



## UPSHUR COUNTY COMMISSIONERS COURT

GILMER, TEXAS

September 9, 1985

Commissioners Court met in Regular Session with all members present except Paul Davis, Commissioner Pct. #4.

Judge Dean read the minutes of August 30, 1985 and September 3, 1985. Motion by David Loyd seconded by J.W. Meadows to approve minutes as read with one correction. Motion carried. The correction is as follows: Motion by Gaddis Lindsey seconded by David Loyd to accept the bid of Longview Building System on all carpentry of the Criminal Justice Center.

Discussion appointing Child Welfare Board was tabled until a later date.

Judge Dean read a letter from the Public Utilities Commission stating that the Lake of the Pines Civic Organization requested a public hearing on the rate increase that REA has asked for. The hearing will take place Tuesday, September 24, 1985 in the Gilmer Jr. High School Cafeteria from 4:30 to 8:00 p.m.

Motion by Judge Dean seconded by J.W. Meadows to enter an order from Judge Mulanax entering the court reporters salary for the coming year to be fixed at the sum of \$30,230.00 per annum. Motion carried. Copy attached.

Motion by David Loyd seconded by J.W. Meadows to approve treasure attending meeting in Brenam on September 16-20, 1985. Motion carried.

Motion by Gaddis Lindsey seconded by David Loyd to approve auditor attending auditor's annual conference on September 25-27, 1985. Motion carried.

Motion by David Loyd seconded by Gaddis Lindsey to approve one person from the County Clerk's office and two people from the District Clerk's office attending Area VI meeting in Longview on September 18, 1985. Motion carried.

Motion by Gaddis Lindsey to approve a permit application by Etex Telephone Coop to install a buried telephone cable at the ROW of road crossing on Oakwood at intersection of said road on U.S. #271 and placing of cable on Silktree Road and various road cuts. Copy attached.

Motion by Gaddis Lindsey seconded by David Loyd to approve permit application by Kenneth Winn to install two culverts in the ROW of Zenia Rd. Motion carried. Copy attached.

Motion by J.W. Meadows seconded by Gaddis Lindsey to approve a permit application by Mark Mitchell to install a culvert in the ROW of Paradise Rd. Motion carried. Copy attached.

Motion by Gaddis Lindsey seconded by J.W. Meadows to table discussion of librarian attending meeting in Austin on Sept. 12, 1985, Garland on Sept. 25, 1985 and Garland on Oct. 21, 1985. Motion carried.

Motion by J.W. Meadows seconded by David Loyd to approve claims for jail and annex from R.E. Hable, subject to audit by Keith Barber. Motion carried.

Motion by David Loyd seconded by J.W. Meadows to approve all unpaid bills. Motion carried. Copy attached.

Bids for the roofing of the Upshur County Justice Center were opened. Bids were from, as follows: Mr. Motley--\$80,855.00, Johnson Roofing--\$93,914.00, H & C Sheetmetal & Roofing Co.--\$96,600.44. Motion by David Loyd seconded by Gaddis Lindsey to table bids for further study. Motion carried.

Motion by Gaddis Lindsey seconded by J.W. Meadows to approve change orders on jail and annex. Motion carried. Copy attached.

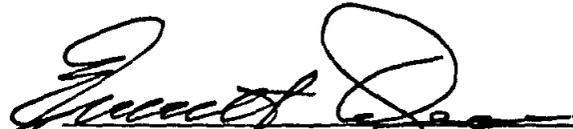
Motion by David Loyd seconded by J.W. Meadows to approve signing Carpenter's contract for Upshur County Justice Center. Motion carried. Copy attached.

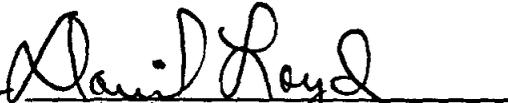
Motion by J.W. Meadows seconded by Gaddis Lindsey to advertise for bids on property and general liability insurance. Motion carried.

Court went into Executive Session.

Court reconvened with all members present except Paul Davis.

Motion by David Loyd seconded by Gaddis Lindsey to approve and sign the Fair Labor Standards Act. Motion carried. Copy attached.

  
County Judge

  
Commissioner Pct. #3

  
Commissioner Pct. #1

\_\_\_\_\_  
Commissioner Pct. #4

  
Commissioner Pct. #2



VOL. 24 PG. 152

PERMIT APPLICATION FOR  
USE OF UPSHUR COUNTY RIGHT OF WAY

Date 8 / 30 / 85

TO: THE UPSHUR COUNTY COMMISSIONERS COURT  
COUNTY OF UPSHUR  
GILMER, TEXAS

Formal notice is hereby given that Etex Telephone Cooperative, Inc.  
whose principal address is P. O. Box 130, Gilmer, Texas 75644  
does propose to place a buried telephone cable  
within the RCW of County Road (s) \_\_\_\_\_

Road crossing on Oakwood at intersection of said road an U, S.  
# 271 and placing of cable on Silktree Road and Various Road cuts.  
in Precinct # One as follows:

SEE ABOVE

The location and description of the proposed lines or appertenances is  
more fully shown by two (2) copies of drawings attached to this application.  
All work will be as directed by the County Commissioner or his designate in  
full accordance with Upshur County Road & Bridge Department policies and  
specifications.

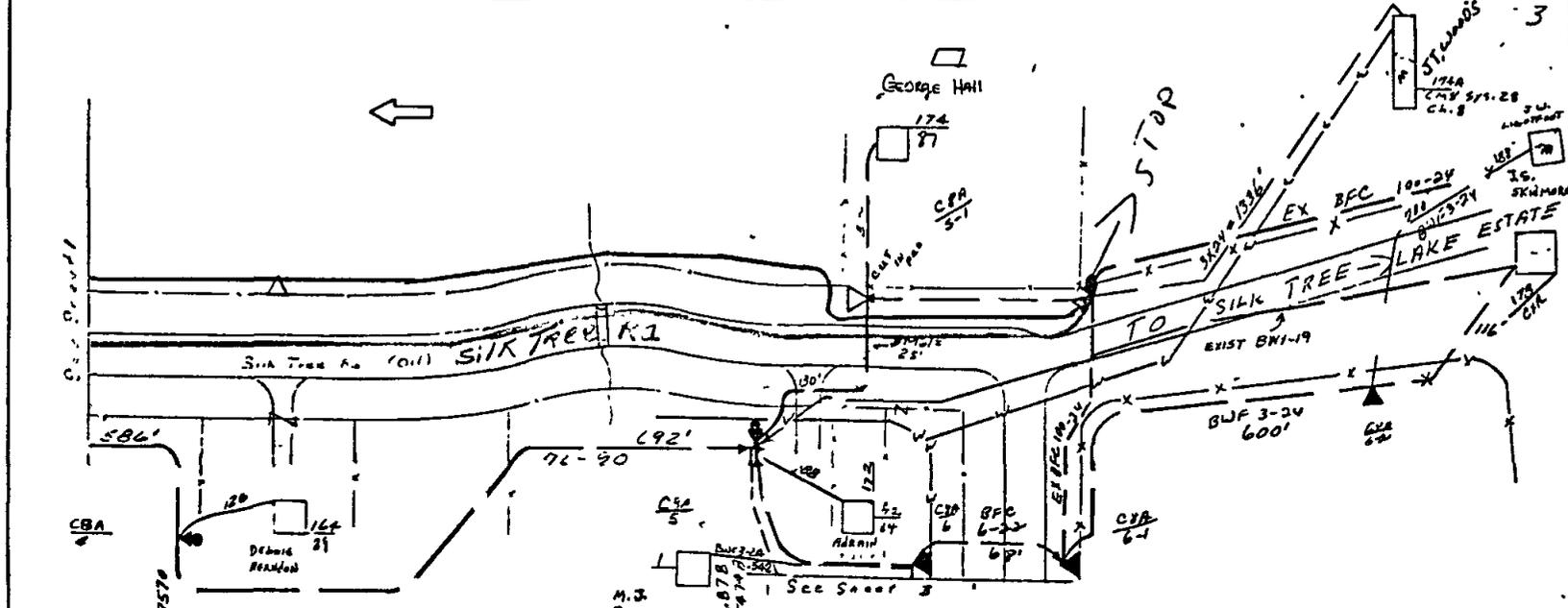
Proposed construction will begin, if approved, on or after 30 th. day  
of August 19 85.

*Approved  
9-9-85*

Firm ETEX TELEPHONE COOP.  
By \_\_\_\_\_  
Title RIGHT of WAY AGT.  
Address Box 130  
Gilmer, Texas 75644

VOL. 24 PG. 183

DATE REVISED	STAKED BY F.E.S	ENGINEER	STAKING SHEET AND PLANT RECORD	ROUTE CBA (B-1)	PAGE A
	DATE 5-74	5	BURIED PLANT	SHEET 2 OF 3	180
	COUNTY WASHCO		COMPANY Elex Telephons Coop Inc	MAP REF Rural	
EASEMENT APPROVED BY	PLACED IN SERVICE	PROJECT T 622	EXCHANGE A.T.C.H.	WORK ORDER	



EX 120 100	PED NO.	BDF 3A	BDF 3	BDF 2	BB	BB	TRENCH BM-70	BM-83	BM-61	BWF 19-24	BWF 6-22	BWF 2-24	BWF 3-24	KCF-1	POLES	PE	PF	SUB NO.	BK-F 2-24	K- 3-24	P-	SW 1-19	SW-3	S-1 8-3
			1				6	1		586				.01				164	.126		East			
24	5	1					6	2	25	692	.130			.12	EX-1			172	.188		"			
	5-1			1									1926'											
	6		1																					
	6A		1								68'		110' 102'									.546 114' 116'		
TOTAL	1	3	1				12	3	25	1278	68'	.130	1926'	.13				3	.614	304				

13  
T.H.C. # 1







PERMIT APPLICATION FOR  
USE OF UPSHUR COUNTY RIGHT OF WAY

TO: THE UPSHUR COUNTY COMMISSIONERS COURT  
COUNTY OF UPSHUR  
GILMER, TEXAS

PRECINCT 1  
DATE 9-6-85

Formal notice is hereby given that Kenneth Winn  
whose principal address is 5125 Hwy 102  
does propose to place a (5) Culvert  
within the ROW of County Road Zenia  
as follows:

west side - Kenneth Winn

9-9-85 \* \* \* Monday

The location and description of the proposed lines or appertenances is more fully shown by three (3) copies of drawings attached to this application.

All work will be as directed by the County Commissioner or his designate in full accordance with Upshur County Road & Bridge Department policies and specifications.

Proposed construction will begin, if approved, on or after 9-9-85 day of \_\_\_\_\_, 19\_\_.

NAME Gedde Lindsey

TITLE Comm. Pct 1

ADDRESS Gilmer

Approved  
9-9-85

PERMIT APPLICATION FOR  
USE OF UPSHUR COUNTY RIGHT OF WAY

TO: THE UPSHUR COUNTY COMMISSIONERS COURT  
COUNTY OF UPSHUR  
GILMER, TEXAS

PRECINCT 2  
DATE Sept. 4, 1985

Formal notice is hereby given that Mark Mitchell  
whose principal address is Rt. 6 Box 570, Gilmer, Texas 75644  
does propose to place a culvert installation  
within the ROW of County Road Parochie Rd.  
as follows:

The location and description of the proposed lines or appertenances is more fully shown by three (3) copies of drawings attached to this application.

All work will be as directed by the County Commissioner or his designate in full accordance with Upshur County Road & Bridge Department policies and specifications.

Proposed construction will begin, if approved, on or after \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

NAME Mark Mitchell

TITLE \_\_\_\_\_

ADDRESS \_\_\_\_\_

*Approved  
9-9-85*

Minutes of Accounts Approved

THE SOFTWARE GROUP, INC.

