



## ATTACHMENT 2

### TK Elevator Corporation

CITY OF MERCED - 611 W 22ND ST, 678 W 18TH ST, 638 W 18TH ST, 1801 W M ST, 3156 N HWY 59

#### Amendment No. 1

This Amendment No.1 shall be made a part of this Agreement, and in the event of conflict with other articles, terms, conditions or contract documents, this Amendment No.1 shall be final. In no event shall TK Elevator be liable under this Agreement for indirect, special, liquidated, incidental, exemplary or consequential damages, or for loss of use, loss of income, loss of opportunity, or other similar remote damages.

TK Elevator reserves the right to assign payments owed to TK Elevator under this Services Agreement.

#### Services Agreement

1. Amend so changes or modifications shall be agreed upon through a mutually executed change order, including contract prices and schedule adjustment, prior to the commencement of work covered by the changes or modifications.

7. Amend so that audits shall be made upon reasonable request in writing, on an occurrence basis, and limited to work performed on a time and materials basis.

9. Amend so any defense obligations of Contractor will be provided solely utilizing counsel of Contractor's own choosing. Amend so Contractor's obligations to indemnify, defend and hold harmless shall be limited to property damage and bodily injury claims only, and then, only to the extent of Contractor's own acts, omissions, or negligence, and shall in no way include for the acts, omissions, or negligence of a party indemnified hereunder.

10. Amend so the waiver of subrogation shall be limited to the extent any claim is caused by Contractor. Amend so Contractor shall provide an ACORD form and manuscript endorsement in lieu of CG2010 and/or 2037 or ISO forms. Such additional insured coverage shall only apply to the extent any damages covered by the policy are determined to be caused by Contractor's acts, actions, omissions or neglects and not to the extent caused by the additional insured's own acts, actions, omissions, or neglects. Amend to delete professional liability insurance as not applicable to the work to be performed by Contractor.

CITY OF MERCED

TK ELEVATOR CORPORATION

DocuSigned by:

Robert Preston

Signature

Signature

APPROVED AS TO FORM:

*Craig Spinnell*  
City Attorney, City of Merced