

# Sutton County Commissioners Court

## REGULAR MEETING

Monday, January 24, 2022 at 9:00 a.m.

Sutton County Annex Meeting Room, 300 E. Oak, Sonora TX 76950

Rachel Chavez Duran  
County Judge

Lee Bloodworth  
Commissioner  
Precinct 1

Bob Brockman  
Commissioner  
Precinct 2

Carl Teaff  
Commissioner  
Precinct 3

Fred Perez  
Commissioner  
Precinct 4

**Members of the public may give comment before the Commissioners Court on any item on this agenda. Please note that members of the public may not communicate to the court about any other subject not specifically noticed on this agenda. Members of the Commissioners Court cannot discuss, deliberate, or act on any item or topic not scheduled on this agenda in accordance with existing law.**

### BUSINESS

- 1 Call meeting to order
- 2 Public Comment

### AGENDA

#### Receive reports of the following:

- 3 CSCD Report-Wendy Geaslin
- 4 Tax Assessor/Collector-Kathy Marshall
- 5 County Commissioners
  - Lee Bloodworth, pct 1
  - Bob Brockman, pct 2
  - Carl Teaff, pct 3
  - Fred Perez, pct 4
- 6 County Judge-Rachel Chavez Duran

#### Deliberate, Consider and take appropriate action regarding the following:

- 7 Accounts Payable – Maura Weingart
- 8 Treasurer’s Report-Janell Martin
- 9 Final plat approval for Stove Canyon Ranches-Trevor Probandt
- 10 Xerox Contract-Sheriff’s Office
- 11 Advertise for 2 jailers – Oscar Chavez
- 12 Resolution in support of application for Sutton Co. Computer Enhancement Grant-Sheriff’s Office
- 13 Sutton County Procurement Policy and Procedures – Rachel Chavez Duran
- 14 Adopt order authorizing the sale of fireworks for Texas Independence Day (March 2) – Rachel Chavez Duran
- 15 Big Country Equipment Rental & Sales Agreement – Robert Hughes

## EXECUTIVE SESSION

- Note 1 Texas Government code 551.071, Consultation with Attorney
- Note 2 Texas Government code 551.072, Real Property
- Note 3 Texas Government code 551.074, Personnel Matters
- Note 4 Texas Government code 551.076, Security
- Note 5 Texas Government code 551.087, Economic Development Negotiations
- Note 6 Texas Government code 551.089, IT Security

*The County Commissioners Court of Sutton County reserves the right to adjourn into executive sessions at any time during this meeting to discuss any of the matters listed below. The Court may also consider any other matter posted on the agenda if there are issues that require consideration in Executive Session and the court announces that the item will be considered during Executive Session.*

## RECONVENE

25 EXECUTIVE SESSION ACTION

26 ADJOURNMENT

  
\_\_\_\_\_  
RACHEL CHAVEZ DURAN, County Judge

POSTED ON THE BULLETIN BOARD IN THE COURTHOUSE ANNEX BUILDING and the SUTTON COUNTY WEB PAGE  
[www.co.sutton.tx.us](http://www.co.sutton.tx.us) this the 20<sup>th</sup> day of January 2022.

by   
\_\_\_\_\_  
PAM THORP, County Clerk

**SUTTON COUNTY COMMISSIONERS COURT  
SPECIAL MEETING  
JANUARY 24, 2022**

<b>FMFC FUND</b>				
General Cash Sutton County	PR Reimbursement, WH/FICA, for January 14, 2022	\$	15,410.98	CK# 51445
	<b>TOTAL</b>	<b>\$</b>	<b>15,410.98</b>	
<b>GENERAL FUND</b>				
General Cash Sutton Co	District Court Jury Fees	\$	780.00	25905
Chase Card Services	Extension Agent Vehicle Maintenance/Late fees	\$	55.00	25906
Sutton Appraisal District	Appraisal District Contract for January 2022	\$	40,890.34	25907
	<b>TOTAL</b>	<b>\$</b>	<b>41,725.34</b>	

Line-item Transfer Amendment

Date: January 13, 2022

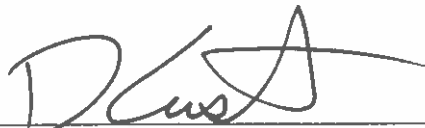
Honorable Commissioners Court of Sutton County:

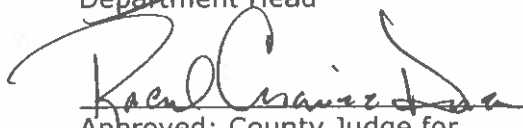
I submit to you for your consideration the following line-item transfers:

FUND	DEPT.	ACCOUNT	AMT.
From: <u>StoneGarden Pay</u>	<u>StoneGarden</u>	<u>57-5-560-1091</u>	<u>(\$19,400.00)</u>
To: <u>StoneGarden Equipment</u>	<u>StoneGarden</u>	<u>57-5-560-5700</u>	<u>\$19,400.00</u>

Reason: Purchase License Plate Reader

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\_\_\_\_\_  
Department Head

  
\_\_\_\_\_  
Approved: County Judge for  
Commissioners Court

1/24/22  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Maura Weingart-County Auditor