Disbursements Made from 09/09/85 thru 09/09/85

PAGE 1

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Check #.	Date	Vendor	Check Amount	Invoice Amt	Invoice Description
1687	09/09/85	INVENTORY CONTROL		\$293.47	GEN.OFFICE SUPPLIES & ACCESSORIES
				<del>\$293.47</del>	<del>INVENTORY REQUISITIONED</del>
1688	09/09/85	ROY & LUNCINDA FLOYD	\$4.61	\$4.61	TAX REFUND-CO. REC. #7715 '84
1689	09/09/85	J. B. HILL	\$6.00	\$6.00	TRAVEL-HOWARD CLIFTON-PCT#5-B. SANDY
<del>1690</del>	<del>09/09/85</del>	<del>AT &amp; T INFORMATION SYSTEMS</del>	<del>\$7.95</del>	<del>\$7.95</del>	<del>TELE. EQUIP. 7/16/85-8/16/85</del>
1691	09/09/85	WEEKS WELDING & REPAIR	\$8.00	\$8.00	PCT#4-SHARPEN 2 SAW CHAINS
1692	09/09/85	NORMA TOMLIN	\$8.60	\$8.60	TRAVEL-AUGUST
<del>1693</del>	<del>09/09/85</del>	<del>JERRY NICKERSON</del>	<del>\$10.00</del>	<del>\$10.00</del>	<del>FORAGE CONF. MARSHALL 9/3/85</del>
1694	09/09/85	SHARON WATER SUPPLY CORP.	\$13.00	\$13.00	PCT#4-AUGUST BILLING
1695	09/09/85	GILMER DRUG COMPANY	\$14.49	\$14.49	JAIL-HAROLD HARRIS
<del>1696</del>	<del>09/09/85</del>	<del>H &amp; D TIRE &amp; AUTOMOTIVE</del>	<del>\$15.25</del>	<del>\$1.30</del>	<del>PCT#1-1 BUSHING</del>
				<del>\$2.20</del>	<del>PCT#1-1 BOLT FOR BOOM AXE</del>
				<del>\$11.75</del>	<del>PCT#1-1 BOLT, 1 WIX FILTER-BARN</del>
1697	09/09/85	GILMER AUTO SUPPLY, INC.	\$15.50	\$12.00	PCT#3-80-JO, START. FLUID, WD-40, SHOP
				\$3.50	PCT#4-LIQUID WRENCH FOR SHOP
1698	09/09/85	FEDERAL EXPRESS CORP.	\$18.60	\$18.60	COMPUTER-FREIGHT TO ULTIMATE
<del>1699</del>	<del>09/09/85</del>	<del>RONNIE MITCHELL</del>	<del>\$35.00</del>	<del>\$35.00</del>	<del>DEP. REG. FEE TICV CONFERENCE 9/8/85</del>
1700	09/09/85	DAIRY QUEEN	\$35.70	\$35.70	JUROR MEALS-#9401 R. COLLINS
1701	09/09/85	NANETTE WEIN	\$39.92	\$39.92	TAX REFUND-CO. REC. #23441 '84
<del>1702</del>	<del>09/09/85</del>	<del>WALMART STORE #146</del>	<del>\$43.99</del>	<del>\$5.99</del>	<del>C.S. FILM</del>
				<del>\$23.70</del>	<del>PCT#1-10 W/M FILTERS, 2-M/C FILTERS</del>
				<del>\$14.30</del>	<del>C.S-PICTURES &amp; BATTERY</del>
1703	09/09/85	J & G MACHINE SHOP	\$46.75	\$46.75	PCT#3-U-JOINT, REPAIR DRIVE SHAFT
<del>1704</del>	<del>09/09/85</del>	<del>DARREL DEMENT</del>	<del>\$47.60</del>	<del>\$47.60</del>	<del>BUS MD ANDERSON, HOU. ADPT. 9/16-17/85</del>
1705	09/09/85	DAVID LOYD	\$48.00	\$48.00	LONGVIEW(2) DARR, TYLER(2) GEORGE P. BANE
1706	09/09/85	DAVID YOUNGBLOOD	\$48.94	\$48.94	TAX REFUND-CO. REC. #24741 '84
<del>1707</del>	<del>09/09/85</del>	<del>CO. &amp; DIST. CLERKS' ASSOC. OF</del>	<del>\$50.00</del>	<del>\$25.00</del>	<del>CO. CLK. DUES FOR JUNE '85-JUNE '86</del>
				<del>\$25.00</del>	<del>D. CLK. DUES FOR JUNE '85-JUNE '86</del>
1708	09/09/85	TELETOUCH CORPORATION	\$61.00	\$61.00	C.S. REPLACED TX PL REEP UNIT 215

PRINTED IN U.S.A.

UPSHUR COUNTY

ACCOUNTS PAYABLE SYSTEM

09 SEP 1985

Minutes of Accounts Approved

THE SOFTWARE GROUP, INC.

Disbursements Made from 09/09/85 thru 09/09/85

PAGE 2

Check #.	Date	Vendor	Check Amount	Invoice Amt	Invoice Description
1709	09/09/85	SABINE VALLEY MHMR	\$75.00	\$75.00	INTAKE EVAL.-APF-8/28/85
1710	09/09/85	SABINE VALLEY REGIONAL MHMR CE	\$75.00	\$75.00	CJD-EVALUATION AF 8-20-85
1711	09/09/85	QUILL CORPORATION	\$75.00	\$75.00	I.C. CATLG ENVLP, TX.A. LETTER TRAYS
1712	09/09/85	TODD, TEFTELLER	\$80.00	\$80.00	8955-EDDIE JOE WOOD
1713	09/09/85	ETEX TELEPHONE COOP., INC.	\$82.81	\$38.99 \$22.56 \$21.26	PCT#1 #734-5609 9-1-85 BILLING PCT#2 #762-6266 9-1-85 BILLING PCT#3 #734-5822 9-1-85 BILLING
1714	09/09/85	RON'S TIRE SERVICE	\$94.00	\$13.00 \$10.00 \$10.00 \$35.00 \$12.00 \$4.00 \$10.00	PCT#2-TRACTOR FLAT PCT#1-TRUCK FLAT PCT#1-TRUCK FLAT PCT#4-MAINTAINER FLAT & TUBE PCT#4-TRACTOR FLAT PCT#2-FORD 4000 TRACTOR FLAT PCT#4-GREEN FORD DUMP TRUCK FLAT
1715	09/09/85	DONNA WHITAKER	\$114.45	\$114.45	SEC.STATE SEMINAR-AUSTIN-8/21-24/85
1716	09/09/85	BARBARA HOLLOWAY	\$119.15	\$119.15	SEC.STATE SEMINAR-AUSTIN 8/21-24/85
1717	09/09/85	MICHAEL D. MARTIN	\$120.00	\$120.00	J-15-85, S.W.
1718	09/09/85	LEWIS POLYGRAPH SERVICE	\$125.00	\$125.00	C.S.-EXAM.-GLEN WAYNE HOGUE
1719	09/09/85	KNIF 95 FM	\$132.00	\$132.00	JAIL-TOWER RENT FOR AUGUST
1720	09/09/85	SOUTHWESTERN BELL TELEPHONE	\$156.27	\$156.27	PROB. SYS.-TELE.SERV.8/15/85 BILLING
1721	09/09/85	UPSHUR COUNTY FORD TRACTOR	\$160.00	\$160.00	PCT#1-8 DISCS
1722	09/09/85	CENIKOR	\$160.40	\$160.40	AD.PROB. CONT.SERV. TERRY D. NELSON
1723	09/09/85	ROY BOHANNON	\$175.00	\$175.00	PCT#3-COMP.DRIVE, YOKE PINON, DODGE #3
1724	09/09/85	NARC OUT K-9 SECURITY	\$185.00	\$185.00	CASE#6940-08, TRACKING TEAM-5 HOURS
1725	09/09/85	W. S. CHASTEEN	\$250.50	\$250.50	JP#3-TRAVEL REPORT 7/1-8/23/85
1726	09/09/85	MICHEAL SMITH	\$319.69	\$319.69	TRIP-AUSTIN & BRYAN, 8/21-24/85
1727	09/09/85	VINGO FOODS	\$392.98	\$10.00 \$382.98	JAIL-FOOD JAIL-FOOD
1728	09/09/85	GENERAL TELEPHONE COMPANY	\$707.52	\$678.92 \$28.60	#442-8604 8/28/85 BILLING #1FD-2004 8/28/85 BILLING
1729	09/09/85	COUNTY OF MARION	\$780.00	\$780.00	COPY MACHINE LEASE-'84-'85

VOL 111204  
PS Loc

VFR M COLUMN



AN ORDER ratifying, confirming and approving Change Orders to certain contracts in relation to the construction of a new county jail and the renovation and remodeling of a building for the Upshur County Justice Center; making provision for the payment of additional amount to become due thereon by reason of said Change Orders and resolving other matters incident and related thereto.

WHEREAS, pursuant to an order duly passed and adopted on March 25, 1985, the Commissioners' Court of Upshur County, Texas, awarded certain contracts in relation to the construction of the new county jail and the renovation and remodeling of a building for the Upshur County Justice Center, such contracts being identified as follows:

<u>CONTRACTOR</u>	<u>CONTRACT</u>	<u>REVISED CONTRACT AMOUNT*</u>
J. D. Cooper, Inc.	drywall work	\$ 48,563
Bryon Crook Electric Company	electrical	303,950

\*includes previous change orders

AND WHEREAS, it has been determined that certain changes, modifications and revisions should be made to the work to be performed and/or materials to be supplied under and pursuant to such contracts; such changes, modifications and revisions being more fully described in the Change Orders attached hereto as Exhibits A through C; and

WHEREAS, the changes to said contracts have been recommended by the Construction Manager and approved by the County Judge, and this Court hereby finds and determines that said Change Orders should be approved and said contracts amended to incorporate the changes, modifications and revisions described therein; now, therefore,

BE IT ORDERED, ADJUDGED AND DECREED BY THE COMMISSIONERS' COURT OF UPSHUR COUNTY, TEXAS:

SECTION 1: That the recitals and findings contained in the preamble hereof are hereby incorporated herein as though set forth at length as a part of this Section.

SECTION 2: That the change order to the contract with J. D. Cooper, Inc. relating to the drywall work for the construction of a new county jail and the renovation and remodeling of a building for the Upshur County Justice Center (attached hereto as Exhibit A and incorporated herein by reference for all purposes) is hereby ratified, confirmed and approved, and said contract is hereby amended to include the changes and modifications described therein. The acts of the County Judge in executing said Change Order for and on behalf of Upshur County, Texas, and as the act and deed of this Court are hereby ratified, confirmed and approved.

SECTION 3: That the two (2) change orders to the contract with Bryon Crook Electric Company relating to the electrical work for the construction of a new county jail and the renovation and remodeling of a building for the Upshur County Justice Center (attached hereto as Exhibit B and C, respectively, and incorporated herein by reference for all purposes) are hereby ratified, confirmed and approved, and said contract is hereby amended to include the changes and modifications described therein. The acts of the County Judge in executing said Change Orders for and on behalf of Upshur County, Texas, and as the act and deed of this Court are hereby ratified, confirmed and approved.

SECTION 4: That, by reason of the foregoing change orders, the total amount due on said contracts, as amended, is hereby acknowledged and determined to be set forth below and the principal amount of "Upshur County, Texas, Certificates of Obligation, Series 1985B" (and/or claims and accounts representing an undivided interest in said series of certificates) allocated and appropriated to pay said contracts, as amended, shall be and is hereby revised and changed to be as follows:

<u>Contractor</u>	<u>Contract</u>	<u>Revised Contract Amount</u>	<u>Certificates Allocated To Pay</u>
J. D. Cooper, Inc.	drywall	\$ 49,543	\$ 48,793
Bryon Crook Electric Company	electrical	\$304,600	\$ 70,600

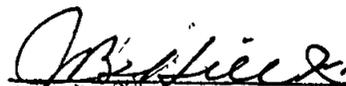
VOL. 24 PG. 164

PASSED AND ADOPTED, this the 9th day of September, 1985.

