## REQUEST FOR AGENDA PLACEMENT FORM Submission Deadline - Tuesday, 12:00 PM before Court Dates SUBMITTED BY: Ralph McBroom TODAY'S DATE: May 13, 2022 **DEPARTMENT:** Purchasing DEPARTMENT HEAD: Ralph McBroom REQUESTED AGENDA DATE: May 23, 2022 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: See Attachment TIME: 5 min **ACTION ITEM:** X WORKSHOP (Anticipated number of minutes needed to discuss item) CONSENT: **EXECUTIVE: STAFF NOTICE: COUNTY ATTORNEY: X** IT DEPARTMENT: AUDITOR: PURCHASING DEPARTMENT: PERSONNEL: **PUBLIC WORKS:** BUDGET COORDINATOR: OTHER: \*\*\*\*\*\*\*\*\*\*\*This Section to be completed by County Judge's Office\*\*\*\*\*\*\*\* **COMMISSIONERS COURT** ASSIGNED AGENDA DATE: \_\_\_

REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE

COURT MEMBER APPROVAL

Datepproved

## MASTER RENTAL AGREEMENT AND JOHNSON COUNTY CONTRACT TERMS ADDENDUM TO RENTAL CONTRACT

This Master Rental Agree	ement And Johnson County Contract Terms Addendum to Rental		
	as the "AGREEMENT") is between Johnson County, Texas, a		
political subdivision of the St	ate 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 mage	aster rental agreement and an addendum to the Rental Contract of		
Vendor between the Parties for t	he 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 23. 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 31<sup>st</sup> 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:

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JOHNSON COUNTY:

Roger Harmon County Judge	Date 5.23-2	022
Attest	SINGSIONERS CO	

VENDOR: Nicole

**Jones** 

County Clerk, Johnson County

Digitally signed by: Nicole Jones DN; CN = Nicole Jones email = nicole.jones@sunbeltrentals.com C = AD O = Sunbelt Rentals, Inc. OU = Customer Contract Manager Date: 2022.04.21 08:24:37 -04'00'

Authorized Representative Printed Name: Nicole Jones

Title: Customer Contract Manager

April 21, 2022

Date



PC#:	SUNBELT RENTALS, INC.		
TELEPHONE:			
Rate your rental experience www.s	unbeltrentals.com/survev		
IF THE EQUIPMENT DOES NOT WORK PROPERLY, NOTIFY THE OFFICE AT ONCE  OVERTIME RATES MAY APPLY  The total charges are an estimate based on the estimated rental period and other information provided by Customer.  Customer assumers all risks associated with the Equipment during the Bontal Period, including injury and damage to persons, property and the Equipment.  Customer is responsible for and shall only permit properly trained, Authorized Individuals to use the Equipment.  If the Equipment does not operate properly, 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 shall contact Sumbelt immediately.  Equipment misuse or using damaged or malfunctioning Equipment may result in serious bodily injury or death and Customer agrees that Customer (Q assumes all risk associated thereunder, and (Q) indemnifies Sunbelt Entities for all claims or damages as a result of misuse or using 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 B and Environmental Fee in Section 16, which can also be found at www.sunbeltrentals.com/rentalcontract. "Delivery/Pickup Surcharge fee explanation is available at www.sunbeltrentals.com/surcharge.  Customer must contact Sunbelt to request pickup of Equipment, retain the Pick-Up Number given by Sunbelt and will be responsible for Equipment until actually retrieved by Sunbelt.  Customer waives its right to a jury trial in any dispute as set forth in Section 19.  At the election of Sunbelt or Customer, Customer agrees to submit every dispute to a submit every dispute to an admit every dispute to a submit every dispute to an admit every dispute to a submit every disp			
Customer is declining Rental Protection Plan (see reverse side for details) (Customer Initials)			
Customer Signature Dato Name Printed	Delivered By Date		

DEFINITIONS. "Authorized Individuals" are those individuals that Customer directly or indirectly allows to use the Equipment, who must be properly brained to use the Equipment, at least 18 years old or the legal age of majority in the state, whichever is greater and are not under the influence of any drugs, alcohold, substances or chieversiae impaired. "Customer is indirectly and includes any of your representatives, agents, officers, employees or anyone signing this Contract on your behalf." Environmental Services Change 'is the charge described in Section 17. "Enuipment' is the equipment and/or services identified on the other pages provided, together with all replacements, repaired and/or services identified on the other pages provided, together with all replacements, repair deflores, additions, attachments and accessories and all future Equipment rented. "Incident' is any fine, citation, theft, accident, casually, loss, vandatism, injury, death or damage to person or properly, claimed by any person or engine by that appears to have occurred in connection with the Equipment 's after mass the Equipment is either stolen, its location is unknown, or Customer is unable to recover it for a period of 30 days. "EMI" is the Equipment star market value on or about the date of the Incident relating to the Equipment, plus any administrative fees and expenses. "One Shift" means not more than 8 hours per day, 40 hours per week and 160 hours every 4-week period, provided that double shift will be 150% and tipe shift will be 200% of the rental charge on Equipment with hour meters. Ordinary Wasar and Tegr' means normal deteroration considered reasonable in the equipment rental industry for One Shift use. "Parky" means Surbed or Customer and Tegr' means normal deteroration considered reasonable in the equipment of based to the certain charges and confineus until the Equipment to Usar the Store or picked up by Surbed to Customer is the number Customer rendal industry for One Shift use. "Parky" is the number Customer and Shift

and shall remain the personal property of Sunbest and (u) asset has a second property of Sunbest and (u) asset has a second property of Sunbest and (a) Sunbest has no control over the manner in which the Equipment is 3)