  
\_\_\_\_\_  
Attest: County Clerk

1.24.22  
\_\_\_\_\_  
Date

1-24-2022  
\_\_\_\_\_  
Date

VENDOR	NAME / I.D.	DESC	CHECK TYPE	CHECK DATE	DISCOUNT	AMOUNT	CHECK NO#	CHECK AMOUNT
1	SONORA BANK	SONORA BANK:	R	0/00/0000		40.00CR	000000	
	I-0245-FY 2022	STERLING COMMISSARY, LLC:	R	0/00/0000		24.00CR	000000	
	I-21990, 22095, 21886	PREMIER UNIFORM/TACTICAL:	R	0/00/0000		50.00CR	000000	
	I-43525	BLACK PLUMBING:	R	0/00/0000		919.04CR	000000	
	I-49246308	LILIA VIRGEN:	R	0/00/0000		500.00CR	000000	
	I-6279, 8706, 8707	TX A&M AGRILIFE EXTENSION:	R	0/00/0000		761.40CR	000000	
	I-E201492	TX DEPT OF LICENSING/REGS:	R	0/00/0000		20.00CR	000000	
	I-ELBI #16049	OVERDRIVE, INC:	R	0/00/0000		1,500.00CR	000000	3,814.44
	I-H0082439							
1037	APPLIED CONCEPTS, INC	SHERIFF RADAR	R	0/00/0000		81.25CR	000000	
	I-395734	SHERIFF RADAR	R	0/00/0000		547.92CR	000000	629.17
	I-395735							
1043	AT&T MOBILITY	JP CELL SERVICE	R	0/00/0000		48.86CR	000000	
	I-4126-012022	COUNTY JUDGE CELL SERVICE	R	0/00/0000		40.91CR	000000	
	I-4365-010122	AUDITOR CELL SERVICE	R	0/00/0000		28.83CR	000000	118.60
	I-5468-010122							
1048	BAKER & TAYLOR, INC.	LIBRARY BOOKS	R	0/00/0000		21.20CR	000000	
	I-5017478199	LIBRARY BOOKS	R	0/00/0000		63.88CR	000000	
	I-5017483680	LIBRARY BOOKS	R	0/00/0000		79.41CR	000000	164.49
	I-5017483681							
1050	BEN E KEITH-DFW	JAIL FOOD	R	0/00/0000		378.91CR	000000	
	I-10646947	JAIL FOOD	R	0/00/0000		355.54CR	000000	734.45
	I-10662156							
1054	PARKER LUMBER	CIVIC CENTER R/M SUPPLIES	R	0/00/0000		4.58CR	000000	
	I-2138532	CIVIC CENTER R/M SUPPLIES	R	0/00/0000		6.98CR	000000	
	I-21498862	PARK R/M SUPPLIES	R	0/00/0000		18.37CR	000000	
	I-2158885	CIVIC CENTER R/M SUPPLIES	R	0/00/0000		28.99CR	000000	
	I-2209147	PARK R/M SUPPLIES	R	0/00/0000		35.96CR	000000	
	I-2212166	PARK R/M SUPPLIES	R	0/00/0000		36.46CR	000000	
	I-2212845	CIVIC CENTER R/M SUPPLIES	R	0/00/0000		21.98CR	000000	153.32
	I-2219628							
1060	BILL WILLIAMS TIRE CENTER	SHERIFF VEHICLE MAINTENANCE	R	0/00/0000		497.60CR	000000	497.60
	I-833852-00							
1095	CHRISTINE SANCHEZ	SHERIFF DISPATCHER TRAINING	R	0/00/0000		69.99CR	000000	69.99
	I-011422-ONLINE							

VENDOR	NAME / I.D.	DESC	CHECK TYPE	CHECK DATE	DISCOUNT	AMOUNT	CHECK NO#	CHECK AMOUNT
1123	DAVID WALLACE I-HCTC JAN 2022	CO ATTORNEY OFC PHONE/INT	R	0/00/0000		100.00CR	000000	100.00
1128	DEMCO I-7062571	LIBRARY OPERATING SUPPLIES	R	0/00/0000		139.31CR	000000	139.31
1129	DEVILS RIVER AUTO PARTS I-15338-92928	EXTENSION VEHICLE MTC	R	0/00/0000		4.29CR	000000	4.29
1161	FMFC FUND I-CEM 123121 I-EXT 123121 I-PARK 123121 I-SG 123121 I-SHERIFF 123121	CEM EQUIP/VEH FUEL EXTENSION AGENT VEH FUEL PARK EQUIP/VEH FUEL STONEGARDEN VEHICLE FUEL SHERIFF VEHICLE FUEL	R R R R R	0/00/0000 0/00/0000 0/00/0000 0/00/0000 0/00/0000		89.75CR 148.50CR 37.50CR 132.75CR 2,136.00CR	000000 000000 000000 000000 000000	2,544.50
1171	FRONTIER COMMUNICATIONS I-5693-010722	DRIVER'S LICENSE OFFICE	R	0/00/0000		212.39CR	000000	212.39
1174	GEORGE E SMITH ESTATE I-FEBRUARY 2022	CSCD OFFICE RENT	R	0/00/0000		500.00CR	000000	500.00
1178	GONZALO P RIOS I-02694 I-02727	DISTRICT CT APPT ATTORNEY DISTRICT CT APPT ATTORNEY	R R	0/00/0000 0/00/0000		2,205.00CR 1,575.00CR	000000 000000	3,780.00
1179	SONORA AIR COOL ENGINES I-4295	PARK R/M SUPPLIES	R	0/00/0000		77.97CR	000000	77.97
1180	GREAT AMERICA LEASING I-3076078 I-30783280 I-30796840	CORP LIBRARY COPIER/TAXES CLERK OFFICE COPIER EXT COPIER LEASE/TAXES	R R R R	0/00/0000 0/00/0000 0/00/0000 0/00/0000		446.59CR 299.56CR 425.50CR	000000 000000 000000	1,171.65
1186	SOUTHWEST TEXAS ELECTRIC COOP I-3542001-112021	SHERIFF RADIO TOWER	R	0/00/0000		41.84CR	000000	41.84
1194	HILL COUNTRY SOFTWARE I-11991-102021	JP TECHNOLOGY	R	0/00/0000		2,910.00CR	000000	2,910.00
1199	ICS I-W4816002	JAIL OPERATING SUPPLIES	R	0/00/0000		144.00CR	000000	144.00

VENDOR NAME / I.D. DESC CHECK TYPE CHECK DATE DISCOUNT AMOUNT CHECK NO# CHECK AMOUNT

1224 JODY HARRIS JP MEMBERSHIP DUES FY2022 R 0/00/0000 60.00CR 000000 60.00

1231 TEXAS WILDLIFE DAMAGE MANAGEMENT ANIMAL DAMAGE CONTROL R 0/00/0000 9,600.00CR 000000 9,600.00

1233 THE CITY OF SONORA  
 I-01005000-123121 COURTHOUSE R 0/00/0000 223.71CR 000000  
 I-01010600-123121 LIBRARY R 0/00/0000 139.24CR 000000  
 I-01014000-123121 JAIL R 0/00/0000 651.29CR 000000  
 I-01015001-123121 OLD POL STN/OLD JAIL R 0/00/0000 104.34CR 000000  
 I-01016000-123121 ANNEX R 0/00/0000 140.11CR 000000  
 I-02009603-123121 CSCD OFFICE R 0/00/0000 128.16CR 000000  
 I-89005501-123121 PARK SLAB R 0/00/0000 184.03CR 000000  
 I-89007000-123121 CIVIC CENTER R 0/00/0000 337.10CR 000000  
 I-89007300-123121 METAL YELLOW BUILDING R 0/00/0000 122.60CR 000000  
 I-89007400 PARK STORAGE BUILDING R 0/00/0000 41.46CR 000000  
 I-89008000-123121 PARK R 0/00/0000 274.38CR 000000  
 I-NOVEMBER 2021 SR CITIZEN-NOVEMBER 2021 R 0/00/0000 6,025.93CR 000000 8,372.35