UPSHUR COUNTY, TEXAS

  
County Judge

ATTEST:

  
County Clerk and Ex-Officio Clerk  
of the Commissioners' Court



**CHANGE ORDER**  
**CONSTRUCTION MANAGEMENT EDITION**  
AIA DOCUMENT G701/CM

Distribution to:  
OWNER   
ARCHITECT   
CONSTRUCTION MANAGER   
CONTRACTOR   
FIELD   
OTHER Attorney

PROJECT: Upshur County Justice Center  
(name, address) Commissioners Court of Upshur County  
Gilmer, Texas  
TO (Contractor):

CHANGE ORDER NUMBER: 9.2  
INITIATION DATE: 8/13/85  
ARCHITECT'S PROJECT NO: 8305  
CONSTRUCTION MANAGER'S PROJECT NO: 907  
CONTRACT FOR: DRYWALL  
CONTRACT DATE: 3/25/85  
CONTRACT #: 9250

You are directed to make the following changes in this Contract:

Change the stud spacing in all curved walls and fur downs from 24" to 12" on centers.

THIS CHANGE IS 100 % JUSTICE CENTER.

Not valid until signed by the Owner, the Architect and the Construction Manager.  
Signature of the Contractor indicates agreement herewith, including any adjustment in the Contract Sum or the Contract Time.

The original (Contract Sum) ( <del>Guaranteed Maximum Cost</del> ) was .....	\$ 47,463.00
Net change by previously authorized Change Orders .....	\$ 1,100.00
The (Contract Sum) ( <del>Guaranteed Maximum Cost</del> ) prior to this Change Order was .....	\$ 48,563.00
The (Contract Sum) ( <del>Guaranteed Maximum Cost</del> ) will be (increased) ( <del>decreased</del> ) ( <del>unchanged</del> ) by this Change Order .....	\$ 980.00
The new (Contract Sum) ( <del>Guaranteed Maximum Cost</del> ) including this Change Order will be ...	\$ 49,543.00

The Contract Time will be (~~increased~~) (~~decreased~~) (unchanged) by ( ) Days.  
The Date of Substantial Completion as of the date of this Change Order therefore is unchanged.

Recommended:  
The R. E. Hable Company

CONSTRUCTION MANAGER  
P.O. Drawer 650/Corsicana, Texas 75110

ADDRESS \_\_\_\_\_  
BY *William C. Hable* DATE \_\_\_\_\_

Agreed To:

CONTRACTOR \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
BY \_\_\_\_\_ DATE \_\_\_\_\_

Approved:

ARCHITECT \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
BY \_\_\_\_\_ DATE \_\_\_\_\_

Authorized:

OWNER \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
BY \_\_\_\_\_ DATE \_\_\_\_\_

**CHANGE ORDER** *26 PG. 114*  
**CONSTRUCTION MANAGEMENT EDITION**  
 AIA DOCUMENT C701/CM

Distribution to:  
 OWNER  
 ARCHITECT  
 CONSTRUCTION MANAGER  
 CONTRACTOR  
 FIELD  
 OTHER

**EXHIBIT B**  
 00000000

**PROJECT:** Upshur County Justice Center  
 (name, address) Gilmer, Texas

**CHANGE ORDER NUMBER:** One (1)

**INITIATION DATE:** May 10, 1985

**TO (Contractor):**  
 The R. E. Hable Company  
 P. O. Drawer 650  
 Corsicana, Texas 75110

**ARCHITECT'S PROJECT NO:** 8305

**CONSTRUCTION MANAGER'S PROJECT NO:**

**CONTRACT FOR:** General Construction

**CONTRACT DATE:**

You are directed to make the following changes in this Contract.

1. Relocate three (3) 2000 watt dimmers and one (1) 1500 watt dimmer controlling incandescent fixtures in District Courtroom #147 from outside wall of Room 145 to Judge's Bench. Install two (2) 3-way switches at Judge's Bench controlling Type Y fluorescent fixtures, and change two (2) existing single pole switches controlling Y fixtures to 3-way switches.
2. Add one (1) telephone outlet in clerk's desk next to Judge's Bench.
3. Add one (1) 'mike outlet four (4)' feet from center line of Jurors' Box in existing slab.

Not valid until signed by the Owner, the Architect and the Construction Manager.  
 Signature of the Contractor indicates agreement herewith, including any adjustment in the Contract Sum or the Contract Time.

The original (Contract Sum) (Guaranteed Maximum Cost) was .....	\$	<del>N/A</del>	303,950
Net change by previously authorized Change Orders .....	\$	0	
The (Contract Sum) (Guaranteed Maximum Cost) prior to this Change Order was .....	\$	<del>N/A</del>	303,950
The (Contract Sum) <del>by this Change Order</del> will be (increased) <del>(decreased) (unchanged)</del> .....	\$	600.00	304,550
The new (Contract Sum) (Guaranteed Maximum Cost) including this Change Order will be ...	\$	<del>N/A</del>	304,550
The Contract Time will be (increased) (decreased) (unchanged) by .....		N/A	( ) Days.
The Date of Substantial Completion as of the date of this Change Order therefore is .....		N/A	-----

Recommended:  
**THE R. E. HABLE COMPANY**  
 CONSTRUCTION MANAGER  
 P.O. Drawer 650, Corsicana, Texas 75110  
 ADDRESS *William Hable*  
 BY *William Hable* DATE *5/22/85*

Approved:  
**HOBBS/WIGINTON/FANCETT - ARCHITECTS + PLANNERS**  
 ARCHITECT  
 3511 Cedar Springs, Suite 2, Dallas, Texas 752  
 ADDRESS *Jim Winton*  
 BY *Jim Winton* DATE *5/13/85*

Agreed To:  
**Byron Crook Electric Company**  
 CONTRACTOR  
 Longview, Texas P O Box 7157  
 ADDRESS *75607*  
 BY *Byron Crook* DATE *5-15-85*

Authorized:  
**Upshur County Commissioners Court**  
 OWNER  
 Upshur County Courthouse, Gilmer, Texas  
 ADDRESS *[Signature]*  
 BY *[Signature]* DATE *5-28-85*

CHANGE ORDER  
CONSTRUCTION MANAGEMENT EDITION  
AIA DOCUMENT G701/CM

VOL. 216 PG. 167  
EXHIBIT C

Distribution to  
OWNER  
ARCHITECT  
CONSTRUCTION MANAGER  
CONTRACTOR  
FIELD  
OTHER

000000

PROJECT: Upshur County Justice Center  
(name, address) Gilmer, Texas

CHANGE ORDER NUMBER: 6.2

INITIATION DATE: 7/3/85

TO (Contractor):

Byron Crook Electric Co., Inc.  
P.O. Box 7157  
Longview, Texas 75602

ARCHITECT'S PROJECT NO: 8305

CONSTRUCTION MANAGER'S  
PROJECT NO: 907

CONTRACT FOR: Electrical

CONTRACT DATE:

You are directed to make the following changes in this Contract: CONTRACT #: 16000

Add in Panel K one 3 pole, 25 AMP Breaker with 3 #10, 1/2" C to  
Washing machine and a one pole 15 AMP Breaker with 2 #12, 1/2" C  
to the Dryer.

Add \$50.00

THIS CHANGE ORDER IS 100% JAIL.

Not valid until signed by the Owner, the Architect and the Construction Manager.  
Signature of the Contractor indicates agreement herewith, including any adjustment in the Contract Sum or the Contract Time.

The original (Contract Sum) ( <del>Contract Sum</del> ) was .....	\$ 303,950.00	
Net change by previously authorized Change Orders .....	\$ 600.00	
The (Contract Sum) ( <del>Contract Sum</del> ) (Guaranteed Maximum Cost) prior to this Change Order was .....	\$ 304,550.00	
The (Contract Sum) ( <del>Contract Sum</del> ) (Guaranteed Maximum Cost) will be (increased) ( <del>Contract Sum</del> ) by this Change Order .....	\$ 50.00	
The new (Contract Sum) ( <del>Contract Sum</del> ) (Guaranteed Maximum Cost) including this Change Order will be ...	\$ 304,600.00	
The Contract Time will be ( <del>increased/decreased</del> ) (unchanged) by	( )	Days.
The Date of Substantial Completion as of the date of this Change Order therefore is		

Recommended:

THE R. E. HABLE COMPANY  
CONSTRUCTION MANAGER  
P.O. Drawer 650, Corsicana, Texas 75110  
ADDRESS  
BY [Signature] DATE

Approved:

HOBBS/WIGINTON/FAWCETT-Architects & Planners  
ARCHITECT  
3511 Cedar Springs #2/Dallas, Texas 75219  
ADDRESS  
BY [Signature] 8/13/85 DATE

Agreed To:

BYRON CROOK ELECTRIC CO., INC.  
CONTRACTOR  
P.O. Box 7157/Longview, Texas 75602  
ADDRESS  
BY [Signature] DATE

Authorized:

UPSHUR COUNTY COMMISSIONERS COURT  
OWNER  
Upshur County Courthouse/Gilmer, Texas 75644  
ADDRESS  
BY \_\_\_\_\_ DATE

212 PG. 168

CERTIFICATE OF COUNTY CLERK

THE STATE OF TEXAS

§  
§  
§

COUNTY OF UPSHUR

I, the undersigned, County Clerk and Ex-Officio Clerk of the Commissioners' Court of Upshur County, Texas, DO HEREBY CERTIFY as follows:

1. That on the 9th day of September, 1985, a regular meeting of the Commissioners' Court of Upshur County, Texas, was held at the regular meeting place of the Court in the County Courthouse, Gilmer, Texas; the duly constituted members of the Court being as follows:

EVERETT DEAN

COUNTY JUDGE

GADDIS LINDSEY

COMMISSIONER, PRECINCT NO. 1

J. W. MEADOWS

COMMISSIONER, PRECINCT NO. 2

DAVID LOYD

COMMISSIONER, PRECINCT NO. 3

PAUL DAVIS

COMMISSIONER, PRECINCT NO. 4

and all of said persons were present at said meeting, except the following: Paul Davis commissioner Pct. #4. Among other business considered at said meeting, the attached order entitled:

"AN ORDER ratifying, confirming and approving Change Orders to certain contracts in relation to the construction of a new county jail and the renovation and remodeling of a building for the Upshur County Justice Center; making provision for the payment of additional amount to become due thereon by reason of said Change Orders and resolving other matters incident and related thereto."

was introduced and submitted to the Court for passage and adoption. After presentation and due consideration of the order and, upon a motion made by Gaddis Lindsey and seconded by J.W. Meadows, the order was duly passed and adopted by the Court to be effective immediately by the following vote:

3 voted "For"      0 voted "Against"      0 abstained

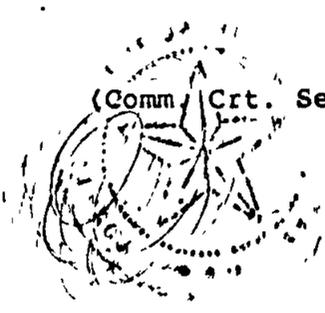
the official Minutes of the Court for the  
of the aforesaid date.

The attached order is a true and correct copy of  
on file in the official records of the County; the  
ified and acting members of the Commissioners' Court  
County on the date of the aforesaid meeting are those  
shown above and, according to the records of my office,  
notice of the time, place and purpose of the meeting  
given to each member of the Court; and that said meeting,  
and the deliberation of the aforesaid public business, was open  
to the public and written notice of said meeting, including the  
subject of the entitled order, was posted and given in advance  
thereof in compliance with the provisions of Article 6252-17,  
Section 3A, V.A.T.C.S.

IN WITNESS WHEREOF, I have hereunto signed my name  
officially and affixed the seal of the Commissioners' Court of  
said County, this the 9th day of September, 1985.

  
County Clerk and Ex-Officio  
Clerk of the Commissioners'  
Court of Upshur County, Texas

(Comm. Crt. Seal)



County Clerk's Memo  
Portions of this document not  
reproducible when recorded

# Lump Sum Subcontract Agreement

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between Marks Quality Tile Company, 207 Kim Street, White Oak, Texas 75693 hereinafter called Subcontractor and The Upshur County Commissioners Court, Gilmer, Texas, hereinafter called the Owner.

