

MAY 14 2020

REQUEST FOR AGENDA PLACEMENT FORM

Submission Deadline - Tuesday, 12:00 PM before Court Dates

Approved

SUBMITTED BY: Carla Hester **TODAY'S DATE:** May 8, 2020

DEPARTMENT: Precinct #4

SIGNATURE OF DEPARTMENT HEAD:

REQUESTED AGENDA DATE: Thursday, May 14, 2020 Special Called

SPECIFIC AGENDA WORDING: Consideration of Commercial Trailer Lease Agreement between Brazos Trailer Mfg., LLC and Johnson County, Texas

PERSON(S) TO PRESENT ITEM: Comm. Larry Woolley

SUPPORT MATERIAL: (Must enclose supporting documentation)

TIME: 5 min.	ACTION ITEM: <u> X </u>
	WORKSHOP _____
(Anticipated number of minutes needed to discuss item)	CONSENT: _____
	EXECUTIVE: _____

STAFF NOTICE:

COUNTY ATTORNEY: <u> X </u>	IT DEPARTMENT: _____
AUDITOR: <u> X </u>	PURCHASING DEPARTMENT: <u> X </u>
PERSONNEL: _____	PUBLIC WORKS: _____
BUDGET COORDINATOR: _____	OTHER: _____

*****This Section to be Completed by County Judge's Office*****

ASSIGNED AGENDA DATE: _____

REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE _____

COURT MEMBER APPROVAL _____ Date _____

CERTIFICATE OF EXEMPTION FROM FEDERAL EXCISE TAX

<i>Name of Purchaser, firm or agency</i> Johnson County, Texas	<i>Doing Business As</i>		
<i>Billing Street Address</i> 2 N. Main Street	<i>City</i> Cleburne	<i>State</i> Texas	<i>Zip</i> 76033

The undersigned represents that he/she is authorized to execute this certificate and hereby claims exemption from taxes imposed by Section 4251 of the Internal Revenue Code under the following provisions. (Check the appropriate section and provide required information where applicable)

- Reseller of Communication Services** (Section 4253(e)): It is understood that no tax will be collected by Brazos Trailer MFG LLC affiliates on charges for said services, and that it will be the responsibility of the undersigned to collect such as tax as may be due from its customers, and remit payment to the Internal Revenue Service. FCC 499 ID _____. Includes businesses operating as a (check one):
 Competitive Local Exchange Carrier Internet Service Provider Other [please specify] Telecommunications Provider
- Instrumentality of the United States Government** (Section 4293)
- State / local government, or political subdivision thereof** [e.g., school districts, county offices] (Section 4253 (i))
- Indian tribal government** (Section 4253 (i): Section 7871). For exemption on tribal member's residence service located on qualified Indian lands, check here and include attestation letter from tribal official.
- A public International Organization** (Section 4253(c): Section 7701(a)(18))
- An organization created and specifically designated tax exempt by an Act of Congress.** Public Law No. _____
- A quasi-governmental organization**, performing the civic function of _____: paid from the funds of _____ (Name of exempt organization). [Attestation letter from exempt organization required.]
- Ambassadors, Ministers or other Diplomatic Representatives of a foreign government**
- Consular officer of a foreign government** [DS-98 from OFM required for each exempt telephone number]
- Common carrier, telephone and telegraph company, radio and television broadcasting stations and networks** Section 4253(f), IRC), tax imposed by Section 4251 of the code on WATS. Note: exemption only applies to WATS, "800" or "888" service used exclusively in the conduct of its business as a (check one):
 Common carrier Telephone Company Telegraph Company Radio or Television Broadcasting Station
- Nonprofit Educational Organization** (Section 4253(j)), includes schools operating as an activity of a church or other religious body. This organization claiming exemption has received a determination letter (or ruling) from the IRS qualifying to be exempt from Income Tax under Section 501(a) or Section 501(c)(3). [Copy of 501(c) letter required.]
- Nonprofit Hospital** (Section 4253(h)). This organization claiming exemption has received a determination letter (or ruling) from the IRS qualifying to be exempt from Income Tax under Section 501(a). [Copy of 501(c) letter required.]
- No longer entitled to tax exemption**, effective this date: _____

Please list accounts (telephone numbers) qualified for exemption. If necessary, list on separate page and attach to certificate.