1240 KE J CONTROL, INC  
 I-134961 JAIL R/M SUPPLIES R 0/00/0000 65.00CR 000000  
 I-135098 LIBRARY R/M SUPPLIES R 0/00/0000 40.00CR 000000 105.00

1256 TOTAL OFFICE SOLUTION  
 I-EA329136 CLERK OFFICE SUPPLIES R 0/00/0000 24.00CR 000000  
 I-EA329757 TAX ASSESSOR COPIER USAGE R 0/00/0000 13.42CR 000000  
 I-EA330001 CLERK OFFICE COPIER USAGE R 0/00/0000 132.46CR 000000  
 I-EA330005 CSCD COPIER USAGE R 0/00/0000 41.16CR 000000  
 I-EA330253 AUDITOR OFFICE SUPPLIES R 0/00/0000 55.37CR 000000  
 I-EA330650 NONDEPT COPIER USAGE R 0/00/0000 37.25CR 000000 303.66

1263 LILLIAN M HUDSPETH  
 I-240015 JAIL INMATE MEDICAL FEES R 0/00/0000 281.68CR 000000  
 I-240346 JAIL INMATE MEDICAL FEES R 0/00/0000 22.27CR 000000  
 I-JANUARY 2022 EMS CONTRACT JAN 2022 R 0/00/0000 22,256.96CR 000000 22,560.91

1267 UNIFIRST HOLDINGS LP  
 I-0317850 LIBRARY R/M SUPPLIES R 0/00/0000 13.30CR 000000  
 I-0317851 CIVIC CENTER R/M SUPPLIES R 0/00/0000 158.15CR 000000  
 I-0317852 JAIL R/M SUPPLIES R 0/00/0000 27.37CR 000000  
 I-0317853 JAIL R/M SUPPLIES R 0/00/0000 50.53CR 000000 249.35

VENDOR	NAME / I.D.	DESC	CHECK TYPE	CHECK DATE	DISCOUNT	AMOUNT	CHECK NO#	CHECK AMOUNT
1280	MAURA WEINGART I-011422-PM GM LL	AUDITOR MISC POSTAGE REIMB	R	0/00/0000		4.95CR	000000	4.95
1282	MAYFIELD PAPER COMPANY I-3025609 I-3029776	CIVIC CENTER R/M SUPPLIES CIVIC CENTER R/M SUPPLIES	R	0/00/0000		683.57CR 107.07CR	000000 000000	790.64
1289	WEST TEXAS FIRE EXTINGUISHERS I-248507	CTH, ANNEX, LIB R/M SUPPLIES	R	0/00/0000		305.20CR	000000	305.20
1295	XEROX CORPORATION I-015202520	NONDEPT COPIER/COPIER USAGE	R	0/00/0000		288.42CR	000000	288.42
1303	JOE HERNANDEZ I-12691	CO COURT APPT ATTORNEY	R	0/00/0000		500.00CR	000000	500.00
1312	TAX ASSESSOR COLLECTOR I-011922-PETTY CASH	TAX ASSESSOR REIMB PETTY CSH	R	0/00/0000		141.75CR	000000	141.75
1316	LOWES PAY AND SAVE I-119560-220107 I-119560-220113	JAIL FOOD JAIL FOOD	R	0/00/0000		121.09CR 34.05CR	000000 000000	155.14
1321	SUTTON CO APPELLATE I-010422-010722	DIST CLK APPELLATE FEES	R	0/00/0000		5.00CR	000000	5.00
1357	TRIPLE C HARDWARE & LUMBER INC I-A212060	CIVIC CENTER R/M SUPPLIES	R	0/00/0000		143.00CR	000000	143.00
1376	WTG FUELS, INC. I-4395666	CIVIC CENTER PROPANE	R	0/00/0000		1,147.50CR	000000	1,147.50
1378	KATHY MARSHALL I-7155438	KATHY MARSHALL	R	0/00/0000		59.99CR	000000	59.99
1386	SNIDER TECHNOLOGY I-26903	CLERK'S OFFICE IT SERVICES	R	0/00/0000		863.00CR	000000	863.00
1409	SONORA MEDICAL CLINIC I-1060-111821	JAIL INMATE MEDICAL FEES	R	0/00/0000		84.16CR	000000	84.16
1419	DEBORAH BROWN I-DEC 2021/JAN 2022 I-NOV/DEC 2021	LIBRARY POSTAGE REIMB LIBRARY POSTAGE REIMB	R	0/00/0000		11.05CR 10.89CR	000000 000000	21.94