WITNESSETH: That Subcontractor and the Owner in consideration of the mutual promises herein contained, agree as follows:

1. Subcontractor agrees to furnish and pay for all materials, labor, scaffolding, equipment, tools, applicances, licenses, permits and everything necessary for the proper completion of the work described in paragraph 2 hereon, for a Upshur County Justice Center, Gilmer, Texas hereinafter called Owner, in accordance with the General Conditions, Special Conditions and Supplementary General Conditions of the contract and in accordance with the drawings and specifications prepared by Hobbs, Wiginton, & Fawcett hereinafter called the Architect; all of which General Conditions, Special Conditions, Supplementary General Conditions, drawings and specifications (hereinafter referred to as "Contract Documents"), form a part of this Agreement between the Subcontractor and the Owner.

2. Subcontractor and the Owner agree that the materials to be furnished and the work to be done (hereinafter referred to as the "Work") by Subcontractor are:

- SECTION 9310 - Ceramic Tile
- SECTION 9320 - Marble Tile
- SECTION 9330 - Tile Pavers

This contract includes all necessary floor preparation and cleaning after installation.

This contractor is to haul off the job site all trash generated by his activities.

All items and services necessary for and reasonably incidental to the proper completion of the above work.

3. The Contract Price to be paid by the Owner to Subcontractor shall be: FORTY-TWO THOUSAND FIVE HUNDRED AND NO/100----- (\$42,500.00) subject, however, to additions and/or deductions as provided in this Subcontract. On or about the twenty-fifth of each month, Subcontractor shall submit to the Owner in the form required, a written requisition for payment showing the aggregate value of the work performed (and materials suitably stored), through the last day of the preceding month from which there shall be deducted retainage of ten percent (10%) or such aggregate value, all previous payments made under prior requisitions, the aggregate amount of all payments made by the Owner to others on behalf of Subcontractor and all other amounts which the Owner is entitled to retain, subject to approval by the Owner and the Architect of the amount of the valuation of the work stated in each requisition. The Owner shall pay Subcontractor the amount of the approved value of the work less the amount deducted therefrom as provided above. The Owner may withhold payments due Subcontractor pending determination by the Owner of the proper application of all previous partial payments and Subcontractor agrees to render all necessary assistance to Owner in making such determination. Prior to its first monthly requisition, Subcontractor shall submit a detailed estimate breakdown showing the subdivision of the contract price into its various parts to be used for checking Subcontractor's monthly requisition for payment. This estimate breakdown shall be subject to the Owner and Architect's approval. The balance of the contract price shall be paid to Subcontractor upon (a) satisfactory completion of all of Subcontractor's work, (b) acceptance thereof by the Owner, (c) furnishing to the Owner satisfactory evidence that all labor and material accounts of Subcontractor have been paid in full. Subcontractor agrees to hold all payments received hereunder as a trust fund for the payment of all obligations incurred by Subcontractor in connection with the work. No payment to Subcontractor shall operate as an approval of Subcontractor's work or materials, or any part thereof.

3-A. The Owner proposes to pay all or a portion of this Agreement with certificates of obligations (and/or claims and accounts representing an undivided interest in said certificates), which certificates (and/or claims and accounts) are to be authorized, issued and delivered in accordance with the provisions of Article 2368a.1, V.A.T.C.S. The certificates (and/or claims or accounts) will be delivered to the Subcontractor as work is performed, and the Owner has made arrangements for such certificates to be transferred and assigned to a financial institution ( ) at their face value (no accrued interest) for cash. The Subcontractor has heretofore elected and does hereby elect to transfer and assign all certificates of obligation (and/or claims and accounts) issued and delivered to the Subcontractor by the Owner for work performed and furnished under this agreement.

4. Subcontractor agrees to commence the work when directed by the Owner and to complete the work within as directed days from date of this agreement. On receipt of written notice from the Owner, Subcontractor shall cease performance of the work or portions thereof and shall resume performance on receipt of like notice. Subcontractor agrees to diligently and continuously prosecute the work and to coordinate the work with other work being done on the project by other trades, so that the Owner shall not be delayed by any act or omission of Subcontractor in completion of the general contract within the time specified in the contract documents. If Subcontractor shall delay the material progress of the work and as a result thereof the Owner shall become liable for damages or shall incur additional costs, Subcontractor shall indemnify the Owner on account of any such damages and additional costs.

5. No alterations shall be made in the work as shown or described by the contract documents except on the written order of the Owner, and when so made the value of the work or materials added or omitted shall be computed and determined by the Subcontractor, subject to the written approval and acceptance by the Owner, and the amount so determined shall be added to or deducted from the contract price. Subcontractor shall have no claim for additional work unless such work has been done in pursuance of a written order from the Owner. In case of disagreement as to adjustment, Subcontractor shall proceed with performance of the alterations pending the determination of such adjustment.

6. Subcontractor shall effectually secure and protect the work and shall bear and be liable for, and shall repair and replace, all loss and damage of any kind which may happen to the work at any time prior to the final completion and acceptance thereof from any cause whatsoever and the Owner will not in any manner be responsible for any such loss or damage. Subcontractor shall indemnify and save harmless the Owner against loss or expense by reason of the liability imposed by law upon the Owner for damages because of bodily injuries including death at any time resulting therefrom accidentally sustained by any person or persons or on account of damage to property, including loss of use thereof, arising out of, or in consequence of the performance of the work whether such injuries to persons or damages to property are due or claimed to be due to any negligence of Subcontractor, the Owner, its or their employees or agents or any other person.

Subcontractor shall take out, maintain and pay for insurance during the period covered by this Subcontract, through agents, in such amounts as set forth in the specifications. Companies shall be approved by the Owner. If Subcontractor shall fail to deliver such Certificate of Insurance to the Owner within forty-eight (48) hours after demand and in any event prior to commencement of the work on the project site, the Owner may obtain such insurance for Subcontractor and pay the premiums thereon and Subcontractor shall repay the Owner on demand, any sum or sums paid therefore, under this Subcontract. Every policy of insurance required hereunder shall provide for giving to the Owner ten (10) days' prior written notice of the cancellation thereof.

Any policy of insurance covering Subcontractor's own tools, plant and facilities against loss by physical damage shall include an endorsement providing that the underwriters waive their rights of subrogation against the Owner.

7. Subcontractor shall not let, assign or transfer this Subcontract or any part hereof, or any interest therein, or any amounts due or to become due hereunder, without the written consent of the Owner.

8. Subcontractor will pay all social security, other taxes and contributions imposed upon it as an employer in connection with the performance of this Subcontract, and will furnish evidence, when required by the showing that all such payments required to be made have been paid. Subcontractor shall pay all local, state and federal taxes in connection with the work and charges for all utility services, including water and power, used by Subcontractor in the performance of its work.

9. Payments otherwise due may be withheld by the Owner on account of defective work not remedied, claims filed, reasonable evidence indicating probability of filing of claims or liens, failure to Subcontractor to make payments properly to its subcontractors or for material or labor or a reasonable doubt that the Subcontract can be completed for the balance then unpaid. If the said causes are not removed on written notice, the Owner may pay the cost of same at Subcontractor's expense by the use of such withheld payments or otherwise.

10. Subcontractor will save and keep the building or buildings referred to in this Subcontract and the lands upon which they are situated, free from all mechanic's liens and all other liens by reason of its work or of any materials or other things used by it in the work, and does hereby indemnify the Owner against any loss, damage, expense or claim arising out of Subcontractor's failure to keep such building or buildings free of liens. If Subcontractor fails to remove any lien by bonding it or otherwise the Owner may retain sufficient funds, out of any money due or thereafter to become due to Subcontractor to pay the same.

11. Subcontractor shall, at its own cost, apply for and obtain all permits required in connection with the work. In performing the work, Subcontractor shall comply in every respect with all state, federal and municipal laws, codes, ordinances and regulations relating thereto, including without limitation, the Fair Labor Standards Act. Subcontractor does hereby agree to hold the Owner harmless from any loss or expense arising out of any violation of any such law, code or regulation.

12. If by any of the contract documents referred to in paragraph 1 above, it is required that temporary buildings or facilities shall be furnished by the Owner for the use of the Architect or their representatives at the site of the work, the labor, materials, equipment and fixtures of the same general kind or character as that required to be furnished by Subcontractor pursuant to paragraph 2 above, shall also be furnished by Subcontractor for such temporary buildings or facilities. The contract price specified in paragraph 3 includes compensation for such additional labor, materials, equipment and fixtures.

13. Subcontractor will clean up and haul away all debris occasioned by the work done by it hereunder and will leave the building and premises clean insofar as the work performed under this agreement is concerned. If, after 24 hours' notice by the Owner's representative to Subcontractor's representative at the site of the work, Subcontractor has not diligently proceeded with the clean up as outlined in this paragraph, then the Owner has the right to proceed with the clean up work at Subcontractor's cost and expense.

14. Subcontractor shall submit to the Owner within ten days after execution of the Subcontract, complete shop drawings, data, catalogue cuts and/or samples as required by the contract documents. Approval of any such drawings, data, catalogue cuts and/or samples shall not relieve Subcontractor of any responsibility for execution of the work in accordance with the requirements of the contract documents.

15. Subcontractor shall provide Payment and Performance bonds on the form prescribed by and with surety acceptable to the Owner in the full amount of this Subcontract for the faithful performance of this Subcontract. The premium for bonds shall be paid by Subcontractor, or, in the event this agreement is for less than \$25,000 and in lieu of furnishing a Payment and Performance bonds, Subcontractor agrees that no money shall be paid by Owner to Subcontractor under this agreement until completion and acceptance of all work to be performed and furnished hereunder.

16. If Subcontractor at any time refuses or neglects to supply adequate and complete supervision or a sufficiency of properly skilled workmen or of materials of the proper quality or fail in any respect to prosecute the work with promptness and diligence or fail in the performance of any agreement for the benefit of its creditors or fail to pay promptly its obligations or if a receiver be appointed for Subcontractor or its assets, or if Subcontractor be adjudged a bankrupt, or fail in the performance of any of the agreements on its part contained herein, the Owner shall have the option, after 48 hours' written notice to Subcontractor, to provide any such labor or materials and to deduct the cost thereof from any money due or thereafter to become due from the Contractor to Subcontractor. The Contractor shall also be at liberty to terminate the employment of Subcontractor on said work and to enter upon the premises and take possession of all materials or appliances, of any kind whatsoever, thereon, and to employ any other person or persons to finish the work and to provide the materials therefore; and in case of such discontinuance of the employment of Subcontractor, Subcontractor shall not be entitled to receive any payment under this Subcontract which might otherwise be due it, until the work shall be finished, at which time, if the unpaid balance of the amount to be paid under this Subcontract shall exceed the expenses incurred by the Owner in finishing Subcontractor's work, such excess shall be paid by the Owner to Subcontractor, but if such expenses shall exceed such unpaid balance Subcontractor shall pay the difference to the Owner. The expense incurred by the Owner shall include all costs of finishing the work including all obligations incurred by Subcontractor, any damages incurred through the default of Subcontractor and all costs or expense incurred by the Owner. The rights of the Owner provided by this paragraph shall not be exclusive of any other rights or remedies.

17. Subcontractor will cooperate with the Owner and other Subcontractors or separate contractors whose work might interfere with Subcontractor's work and will participate in the preparation of coordinated drawings in areas of congestion, specifically noting and advising the Owner of any such interference.

18. Subcontractor shall within 24 hours after receiving written notice from Owner, proceed to take down all portions of the work condemned by the Architect or the Owner, and shall make good at its own cost, all work of others damaged or destroyed thereby and replace all such condemned work with proper work. In case of the failure of Subcontractor to promptly remove or replace any portion of the work as aforesaid, the Owner shall have the right itself or through others, to take down and remove the same and to purchase and install new materials in replacement thereof and the cost thereof together with the cost of making good all other work destroyed or damaged by such removal and replacement, shall be borne by Subcontractor and shall be paid to the Owner on demand or may be deducted by the Owner from any payments due or to become due to Subcontractor.

19. Subcontractor agrees to indemnify and save harmless the Owner and his agents against all damages which they or either of them may sustain by reason of anything to be supplied hereunder being covered by a patent not owned by Subcontractor, and at the expense of Subcontractor to defend any action brought again the Owner founded upon the claim that any such thing or any part thereof infringes any such patent.

