MAY 24 2021

Approved

| REQUEST FOR AGENDA PLACEMENT FORM | | |
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| Submission Deadline - Tuesday, 12:00 PM before Court Dates | | |
| | | |
| SUBMITTED BY: Ralph McBroom | | |
| TODAY'S DATE: May 12, 2021 | | |
| DEPARTMENT: Purchasing | | |
| DEPARTMENT HEAD: Ralph McBroor | n | |
| REQUESTED AGENDA DATE: May 24, 2021 | | |
| SPECIFIC AGENDA WORDING: Consider and approve Master Rental | | |
| Agreement and Johnson County Contract Terms Addendum to Rental Contract | | |
| and Sunbelt Rentals Inc. Rental Agreement for rental of equipment. | | |
| PERSON(S) TO PRESENT ITEM: | Ralph McBroom C.P.M. | |
| SUPPORT MATERIAL: | | |
| TIME: 5 min | ACTION ITEM: X | |
| | WORKSHOP | |
| (Anticipated number of minutes needed to discuss ite | , | |
| | EXECUTIVE: | |
| STAFF NOTICE: | | |
| COUNTY ATTORNEY: X | IT DEPARTMENT: | |
| AUDITOR: PERSONNEL: | PURCHASING DEPARTMENT: | |
| BUDGET COORDINATOR: | PUBLIC WORKS: OTHER: | |
| | | |
| *********This Section to be completed by County Judge's Office******** | | |
| | and a summer of the summer of | |
| ASSIGNED AGENDA DATE: | | |
| REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE | | |
| COURT MEMBER APPROVAL | Date | |
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MASTER RENTAL AGREEMENT AND JOHNSON COUNTY CONTRACT TERMS ADDENDUM TO RENTAL CONTRACT

This Master Rental Agreement And Johnson County Contract Terms Addendum to Rental Contract, (hereinafter referred to as the "AGREEMENT") is between **Johnson County**, **Texas**, a political subdivision of the State of Texas, (hereinafter referred to as "COUNTY"), and Sunbelt Rentals, Inc.

(hereinafter referred to as "VENDOR"), collectively referred to as the "PARTIES", and is a master rental agreement and an addendum to the Rental Contract of Vendor between the Parties for the rental of equipment and together this AGREEEMNT and the Rental Contract shall constitute the entire and complete contract between the Parties.

NOW, THEREORE, in consideration of the mutual promises and covenants contained herein, the Parties agree and understand as follows:

- 1. This Agreement is to apply to each and every Rental Contract for the rental of equipment by County from Vendor after the date this Agreement is approved by the Parties and shall continue to be effective until April 30 20 22 A signed copy of this Agreement shall be attached to and become part of each Rental Contract between the Parties as though said copy of this Agreement were an original. In the event a signed copy of this Agreement is not attached to a Rental Contract, the Parties agree that the terms and conditions of the Agreement will apply to the Rental Contract as though said Agreement had been attached.
- 2. This Agreement is to clarify, limit, modify or delete terms and provisions of the Rental Contract and in the event of any conflict between the terms and provisions of this Agreement and the terms and provisions of those contractual provisions tendered to Johnson County in the Rental Contract, this Agreement shall control and amend the contractual provisions of the Rental Contract and any provisions in the Rental Contract to the contrary are hereby deleted.
- 3. This Agreement is being executed in order to facilitate County being able to rent equipment from Vendor on an "as needed" basis and that when a representative of County signs the Rental Contract upon taking possession of the equipment, the representative of County is acknowledging the tender or delivery of Vendor's equipment, the rate to be charged and the time period of the rental; however, the representative of County is not agreeing to or binding the County to any terms and conditions that conflict with this Agreement.
- 4. Each Rental Contract with a signed copy of this Agreement attached will be an effective agreement between the Parties upon the Purchasing Agent of County issuing a Purchase Order for the rental of equipment listed on the Rental Contract and a representative of County signing the said Rental Contract.