VENDOR	NAME / I.D.	DESC	CHECK TYPE	CHECK DATE	DISCOUNT	AMOUNT	CHECK NO#	CHECK AMOUNT
1430	PHARM HOUSE PIERCE SONORA I-340966 I-345872	JAIL INMATE MEDICATIONS JAIL INMATE MEDICATIONS	R	0/00/0000 0/00/0000		13.93CR 51.99CR	000000 000000	65.92
1439	REVIZE LLC I-12313	CO JUDGE WEB PAGE	R	0/00/0000		1,500.00CR	000000	1,500.00
1440	HCTC (HILL COUNTRY TELECOMMUNICATIONS I-3695400-012022 I-3695700-012022	LIBRARY JAIL/SHERIFF OFFICE	R	0/00/0000 0/00/0000		145.45CR 337.68CR	000000 000000	483.13
1480	AMG PRINTING & MAILING I-114754	TAX ASSESSOR POSTAGE DIFF	R	0/00/0000		153.75CR	000000	153.75
1489	TEXAS COMMUNICATIONS I-18243	JP TECHNOLOGY FUND	R	0/00/0000		160.00CR	000000	160.00
1492	AUTOMATIC FIRE PROTECTION, INC I-81001221	LIBRARY ALARM MONITOR SVC	R	0/00/0000		50.00CR	000000	50.00
1494	TXU ENERGY I-69598920-122021 I-69598965	CIVIC CENTER SINALOA/LOMA ALTA	R	0/00/0000 0/00/0000		1,863.57CR 377.00CR	000000 000000	2,240.57
1495	VEXUS I-019508401-123021	DRIVER'S LICENSE OFFICE	R	0/00/0000		8.34CR	000000	8.34
1498	TEXAS ASSOCIATION OF COUNTIES I-243737 I-249937 I-324401 I-72675 I-75302 I-75900 I-R316823 I-R317691	TAX ASSESSOR MEMBERSHIP DUES TAX ASSESSOR MEMBERSHIP DUES JP EDUCATION COURSE CO/DIST CLERK MEMBERSHIP DUES AUDITOR MEMBERSHIP DUES CO JUDGE MEMBERSHIP DUES TAX ASSESSOR DEPUTY SCHOOL COMM CONFERENCE DUES	R	0/00/0000 0/00/0000 0/00/0000 0/00/0000 0/00/0000 0/00/0000 0/00/0000 0/00/0000		125.00CR 50.00CR 395.00CR 125.00CR 220.00CR 550.00CR 45.00CR 300.00CR	000000 000000 000000 000000 000000 000000 000000 000000	
1544	STATEWIDE ELEVATOR INSPECTION LLC I-26189	CTM ELEVATOR YEARLY TEST	R	0/00/0000		333.65CR	000000	333.65

\*\* T O T A L S \*\*  
 REGULAR CHECKS: 51  
 HANDWRITTEN CHECKS: 0  
 PRE-WRITE CHECKS: 0  
 DRAFTS: 0  
 VOID CHECKS: 0  
 NON CHECKS: 0  
 CORRECTIONS: 0  
 REGISTER TOTALS: 51

DISCOUNTS: 0.00  
 CHECK AMT: 70,375.33  
 TOTAL APPLIED: 70,375.33

0.00  
 0.00  
 0.00  
 0.00  
 0.00  
 0.00  
 0.00  
 0.00

70,375.33  
 70,375.33

PACKET: 02951 FMFC 012422

\*\*\*\* CHECK LISTING \*\*\*\*

VENDOR SET: 01 ROAD & BRIDGE - FMFC  
 BANK : 15

VENDOR	NAME / I.D.	DESC	CHECK TYPE	CHECK DATE	DISCOUNT	AMOUNT	CHECK NO#	CHECK AMOUNT
1032	ANGELO BOLT & INDUSTRIAL SUPPLY I-605283	FMFC SAFETY WK SUPP/OP SUPP	R	0/00/0000		588.10CR	000000	588.10
1043	ATEFT MOBILITY I-4385-012022	FMFC CELL SERVICE	R	0/00/0000		43.39CR	000000	43.39
1054	PARKER LUMBER I-2123115 I-2137520 I-2210162	FMFC R/M SUPPLIES FMFC R/M SUPPLIES FMFC R/M SUPPLIES	R R R	0/00/0000 0/00/0000 0/00/0000		1.58CR 67.28CR 40.11CR	000000 000000 000000	108.97
1067	BREWER REFRIGERATION I-364261	FMFC ICE MACHINE RENTAL	R	0/00/0000		160.00CR	000000	160.00
1104	CONCHO POWER EQUIPMENT I-496687	FMFC REPAIRS	R	0/00/0000		105.00CR	000000	105.00
1126	DECOTY COFFEE COMPANY I-881990	FMFC MISC COFFEE SUPPLIES	R	0/00/0000		68.20CR	000000	68.20
1129	DEVILS RIVER AUTO PARTS I-15338-92467 I-15338-92468 I-15338-92588 I-15338-92767	FMFC SHOP SUPPLIES FMFC REPAIRS FMFC REPAIRS FMFC REPAIRS	R R R R	0/00/0000 0/00/0000 0/00/0000 0/00/0000		40.61CR 83.91CR 51.89CR 12.12CR	000000 000000 000000 000000	188.53
1219	JET SPECIALTY, INC I-2242947	FMFC R/M SUPPLIES	R	0/00/0000		53.40CR	000000	53.40
1233	THE CITY OF SONORA I-09061000-122021	FMFC WAREHOUSE	R	0/00/0000		188.85CR	000000	188.85
1266	UNIFIRS HOLDING-II I-0317769 I-0318173	FMFC EMPLOYEE UNIFORMS FMFC EMPLOYEE UNIFORMS	R R	0/00/0000 0/00/0000		16.77CR 16.77CR	000000 000000	33.54

\*\*\* T O T A L S \*\*\*  
 REGULAR CHECKS: 10  
 HANDWRITTEN CHECKS: 0  
 PRE-WRITE CHECKS: 0  
 DRAFTS: 0  
 VOID CHECKS: 0  
 NON CHECKS: 0  
 CORRECTIONS: 0

REGISTER TOTALS: 10  
 DISCOUNTS: 0.00  
 CHECK AMT: 1,537.98  
 TOTAL APPLIED: 1,537.98



**Janell Schniers** MARTIN  
County Treasurer

**SONORA, TEXAS 76950**

THE STATE OF TEXAS  
COUNTY OF SUTTON  
AFFIDAVIT

FY 21-22 MONTHLY REPORT  
DECEMBER 2021

The Treasurers' Monthly Report includes, but not limited to, money received and disbursed; and all other proceedings in the treasurer's office that pertain to the Financial Standing of Sutton County. {LGC 114.026(a)(b)}

The Treasurer's Books and the Auditor's General Ledger agree. The Bank Statements have been reconciled; any adjustments have been noted.