20. Subcontractor shall remove, replace and/or repair at its own expense and at the convenience of the Owner, any workmanship, materials and equipment furnished hereunder with respect to which defects shall appear, and any equipment furnished hereunder which shall fail to develop ratings, capacities or characteristics required by the contract documents, at any time within a period of one year after acceptance of the work or within such longer period thereafter as may be provided in the contract documents. Subcontractor shall also pay all costs necessary to remove, replace and/or repair any other work which may be damaged in removing, replacing or repairing any portion of the work.

Subcontractor shall execute such separate guarantees for the benefit of, and enforceable by, the Owner as may be required by the contract documents.

21. Subcontractor expressly waives any claim for damages on account of any delay, obstruction or hindrance regardless of the cause of such delay, obstruction or hindrance.

22. Subcontractor agrees to abide by and comply with all procedure rules and regulations with regard to non-discrimination issued or to be issued by Equal Employment Opportunity Commission or Executive Order, insofar as they may apply to the work covered by this agreement.

23. All negotiations and agreements prior to the date of this agreement not included herein are hereby voided.

24. This Subcontract shall bind the executors, administrators, successors and assigns of the parties hereto.

25. No provision contained in this Subcontract shall create or give to third parties (other than the Owner) any claim or right of action against the Owner or Subcontractor beyond such as may legally exist in the absence of such provision.

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

Owner:

By J. B. Hill, Jr.  
J. B. Hill, Jr., County Clerk

Evertt Dean  
Evertt Dean, County Judge

Gaddis Lindsey  
Gaddis Lindsey, Commissioner 1

J. W. Meadows  
J. W. Meadows, Commissioner 2

David Loyd  
David Loyd, Commissioner 3

Paul Davis  
Paul Davis, Commissioner 4

MARKS QUALITY TILE COMPANY

Subcontractor  
 By Marks Quality Tile Company  
Mark Hathaway Jr. Partner  
 Name \_\_\_\_\_ Title \_\_\_\_\_

## Lump Sum Subcontract Agreement

This Agreement made this 1st day of AUGUST, 19 85, by and between East Texas Acoustical, P.O. Box 483, Longview, Texas 75606 hereinafter called Subcontractor and The Upshur County Commissioners Court, Gilmer, Texas, hereinafter called the Owner.

WITNESSETH: That Subcontractor and the Owner in consideration of the mutual promises herein contained, agree as follows:

1. Subcontractor agrees to furnish and pay for all materials, labor, scaffolding, equipment, tools, appliances, licenses, permits and everything necessary for the proper completion of the work described in paragraph 2 hereon, for a Upshur County Justice Center, Gilmer, Texas for The Commissioner's Court of Upshur County, Texas hereinafter called Owner, in accordance with the General Conditions, Special Conditions and Supplementary General Conditions of the contract and in accordance with the drawings and specifications prepared by Hobbs, Wiginton & Fawcett hereinafter called the Architect; all of which General Conditions, Special Conditions, Supplementary General Conditions, drawings and specifications (hereinafter referred to as "Contract Documents"), form a part of this Agreement between the Subcontractor and the Owner.

2. Subcontractor and the Owner agree that the materials to be furnished and the work to be done (hereinafter referred to as the "Work") by Subcontractor are:

SECTION 9510 - Acoustical Tile  
SECTION 9520 - Acoustical Wall Panel

This contractor is to haul off the job site all trash generated by his activities.

All items and services necessary for and reasonably incidental to the proper completion of the above work.

3. The Contract Price to be paid by the Owner to Subcontractor shall be: THIRTY-SEVEN THOUSAND FIVE HUNDRED FORTY-FOUR AND NO/100----- (\$37,544.00) subject, however, to additions and/or deductions as provided in this Subcontract. On or about the twenty-fifth of each month, Subcontractor shall submit to the Owner in the form required, a written requisition for payment showing the aggregate value of the work performed (and materials suitably stored), through the last day of the preceding month from which there shall be deducted retainage of ten percent (10 %) or such aggregate value, all previous payments made under prior requisitions, the aggregate amount of all payments made by the Owner to others on behalf of Subcontractor and all other amounts which the Owner is entitled to retain, subject to approval by the Owner and the Architect of the amount of the valuation of the work stated in each requisition. The Owner shall pay Subcontractor the amount of the approved value of the work less the amount deducted therefrom as provided above. The Owner may withhold payments due Subcontractor pending determination by the Owner of the proper application of all previous partial payments and Subcontractor agrees to render all necessary assistance to Owner in making such determination. Prior to its first monthly requisition, Subcontractor shall submit a detailed estimate breakdown showing the subdivision of the contract price into its various parts to be used for checking Subcontractor's monthly requisition for payment. This estimate breakdown shall be subject to the Owner and Architect's approval. The balance of the contract price shall be paid to Subcontractor upon (a) satisfactory completion of all of Subcontractor's work, (b) acceptance thereof by the Owner, (c) furnishing to the Owner satisfactory evidence that all labor and material accounts of Subcontractor have been paid in full. Subcontractor agrees to hold all payments received hereunder as a trust fund for the payment of all obligations incurred by Subcontractor in connection with the work. No payment to Subcontractor shall operate as an approval of Subcontractor's work or materials, or any part thereof.

3-A. The Owner proposes to pay all or a portion of this Agreement with certificates of obligations (and/or claims and accounts representing an undivided interest in said certificates), which certificates (and/or claims and accounts) are to be authorized, issued and delivered in accordance with the provisions of Article 2368a.1, V.A.T.C.S. The certificates (and/or claims or accounts) will be delivered to the Subcontractor as work is performed, and the Owner has made arrangements for such certificates to be transferred and assigned to a financial institution ( ) at their face value (no accrued interest) for cash. The Subcontractor has heretofore elected and does hereby elect to transfer and assign all certificates of obligation (and/or claims and accounts) issued and delivered to the Subcontractor by the Owner for work performed and furnished under this agreement.

4. Subcontractor agrees to commence the work when directed by the Owner and to complete the work within as required days from date of this agreement. On receipt of written notice from the Owner, Subcontractor shall cease performance of the work or portions thereof and shall resume performance on receipt of like notice. Subcontractor agrees to diligently and continuously prosecute the work and to coordinate the work with other work being done on the project by other trades, so that the Owner shall not be delayed by any act or omission of Subcontractor in completion of the general contract within the time specified in the contract documents. If Subcontractor shall delay the material progress of the work and as a result thereof the Owner shall become liable for damages or shall incur additional costs, Subcontractor shall indemnify the Owner on account of any such damages and additional costs.

5. No alterations shall be made in the work as shown or described by the contract documents except on the written order of the Owner, and when so made the value of the work or materials added or omitted shall be computed and determined by the Subcontractor, subject to the written approval and acceptance by the Owner, and the amount so determined shall be added to or deducted from the contract price. Subcontractor shall have no claim for additional work unless such work has been done in pursuance of a written order from the Owner. In case of disagreement as to adjustment, Subcontractor shall proceed with performance of the alterations pending the determination of such adjustment.

6. Subcontractor shall effectually secure and protect the work and shall bear and be liable for, and shall repair and replace, all loss and damage of any kind which may happen to the work at any time prior to the final completion and acceptance thereof from any cause whatsoever and the Owner will not in any manner be responsible for any such loss or damage. Subcontractor shall indemnify and save harmless the Owner against loss or expense by reason of the liability imposed by law upon the Owner for damages because of bodily injuries including death at any time resulting therefrom accidentally sustained by any person or persons or on account of damage to property, including loss of use thereof, arising out of, or in consequence of the performance of the work whether such injuries to persons or damages to property are due or claimed to be due to any negligence of Subcontractor, the Owner, its or their employees or agents or any other person.

Subcontractor shall take out, maintain and pay for insurance during the period covered by this Subcontract, through agents, in such amounts as set forth in the specifications. Companies shall be approved by the Owner. If Subcontractor shall fail to deliver such Certificate of Insurance to the Owner within forty-eight (48) hours after demand and in any event prior to commencement of the work on the project site, the Owner may obtain such insurance for Subcontractor and pay the premiums thereon and Subcontractor shall repay the Owner on demand, any sum or sums paid therefore, under this Subcontract. Every policy of insurance required hereunder shall provide for giving to the Owner ten (10) days' prior written notice of the cancellation thereof.

Any policy of insurance covering Subcontractor's own tools, plant and facilities against loss by physical damage shall include an endorsement providing that the underwriters waive their rights of subrogation against the Owner.

7. Subcontractor shall not let, assign or transfer this Subcontract or any part hereof, or any interest therein, or any amounts due or to become due hereunder, without the written consent of the Owner.

8. Subcontractor will pay all social security, other taxes and contributions imposed upon it as an employer in connection with the performance of this Subcontract, and will furnish evidence, when required by the showing that all such payments required to be made have been paid. Subcontractor shall pay all local, state and federal taxes in connection with the work and charges for all utility services, including water and power, used by Subcontractor in the performance of its work.

9. Payments otherwise due may be withheld by the Owner on account of defective work not remedied, claims filed, reasonable evidence indicating probability of filing of claims or liens, failure to Subcontractor to make payments properly to its subcontractors or for material or labor or a reasonable doubt that the Subcontract can be completed for the balance then unpaid. If the said causes are not removed on written notice, the Owner may pay the cost of same at Subcontractor's expense by the use of such withheld payments or otherwise.

10. Subcontractor will save and keep the building or buildings referred to in this Subcontract and the lands upon which they are situated, free from all mechanic's liens and all other liens by reason of its work or of any materials or other things used by it in the work, and does hereby indemnify the Owner against any loss, damage, expense or claim arising out of Subcontractor's failure to keep such building or buildings free of liens. If Subcontractor fails to remove any lien by bonding it or otherwise the Owner may retain sufficient funds, out of any money due or thereafter to become due to Subcontractor to pay the same.

11. Subcontractor shall, at its own cost, apply for and obtain all permits required in connection with the work. In performing the work, Subcontractor shall comply in every respect with all state, federal and municipal laws, codes, ordinances and regulations relating thereto, including without limitation, the Fair Labor Standards Act. Subcontractor does hereby agree to hold the Owner harmless from any loss or expense arising out of any violation of any such law, code or regulation.

12. If by any of the contract documents referred to in paragraph 1 above, it is required that temporary buildings or facilities shall be furnished by the Owner for the use of the Architect or their representatives at the site of the work, the labor, materials, equipment and fixtures of the same general kind or character as that required to be furnished by Subcontractor pursuant to paragraph 2 above, shall also be furnished by Subcontractor for such temporary buildings or facilities. The contract price specified in paragraph 3 includes compensation for such additional labor, materials, equipment and fixtures.

13. Subcontractor will clean up and haul away all debris occasioned by the work done by it hereunder and will leave the building and premises clean insofar as the work performed under this agreement is concerned. If, after 24 hours' notice by the Owner's representative to Subcontractor's representative at the site of the work, Subcontractor has not diligently proceeded with the clean up as outlined in this paragraph, then the Owner has the right to proceed with the clean up work at Subcontractor's cost and expense.

14. Subcontractor shall submit to the Owner within five days after execution of the Subcontract, complete shop drawings, data, catalogue cuts and/or samples as required by the contract documents. Approval of any such drawings, data, catalogue cuts and/or samples shall not relieve Subcontractor of any responsibility for execution of the work in accordance with the requirements of the contract documents.

15. Subcontractor shall provide Payment and Performance bonds on the form prescribed by and with surety acceptable to the Owner in the full amount of this Subcontract for the faithful performance of this Subcontract. The premium for bonds shall be paid by Subcontractor, or, in the event this agreement is for less than \$25,000 and in lieu of furnishing a Payment and Performance bonds, Subcontractor agrees that no money shall be paid by Owner to Subcontractor under this agreement until completion and acceptance of all work to be performed and furnished hereunder.