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- 5. Either Party may cancel this Agreement by providing written notice to the other Party thirty (30) days prior to cancellation.
- 6. This Agreement will be governed by and construed according to the laws of the State of Texas. Venue for any action or claim arising out of the Agreement will be in the state district courts in Johnson County, Texas or the federal district courts in Dallas County, Texas. Any provision in the Rental Contract stating that County agrees to waive any right to trial by jury is hereby deleted.
- 7. Limitations for the right to bring an action, regardless of form, shall be governed by the laws of the State of Texas, Texas Civil Practice and Remedies Code §16.070, as amended, and any provision in the Rental Contract to the contrary is hereby deleted.
- 8. Under Texas law, a contract with a governmental entity that contains a claim against future revenues is void; therefore, any term in the Rental Contract which provides for such a claim is hereby deleted.
- 9. Under the Texas Constitution and laws of the State of Texas, Johnson County cannot enter into an agreement whereby Johnson County agrees to indemnify or hold harmless any other party; therefore, all references in the Rental Contract of any kind to Johnson County indemnifying and holding harmless any individuals or entities for any reason whatsoever are hereby deleted.
- 10. County is a political subdivision of the State of Texas, and therefore has certain governmental/sovereign immunity and limitations on liability, and that County's general liability and vehicle insurance coverage is with the Texas Association of Counties Risk Pool and said insurance coverage is limited to the statutory maximum limits of the Texas Tort Claims Act (Chapter 101, Texas Civil Practice and Remedies Code); therefore, any provisions in the Rental Contract requiring County to provide and maintain any insurance in excess of the statutory maximum limits are hereby deleted.
- 11. County does not waive any of its common law, statutory or constitutional defenses to which it may be entitled; therefore any provisions in the Rental Contract to the contrary are hereby deleted.
- 12. County will provide property insurance covering the replacement (fair market value) cost of the equipment rented and will provide Vendor with a certificate of insurance.
- 13. County will provide statutory workers compensation for its employees; however, County does not agree to include a waiver of subrogation, and therefore any provisions in the Rental Contract to the contrary are hereby deleted.

- 14. County does not agree to waive any rights and remedies available to County under the Uniform Commercial Code ("UCC"); therefore, any provisions in the Rental Contract to the contrary are hereby deleted.
- 15. County does not agree to waive any rights and remedies available to County under the Texas Deceptive Trade Practices-Consumer Protection Act; therefore, any provisions in the Rental Contract to the contrary are hereby deleted.
- 16. Except for a heavy equipment tax, County does not agree to be responsible for any sales tax, use tax, or any other taxes, fees, fines or penalties that may be imposed, levied or assessed by any federal, state or local government or agency which relates to the Rental Contract, the equipment or its use; therefore, any provisions in the Rental Contract to the contrary are hereby deleted.
- 17. Pursuant to Texas Government Code Section 2251.021 and this Agreement, a payment by a governmental entity under a contract is overdue on the 31st day after the later of:
 - a. the date the governmental entity receives the goods under the contract;
 - b. the date the performance of the service under the contract is completed; or
 - c. the date the governmental entity receives an invoice for the goods or service.

Pursuant to Texas Government Code Section 2251.021 and this Agreement, a payment begins to accrue interest on the date the payment becomes overdue. The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of: (1) one percent; and (2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. Interest on an overdue payment stops accruing on the date the governmental entity or vendor mailed or electronically transmits the payment. Therefore, all provisions in the Rental Contract to the contrary are hereby deleted.

- 18. To the extent, if any, that any provision in this Agreement is in conflict with Chapter 552 of the Texas Government Code (the "Public Information Act"), the same shall be of no force and effect. Furthermore, it is expressly understood and agreed that Johnson County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act.
- 19. Services provided under the Agreement shall be provided in accordance with all applicable state and federal laws.

IN WITNESS WHEREOF, intending to be legally bound, the Parties have caused their authorized representative to execute this Agreement. Each representative whose signature appears

on this Agreement represents and does hereby certify that they have the authority to enter into this Agreement for their represented Party.