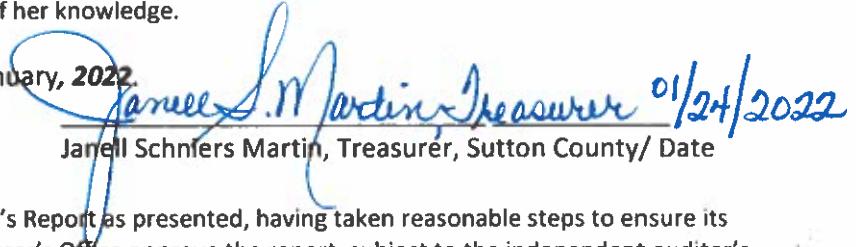
The affidavit must state the amount of the cash and other assets that are in the custody of the county treasurer at the time of the examination. {LGC 114.026 (d)} \$9,463,556.02 Month Ending Balance

The Treasurers' Monthly Report has been submitted and the Bank Reconciliations are pending review by Auditor. {LGC 114.026(b)}

All investments are in compliance with both the Public Funds Investment Act and the Sutton County investment Policy. The investment strategy is passive, which maintains a liquid cash flow and safety of the investment as priorities. As your Treasurer, I keep a watchful eye to ensure that the "return of our principal" takes precedent over the "return on our principal". {GC 2256.023}

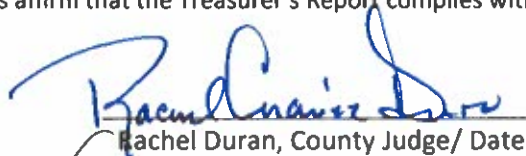
Therefore, Janell Schniers, County Treasurer of Sutton County, Texas, who being fully sworn, upon oath says that the within and foregoing report is true and correct to the best of her knowledge.

Filed with accompanying data this 24<sup>th</sup> day of January, 2022.

  
Janell Schniers Martin, Treasurer, Sutton County/ Date

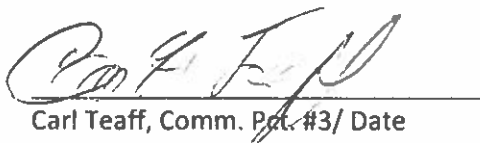
Commissioners' Court having reviewed the Treasurer's Report as presented, having taken reasonable steps to ensure its accuracy and based upon presentations of the Treasurer's Office approve the report, subject to the independent auditor's review and request that it be filed with the official minutes of the meeting. {LGC 114.026(c)}

In Addition, the below signatures affirm that the Treasurer's Report complies with statutes as referenced. {LGC 114.026(d)}

  
Rachel Duran, County Judge/ Date

  
Lee Bloodworth, Comm. Pct. #1/ Date

  
Bob Brockman, Comm. Pct. #2/ Date

  
Carl Teaff, Comm. Pct. #3/ Date

  
Fred Perez, Comm. Pct. #4/ Date

		BEGINNING BALANCE	TOTAL DEBITS	TOTAL CREDITS	ENDING BALANCE
<b>GENERAL FUND</b>					
10 -1060	MM BANK & TRUST	0.00	0.00	0.00	0.00
10 -1070	CD - BANK & TRUS	4,205,286.12	0.00	0.00	4,205,286.12
	<b>FUND 10 TOTAL</b>	<b>4,205,286.12</b>	<b>0.00</b>	<b>0.00</b>	<b>4,205,286.12</b>
<b>ROAD &amp; BRIDGE FUND</b>					
15 -1050	CASH IN BANK & T	140,046.28	113,441.19	81,969.68CR	171,517.79
15 -1060	MM BANK & TRUST	636,696.25	369.46	0.00	637,065.71
15 -1070	CD - BANK & TRUS	300,000.00	0.00	0.00	300,000.00
	<b>FUND 15 TOTAL</b>	<b>1,076,742.53</b>	<b>113,810.65</b>	<b>81,969.68CR</b>	<b>1,108,583.50</b>
<b>DISTRICT ATTY HOT CK FUND</b>					
40 -1050	CASH IN BANK - B	40.00	0.00	0.00	40.00
	<b>FUND 40 TOTAL</b>	<b>40.00</b>	<b>0.00</b>	<b>0.00</b>	<b>40.00</b>
<b>TX DEV BLOCK GRANT</b>					
50 -1065	CASH-TX COMM DEV	0.00	0.00	0.00	0.00
	<b>FUND 50 TOTAL</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>AMERICAN RESCUE PLAN</b>					
65 -1053	CASH - ARPA	360,580.20	0.00	0.00	360,580.20
	<b>FUND 65 TOTAL</b>	<b>360,580.20</b>	<b>0.00</b>	<b>0.00</b>	<b>360,580.20</b>
<b>SUTTON COUNTY #911</b>					
71 -1050	B & T CASH	5,734.24	0.73	0.00	5,734.97
	<b>FUND 71 TOTAL</b>	<b>5,734.24</b>	<b>0.73</b>	<b>0.00</b>	<b>5,734.97</b>
<b>SHERIFF SEIZURE FUND</b>					
89 -1050	CASH IN BANK & T	0.00	0.00	0.00	0.00
89 -1070	CD - BANK & TRUS	0.00	0.00	0.00	0.00
	<b>FUND 89 TOTAL</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>

APPELLATE COURT  
 90 -1050

	BEGINNING BALANCE	TOTAL DEBITS	TOTAL CREDITS	ENDING BALANCE
CASH IN BANK & T	68.91	10.00	0.00	78.91

FUND 90 TOTAL 68.91 10.00 0.00 78.91

GENERAL CASH CONTROL

99 -1010 MMA ACCOUNT	2,399,263.79	4,574.24	0.00	2,403,838.03
99 -1015 GENERAL C.D.	1,000,000.00	0.00	0.00	1,000,000.00
99 -1105 GENERAL CASH - B	283,955.47	641,258.88	545,800.06CR	379,414.29

FUND 99 TOTAL 3,683,219.26 645,833.12 545,800.06CR 3,783,252.32

REPORT TOTALS 9,331,671.26 759,654.50 627,769.74CR 9,463,556.02



**Cost Per Image Agreement**

Total Office Solution of West Texas  
1601 N. Lee Odessa, Texas 79761

<b>Agreement #</b>	<b>CUSTOMER #</b> SC43-004
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<b>Full Legal Name</b> Sutton County Sheriff's Office
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<b>Billing Address</b>	<b>City</b>	<b>State</b>	<b>Zip</b>
309 NE Oak St	Sonora	TX	76950