PERMITTED USE. Customer agrees and warrants that (a) Sunbest has no control over the manner in which the Equipment is 3)

PERMITTED USE. Customer agrees and warrants that (a) Sunbest has no control over the manner in which the Equipment is 3) and shall remain the personal property of Surbeit and (b) shall not be affixed to any other property. Customer shall not pleage or encumber the Equipment in any manner.

3) reFAMITED USE. Customer shall not pleage or encumber the Equipment in any manner.

3) The Rental Period by Customer or any third party hat Customer implicitly or explicitly permits, (b) prior to each und its return to Sunbeit. Customer shall rispect the Equipment to confirm that the Equipment is in good condition, without defects, readable decals are on the Equipment and the Equipment is suitable for Customer's intereded use; (c) Customer shall offer shall be subjected to explain any adaptive shall be explained and will operate the Equipment in accordance with the manufacturer's instructions and will operate the Equipment in accordance with the manufacturer's instructions and will operate the Equipment agent at the Sila Address is authorized to accept delivery of the Equipment (and if Customer requests, Customer authorizes Sunbeit to leave the Equipment at the Sila Address stitutor requirement of written receipt; (e) customer shall immediately stop use and noily Sunbeit if any apparent agent at the Sila Address stitutor requirement of written receipt; (e) customer shall customer (g) Sunbeit is not exponsible for providing operator or other training unless Customer specifically requests in writing and Sunbeit agrees to provide such training that Customer desires prior to the Equipment shall be any (g) Sunbeit is not responsible for Customer's obligation to provide reasonable accommodation(s) to any (disabled) Authorized Individual(s); (i) only Authorized Individuals shall use and operate the Equipment provided and maintained in a careful manner, within the Equipment and all supplicable federal, site and local laws, regulations, as well as all operating and safety instructions in or with the Equipment and its used unique the equipment of the suppliment shall be kept in a secure location; and (i) Customer shall provide Sunbeit with accurate and

to pay for such charges.

6) CUSTOMER LIABILITY, DURING THE RENTAL PERIOD, CUSTOMER ASSUMES ALL RISK ASSOCIATED WITH THE

shall be responsible for regains needed because of Ordrany Wear and Tex. Customer squeet that regain or insplacement of the Equipment is Customer's out-weetening that the transit of the state of this decide. In Newtonian State 1 and 1

shall cooperate with, assign Sunbelt all claims and proceeds arising from such loss, theft, damage or destruction, execute and deliver to Sunbelt

shall cooperate with, assign Sunbelt all claims and proceeds arising from such loss, theft, damage or destruction, execute and deliver to Sunbelt whatever documents are required and take all other necessary steps to secure in Sunbelt such rights, at Customer's expense.

RENTAL RATES. The total charges specified in this Contract are: (a) estimated based upon Customer's representation of the estimated Rental Period identified herein (rental rates beyond the estimated Rental Period may change) and other information conveyed by Customer to Sunbelt, and (b) for the Equipment sus for One Shift, unless otherwise noted. Weekly and 4 week rental rates shall not be provated. Rental charges source during Startdays, Sundays and holidays. The rental rates do not include and Customer's pressession and future taxes and any other governmental charges based on Customer's possession ander use of the Equipment, including additional feets of more than One Shift use; (i) eldevery and picture, during the start provided herein; (ii) a declaring feet of more than One Shift use; (ii) eldevery and picture, harages to and for mits Store, including but not limited by religible, transportation, delivery, pictup and surcharge fees listed in this Contract, (iii) maintenance, repairs and replacements to the Equipment as provided herein; (iv) a cleaning feet if required; (iv) micromental Services Charge (see www.sunbeltrentals.com/environmental/leg) and (iv) and charge provided herein; (iv) a cleaning feet if required; (iv) micromental Services Charge (see www.sunbeltrentals.com/environmental/leg). The convenience charge (see www.sunbeltrentals.com/environmental/leg) and (iv) and convenience charge (see www.sunbeltrentals.com/environmental/leg). PAYMENT, Customer shall pay for the rental of Equipment, sale of Equipment, materials and all other items and services identified in this Contract and all other amounts due, without any offsets, in full, in advance at the time of rental, unless Sunbelt approves Customer's executed in this Contract and AUTHORIZES SUNBELT TO CHARGE THE CREDIT OR DEBIT CARD ALL AMOUNTS SHOWN ON THIS CONTRACT AND CHARGES SUBSEQUENTLY INCURRED BY CUSTOMER, INCLUDING BUT NOT LIMITED TO, LOSS OF OR DAMAGE TO THE EQUIPMENT AND EXTENSION OF THE RENTAL PERIOD. Effective June 1, 2021 and where permitted by law, Sunbelt may impose a surcharge of 2% mill for credit card payments on charge accounts. This surcharge is not greater than Sunbelt's merchant discount rate for credit card transact

stor dreat card payments on charge accounts. Ints surcharge is not greater than Surbelt's merchant discount rate for credit card transactions and is subject to sales tan is some jurisdictions.