16. If Subcontractor at any time refuses or neglects to supply adequate and complete supervision or a sufficiency of properly skilled workmen or of materials of the proper quality or fail in any respect to prosecute the work with promptness and diligence or fail in the performance of any agreement for the benefit of its creditors or fail to pay promptly its obligations or if a receiver be appointed for Subcontractor or its assets, or if Subcontractor be adjudged a bankrupt, or fail in the performance of any of the agreements on its part contained herein, the Owner shall have the option, after 48 hours' written notice to Subcontractor, to provide any such labor or materials and to deduct the cost thereof from any money due or thereafter to become due from the Contractor to Subcontractor. The Contractor shall also be at liberty to terminate the employment of Subcontractor on said work and to enter upon the premises and take possession of all materials or appliances, of any kind whatsoever, thereon, and to employ any other person or persons to finish the work and to provide the materials therefore; and in case of such discontinuance of the employment of Subcontractor, Subcontractor shall not be entitled to receive any payment under this Subcontract which might otherwise be due it, until the work shall be finished, at which time, if the unpaid balance of the amount to be paid under this Subcontract shall exceed the expenses incurred by the Owner in finishing Subcontractor's work, such excess shall be paid by the Owner to Subcontractor, but if such expenses shall exceed such unpaid balance Subcontractor shall pay the difference to the Owner. The expense incurred by the Owner shall include all costs of finishing the work including all obligations incurred by Subcontractor, any damages incurred through the default of Subcontractor and all costs or expense incurred by the Owner. The rights of the Owner provided by this paragraph shall not be exclusive of any other rights or remedies.

17. Subcontractor will cooperate with the Owner and other Subcontractors or separate contractors whose work might interfere with Subcontractor's work and will participate in the preparation of coordinated drawings in areas of congestion, specifically noting and advising the Owner of any such interference.

18. Subcontractor shall within 24 hours after receiving written notice from Owner, proceed to take down all portions of the work condemned by the Architect or the Owner, and shall make good at its own cost, all work of others damaged or destroyed thereby and replace all such condemned work with proper work. In case of the failure of Subcontractor to promptly remove or replace any portion of the work as aforesaid, the Owner shall have the right itself or through others, to take down and remove the same and to purchase and install new materials in replacement thereof and the cost thereof together with the cost of making good all other work destroyed or damaged by such removal and replacement, shall be borne by Subcontractor and shall be paid to the Owner on demand or may be deducted by the Owner from any payments due or to become due to Subcontractor.

19. Subcontractor agrees to indemnify and save harmless the Owner and his agents against all damages which they or either of them may sustain by reason of anything to be supplied hereunder being covered by a patent not owned by Subcontractor, and at the expense of Subcontractor to defend any action brought against the Owner founded upon the claim that any such thing or any part thereof infringes any such patent.

20. Subcontractor shall remove, replace and/or repair at its own expense and at the convenience of the Owner, any workmanship, materials and equipment furnished hereunder with respect to which defects shall appear, and any equipment furnished hereunder which shall fail to develop ratings, capacities or characteristics required by the contract documents, at any time within a period of one year after acceptance of the work or within such longer period thereafter as may be provided in the contract documents. Subcontractor shall also pay all costs necessary to remove, replace and/or repair any other work which may be damaged in removing, replacing or repairing any portion of the work.

Subcontractor shall execute such separate guarantees for the benefit of, and enforceable by, the Owner as may be required by the contract documents.

21. Subcontractor expressly waives any claim for damages on account of any delay, obstruction or hindrance regardless of the cause of such delay, obstruction or hindrance.

22. Subcontractor agrees to abide by and comply with all procedure rules and regulations with regard to non-discrimination issued or to be issued by Equal Employment Opportunity Commission or Executive Order, insofar as they may apply to the work covered by this agreement.

23. All negotiations and agreements prior to the date of this agreement not included herein are hereby voided.

24. This Subcontract shall bind the executors, administrators, successors and assigns of the parties hereto.

25. No provision contained in this Subcontract shall create or give to third parties (other than the Owner) any claim or right of action against the Owner or Subcontractor beyond such as may legally exist in the absence of such provision.

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

Owner:

By

J. B. Hill, Jr., County Clerk

Frederic Dean, County Judge

Gaddis Lindsey, Commissioner 1

J. W. Meadows, Commissioner 2

David Loyd, Commissioner 3

Paul Davis, Commissioner 4

East Texas Acoustical

Subcontractor

By

Name

Title

## Lump Sum Subcontract Agreement

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between  
Quality Carpets, 102 Jefferson Street, Gilmer, Texas 75644  
 hereinafter called Subcontractor and The Upshur County Commissioners Court, Gilmer, Texas, hereinafter  
 called the Owner.

WITNESSETH: That Subcontractor and the Owner in consideration of the mutual promises herein contained, agree as follows:

1. Subcontractor agrees to furnish and pay for all materials, labor, scaffolding, equipment, tools, appliances, licenses, permits and everything necessary for the proper completion of the work described in paragraph 2 hereon, for a Upshur County Justice Center, Gilmer, Texas  
 hereinafter called Owner, in accordance with the General Conditions, Special Conditions and Supplementary General Conditions of the contract and in accordance with the drawings and specifications prepared by Hobbs, Wiginton, Fawcett hereinafter called the Architect; all of which General Conditions, Special Conditions, Supplementary General Conditions, drawings and specifications (hereinafter referred to as "Contract Documents"), form a part of this Agreement between the Subcontractor and the Owner.

2. Subcontractor and the Owner agree that the materials to be furnished and the work to be done (hereinafter referred to as the "Work") by Subcontractor are:

SECTION 9650 - Resilient Flooring  
 SECTION 9655 - Rubber Base  
 SECTION 9682 - Carpet

This contract includes floor preparation and cleaning at the time of installation.

This contractor is to haul all trash generated by his activity off the job site.

All items and services necessary for and reasonably incidental to the proper completion of the above work.

3. The Contract Price to be paid by the Owner to Subcontractor shall be: Twenty-Six Thousand Eight Hundred Ten and No/100----- (\$ 26,810.00)  
 subject, however, to additions and/or deductions as provided in this Subcontract. On or about the twenty-fifth of each month, Subcontractor shall submit to the Owner in the form required, a written requisition for payment showing the aggregate value of the work performed (and materials suitably stored), through the last day of the preceding month from which there shall be deducted retainage of ten percent (10 %) or such aggregate value, all previous payments made under prior requisitions, the aggregate amount of all payments made by the Owner to others on behalf of Subcontractor and all other amounts which the Owner is entitled to retain, subject to approval by the Owner and the Architect of the amount of the valuation of the work stated in each requisition. The Owner shall pay Subcontractor the amount of the approved value of the work less the amount deducted therefrom as provided above. The Owner may withhold payments due Subcontractor pending determination by the Owner of the proper application of all previous partial payments and Subcontractor agrees to render all necessary assistance to Owner in making such determination. Prior to its first monthly requisition, Subcontractor shall submit a detailed estimate breakdown showing the subdivision of the contract price into its various parts to be used for checking Subcontractor's monthly requisition for payment. This estimate breakdown shall be subject to the Owner and Architect's approval. The balance of the contract price shall be paid to Subcontractor upon (a) satisfactory completion of all of Subcontractor's work, (b) acceptance thereof by the Owner, (c) furnishing to the Owner satisfactory evidence that all labor and material accounts of Subcontractor have been paid in full. Subcontractor agrees to hold all payments received hereunder as a trust fund for the payment of all obligations incurred by Subcontractor in connection with the work. No payment to Subcontractor shall operate as an approval of Subcontractor's work or materials, or any part thereof.

3-A. The Owner proposes to pay all or a portion of this Agreement with certificates of obligations (and/or claims and accounts representing an undivided interest in said certificates), which certificates (and/or claims and accounts) are to be authorized, issued and delivered in accordance with the provisions of Article 2368a.1, V.A.T.C.S. The certificates (and/or claims or accounts) will be delivered to the Subcontractor as work is performed, and the Owner has made arrangements for such certificates to be transferred and assigned to a financial institution ( ) at their face value (no accrued interest) for cash. The Subcontractor has heretofore elected and does hereby elect to transfer and assign all certificates of obligation (and/or claims and accounts) issued and delivered to the Subcontractor by the Owner for work performed and furnished under this agreement.

4. Subcontractor agrees to commence the work when directed by the Owner and to complete the work within as required days from date of this agreement. On receipt of written notice from the Owner, Subcontractor shall cease performance of the work or portions thereof and shall resume performance on receipt of like notice. Subcontractor agrees to diligently and continuously prosecute the work and to coordinate the work with other work being done on the project by other trades, so that the Owner shall not be delayed by any act or omission of Subcontractor in completion of the general contract within the time specified in the contract documents. If Subcontractor shall delay the material progress of the work and as a result thereof the Owner shall become liable for damages or shall incur additional costs, Subcontractor shall indemnify the Owner on account of any such damages and additional costs.
5. No alterations shall be made in the work as shown or described by the contract documents except on the written order of the Owner, and when so made the value of the work or materials added or omitted shall be computed and determined by the Subcontractor, subject to the written approval and acceptance by the Owner, and the amount so determined shall be added to or deducted from the contract price. Subcontractor shall have no claim for additional work unless such work has been done in pursuance of a written order from the Owner. In case of disagreement as to adjustment, Subcontractor shall proceed with performance of the alterations pending the determination of such adjustment.
6. Subcontractor shall effectually secure and protect the work and shall bear and be liable for, and shall repair and replace, all loss and damage of any kind which may happen to the work at any time prior to the final completion and acceptance thereof from any cause whatsoever and the Owner will not in any manner be responsible for any such loss or damage. Subcontractor shall indemnify and save harmless the Owner against loss or expense by reason of the liability imposed by law upon the Owner for damages because of bodily injuries including death at any time resulting therefrom accidentally sustained by any person or persons or on account of damage to property, including loss of use thereof, arising out of, or in consequence of the performance of the work whether such injuries to persons or damages to property are due or claimed to be due to any negligence of Subcontractor, the Owner, its or their employees or agents or any other person.
- Subcontractor shall take out, maintain and pay for insurance during the period covered by this Subcontract, through agents, in such amounts as set forth in the specifications. Companies shall be approved by the Owner. If Subcontractor shall fail to deliver such Certificate of Insurance to the Owner within forty-eight (48) hours after demand and in any event prior to commencement of the work on the project site, the Owner may obtain such insurance for Subcontractor and pay the premiums thereon and Subcontractor shall repay the Owner on demand, any sum or sums paid therefore, under this Subcontract. Every policy of insurance required hereunder shall provide for giving to the Owner ten (10) days' prior written notice of the cancellation thereof.
- Any policy of insurance covering Subcontractor's own tools, plant and facilities against loss by physical damage shall include an endorsement providing that the underwriters waive their rights of subrogation against the Owner.
7. Subcontractor shall not let, assign or transfer this Subcontract or any part hereof, or any interest therein, or any amounts due or to become due hereunder, without the written consent of the Owner.
8. Subcontractor will pay all social security, other taxes and contributions imposed upon it as an employer in connection with the performance of this Subcontract, and will furnish evidence, when required by the showing that all such payments required to be made have been paid. Subcontractor shall pay all local, state and federal taxes in connection with the work and charges for all utility services, including water and power, used by Subcontractor in the performance of its work.
9. Payments otherwise due may be withheld by the Owner on account of defective work not remedied, claims filed, reasonable evidence indicating probability of filing of claims or liens, failure to Subcontractor to make payments properly to its subcontractors or for material or labor or a reasonable doubt that the Subcontract can be completed for the balance then unpaid. If the said causes are not removed on written notice, the Owner may pay the cost of same at Subcontractor's expense by the use of such withheld payments or otherwise.
10. Subcontractor will save and keep the building or buildings referred to in this Subcontract and the lands upon which they are situated, free from all mechanic's liens and all other liens by reason of its work or of any materials or other things used by it in the work, and does hereby indemnify the Owner against any loss, damage, expense or claim arising out of Subcontractor's failure to keep such building or buildings free of liens. If Subcontractor fails to remove any lien by bonding it or otherwise the Owner may retain sufficient funds, out of any money due or thereafter to become due to Subcontractor to pay the same.
11. Subcontractor shall, at its own cost, apply for and obtain all permits required in connection with the work. In performing the work, Subcontractor shall comply in every respect with all state, federal and municipal laws, codes, ordinances and regulations relating thereto, including without limitation, the Fair Labor Standards Act. Subcontractor does hereby agree to hold the Owner harmless from any loss or expense arising out of any violation of any such law, code or regulation.
12. If by any of the contract documents referred to in paragraph 1 above, it is required that temporary buildings or facilities shall be furnished by the Owner for the use of the Architect or their representatives at the site of the work, the labor, materials, equipment and fixtures of the same general kind or character as that required to be furnished by Subcontractor pursuant to paragraph 2 above, shall also be furnished by Subcontractor for such temporary buildings or facilities. The contract price specified in paragraph 3 includes compensation for such additional labor, materials, equipment and fixtures.
13. Subcontractor will clean up and haul away all debris occasioned by the work done by it hereunder and will leave the building and premises clean insofar as the work performed under this agreement is concerned. If, after 24 hours' notice by the Owner's representative to Subcontractor's representative at the site of the work, Subcontractor has not diligently proceeded with the clean up as outlined in this paragraph, then the Owner has the right to proceed with the clean up work at Subcontractor's cost and expense.
14. Subcontractor shall submit to the Owner within five days after execution of the Subcontract, complete shop drawings, data, catalogue cuts and/or samples as required by the contract documents. Approval of any such drawings, data, catalogue cuts and/or samples shall not relieve Subcontractor of any responsibility for execution of the work in accordance with the requirements of the contract documents.
15. Subcontractor shall provide Payment and Performance bonds on the form prescribed by and with surety acceptable to the Owner in the full amount of this Subcontract for the faithful performance of this Subcontract. The premium for bonds shall be paid by Subcontractor, or, in the event this agreement is for less than \$25,000 and in lieu of furnishing a Payment and Performance bonds, Subcontractor agrees that no money shall be paid by Owner to Subcontractor under this agreement until completion and acceptance of all work to be performed and furnished hereunder.