**TERMS AND CONDITIONS · PLEASE READ CAREFULLY BEFORE SIGNING**

**Program Summary (Equipment & Pricing Listed in Attached Cost Per Image Schedule A)**

**Contract Billing Frequency:**

Monthly     Quarterly  
with Excess Per Image Charge by Serial #

or

Annual Pooled Agreement by Model (Total of 10 Units or greater)

<b>Install Address if different from above</b>	309 NE Oak St, Sonora, TX 76950
--	---------------------------------

**SERVICES OFFERED:** We agree to provide OEM toner cartridges, along with data collection service, supplies management, proactive service error monitoring, help desk support, service Break/Fix, and quarterly environment reporting under this Cost Per Image Agreement. Further information on the Service Management details are on attached to this document. Existing equipment, along with Cost Per Image pricing, is listed in Cost Per Image Schedule A. A Fit For Service Evaluation will be performed on all equipment after 30 days of monitoring has been completed, equipment not meeting the Fit For Service criteria will appear on the attached schedule C. (see attached service level agreement)

**IMAGE CHARGES:** Payments are due monthly, beginning the date the Agreement is initiated (as noted by the Agreement date below) or any later date designated by Us (see "Transitional Billing" section below) and continuing on the same day of each following month until fully paid. You are entitled to make the total number of images reflected in the Monthly Image Allowance shown on in Cost Per Image Schedule A each month (if consolidated), or the monthly amount image Allowance Per Machine or Group (if not consolidated). If You use more than the applicable Allowance(s) in any month, You agree to pay us an additional charge equal to the number of additional metered images multiplied by the applicable Excess Per Image Charge. You agree that We may proportionally increase Your Per Image Charges at any time if Our estimated average page coverage is exceeded in any month during the term of this Agreement. In addition to the foregoing, You agree that effective on each/any anniversary of this Agreement, We may annually increase both the Minimum Monthly Payment and the Excess Per Image Charge by amounts determined in Our discretion, but not to exceed ten percent (10%) of the then current payment and/or charge in each year.

**TRANSITIONAL BILLING:** If We designate as the Agreement commencement date or effective date a date which is later than the date the Agreement is/was initiated (as noted by the Agreement Date below), then You shall pay Us an interim payment for each day, from the date the Agreement is/was initiated until the commencement date, equal to the minimum monthly payment divided by 30. If this Cost Per Image Agreement has no minimum monthly amount (as designated in Cost Per Image Schedule A), we will bill you for actual pages printed from the Agreement initiation date until the designated commencement date.

**GOVERNING LAW, CONSENT TO JURISDICTION AND VENUE OF LITIGATION:** This Agreement and each Schedule shall be governed by the laws of the State of Texas. YOU AGREE THAT ANY DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT WILL BE ADJUDICATED IN THE FEDERAL OR STATE COURT LOCATED IN TEXAS. YOU HEREBY CONSENT TO PERSONAL JURISDICTION AND VENUE IN THAT COURT AND WAIVE ANY RIGHT TO TRANSFER VENUE. EACH PARTY WAIVES ANY RIGHT OF A TRIAL BY JURY. THE VENUE OF ANY DISPUTE WILL BE IN SUTTON COUNTY, TEXAS.

**LATE FEES:** If any amount payable to Us is not paid when due, you agree to pay us a late charge equal to: 1) the greater of ten (10) cents for each dollar overdue or twenty-five (\$25.00) dollars; or 2) the highest lawful charge, whichever is less.

**AGREEMENT PERIOD:** This agreement is for a period of 36 months from the date of signature and is cancelable by either party with thirty days written notice after the first year of contract. Contract will automatically renew if not canceled 30 days prior to 36 months after start date. PLEASE NOTE: Discounts associated with this program can only be guaranteed for the length of this original agreement. Minimum agreement length is 12 months.

This agreement is subject to the terms and conditions printed on this side, on the reverse side, attached Cost Per Image Schedule A, and all of which pertain to this agreement and which you acknowledge having read. This agreement is not binding until accepted by us. You certify all actions required to authorize execution of this agreement, including your authority, having been fulfilled.

- I. Service Level Agreement:** The charges stated in the Agreement include Coverage for maintenance (from 8 a.m. to 5 p.m. local time, except weekends and holidays ("Regular Service Hours"), inspection, adjustment and parts replacement for proper operation, and toner for Equipment (on Cost Per Image Schedule A). You must purchase paper and staples separately. Toner and Consumables (i.e. Maintenance Kits, Fusers, etc....) will be provided for production of pages, up to 5% coverage on mono devices, and 20% total additive page coverage on color pages. Supplies required for production in excess of the 5% (mono) and 20% (color) page coverage will be invoiced separately.
- A. **Equipment Eligible for Coverage.** All equipment capable of using Our supplied toner and consumables must be included in Cost Per Image Schedule A.
  - B. **Fit For Service.** After the first 30 days of monitoring Your Equipment, a Fit For Service Evaluation will be performed on Your Equipment to insure it meets specifications for supply levels and serviceability. The evaluation includes but is not limited to, Equipment Life Utilization Meter, Serial number integrity, error messages and supply levels verification. Any Equipment that does not qualify as Fit For Service will be treated as a Time and Materials service call when service is required, until the issue is resolved. The equipment that does not qualify will also be listed on schedule C.
  - C. **Beginning Supply Levels.** Toner and Consumables levels should be at 25% level or higher to begin the Program. On any devices below that level, you will need to provide the supply item from your own existing inventory, or purchase outright. Supplies or service for this equipment will not be provided at no charge until the toner and consumables are brought to the appropriate levels.
  - D. **Definition of Services Provided.** We agree to perform only those break/fix repairs involving worn Equipment components that have failed during ordinary use of the Equipment under normal operating conditions (trays, covers, accessories, glass parts and Power Cords are not covered). This agreement does not include labor to replace "operator replaceable" non-toner consumables, as determined by the manufacturer. This agreement does not include labor to go onsite to make a part determination when the operator refuses to participate in the effort to properly TRIAGE the device to make parts determinations. This Agreement does not cover after-hours service, shop overhauls, and service made necessary by accident, fire, water, power surges or natural disasters. We reserve the right to replace any device with an equal or like model at our discretion should the repair of a covered device be deemed as not cost effective. The device replaced becomes Our Property and the device installed becomes Your Property. This agreement does not cover Machine installation, network setup or features and parts not supplied by the original manufacturer.
  - E. **Response Time.** We will respond to all calls for service During ("Regular Service Hours"), within 8 (eight) business hours. Customers may call our dispatch center 8:00AM to 5:00 PM Central Time or log on to My Printer Manager.com 24 hours a day, 7 Days a week to enter a service request. Requests for services outside of Regular Service Hours will be provided on a best effort basis at one and one half times the prevailing time and materials hourly rate. Such charges for services outside of Regular Service Hours are in addition to the prepaid Minimum Monthly Payment.
  - F. **Proactive service error monitoring.** As WE will be Proactively monitoring Your printing environment You agree to provide contact information (name and phone number) for a person at the Equipment site to be contacted if WE detect an error, in an effort to correct the error. If the attempt to resolve the error is unsuccessful, we will dispatch a qualified technician to correct the error.
  - G. **Access to Equipment.** We shall have the right to access Your site and any other of Your premises that may house Equipment upon reasonable notice for access with Your supervision during regular work hours. We reserve the right to invoice You at Our prevailing time and material hourly rate, separate from the Minimum Monthly Payment, when access to the Equipment is denied for greater than fifteen (15) minutes, when You initiated the request for service. We shall apply an estimated monthly page volume to any and all Equipment that cannot be accessed for page count recording purposes.
  - H. **Authorized Maintenance Providers.** We, at Our discretion, may authorize Our approved maintenance subcontractors or approved service providers to perform maintenance and repairs to the Equipment. In cases where We manage Your third-party service agreement on your behalf, then all sums currently due under that agreement must be paid in full before We will assume any obligation or responsibility.
  - I. **Repair Responsibility.** Our responsibility ceases if persons make repairs to the Equipment other than Our authorized representative or subcontractor. It also ceases if competitive supplies are used, or if the damage occurs as a result of Your abuse or improper handling.
  - J. **Additional Equipment and Right of Inspection.** You shall notify Us promptly upon installing any additional equipment ("Additional Equipment") at Your site capable of using Our supplied toner and ink consumables. Equipment installed subsequent to the date of this Agreement will be evaluated by Us, and included in, or excluded from, this Agreement at the sole discretion of Us.