Sign here:
AUTHORIZED REPRESENTATIVE Roger Harmon **DATE** May 14, 2020
[PRINT NAME] Roger Harmon **TITLE** County Judge
CONTACT PHONE NUMBER 817 556 6360 **E-MAIL ADDRESS** countyjudge@johnsoncountytexas.org

COMMERCIAL TRAILER LEASE AGREEMENT

Lessor: Brazos Trailer Manufacturing, L.L.C.
22488 Interstate 20
Wills Point, TX 75169
Phone: (903) 873-8130

Lessee: Johnson County, Texas
2 N. Main Street
Cleburne, Texas 76033

Trailer Subject to Lease:

Vin #	Year	Make	Body
4B9BKDL24MH054213	2021	BRAZOS	40' PITBOSS

Term of Lease (in months): 6

Commencement Date: May 18, 2020

1. Lease

Lessor hereby leases to Lessee the Trailer Subject to Lease as described above (the "Trailer") for the Term of the Lease reflected above (the "Term") subject to the following terms, provisions, conditions, and covenants. The Term begins on the Commencement Date and, upon Lessee's acceptance of the Trailer on the Commencement Date, Lessee will be deemed to have agreed that the Trailer is leased "AS IS" and is satisfactory and in good working condition and this Commercial Trailer Lease Agreement (the "Lease") shall become Lessee's ABSOLUTE UNCONDITIONAL OBLIGATION THAT LESSEE CANNOT CANCEL OR TERMINATE except pursuant to the terms and conditions of this Lease.

2. Monthly Rent Payments

Monthly Rent: \$500

Monthly Taxes: \$0

Total Monthly Payment: \$500

of Monthly Payments: 6

Monthly Due Date: Lessee will pay to Lessor the total monthly payment within thirty (30) days of receipt of said invoice for

the total monthly payment. Invoices are to be sent to Kathy Blackwell, County Treasurer, 2 N. Main Street, Cleburne, TX 76033.

Total Initial Payment: \$3,000.00

Federal Excise Tax	State Fees	Six Month Payment
\$0	\$0	\$3,000
Documentation Fees	Security Deposit	
\$0	\$0	

On the Commencement Date, Lessee shall pay the Total Initial Payment to Lessor. Lessee agrees that, other than the Security Deposit, the Total Initial Payment is nonrefundable. Lessee acknowledges and agrees that the Security Deposit will be returned to Lessee upon the termination of the Lease, pursuant to paragraph 16, less any amounts owed by Lessee to Lessor as of the date of termination.

During the Term of the Lease, Lessee shall pay to Lessor at Lessor's address the Total Monthly Payment, subject to applicable adjustments, on the Monthly Due Date.

3. Increased Taxes or Charges

Should any tax or charge imposed by any governmental authority on this transaction, as above shown, increase during the term of the Lease, Lessee agrees to pay Lessor on demand the full amount of any such increased taxes or charges and expressly authorizes Lessor to adjust the Total Monthly Payment amount to account for any such increase.

4. Taxes and Fees

Lessee shall promptly reimburse Lessor for and hold Lessor harmless against all state, federal or other fees, assessments, charges and taxes (including penalties and interest but excluding taxes on Lessor's taxable income) which now or hereafter may be imposed on or with respect to this Lease, the Trailer or amounts payable hereunder.

5. Late Payment / Other Charges

If Lessee fails to pay any amount due under this Lease on the due date, Lessee will pay a late payment fee equal to 15% of the delinquent amount. Lessee also agrees to pay interest on any overdue amount calculated from the due date at the rate of 18% percent per annum or the maximum interest rate permitted by applicable law, whichever is lower.