16. If Subcontractor at any time refuses or neglects to supply adequate and complete supervision or a sufficiency of properly skilled workmen or of materials of the proper quality or fail in any respect to prosecute the work with promptness and diligence or fail in the performance of any agreement for the benefit of its creditors or fail to pay promptly its obligations or if a receiver be appointed for Subcontractor or its assets, or if Subcontractor be adjudged a bankrupt, or fail in the performance of any of the agreements on its part contained herein, the Owner shall have the option, after 48 hours' written notice to Subcontractor, to provide any such labor or materials and to deduct the cost thereof from any money due or thereafter to become due from the Contractor to Subcontractor. The Contractor shall also be at liberty to terminate the employment of Subcontractor on said work and to enter upon the premises and take possession of all materials or appliances, of any kind whatsoever, thereon, and to employ any other person or persons to finish the work and to provide the materials therefore; and in case of such discontinuance of the employment of Subcontractor, Subcontractor shall not be entitled to receive any payment under this Subcontract which might otherwise be due it, until the work shall be finished, at which time, if the unpaid balance of the amount to be paid under this Subcontract shall exceed the expenses incurred by the Owner in finishing Subcontractor's work, such excess shall be paid by the Owner to Subcontractor, but if such expenses shall exceed such unpaid balance Subcontractor shall pay the difference to the Owner. The expense incurred by the Owner shall include all costs of finishing the work including all obligations incurred by Subcontractor, any damages incurred through the default of Subcontractor and all costs or expense incurred by the Owner. The rights of the Owner provided by this paragraph shall not be exclusive of any other rights or remedies.

17. Subcontractor will cooperate with the Owner and other Subcontractors or separate contractors whose work might interfere with Subcontractor's work and will participate in the preparation of coordinated drawings in areas of congestion, specifically noting and advising the Owner of any such interference.

18. Subcontractor shall within 24 hours after receiving written notice from Owner, proceed to take down all portions of the work condemned by the Architect or the Owner, and shall make good at its own cost, all work of others damaged or destroyed thereby and replace all such condemned work with proper work. In case of the failure of Subcontractor to promptly remove or replace any portion of the work as aforesaid, the Owner shall have the right itself or through others, to take down and remove the same and to purchase and install new materials in replacement thereof and the cost thereof together with the cost of making good all other work destroyed or damaged by such removal and replacement, shall be borne by Subcontractor and shall be paid to the Owner on demand or may be deducted by the Owner from any payments due or to become due to Subcontractor.

19. Subcontractor agrees to indemnify and save harmless the Owner and his agents against all damages which they or either of them may sustain by reason of anything to be supplied hereunder being covered by a patent not owned by Subcontractor, and at the expense of Subcontractor to defend any action brought against the Owner founded upon the claim that any such thing or any part thereof infringes any such patent.

20. Subcontractor shall remove, replace and/or repair at its own expense and at the convenience of the Owner, any workmanship, materials and equipment furnished hereunder with respect to which defects shall appear, and any equipment furnished hereunder which shall fail to develop ratings, capacities or characteristics required by the contract documents, at any time within a period of one year after acceptance of the work or within such longer period thereafter as may be provided in the contract documents. Subcontractor shall also pay all costs necessary to remove, replace and/or repair any other work which may be damaged in removing, replacing or repairing any portion of the work.

Subcontractor shall execute such separate guarantees for the benefit of, and enforceable by, the Owner as may be required by the contract documents.

21. Subcontractor expressly waives any claim for damages on account of any delay, obstruction or hindrance regardless of the cause of such delay, obstruction or hindrance.

22. Subcontractor agrees to abide by and comply with all procedure rules and regulations with regard to non-discrimination issued or to be issued by Equal Employment Opportunity Commission or Executive Order, insofar as they may apply to the work covered by this agreement.

23. All negotiations and agreements prior to the date of this agreement not included herein are hereby voided.

24. This Subcontract shall bind the executors, administrators, successors and assigns of the parties hereto.

25. No provision contained in this Subcontract shall create or give to third parties (other than the Owner) any claim or right of action against the Owner or Subcontractor beyond such as may legally exist in the absence of such provision.

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

Owner:

QUALITY CARPETS

By J. V. Hill, Jr.  
J. V. Hill, Jr., County Clerk

Subcontractor

By Marge Stahl owner  
Name Title

Everitt Dean  
Everitt Dean, County Judge

Gaddis Lindsey  
Gaddis Lindsey, Commissioner 1

J. W. Meadows  
J. W. Meadows, Commissioner 2

David Loyd  
David Loyd, Commissioner 3

Paul Davis  
Paul Davis, Commissioner 4

## Lump Sum Subcontract Agreement

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between  
Commercial Equipment Company, 15561 Wright Brothers, Addison, Texas 75244  
hereinafter called Subcontractor and The Upshur County Commissioners Court, Gilmer, Texas, hereinafter  
called the Owner.

WITNESSETH: That Subcontractor and the Owner in consideration of the mutual promises herein contained,  
agree as follows:

1. Subcontractor agrees to furnish and pay for all materials, labor, scaffolding, equipment, tools,  
applicances, licenses, permits and everything necessary for the proper completion of the work described  
in paragraph 2 hereon, for a Upshur County Justice Center, Gilmer, Texas  
for The Commissioner's Court of Upshur County, Texas  
hereinafter called Owner, in accordance with the General Conditions, Special Conditions and Supplementary  
General Conditions of the contract and in accordance with the drawings and specifications prepared by  
Hobbs, Wiginton & Fawcett hereinafter called the Architect; all of which  
General Conditions, Special Conditions, Supplementary General Conditions, drawings and specifications  
(hereinafter referred to as "Contract Documents"), form a part of this Agreement between the Subcontractor  
and the Owner.

2. Subcontractor and the Owner agree that the materials to be furnished and the work to be done  
(hereinafter referred to as the "Work") by Subcontractor are:

### SECTION 11930 - Laundry Equipment

This contract includes complete installation and start-up.

This contractor is to haul off the job site all trash generated by  
his activities.

All items and services necessary for and reasonably incidental to the  
proper completion of the above work.

3. The Contract Price to be paid by the Owner to Subcontractor shall be: SIX THOUSAND SEVEN HUNDRED FIFTY AND NO/100 (\$ 6,750.00 )  
subject, however, to additions and/or deductions as provided in this Subcontract. On or about the  
twenty-fifth of each month, Subcontractor shall submit to the Owner in the form required, a written requi-  
sition for payment showing the aggregate value of the work performed (and materials suitably stored),  
through the last day of the preceding month from which there shall be deducted retainage of ten  
percent ( 10 %) or such aggregate value, all previous payments made under prior requisitions, the  
aggregate amount of all payments made by the Owner to others on behalf of Subcontractor and all other  
amounts which the Owner is entitled to retain, subject to approval by the Owner and the Architect of the  
amount of the valuation of the work stated in each requisition. The Owner shall pay Subcontractor the  
amount of the approved value of the work less the amount deducted therefrom as provided above. The Owner  
may withhold payments due Subcontractor pending determination by the Owner of the proper application  
of all previous partial payments and Subcontractor agrees to render all necessary assistance to Owner  
in making such determination. Prior to its first monthly requisition, Subcontractor shall submit a  
detailed estimate breakdown showing the subdivision of the contract price into its various parts to be  
used for checking Subcontractor's monthly requisition for payment. This estimate breakdown shall be  
subject to the Owner and Architect's approval. The balance of the contract price shall be paid to  
Subcontractor upon (a) satisfactory completion of all of Subcontractor's work, (b) acceptance thereof by  
the Owner, (c) furnishing to the Owner satisfactory evidence that all labor and material accounts of  
Subcontractor have been paid in full. Subcontractor agrees to hold all payments received hereunder as a  
trust fund for the payment of all obligations incurred by Subcontractor in connection with the work. No  
payment to Subcontractor shall operate as an approval of Subcontractor's work or materials, or any part  
thereof.

3-A. The Owner proposes to pay all or a portion of this Agreement with certificates of obligations  
(and/or claims and accounts representing an undivided interest in said certificates), which certificates  
(and/or claims and accounts) are to be authorized, issued and delivered in accordance with the provisions  
of Article 2368a.1, V.A.T.C.S. The certificates (and/or claims or accounts) will be delivered to the  
Subcontractor as work is performed, and the Owner has made arrangements for such certificates to be  
transferred and assigned to a financial institution ( \_\_\_\_\_ ) at their face  
value (no accrued interest) for cash. The Subcontractor has heretofore elected and does hereby elect to  
transfer and assign all certificates of obligation (and/or claims and accounts) issued and delivered to  
the Subcontractor by the Owner for work performed and furnished under this agreement.

4. Subcontractor agrees to commence the work when directed by the Owner and to complete the work within as required days from date of this agreement. On receipt of written notice from the Owner, Subcontractor shall cease performance of the work or portions thereof and shall resume performance on receipt of like notice. Subcontractor agrees to diligently and continuously prosecute the work and to coordinate the work with other work being done on the project by other trades, so that the Owner shall not be delayed by any act or omission of Subcontractor in completion of the general contract within the time specified in the contract documents. If Subcontractor shall delay the material progress of the work and as a result thereof the Owner shall become liable for damages or shall incur additional costs, Subcontractor shall indemnify the Owner on account of any such damages and additional costs.

5. No alterations shall be made in the work as shown or described by the contract documents except on the written order of the Owner, and when so made the value of the work or materials added or omitted shall be computed and determined by the Subcontractor, subject to the written approval and acceptance by the Owner, and the amount so determined shall be added to or deducted from the contract price. Subcontractor shall have no claim for additional work unless such work has been done in pursuance of a written order from the Owner. In case of disagreement as to adjustment, Subcontractor shall proceed with performance of the alterations pending the determination of such adjustment.