Additional Equipment deemed included in the Agreement by Us shall be added to Cost Per Image Schedule A and will automatically be covered by and considered Equipment under the terms of this Agreement. Billings or surcharges for Additional Equipment output will be reflected in the billing cycle immediately following the billing cycle in which the Additional Equipment is installed. If You add Additional Equipment the Minimum Monthly Payment may be adjusted accordingly at Our sole discretion.

If any such Additional Equipment is used equipment, You represent and warrant to Us that, except for Pre-Existing Conditions duly disclosed to Us prior to such Additional Equipment being covered by this Agreement, all of the Additional Equipment shall, on the date such coverage commences, be in good working order. We shall be entitled to take a physical inventory of the Additional Equipment upon or prior to its being covered by this Agreement to determine whether they are in working order. In the event, as of the date coverage commences under this Agreement, any Additional Equipment is not in good working order, You shall have such Additional Equipment repaired at Your sole expense and, until such Additional Equipment is so repaired, any Additional Equipment with Pre-Existing Conditions shall not be covered under this Agreement. An initial meter reading of zero (0) is agreed, unless You provide timely information to the contrary, for any Additional Equipment that meets the conditions of G.1.

- II. WARRANTY.** Notwithstanding anything in this Agreement to the contrary, we warrant (a) that all personnel performing services hereunder by or on behalf of Us will have appropriate training and experience and (b) all equipment is in accordance with industry standards, and all supplies and materials are of good quality. Without limiting the generality of the foregoing (and without limiting any obligation of Us to make repairs under this Agreement), You expressly agree and acknowledge that in no event shall any manufacturer's warranty, including but not limited to any implied warranty of merchantability, and fitness for a particular purpose, be deemed given by or otherwise transferred or applied to Us. If You notify Us within ninety (90) days from performance of the services that the services or a part thereof fails to conform to the standards specified herein, Your sole and exclusive remedy is that We shall promptly repair, replace or re-perform the non-conforming services.

**III. TRACKING SOFTWARE.**

- A. **Tracking Software.** You grant Permission to Install and Maintain Tracking Software. We own software ("Tracking Software") that enables Us to monitor the usage of, and the copy count produced on, the Equipment. You agree that We shall have the right, at any time during the term of this Agreement, to install the Tracking Software on one or more of Your computer networked station(s). You agree to provide Us, during normal business hours, access to Your computer-networked station(s) to enable Us to upgrade, modify or maintain the Tracking Software or to install new releases or additions to the Tracking Software. Under no circumstances will the Tracking Software provide Us access to Your information other than information directly related to this Agreement. You agree to not delete or remove the Tracking Software or to alter, modify or otherwise render it unusable during the term of this Agreement without the prior written consent of Us. If You disagree, then We retain the right to invoice You the prevailing hourly billable rate for labor required to obtain meter readings, per meter reading cycle.
- B. **No License, other Prohibitions.** Nothing herein shall be construed as granting a license to You for the use of the Tracking Software. You may not, nor may You permit or cause any other person to (a) use or copy the Tracking Software, in whole or in part, in any manner, (b) modify, translate, reverse engineer, decompile or disassemble the Tracking Software, (c) rent, lease, loan, resell, distribute, use in a customer-server network to provide third parties access to, or otherwise transfer the Tracking Software, or (d) remove any proprietary notices on the Tracking Software.
- C. **Intellectual Property Rights.** All rights (including all intellectual property rights, whether recognized currently or in the future) in and to the Tracking Software (including any source code, executable code, object code, tools and/or libraries related to the Tracking Software) will at all times be owned by Us. No modifications and/or use by You of the Tracking Software shall under any circumstances transfer any right, title or interest in or to the Tracking Software to You or any third party.
- D. **Tracking Software Warranty, Liability.** You acknowledge that the Tracking Software will be installed on Your networked workstation(s) "as is" without warranty of any kind, either express or implied, including the implied warranties of merchantability, fitness for a particular purpose and non-infringement. We do not warrant that the Tracking Software will be error free or will operate without interruption. We shall in no event be liable to You or any third party for any special, consequential, incidental or indirect damages in connection with the Tracking Software. If the software is found to cause issues on Your network, and these issues can be reasonably associated to the installation of the software through uniform software testing and tracing methodologies, our liability will be limited to the removal of said Tracking Software from Your environment.