6. Warranties

The Trailer is leased to Lessee "AS IS." Lessee has selected the Trailer based upon Lessee's own judgment and has not relied upon any representations or statements by Lessor. Lessor is relying upon such disclaimer in entering into the Lease. LESSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF

MERCHANTIBILITY, FITNESS FOR A PARTICULAR PURPOSE, OR DESCRIPTION OF THE TRAILER, EXCEPT AS TO LESSOR'S TITLE TO THE TRAILER. Nothing in this provision shall be deemed to alter or eliminate the express warranties of the original manufacturer provided, or transferred, to Lessee.

7. Title to Trailer

Title to the Trailer shall be and remain in Lessor at all times during the term of the Lease. Lessee shall not remove from the Trailer, or permit to be removed, any vin number, model, name, or other indicia reflecting ownership. Lessee agrees and acknowledges that this Lease is a "true lease" and not intended as a security agreement.

8. Use and Maintenance of Trailer

Lessee agrees to use the Equipment only in the conduct of its business in a careful and proper manner and only for commercial or business purposes and not for personal, family, household, consumer or agricultural purposes. Lessee shall, at its own cost and expense, keep the Trailer in good working condition during the term of the Lease and shall exercise reasonable care in using the Trailer. Lessee shall surrender the Trailer to Lessor in as good order and condition as it is as of the Commencement Date, reasonable wear and tear resulting from the proper use of the Trailer alone excepted. Lessee shall not make any alterations to the Trailer without the prior written consent of Lessor.

9. Insurance

Lessee will name Brazos Trailers as an additional insured to the coverage provided by the Texas Association of Counties (TAC) Risk Pool. Said coverage is limited to liability according to the Tort Claims Act, in chapter 101, Texas Civil Practice and Remedies Code; \$100,000 per person and \$300,000 per occurrence. Lessee will provide to Lessor proof that Brazos Trailers is an additional insured.

10. Indemnity

Lessee shall indemnify Lessor, subject to Section 7, Article XI, of the Texas Constitution and Chapter 101 of the Texas Civil Practice and Remedies Code (Tort Claims Act), against, and hold Lessor harmless from, all claims, actions, proceedings, costs, damages, and liabilities, including attorney's fees, arising out of, connected with, or resulting from the Trailer, including without limitation the delivery, possession, use, operation, or return of the Trailer.

11. Possession of Trailer; Assignment of Lease

Without the prior written consent of Lessor, Lessee shall not part with the possession of the Trailer, or permit it to be removed from Lessee's possession, or assign this Lease or sublease the Trailer; and Lessee shall keep the Trailer free of all taxes, liens, and encumbrances.

12. Inspection by Lessor

For the purpose of examining and inspecting the condition of the Trailer, Lessor may from time to time enter any premises in which the Trailer may be located.

13. Lessee's Right to Possession

Lessee shall have the right to retain possession of the Trailer only so long as Lessee shall not be in default under the Lease. Punctuality in the payment of the rent shall be deemed to be the essence of this lease.

14. Default by Lessee

Any of the following is a default under the Lease: (a) failure of Lessee to pay any amount due under or in connection with the Lease to Lessor within 5 days of the date when due; (b) insolvency of Lessee; (c) appointment of a receiver for Lessee; (d) bankruptcy of Lessee; (e) dissolution of Lessee; (f) cessation of Lessee's normal business operations; (g) levy, seizure, impounding or withholding of the Trailer by any other person or entity by any law enforcement official or agency; (h) bulk sale of Lessee's assets; (i) falsity of any representation or warranty made by Lessee or any financial or other information submitted by or on behalf of Lessee to Lessor; (j) change in Lessee's financial condition such that, in Lessor's opinion, the credit risk or other risks of Lessor are increased; (k) a financial institution revokes, refuses to honor, or refuses to renew or extend any letter of credit required by Lessor; or (l) Lessee fails to perform or observe any other representation, warranty, covenant, condition or agreement under or in relation to the Lease and fails to cure such breach within 10 days from the date of notice.