6. Subcontractor shall effectually secure and protect the work and shall bear and be liable for, and shall repair and replace, all loss and damage of any kind which may happen to the work at any time prior to the final completion and acceptance thereof from any cause whatsoever and the Owner will not in any manner be responsible for any such loss or damage. Subcontractor shall indemnify and save harmless the Owner against loss or expense by reason of the liability imposed by law upon the Owner for damages because of bodily injuries including death at any time resulting therefrom accidentally sustained by any person or persons or on account of damage to property, including loss of use thereof, arising out of, or in consequence of the performance of the work whether such injuries to persons or damages to property are due or claimed to be due to any negligence of Subcontractor, the Owner, its or their employees or agents or any other person.

Subcontractor shall take out, maintain and pay for insurance during the period covered by this Subcontract, through agents, in such amounts as set forth in the specifications. Companies shall be approved by the Owner. If Subcontractor shall fail to deliver such Certificate of Insurance to the Owner within forty-eight (48) hours after demand and in any event prior to commencement of the work on the project site, the Owner may obtain such insurance for Subcontractor and pay the premiums thereon and Subcontractor shall repay the Owner on demand, any sum or sums paid therefore, under this Subcontract. Every policy of insurance required hereunder shall provide for giving to the Owner ten (10) days' prior written notice of the cancellation thereof.

Any policy of insurance covering Subcontractor's own tools, plant and facilities against loss by physical damage shall include an endorsement providing that the underwriters waive their rights of subrogation against the Owner.

7. Subcontractor shall not let, assign or transfer this Subcontract or any part hereof, or any interest therein, or any amounts due or to become due hereunder, without the written consent of the Owner.

8. Subcontractor will pay all social security, other taxes and contributions imposed upon it as an employer in connection with the performance of this Subcontract, and will furnish evidence, when required by the showing that all such payments required to be made have been paid. Subcontractor shall pay all local, state and federal taxes in connection with the work and charges for all utility services, including water and power, used by Subcontractor in the performance of its work.

9. Payments otherwise due may be withheld by the Owner on account of defective work not remedied, claims filed, reasonable evidence indicating probability of filing of claims or liens, failure to Subcontractor to make payments properly to its subcontractors or for material or labor or a reasonable doubt that the Subcontract can be completed for the balance then unpaid. If the said causes are not removed on written notice, the Owner may pay the cost of same at Subcontractor's expense by the use of such withheld payments or otherwise.

10. Subcontractor will save and keep the building or buildings referred to in this Subcontract and the lands upon which they are situated, free from all mechanic's liens and all other liens by reason of its work or of any materials or other things used by it in the work, and does hereby indemnify the Owner against any loss, damage, expense or claim arising out of Subcontractor's failure to keep such building or buildings free of liens. If Subcontractor fails to remove any lien by bonding it or otherwise the Owner may retain sufficient funds, out of any money due or thereafter to become due to Subcontractor to pay the same.

11. Subcontractor shall, at its own cost, apply for and obtain all permits required in connection with the work. In performing the work, Subcontractor shall comply in every respect with all state, federal and municipal laws, codes, ordinances and regulations relating thereto, including without limitation, the Fair Labor Standards Act. Subcontractor does hereby agree to hold the Owner harmless from any loss or expense arising out of any violation of any such law, code or regulation.

12. If by any of the contract documents referred to in paragraph 1 above, it is required that temporary buildings or facilities shall be furnished by the Owner for the use of the Architect or their representatives at the site of the work, the labor, materials, equipment and fixtures of the same general kind or character as that required to be furnished by Subcontractor pursuant to paragraph 2 above, shall also be furnished by Subcontractor for such temporary buildings or facilities. The contract price specified in paragraph 3 includes compensation for such additional labor, materials, equipment and fixtures.

13. Subcontractor will clean up and haul away all debris occasioned by the work done by it hereunder and will leave the building and premises clean insofar as the work performed under this agreement is concerned. If, after 24 hours' notice by the Owner's representative to Subcontractor's representative at the site of the work, Subcontractor has not diligently proceeded with the clean up as outlined in this paragraph, then the Owner has the right to proceed with the clean up work at Subcontractor's cost and expense.

14. Subcontractor shall submit to the Owner within ten days after execution of the Subcontract, complete shop drawings, data, catalogue cuts and/or samples as required by the contract documents. Approval of any such drawings, data, catalogue cuts and/or samples shall not relieve Subcontractor of any responsibility for execution of the work in accordance with the requirements of the contract documents.

15. Subcontractor shall provide Payment and Performance bonds on the form prescribed by and with surety acceptable to the Owner in the full amount of this Subcontract for the faithful performance of this Subcontract. The premium for bonds shall be paid by Subcontractor, or, in the event this agreement is for less than \$25,000 and in lieu of furnishing a Payment and Performance bonds, Subcontractor agrees that no money shall be paid by Owner to Subcontractor under this agreement until completion and acceptance of all work to be performed and furnished hereunder.

16. If Subcontractor at any time refuses or neglects to supply adequate and complete supervision or a sufficiency of properly skilled workmen or of materials of the proper quality or fail in any respect to prosecute the work with promptness and diligence or fail in the performance of any agreement for the benefit of its creditors or fail to pay promptly its obligations or if a receiver be appointed for Subcontractor or its assets, or if Subcontractor be adjudged a bankrupt, or fail in the performance of any of the agreements on its part contained herein, the Owner shall have the option, after 48 hours' written notice to Subcontractor, to provide any such labor or materials and to deduct the cost thereof from any money due or thereafter to become due from the Contractor to Subcontractor. The Contractor shall also be at liberty to terminate the employment of Subcontractor on said work and to enter upon the premises and take possession of all materials or appliances, of any kind whatsoever, thereon, and to employ any other person or persons to finish the work and to provide the materials therefore; and in case of such discontinuance of the employment of Subcontractor, Subcontractor shall not be entitled to receive any payment under this Subcontract which might otherwise be due it, until the work shall be finished, at which time, if the unpaid balance of the amount to be paid under this Subcontract shall exceed the expenses incurred by the Owner in finishing Subcontractor's work, such excess shall be paid by the Owner to Subcontractor, but if such expenses shall exceed such unpaid balance Subcontractor shall pay the difference to the Owner. The expense incurred by the Owner shall include all costs of finishing the work including all obligations incurred by Subcontractor, any damages incurred through the default of Subcontractor and all costs or expense incurred by the Owner. The rights of the Owner provided by this paragraph shall not be exclusive of any other rights or remedies.

17. Subcontractor will cooperate with the Owner and other Subcontractors or separate contractors whose work might interfere with Subcontractor's work and will participate in the preparation of coordinated drawings in areas of congestion, specifically noting and advising the Owner of any such interference.

18. Subcontractor shall within 24 hours after receiving written notice from Owner, proceed to take down all portions of the work condemned by the Architect or the Owner, and shall make good at its own cost, all work of others damaged or destroyed thereby and replace all such condemned work with proper work. In case of the failure of Subcontractor to promptly remove or replace any portion of the work as aforesaid, the Owner shall have the right itself or through others, to take down and remove the same and to purchase and install new materials in replacement thereof and the cost thereof together with the cost of making good all other work destroyed or damaged by such removal and replacement, shall be borne by Subcontractor and shall be paid to the Owner on demand or may be deducted by the Owner from any payments due or to become due to Subcontractor.

19. Subcontractor agrees to indemnify and save harmless the Owner and his agents against all damages which they or either of them may sustain by reason of anything to be supplied hereunder being covered by a patent not owned by Subcontractor, and at the expense of Subcontractor to defend any action brought against the Owner founded upon the claim that any such thing or any part thereof infringes any such patent.

20. Subcontractor shall remove, replace and/or repair at its own expense and at the convenience of the Owner, any workmanship, materials and equipment furnished hereunder with respect to which defects shall appear, and any equipment furnished hereunder which shall fail to develop ratings, capacities or characteristics required by the contract documents, at any time within a period of one year after acceptance of the work or within such longer period thereafter as may be provided in the contract documents. Subcontractor shall also pay all costs necessary to remove, replace and/or repair any other work which may be damaged in removing, replacing or repairing any portion of the work.

Subcontractor shall execute such separate guarantees for the benefit of, and enforceable by, the Owner as may be required by the contract documents.

21. Subcontractor expressly waives any claim for damages on account of any delay, obstruction or hindrance regardless of the cause of such delay, obstruction or hindrance.

22. Subcontractor agrees to abide by and comply with all procedure rules and regulations with regard to non-discrimination issued or to be issued by Equal Employment Opportunity Commission or Executive Order, insofar as they may apply to the work covered by this agreement.

23. All negotiations and agreements prior to the date of this agreement not included herein are hereby voided.

24. This Subcontract shall bind the executors, administrators, successors and assigns of the parties hereto.

25. No provision contained in this Subcontract shall create or give to third parties (other than the Owner) any claim or right of action against the Owner or Subcontractor beyond such as may legally exist in the absence of such provision.

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

Owner:

By J. B. Hill, Jr.  
J. B. Hill, Jr., County Clerk

Everett Dean  
Everett Dean, County Judge

Gaddis Lindsey  
Gaddis Lindsey, Commissioner 1

J. W. Meadows  
J. W. Meadows, Commissioner 2

David Loyd  
David Loyd, Commissioner 3

Paul Davis  
Paul Davis, Commissioner 4

COMMERCIAL EQUIPMENT COMPANY

Subcontractor

By Fred K. Smith President  
Name Title

FAIR LABOR STANDARDS ACT POLICY STATEMENT  
1985

PURPOSE

To affirm the policy of Upshur County to abide by the Fair Labor Standards Act of 1938 and subsequent amendments.

POLICY

Upshur County will take affirmative action to see that all employees are compensated and labor under the terms of FLSA. Further, all policies of Upshur County regarding minimum wage, maximum hour, overtime pay, and record-keeping requirements will be in compliance with FLSA, retroactive to April 15, 1985.

SCOPE

This policy extends to all employees, except certain employees excluded from the FLSA definition of the term "employee" and those employees who may qualify for exemption from the requirements of FLSA.

RESPONSIBILITIES

All employees will carry out the spirit and intent of this policy. The application and effectiveness of this poicy are the responsibility of department heads, the designated personnel officer, and all supervisory personnel.

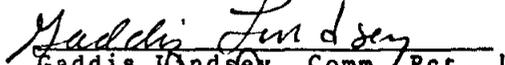
PROCEDURES

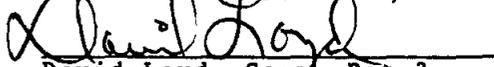
The specific requirements of FLSA will be accomplished by written procedures that will be formulated and implemented that meet FLSA but not limited to FLSA regulated employment practices.

Whenever any question may arise concerning FLSA and Upshur County policies, inquiries will be made, by agreement of the parties, to one or all of the following: Upshur County Criminal District Attorney, U.S. Department of Labor Dallas Regional office, and/or the U.S. Department of Labor Wash- ington D.C. office by oral and/or written inquiry. Prompt resolution will be made to assure compliance of FLSA.

ADOPTED THIS THE 6TH DAY OF SEPTEMBER, 1985.

  
Everett Dean, County Judge

  
Gaddis Lindsey, Comm. Pct. 1

  
David Loyd, Comm. Pct. 3

  
J.W. Meadows, Comm. Pct. 2

  
Paul Davis, Comm. Pct. 4

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2528

**JACK M. FINLEY, INC.**  
DBA LAWYERS TITLE AGENCY  
OPERATING ACCOUNT  
811A GILMER RD. 297-7721  
LONGVIEW, TEXAS 75804

9/6 1985 00-1379/1118

PAY TO THE ORDER OF

Upper County Clerk

\$ 150.00

One hundred fifty and no/100

DOLLARS

<u>Copies</u>				
<u>Plan &amp; upkeep</u>				

LAWYERS TITLE AGENCY  
OPERATING ACCOUNT

*Jack M. Finley*

⑈002528⑈ ⑆111913798⑆ ⑈9004300⑈

**FIRST STATE BANK**  
P.O. BOX 1432 GLADEWATER, TX 75847

THIS CHECK IS DELIVERED FOR PAYMENT ON THE ACCOUNTS LISTED

BY \_\_\_\_\_  
T-PRY

UPPER COUNTY, TX

1985 SEP 10 AM 9 04

FILED  
J.B. HILL, JR.  
COUNTY CLERK