

AGENDA PLACEMENT FORM

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

Date: 2/13/2024

Meeting Date: 2/26/2024

Submitted By: Lance Anderson

Department: Purchasing

Signature of Elected Official/Department Head:



Court Decision: <small>This section to be completed by County Judge's Office</small>

February 26, 2024

Description:

Consider and Approval with authorization for County Judge to sign Master Rental Agreement and Johnson County Contract Terms Addendum to Rental Contract and Oxford Crane Inc. Rental Agreement for rental of equipment for six months 8/30/2024.

(May attach additional sheets if necessary)

Person to Present: Lance Anderson

(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: (check one)

Action Item Consent Workshop Executive Other _____

Check All Departments That Have Been Notified:

County Attorney IT Purchasing Auditor

Personnel Public Works Facilities Management

Other Department/Official (list) Precinct 1

**Please 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 Oxford Crane 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 August 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:

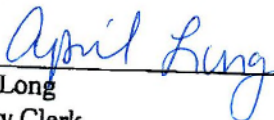
JOHNSON COUNTY:



Christopher Boedeker
County Judge

2/26/2024
Date

Attest:

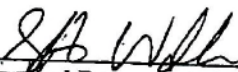


April Long
County Clerk



2/26/2024
Date

VENDOR:



Authorized Representative
Printed Name: Stephen Walker
Title: Financial Administrator

2/12/24
Date



CRANE RENTAL SERVICE AGREEMENT (TX)

P.O. NO. _____

DATE _____ OPERATOR _____ INV. NO. _____

CUSTOMER/LESSEE'S NAME Johnson County Pct 1

BILLING ADDRESS 3400 FM 1434 Cleburne TX 76031

JOB NAME AND LOCATION Old Foamy Rd Monday

CRANE SIZE & UNIT # 240 Ton Tuesday _____

TRAVEL TIME _____ Wednesday

QUALIFIED SIGNAL PERSON/RIGGER _____ Thursday

ACCESSORIAL _____ Friday

EQUIPMENT PROVIDED _____ Saturday

DESCRIBE WORK DONE Install Steel Culverts



THIS CERTIFIES THAT A QUALIFIED SIGNAL MAN AND A QUALIFIED RIGGER (IF NEEDED) IS GOING TO BE FURNISHED BY CUSTOMER/LESSEE (HEREINAFTER "CUSTOMER") PER OSHA REGULATIONS.

DATE 2/26/2024 BY [Signature]
CUSTOMER/LESSEE'S SIGNATURE

TIME LEFT FOR JOB _____ TIME LEFT JOB _____
TIME ARRIVED ON JOB _____ TIME ARRIVED YARD _____



*THE ABOVE HOURS ARE VERIFIED TO BE CORRECT.
THE ABOVE WORK IS VERIFIED AS CORRECTLY PERFORMED. LESSEE CERTIFIES THAT THERE HAVE BEEN NO INCIDENTS OR ACCIDENTS INVOLVING THE OPERATOR AND/OR THE EQUIPMENT AND THAT THE LIFT DIRECTOR WAS PRESENT AND GAVE THE APPROPRIATE DIRECTIONS TO*

THE OPERATOR UNDER ASME B30.5, B30.29, B30.3 AND P30.1. THIS AGREEMENT IS VALID FOR THE GREATER OF 364 DAYS OR THE DURATION OF THE PROJECT. CUSTOMER HAS REVIEWED AND AGREED TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

DATE _____ BY _____
CUSTOMER/LESSEE'S SIGNATURE
CUSTOMER CERTIFIES THAT THERE HAVE BEEN NO ACCIDENTS INVOLVING ANY OF THE LEASED EQUIPMENT

DATE _____ BY _____
CONTRACT ADMINISTRATOR

TERMS AND CONDITIONS OF CONTRACT (TX)

This agreement reflects and is intended to be the complete expression of the terms and conditions and agreement between Lessor and Lessee, unless mutually agreed in writing.