APPROVED AS TO FORM AND CONTENT:

| JOHNSON COUNTY: | |
|---------------------------------------|---|
| Ruspelanner | 5-24-21 |
| Roger Harmon | Date |
| Attest: County Clerk, Johnson County | SEIONERS COLLAR TO SEION COUNTY TO Atte |
| VENDOR: | |
| 2. Zakh | |
| Authorized Representative | Date |
| Printed Name: Irina Zakh | |
| Title: Customer Contract Manager | |



| PC#: | SUNBELT RENTALS, INC. | |
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| TELEPHONE: | | |
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| FIFTHE EQUIPMENT DOES NOT WORK MULTIPLE SHIFTS OR CUSTOMER IS RESPONSIBLE FOR PROPERLY, NOTIFY THE OFFICE AT ONCE OVERTIME RATES MAY APPLY REFUELING, DAMAGES AND REPAIRS 1. The total charges are an estimate based on the estimated rental period and other information provided by Customer. 2. Customer assumes all risks associated with the Equipment during the Bental Period, including injury and damage to persons, property and the Equipment. 3. Customer is responsible for and shall only permit properly trained, Authorized Individuals to use the Equipment. 4. If the Equipment does not operate property, is not suitable for Customer's intended use, does not have operating and safety instructions or Customer has any questions regarding use of the Equipment, Customer shall not use the Equipment and | | |
| seal counter Summer misses or using damaged or malfunctioning Equipment may result in serious bodily injury or death and Customer agrees that Customer (a) assumes all risk associated thereunder, and (ii) indemnifies Sumbelt Entities for all claims or damages as a result of missus or use of damaged or malfunctioning Equipment. Customer has received, read, understands and agrees to the estimated charges and all the terms on this page, plus all sections on the reverse side of this Contract ("Sections"), including Release and Indemnification in Section 8 and Environmental Fee in Section 18, which can also be found at www.sunboltrentals.com/rentalecontract. *Delivery(Pictup Surcharge fee explanation is available at www.sunboltrentals.com/surcharge. Customer must contact Sunbek to request pickup of Equipment, retain the Pick-Up Number given by Sunbelt and will be responsible for Equipment until actually retrieved by Sunbelt. | | |
| At the election of Sunbelt or Customer, Customer agrees to submit every dispute to arbitration and waives any right to bring a class Customer is declining Rental Protection Plan (see reverse side for details)(Customer Initials) | s action as set forth in Section 20. | |
| Customer Signature Dato Namo Printed | Delivered By Date | |

SUNBELT ADDITIONAL TERMS AND CONDITIONS

DEFIRITIONS. Authorized individuals are those individuals that Customer directly or indirectly allows to ase the Equipment, are properly trained to use the Equipment and are not under the influence of any drugs, alcobol, substances or otherwise impaired. Customer is identified on the foat side hereof and includes any of its representatives, agents, officers, employees or aspones signing that Contract on its behalf. Equipment is the equipment under services identified on the foat side of the gent with all replacements, repairs, additions, attachments and accessories and all future Equipment readed. Incident is any fine, citation, theft, accident, essably, loss, vandalism, injuy, dead or dumage to person or properly, chaimed by any person or entity at appears to have occurred in connection with the Equipment Engipment is considered. Last when it is either sident, is fornition is unknown to have occurred in connection with the Equipment Engipment is considered. Last when it is either sident, is fornition is unknown to have occurred in connection with the Equipment in the Equipment manufacturer as suggested this prior on or about the date of the Incident relating to the Equipment in the Equipment in manufacturer as suggested this prior on or about the date of the Incident relating to the Equipment in the Equipment in First-I jo Number is the number Contourer obtains from Sumbel evidencing the Customer at all its pick up Equipment. Rental Period commences when the Equipment is delivered to containe and the Equipment is Equipment in the continual manufacturer as such as Equipment is externed to the Stor or picked up by Sambelt during normal buniness hours, provided Customer thas otherwise compiled with this Contract. RPP is the remaining produced the Rental Period identified on the front side bereaf. Sambelt is Sambelt and its affiliated companies, their respective officers, directors, amployees and agents.

during the Rental Period (detentited on one troot note occupy). Some at the common security of the respective officers, directors, smaller is Rental Period (detention), loc. Smaller Entities is Smaller and its affiliated companies, their respective officers, directors, employees and agents.

2. TERMARS, Customers a rental of Equipment is conditioned upon Customers a agreement with this Contract and all of its terms. Customers are execution of this Contract or taking possession of the Equipment shall be deemed acreptance of the terms herein. All of the terms herein (locateding on the finest side of this Contract are incorporated into this and all past and future contracts between Semblel and Customers rent Customers are Customers and Educations of the Customer state of the Customer special of Smaller is Educations and the Customer rents the Equipment from Smaller Customers and other charges described herein when day, return the Equipment to Samblel as required herein and otherwise comply with this Contract. This contract is a true less. The Equipment (b) is and shall remain the personal property of Samblel and (b) hall not be affilted to any other property.