13)

RETURN OF EQUIPMENT. Surbelt may terminate this Contract at any time, for any reason. The Equipment shall be returned to Surbelt (when needed for inspections, maintenance and at the end of the Rental Period) in the same condition it was received, less Ordinary Wear and Tear and free of any hazardous materials and contaminants. Customer will return the Equipment at the end of the Rental Period, but ill continue to be responsible for rental and other charges after the Rental Period if the Equipment is not returned in the condition required herein. If Surbelt delivered the Equipment to Customer, Customer shall notify Surbelt that the Equipment is ready to be picked up at the Site Address and obtain a Pick-Up Number of Ustomer should keep as proof of the cality provided Customer remains liable for you, loss, theft, damage to or destruction of the Equipment until Surbelt confirms that the Equipment is returned in the condition required herein. Customer will not be charged the rental charges after the date the Pick-Up Number is given, provided Customer remains liable be regioned. No pickups cocur on Sundays or statutory holidays and Saturday pickups are dependent on specific Store hours. If Customer picked up Equipment, Customer shall return Equipment to the same Store during that Store's normal business hours. If the Equipment is not returned by the estimated of the Rental Period.

14)

PURCHASES. If this Contract identifies any Equipment, materials or other items that is to be purchased by Customer, Surbelt sells and delivers such items to Customer's payment to Surbelt of the full purchase price of the Item, Surbelt retains the to the Aten manufacturer warrantes, it any) in consideration for Customer's payment to Surbelt deems itself insecure or if Customer, (a) faits to pay sums when due, (b)

15)

or governmentally manusers crange and is not designated or any particular use or piaced in an essensi account, but is a charge that cannotes covers as revenue and uses at its discretion.

16)

The LLF or Equipment that uses fuel, Customer has three options: (a) Prepay Fuel Option - Customer may purchase a full tank of heal for the Equipment at the start of the rental, in which case a "convenience charge" will appear on this Central (calculated by multiplying the estimated fuel capacity of Equipment by the Prepay per gallon rate). As an added benefit, Customer may return the Equipment full of fuel and the convenience charge will be refunded (however, if not returned full, Customer will not obtain any rectif for fuel left in the Equipment full of fuel and the convenience charge will be refunded (however, if not returned full, Customer will not obtain any rectif for fuel left in the Equipment full of the left of the full of the convenience charge will be refunded (however, if not returned with less fuel than when received, Customer shall pay a returned praye (calculated by multiplying gallons required to refill tank with fuel to level when received, by the Pay on Return per gallon rate); and (c) Return Full Option - if Customer returns Equipment with a least as much full as when it was received (most Subnett Equipment comes with a full tank left, but not all), not such charge will be assessed. The cost of Customer reflueting Equipment itself will generally be lower than the Prepay Fuel Option or the Pay on Return per will be assessed. The cost of Customer reflueting Equipment itself will generally be lower than the Prepay Fuel Option or the Pay on Return per will be assessed. The cost of Customer reflueting Customer agrees that none of these options are a retail safe of fuel. 19)

LIMITATION OF SUNBELT'S LIABILITY. IN CONSIDERATION OF THE RENTAL OF EQUIPMENT, CUSTOMER ARREST 111ES, OR ANY THIRD PARTY'S COMPARATIVE, CONCURRENT, CONTRIBUTORY, PASSIVE OR ACTIVE NEGLIGENCE OR THAT ARISES AS A RESULT OF ANY STRICT OR A

THAT SUNBELT'S LUBBLITY UNDER THIS CONTRACT, INCLUDING ANY LABILITY ARBING FROM SUNBELT'S, SUNBELT ENTITIES, ON ANY THIRD PARTY'S COMPARATIVE, CONCURRENT, CONTRACT.

20) JUSY TRIAL WAVER, IN ANY DISPUTE ARBING OUT OF, IN CONNECTION WITH, OR NAY WAY PERTAINING TO THIS CONTRACT, CUSTOMER AND SUNBELT REREBY KNOWINGLY, VOLUNTARILY, AND INTERTIONALLY WAVE ANY RIGHT TO A TRIAL BY JURY, THIS WAVER BEING A MATERIAL INDUCEMENT TO ENTERNOL INTO THIS CONTRACT.

21) ARBITRATION AGREEMENT & CLASS ACTION WAIVER, AT THE ELECTION OF CUSTOMER OR SUNBELT, ANY DISPUTE ARBING OUT OF, IN CONNECTION WITH OR IN ANY WAY PERTAINING TO THIS CONTRACT.

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