15. Default Remedies

If any event of default occurs, Lessor may recover actual and consequential damages, expenses, court costs, and reasonable attorney's fees in relation to the default and proceed with all other remedies afforded in this Lease and under applicable law. If any of the events of default described in subparagraphs 14(a) through 14(h) of the Lease occur, Lessor may, in addition to or together with the foregoing remedies, exercise the other following other remedies: (a) accelerate the entire remaining rental balance payable under the Lease as immediately due and owing; (b) take possession of, or render unusable, the Trailer, wherever located, without demand or notice, without court order or other legal process and without liability to Lessee for any resulting damages; (c) resort to legal process and remedies to take possession of the Trailer, wherever located, without liability to Lessee for any resulting damages; (d) proceed to court action to enforce performance by Lessee under the Lease and/or recover damages relating to the Lease, including, without limitation, the entire remaining rental balance and other sums due and owing under the Lease; (e) terminate any other agreement Lessee may have with Lessor; or (f) exercise any other legal or equitable remedy available under applicable law. Lessor shall not under any circumstances be obligated to avail itself of any remedy for any default. Resort to one or more remedy shall not be a waiver of or an election of remedies to the exclusion of any other remedies provided in the Lease or otherwise available under applicable law or in equity. The Lessor is not required to recover or accept surrender of the Trailer.

22. Lease as Entire Agreement; Severability

This Lease embodies the entire agreement between the parties. It may not be modified or terminated except as provided in this agreement or by other written agreement between the parties. If any provision in this agreement is invalid, it shall be considered deleted from this Lease, and shall not invalidate the remaining provisions of this Lease.

23. Execution of Lease

This lease is not binding until executed by a proper officer of Lessor and until the receipt and acceptance of the Total Initial Payment provided for under this Lease. This Lease may be executed electronically or by facsimile.

24. Manner of Giving Notice

Any notice to be given under this Lease shall be mailed to the party to be notified at the address set forth in this Lease, by registered or certified mail with postage prepaid, and shall be deemed given when so mailed.

25. Boycott Israel

Brazos Trailer Manufacturing, LLC verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. The term "boycott Israel" is defined by Texas Government Code Section 808.001, effective September 1, 2017. Brazos Trailer Manufacturing, LLC further verifies that it is not engaged in business with Iran, Sudan, or any foreign terrorist organization. The term "foreign terrorist organization" means an organization designated as foreign terrorist organization by the United States Secretary of State as authorized by 8 U.S.C. Section 1189.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

LESSOR:

Brazos Trailer Manufacturing, LLC

[Signature]
By: Brooke Shafer
Title: Finance Assistant
Date: May 11, 2020

LESSEE:

Johnson County, Texas

X *[Signature]*
By: Roger Harmon
Title: County Judge
Date: May 14, 2020

ATTEST:

X *[Signature]*
By: Becky Ivey
Title: County Clerk
Date: May 14, 2020



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Wills Point, TX 75169
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(Initial) *RA*

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MERCHANTIBILITY, FITNESS FOR A PARTICULAR PURPOSE, OR DESCRIPTION OF THE TRAILER, EXCEPT AS TO LESSOR'S TITLE TO THE TRAILER. Nothing in this provision shall be deemed to alter or eliminate the express warranties of the original manufacturer provided, or transferred, to Lessee.

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15. Default Remedies

If any event of default occurs, Lessor may recover actual and consequential damages, expenses, court costs, and reasonable attorney's fees in relation to the default and proceed with all other remedies afforded in this Lease and under applicable law. If any of the events of default described in subparagraphs 14(a) through 14(h) of the Lease occur, Lessor may, in addition to or together with the foregoing remedies, exercise the other following other remedies: (a) accelerate the entire remaining rental balance payable under the Lease as immediately due and owing; (b) take possession of, or render unusable, the Trailer, wherever located, without demand or notice, without court order or other legal process and without liability to Lessee for any resulting damages; (c) resort to legal process and remedies to take possession of the Trailer, wherever located, without liability to Lessee for any resulting damages; (d) proceed to court action to enforce performance by Lessee under the Lease and/or recover damages relating to the Lease, including, without limitation, the entire remaining rental balance and other sums due and owing under the Lease; (e) terminate any other agreement Lessee may have with Lessor; or (f) exercise any other legal or equitable remedy available under applicable law. Lessor shall not under any circumstances be obligated to avail itself of any remedy for any default. Resort to one or more remedy shall not be a waiver of or an election of remedies to the exclusion of any other remedies provided in the Lease or otherwise available under applicable law or in equity. The Lessor is not required to recover or accept surrender of the Trailer.