3. FERMATTED TUSE. Customer agrees that Sambell has no control over the manner in which the Equipment is operated during the Rental Period by Customers or any third party that Customer Individuo expellerity or explicitly permits. Customer warrants that; provide and the state of the Equipment of the Customer special manufacture of the Equipment of the Customer special period of the Equipment of the Equip

charten pieto in the Epitipeness is suel; (i) only Ambertand Individuals shall use and operate the Equipment (i) the Equipment is use shall be charten and in the Epitipeness is use shall be controlled in the Epitipeness is useful and individual (Catanomic and South Catanomic of Catanomic III).

4. FROEIBISTED UER, Customer shall not (s) alter or cover up any detail or institutions; (o) alter the shall be shall be controlled in the Epitipeness in the Epitipeness in a shall be shal

To the extract Scannet Learnies cuty may insume the control to the control does not relieve Customer of the responsibilities, indemnification, or other obligations provided herein, or for which Customer may be liable by law or otherwise.

10. RENTAL PROTESTION FLAM. Customer a repair or replacement responsibility in Sections 5 and 6 is modified by the RPP and Sunbelt shall limit the amount Sunbelt collects from Customer for the Equipment 10 so, damage or destruction to the following amounts for each piece of Equipment, in 2 10 who of the NEPF for Lost Equipment, up to a maximum of \$500 per piece of Equipment, (b) (1) who of the NEPF for Lost Equipment, up to a maximum of \$500 per piece of Equipment, (c) charges in the repair charges for incidenal or accidenal damage to Equipment, up to a maximum of \$500 per piece of Equipment, (c) charges in the strong of the present of the period when damaged or destroyed Equipment is being repaired or replaced by Sunbelt or Lost Equipment is being repaired or replaced by Sunbelt or Lost Equipment is being repaired or replaced and no Excitotion being replaced, provided bounder, no for the Equipment of the PPP (ability reduction only applies if the Conditions are satisfied and no Excitotion of the support in the control of the Equipment in the satisfied for the RPP and the corresponding liability reduction to apply. The Expert is the sun of the Sundament incidential provided to the following Conditions must be satisfied for the RPP and the corresponding liability reduction to apply. The Expert correct of the Equipment in the sun of this Contract: (v) Customer as me the Equipment at the time of the loss, therefore the Equipment fully compiles with the terms of this Contract: (v) Customer assumes the Excitation risks, meaning that if any Excitation crows, the Equipment point reported by Customer to the police within 48 hours of discovery, and substantiated by a written police report (groupfly delivered to not reported by Customer to the police within 48 hours of discovery, and su

Senbelly (7) does to Aris of Gred, such as floreds, wind, atorms or earthquakers; and (7) accessories or Equipment for which Customer is not charged the RPP fee. TEB EMCLUSIONE REMAIN TEBS LIABILITY OF CUSTOMERS AND AMB NOT MODIFIED BY TIES EXPP. Nonvithatending anything to the contravy in this Contract, if Lest Equipment is later recovered, Sunbell rathing somership of the Equipment regardless of any purposes in the proceeding of the Contract of Lest Equipment is their recovered, Sunbell rathing somership of the Equipment regardless of the Contract of the Equipment regardless of the Equipment is the recovered. Sunbell rathing some the proceeding recovered to the Contract of the Equipment rath is recovered. Sunbell rathing the subregated to Cantomer a right to recover eight. Contract a right to recover eight. Contract a right to recover eight contract to the Equipment of the Contract to Sunbell and Potential Lest the Sunbell such rights, as Customer as expense.

11. RENTAL RATER. The Subble and I claims and proceeds artising from one hose, then, financial contracts are represented to the Sunbell rath of 100 for the Equipment as use (or the Sunbell such rights, as Customer as expense.

11. RENTAL RATER. The Subtle and One Sunbell and One of the Equipment as use for One Sulfit, underso otherwise noted. Meetily and work tratal rates shall not be protected. The contract of the Contract o

acquisition of more faul efficient equipment, labor costs, administration costs, etc. To help defray these and other costs, Sambell charges an environmental fee, plus applicable taxes thereon in connection with certain restals. The fee is not designed an applicable taxes thereon in connection with certain restals. The fee is not designed to the control of the cont