal business hours</i> .	4
State guaranteed on-site response time for service calls during <i>holiday hours</i> .	4
State guaranteed on-site response time for EMERGENCY service calls from <i>Metro during normal business hours</i> .	1
State guaranteed on-site response time for EMERGENCY service calls from <i>Metro outside normal business hours</i> .	2
State guaranteed on-site response time for EMERGENCY service calls from <i>Metro during holiday hours</i> .	2

Repair & Callback Rates for Elevators, Escalators, & Chair/Platform Lifts

Pricing Description	Unit Amount	Unit
Certified Technician Rate - Normal Hours (7:00 AM to 5:00 PM, Monday-Friday)	\$ 160.00	Hourly Rate
Certified Technician Rate - Outside Normal Hours (including weekends)	\$ 320.00	Hourly Rate
Certified Technician Rate - Emergency Call Out	\$ 320.00	Hourly Rate
Certified Technician Rate - Holiday Hours	\$ 320.00	Hourly Rate
Helper Technician - Normal Hours (7:00 AM to 5:00 PM, Monday-Friday)	\$ 120.00	Hourly Rate
Helper Technician - Outside Normal Hours (including weekends)	\$ 240.00	Hourly Rate
Helper Technician - Emergency Call Out	\$ 240.00	Hourly Rate
Helper Technician - Holiday Hours	\$ 240.00	Hourly Rate
Preventative Maintenance Rate	\$ 160.00	Hourly Rate
Percentage discount off MSRP pricing for Elevator Equipment Parts (Documentation of Offeror's cost will be required, when applicable)	No discount to be offered. A 15% increase for profit	Percentage Discount

Note: The Hourly Rates should be all-inclusive of labor, travel, and any additional fees of service.

Maximum Percentage of Escalation		5.00%
Year	Escalation Increase on Hourly Rates	
2	\$	168.00
3	\$	176.40
4	\$	185.22
5	\$	194.48

On-Site Response Times	Hours/Minutes
State guaranteed on-site response time for service calls during <i>normal business hours</i> .	2
State guaranteed on-site response time for service calls <i>outside normal business hours</i> .	4
State guaranteed on-site response time for service calls during <i>holiday hours</i> .	4
State guaranteed on-site response time for EMERGENCY service calls from Metro during <i>normal business hours</i> .	1
State guaranteed on-site response time for EMERGENCY service calls from Metro <i>outside normal business hours</i> .	2
State guaranteed on-site response time for EMERGENCY service calls from Metro during <i>holiday hours</i> .	2

Note: Each Offeror must meet the minimum requirement of 1-hour response times for correspondence to any call from Metro. The response times listed in the table to the left should be reflective of the guaranteed on-site response

EXHIBIT C
VERIFICATION OF SIGNATURE AUTHORITY

OTIS ELEVATOR COMPANY

Execution of this **Signature Verification Form** (“Form”) hereby certifies that the following individuals and/or positions have the authority to legally bind Vendor and to execute any agreement, amendment or change order on behalf of Vendor. Such binding authority has been granted by proper order, resolution, ordinance or other authorization of Vendor. City is fully entitled to rely on the warranty and representation set forth in this Form in entering into any agreement or amendment with Vendor. Vendor will submit an updated Form within ten (10) business days if there are any changes to the signatory authority. City is entitled to rely on any current executed Form until it receives a revised Form that has been properly executed by Vendor.

1. Name:
Position:

Signature

2. Name:
Position:

Signature

3. Name:
Position:

Signature

Name:

Signature of President / CEO

Other Title: _____

Date: _____