16. Termination of Lease

This Lease shall terminate upon the earlier of: (a) the written agreement of the parties, or (b) the return of the Trailer to Lessor pursuant to the terms of this Lease after expiration of the Term and absent an event of default.

17. Return of Trailer

On termination, or upon demand following an event of default, Lessee shall, at its expense, return the Trailer to Lessor at an address specified by Lessor. Unless Lessee (a) notifies Lessor in writing sixty (60) days prior to the scheduled expiration of the Term that Lessee will purchase the Trailer (which such notice shall be irrevocable) and do so or (b) Lessee promptly returns the Trailer upon the expiration of the Term, the Term will continue on a month to month basis and Lessee shall pay rent at 50% of the Total Monthly Payment until Lessee returns the Trailer or exercises the purchase option. Lessor does not waive any other rights under law with respect to Lessee's failure to notify Lessor or to return the Trailer.

18. Authorization

The person signing below on behalf of Lessee individually and in his/her capacity as an officer or agent of the Lessee represents and warrants that the Lease is executed in the ordinary course of business of the Lessee and that he or she has the legal right, power and authority to sign this Lease on behalf of Lessee.

19. Effect of Waiver

No delay or omission to exercise any right, power, or remedy accruing to Lessor on any breach or default by Lessee under this lease shall impair any such right, power, or remedy of Lessor, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence in such breach or default, or of any similar breach or default occurring thereafter; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default. Any waiver, permit, consent, or approval of any kind or character on the part of Lessor of any breach or default under this lease, or any waiver on the part of Lessor of any term, provisions, condition, or covenant of this lease, must be in writing, and shall be effective only to the extent in such writing specifically set forth. All remedies, either under this lease or by law, or otherwise afforded to Lessor, shall be cumulative and not alternative.

20. Attorneys' Fees

In the event of any action filed in relation to Lessee's default under the Lease or Lessee's breach of any obligation under the Lease, Lessee, in addition to all other sums that Lessee might be called on to pay, will pay to Lessor a reasonable sum for Lessor's attorneys' fees.

21. Applicable Law

This lease shall be governed by and construed under the laws of the State of Texas.

22. Lease as Entire Agreement; Severability

This Lease embodies the entire agreement between the parties. It may not be modified or terminated except as provided in this agreement or by other written agreement between the parties. If any provision in this agreement is invalid, it shall be considered deleted from this Lease, and shall not invalidate the remaining provisions of this Lease.

23. Execution of Lease

This lease is not binding until executed by a proper officer of Lessor and until the receipt and acceptance of the Total Initial Payment provided for under this Lease. This Lease may be executed electronically or by facsimile.

24. Manner of Giving Notice

Any notice to be given under this Lease shall be mailed to the party to be notified at the address set forth in this Lease, by registered or certified mail with postage prepaid, and shall be deemed given when so mailed.

25. Boycott Israel

Brazos Trailer Manufacturing, LLC verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. The term "boycott Israel" is defined by Texas Government Code Section 808.001, effective September 1, 2017. Brazos Trailer Manufacturing, LLC further verifies that it is not engaged in business with Iran, Sudan, or any foreign terrorist organization. The term "foreign terrorist organization" means an organization designated as foreign terrorist organization by the United States Secretary of State as authorized by 8 U.S.C. Section 1189.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

LESSOR:

Brazos Trailer Manufacturing, LLC

BSM
By: Brooke Shafer
Title: Finance Assistant
Date: May 11, 2020

LESSEE:

Johnson County, Texas

X [Signature]
By: Roger Harmon
Title: County Judge
Date: May 14, 2020

ATTEST:

X Becky Ivey
By: Becky Ivey
Title: County Clerk
Date: May 14, 2020

