



APR 24 2023

AGENDA PLACEMENT FORM

(Submission Deadline – Monday, 5:00 PM before Regular Court Meetings)

Date: 4/17/23

Meeting Date: 4/24/23

Approved

Submitted By: Ralph McBroom

Department/Office: Purchasing

Signature of Director/Official: _____

Agenda Title:

Approval of Master Rental Agreement for rental of equipment

Public Description (Description should be 2-4 sentences explaining to the Court and the public what action is recommended and why it is necessary):

Consider and approve Master Rental Agreement and Johnson County Contract Terms Addendum to Rental Contract and Hallman Equipment Rental Agreement for rental of equipment.

(May attach additional sheets if necessary)

Person to Present: Ralph McBroom

(Presenter must be present for the item unless the item is on the Consent Agenda)

Supporting Documentation: (check one) PUBLIC CONFIDENTIAL

(PUBLIC documentation may be made available to the public prior to the Meeting)

Estimated Length of Presentation: 5 minutes

Session Requested: Action Item (Action Item, Workshop, Consent, Executive)

Check All Departments That Have Been Notified:

County Attorney IT Purchasing Auditor

Personnel Public Works Facilities Management

Other Department/Official (list) _____

Please Inter-Office All Original Documents to County Judge’s Office Prior to Deadline & List All External Persons Who Need a Copy of Signed Documents In Your Submission Email

**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 Hellman Equipment Rental 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 AGREEMENT and the Rental Contract shall constitute the entire and complete contract between the Parties.

NOW, THEREFORE, 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 2024. 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.

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:

Chr Boeder
Christopher Boedeker
County Judge

4.24.23
Date

Attest:
April Long
April Long
County Clerk



4.24.23
Date

VENDOR:
J Bell
Authorized Representative
Printed Name: James Hgllman
Title: President

4/03/23
Date

RENTAL CONTRACT- TERMS AND CONDITIONS

Hallman Equipment Rental, Inc, a Texas corporation hereinafter called "Lessor" hereby rents and leases to the undersigned hereinafter called "Lessee", and Lessee hereby rents and leases from the Lessor the following personal property equipment and articles, hereinafter collectively referred to as "Equipment", and subject to the following terms and conditions:

(1) The rental equipment has been received in good working condition, and will be returned in the same condition ordinary wear and tear accepted. Lessee is responsible for returning equipment full of fuel to avoid paying fuel charge.

(2) Lessee assumes all responsibility for injuries to persons or damages to property, and agrees to hold Lessor harmless for any and all claims, of whatsoever nature, arising out of use of the rental of the equipment while in his custody. The specific manner in which this equipment will be used in the trade or occupation of the user and the qualifications or lack of qualifications of the user and the equipment or lack of equipment of the user are beyond the control of the Lessor. Lessor therefore expressly disclaims any responsibility for Lessee's compliance or failure to comply with O.S.H.A and/or any other governmental safety or health regulations or standards. Lessee has received familiarization of equipment previously or upon rental and/or delivery.

(3) Lessee agrees to Lessor's rights to enter premises of customer at any time to repossess said equipment. Lessee hereby waives any rights of action against owner by reason of such taking or entry and agrees to reimburse Lessors cost of repossession if any.

(4) Lessee agrees to reimburse Lessor for all attorney fees, an amount not less than 25% off all sums due, court cost and expenses incurred by Lessor to enforce collection or to preserve or enforce the Lessor's rights under this contract.

(5) Lessee agrees not to loan, sublet, or otherwise dispose of equipment or use it at any other location than listed on the face of this contract.

(6) PAYMENT

(A) Lessee agrees to pay Lessor upon demand;

(1) All rates, charges, taxes, fuel, delivery, pickup, and reservation cancellation fees, and all other amounts incurred as a result of this rental transaction

(2) replacement cost for any loss or disappearance of equipment due to theft, conversion or other dishonest acts on part of any person or persons to whom the issued property is entrusted or any person or persons in the service or employment of the Lessee whether or not occurring during the hours of such service or employment. Lessor reserves the right to consider the property lost, stolen, or converted if not returned within five days of the date and time printed under the "agreed return date\time" column on the contract.

ATTENTION: WARNING: Failure to return said equipment can, in certain circumstances, be considered a theft, resulting in criminal prosecution. Failure to return such acquired equipment on demand may constitute an act of theft and may be prosecuted under all applicable statutes whether or not said equipment is subsequently recovered. Lessor, at Lessor's sole discretion may report property stolen if held five days beyond "agreed return date\time" Lessor at Lessor's sole discretion may revert all charges to the daily rate if any monthly statement or invoice is not promptly paid. Lessor will not refund on any equipment out more than 30 minutes.

(B) Credit Card-- Lessee authorizes that the Lessor may bill Lessee's credit card at the time of reservation or upon receipt of the rented item(s) or upon the return of the items or anytime within the rental period.

(C) Payment Guarantee-- If I have directed Lessor and Lessor has agreed to pay bill charges to someone else who fails to make payment promptly when due, Lessee promises to pay Lessor on demand. If Lessee Directs charges to be billed to another person, Lessee represents that he is authorized to give a Lessor such direction. Lessee understands that he remains individually responsible for all charges even if Lessee directed Lessor to bill another person.

(D) Final Audit--LESSEE UNDERSTANDS THAT ALL CHARGES ARE SUBJECT TO FINAL AUDIT. Lessee authorizes any credits or any additional charges to be made and paid by the method used at the time of reservation, rental or return.

(7) Lessee agrees to pay in full replacement cost, including labor, for all damages to rental equipment due to any cause whatsoever.

(8) Rental rates will be charged for all time out on rent, not limited to time used, including any period Lessor is closed. Overdue rates for equipment rented will be computed at 1/6 the daily rate for each hour over a day (24 hrs). A one day rental rate for equipment with an hour meter consist of 8 hours run time within a 24 hour period. 40 hours will be allowed per weekly rental and 160 hours per 4 week rental. If equipment is run more than 8 hours daily, 40 hours weekly, or 160 hours per 4 week rental, an additional pro rated charge will be added.

(9) THERE ARE NO WARRANTIES OF MERHCANITBILITY OR FITNESS EXPRESSED OR IMPLIED WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.

USED PRODUCTS SALE CONTRACT--TERMS AND CONDITONS

Lessor hereby sells as used product(s) to the purchaser, identified by his signature on the reverse side of the contract, the product(s) described on the reverse side of this contract subject to terms and conditions.

AS IS SALE-WARRANTY DISCLAIMER

The buyer hereby acknowledges that the product(s) described on the reverse side hereof which is the subject of this sale is a "used product" and is being sold "AS IS" and "WITH ALL FAULTS" basis.

The Lessor as the seller, makes NO expressed warranties of MERCHANITBILTY OR FITNESS FOR A PARTICULAR PURPOSE and THE LESSOR does NOT make any implied warranties of MECHANITBILTY OR FITNESS FOR A PARTICULAR PURPOSE or any other warranties unless The Lessor has so provided in writing and the writing is signed by an authorized representative of The Lessor.

I, the buyer hereby acknowledge that I have read all the above terms and that I understand that it is an "AS IS" sale of used goods.