1. INDEMNIFICATION: (FOR ALL CONTRACTS EXCEPT FOR CONTRACTS PERTAINING TO A WELL FOR OIL, GAS, OR WATER OR TO MINE FOR A MINERAL) – LESSEE AGREES TO PARTIALLY INDEMNIFY AND SAVE LESSOR, ITS EMPLOYEES AND AGENTS HARMLESS FROM ALL CLAIMS FOR DEATH OR INJURY TO PERSONS, INCLUDING LESSOR'S EMPLOYEES, OF ALL LOSS, DAMAGE OR INJURY TO PROPERTY, INCLUDING THE EQUIPMENT, ARISING IN ANY MANNER OUT OF LESSEE'S OPERATION. LESSEE'S DUTY TO INDEMNIFY HEREUNDER SHALL INCLUDE ALL COSTS OR EXPENSES ARISING OUT OF ALL CLAIMS SPECIFIED HEREIN, INCLUDING ALL COURT AND/OR ARBITRATION COSTS, FILING FEES, ATTORNEYS' FEES AND COSTS OF SETTLEMENT. PURSUANT TO V.A.T.S. INSURANCE CODE §151.102 LESSEE SHALL NOT BE REQUIRED TO INDEMNIFY, HOLD HARMLESS, OR DEFEND ANY PARTY AGAINST A CLAIM CAUSED BY THE NEGLIGENCE OR FAULT, THE BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD, OR RULE, OR THE BREACH OF CONTRACT OF THE LESSOR, ITS AGENT OR EMPLOYEE, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF THE LESSOR, OTHER THAN THE LESSEE OR ITS AGENT, EMPLOYEE, OR SUBCONTRACTOR OF ANY TIER. HOWEVER, THE INDEMNIFICATION OBLIGATION ABOVE SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGE, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR THE LESSEE UNDER WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS. THE LESSEE'S OBLIGATIONS HEREUNDER SHALL FURTHER NOT BE LIMITED BY THE AMOUNT OF ITS LIABILITY INSURANCE AND THE PURCHASE OF SUCH INSURANCE FOR LESSOR SHALL NOT OPERATE TO WAIVE ANY OF THE ABOVE OBLIGATIONS. THIS PROVISION IS SEPARATE AND DISTINCT FROM ANY OTHER PROVISION OR PARAGRAPH IN THIS CONTRACT, INCLUDING ANY PROVISION OR PARAGRAPH CONCERNING PARTIAL INDEMNIFICATION AND PROCUREMENT OF INSURANCE. IF THIS PARAGRAPH IS DECLARED INVALID, THEN ALL OTHER PARAGRAPHS OF THIS CONTRACT SHALL STAND.

MUTUAL INDEMNIFICATION (ONLY FOR CONTRACTS PERTAINING TO A WELL FOR OIL, GAS, OR WATER, OR TO MINE FOR A MINERAL, PURSUANT TO V.T.C.A. CIVIL PRACTICE CODE §127.001-127.007) – LESSOR AND LESSEE AGREE TO INDEMNIFY EACH OTHER AND EACH OTHER'S CONTRACTORS AND THEIR EMPLOYEES AGAINST LOSS, LIABILITY OR DAMAGES ARISING IN CONNECTION WITH BODILY INJURY, DEATH, AND DAMAGE TO PROPERTY OF THEIR RESPECTIVE EMPLOYEES, CONTRACTORS OR THEIR EMPLOYEES, AND INVITES OF EACH PARTY ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THE CONTRACT. THIS PROVISION ONLY APPLIES TO CONTRACTS FOR A WELL FOR OIL, GAS, OR WATER, OR TO MINE FOR A MINERAL, PURSUANT TO V.T.C.A. CIVIL PRACTICE CODE §127.001-127.002. THIS PROVISION IS SEPARATE AND DISTINCT FROM ANY OTHER PROVISION OR PARAGRAPH IN THIS CONTRACT, INCLUDING ANY PROVISION OR PARAGRAPH CONCERNING INDEMNIFICATION AND PROCUREMENT OF INSURANCE. IF THIS PARAGRAPH IS DECLARED INVALID, THEN ALL OTHER PARAGRAPHS OF THIS CONTRACT SHALL STAND.

2. INSURANCE – Pursuant to V.A.T.S. INSURANCE CODE §151.104, additional insured coverage shall be limited in scope, in the same manner as set forth above, such that it shall not provide coverage which is prohibited for an agreement to indemnify, hold harmless, or defend. The Lessee at its expense agrees to carry, maintain and provide the following insurance coverages prior to the Equipment's arrival on the job site: a) worker's compensation and employer's liability insurance applicable to Lessee's employees, with limits of at least the statutory minimum or \$1,000,000, whichever is greater; b) primary non-contributory commercial general liability insurance on an occurrence basis, including bodily injury and property damage coverages with minimum limits of \$1,000,000 per occurrence and \$2,000,000, in the aggregate; c) follow form excess/umbrella non-contributory insurance in the amount of at least \$5,000,000; said primary and excess/umbrella policies must be endorsed so that they are primary and non-contributory to all of Lessor policies; d) inland marine/all-risk physical damage insurance, on a primary non-contributory basis, to cover the full replacement cost of the Equipment, including any boom or jib, for its loss or damage from any and all causes of loss; said insurance policy shall include loss of use coverage for Contractor's Equipment, Leased, Rent, Borrowed, including Continued Rental Expenses coverage for at least \$500,000; e) riggers liability insurance with minimum limits of \$1,000,000 per occurrence and \$2,000,000, in the aggregate; f) the Lessor and all affiliated partnerships, joint ventures, corporations and anyone else who Lessor is required to name as an additional insured, are to be included as additional insureds on all liability insurance policies, including excess/umbrella policies on ISO endorsement forms CG 20 10 10 01, CG 20 37 10 01, CG 20 28 07 04, and CG 20 34 03 97. Lessee shall name Lessor as a Loss Payee and Additional Insured on all insurance policies, and Lessee shall provide all insurance certificates and/or insurance policies to Lessor when requested; g) all Lessee's policies must remove any exclusion for explosion, collapse and underground operations (XCU); h) all Lessee's policies must remove the "employer's liability exclusion" for all additional insureds; i) all of Lessor's policies and the policies of anyone Lessor is required to insure, are excess over all of Lessee's policies. To the extent that the Lessee may perform under this agreement without obtaining the above coverages, such an occurrence shall not operate, in any way, as a waiver of the Lessor's right to maintain any breach of contract action against Lessee. Lessee hereby agrees to waive any and all rights of subrogation and any and all lien rights which may accrue to it or its insurers. Lessee understands that this waiver shall bind its insurers of all levels and agrees to put these insurers on notice of this waiver and to have any necessary endorsements added to the insurance policies applicable to this agreement. To the extent that the Lessor may perform under this Agreement without obtaining the above coverage, such an occurrence shall not operate, in any way, as a waiver of Lessor's right to maintain any breach of contract action against the Lessee.

3. OPERATION OF EQUIPMENT – It is expressly agreed by and between the parties hereto that the Equipment and all persons operating the Equipment are under the supervision and control of Lessee under this lease. In the absence of Lessee's presence at the jobsite, the parties expressly agree that all persons operating the Equipment are under the direct supervision and control of Subcontractor hired by Lessee. In the event that Lessee assigns the task of supervision to Subcontractor then all persons operating the Equipment are under the supervision and control of Subcontractor. In any case it shall be the duty of Lessee to give specific instructions and directions to all persons operating the leased Equipment. Lessee agrees to provide or otherwise select competent and experienced personnel to direct the operation of the equipment, in accordance with OSHA 29 CFR 1926.1428 signal person qualifications and both Lessee and Subcontractor further agree that the standard of care and responsibilities will be in accordance with all American National Standards Institute (ANSI) and that ASME B30.5-2018 (and as amended) shall be used when operating the equipment, specifically Chapter 5-3 Operation, as well as the OSHA 29 CFR Subpart CC Cranes and Derricks in Construction sections 1926.1400 – 1926.1442. The Lessee acknowledges and agrees that it is the responsibility of the Lessee to independently determine the weight of every load to be lifted to prevent compromising all or any portion of the Equipment. Any load measuring device used by the Crane Operator shall be used as an operator-aid only. If any Equipment has been fitted with a load measuring device, the Lessee hereby acknowledges and agrees that the Lessor has made no warranties or representations whatsoever with respect to the ability of the said load measuring device to accurately or consistently measure the weight of loads being lifted by such Equipment.

4. ENTIRE AGREEMENT – The parties agree that the terms of this agreement are the sole and exclusive agreement between the parties, intended by the parties to be the only and final terms and agreements between them, superseding any and all oral or written understandings as otherwise might have been claimed to have existed, the assertion of which the parties hereby waive. This agreement shall be interpreted fairly and reasonably and neither more strongly for nor against either party.

5. CONDITIONS –GROUND/POWERLINES/RIGGING–The Lessee hereby agrees that Lessee will assume all responsibility for the ground or soil conditions in the area where the Equipment is to be stored, parked or operated. All power lines in the work area shall be identified prior to the work's beginning. All power lines are to be de-energized prior to the Equipment's being operated in or around such power lines. Lessee shall contact the local electric utility or other such authorized entity to arrange to have the power lines de-energized prior to beginning work. Even if power lines are de-energized, Lessee shall ensure the Equipment is kept clear of such power lines at the distances required by OSHA, ANSI and any other safety regulations or standards. If it is not possible to de-energize power lines, then the Lessee shall be responsible for the insulating of any power lines, the grounding of all equipment, and they will use rigging or other equipment designed to prevent electrocution. Lessee is required to provide any and all rigging to be used with the Equipment. If chokers, slings, straps, chains, hooks, spreaders, fittings, rope or wire, etcetera; are loaned to the Lessee by the Lessor for the Lessee's convenience, such property is solely the Lessee's responsibility. Lessee assumes responsibility to inspect the rigging before use and Lessee assumes responsibility for any defects in any rigging, whether the property of Lessee or otherwise. Lessee assumes all liability for the adequacy of, design of, or the strength of, any lifting lug or device embedded in or attached to any object to be lifted. Lessee assumes the responsibility for damage to any load on hook due to a failure of the rigging. Lessee assumes the responsibility for the method of rigging and agrees that all persons involved in the rigging process are qualified according to OSHA's definition 1926.1401 and are under Lessee's direct supervision and control.

6. TERMS OF PAYMENT –

7. FORCE MAJEURE; LIMITATION OF LIABILITY: Lessor shall not be responsible or liable for any delays or its failure to perform the terms and conditions of this Agreement if such delay or failure is caused by events or circumstances beyond the control of Lessor, including without limitation, acts of God, fire, catastrophe, weather conditions, strikes, lockouts, labor shortages, unavailability of parts, war, riots, civil commotion, confiscation, or governmental action or restriction, including frost law restrictions.

8. GOVERNING LAW – This agreement will be constructed and interpreted under the laws of the State of Texas, The obligations and undertakings of the parties to this agreement shall be performable at the principal place of business of Lessor.

9. AUTHORIZED SIGNATURE – In the event this agreement has been executed on the reverse side by an individual on behalf of a corporation or other business entity, the person(s) whose signature is affixed hereto and the party for which those individual(s) have signed this agreement represent to Lessor that the individual signing has full authority to execute this agreement on behalf of said corporation or other business entity.