**IV. MISCELLANEOUS.**

- A. **Software.** Performance issues related to Software and/or connectivity are not covered under the terms of this Agreement. Any warranties related to Software will be those offered by the manufacturer and will be passed directly to the user.
- B. **Software/Hardware.** Connectivity and performance issues related to Software and non-standard hardware are not covered under the terms of this Agreement. Any warranties related to these solutions, which include but are not limited to: HP Digital Sending Software, Web Jet Admin, Auto Store, any OCR software, computers and scanners, will be those offered by the manufacturer and passed directly to the user. Operation and configuration of the Software will be the responsibility of You after initial install and operation test of (1) "Send To" folder is completed by Us.



# COST PER IMAGE SCHEDULE A

This Cost Per Image Schedule A (hereafter "Schedule") is hereby made a part of that certain Master Agreement ("Agreement") by and between **Sutton County Sheriff's Office** ("Customer") and **Total Office Solution of West Texas** ("Supplier"), which Agreement is identified in Owner's records as Agreement No. \_\_\_\_\_. The Cost Per Image Charges under the Agreement shall be determined under this Schedule. If there is any provision in this Schedule which conflicts with a provision in the Agreement, the provision in this Schedule shall govern.

## Equipment Description

QTY	TYPE, MAKE, MODEL NUMBER AND INCLUDED ACCESSORIES	SERIAL #	BASE CHARGE	EXCESS PER IMAGE CHARGE (PLUS TAX)				OEM OR COMPATIBLE CONSUMABLES PROVIDED	SERVICE INCLUDED
				B&W VOL INC	B&W CPI	COLOR VOL INC	COLOR CPI		
1	Xerox Versalink C500/U		\$14.98	250	0.0199	0	0.12		
1	Xerox Versalink C500/U		\$14.98	250	0.0199	0	0.12		

Install Data Collection for Automated Meter Reads & Automated Supply Shipments  YES  NO If yes, on Server  YES  NO

Contact Person for Data Collection Tool \_\_\_\_\_

Email Address \_\_\_\_\_

## CUSTOMER ACCEPTANCE

The undersigned hereby verifies that the information on this Schedule is complete and correct. The undersigned also acknowledges having received a copy of this Schedule.

**Sutton County Sheriff's Office**   **Oscar Chavez** **6/24/22**  
 CUSTOMER SIGNATURE PRINT NAME & TITLE DATE





**Authorized Xerox Document Technology Partner**

**Authorized Xerox Service Provider**

**Accredited Xerox Managed Print Partner**



Proposal prepared for:

**Sutton County Sheriff's Office**

Proposal Date: January 24, 2022

This quote is valid for 30 days from proposal date and is subject to change at that time.

January 24, 2022

Sutton County Sheriff's Office - Sutton county Sheriffs office

Sutton County Sheriff's Office

309 NE Oak St

Sonora, TX,

Dear Maria,

### **Our proposal to supply a document solution**

Further to our recent discussions, I am pleased to enclose our proposal to provide your organization with our recommended document solution. I have suggested this particular system because I believe that it fully meets your stated requirements while offering:

- The power and performance you need to satisfy your department's document requirements now and in the future
- Superior quality output with every job
- An ease of use, versatility and built-in reliability that will enhance productivity throughout the workgroup
- Improved cost control and easy device management
- Excellent security

I hope that the proposal meets with your satisfaction and I look forward to your order. In the meantime, if you have any questions or if anything is unclear then please contact me or any member of my team.

Yours sincerely,

Insert signature here and delete this box

**Peter Helfrich**

**[peterh@totalofficesolution.biz](mailto:peterh@totalofficesolution.biz)**



Data Collection App Option Declined \_\_\_\_\_

If Data Collection App Option declined please understand that all service, supplies and meter reads will be a manual process requiring input from you the customer.

**RESOLUTION IN SUPPORT OF  
APPLICATION FOR SUTTON COUNTY COMPUTER ENHANCEMENT GRANT**

**WHEREAS, The County of Sutton** finds it in the best interest of the citizens of Sutton County, Texas, the **Sutton County Computer Enhancements-Grant Application 4074401** has been completed; and


**WHEREAS, The Sutton County Commissioner's** agrees to provide applicable matching funds, if any, for the said project as required by the Homeland Security Grant Program (HSGP) grant application; and

**WHEREAS, The Sutton County Commissioners'** agrees that in the event of loss or misuse of the Office of the Governor funds, the Sutton County Commissioner's assures that the funds will be returned to the Office of the Governor in full.

**WHEREAS, The Sutton County Commissioner's** designates **Rachel Duran, County Judge**, as the grantee's authorized official. The authority official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

**NOW THEREFORE, BE IT RESOLVED** that the **Sutton County Commissioner's** approves submission of the grant application for the **Sutton County Computer Enhancements-Grant Application 4074401** to the Office of the Governor.

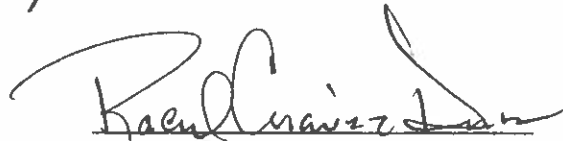
Signed by:

  
Commissioner, Pct. 1

  
Commissioner, Pct. 2

  
Commissioner, Pct. 3

  
Commissioner, Pct. 4

  
County Judge

Attest:

Jan Thompson  
County Clerk, Sutton County, Texas

Passed and Approved this 24 (Day) of January (Month), 2022 (Year)

**Grant Number: 4074401**

## AMERICAN RESCUE PLAN ACT ADMINISTRATION SERVICES

THIS AGREEMENT, MADE THIS JULY 27, 2021 BY AND BETWEEN THE SUTTON COUNTY, TEXAS, hereinafter referred to as Client (“Client”), and GRANTWORKS, INC., Austin, Texas, hereinafter referred to as Consultant (“Consultant”), procured in conformance with Texas Government Code Chapter 2254, Subchapter A, “Professional Services”.

### PART I – GENERAL CONDITIONS

#### I. SCOPE OF BASIC SERVICES

Consultant agrees to render administration services for Client's American Rescue Plan Act of 2021 (“ARPA”) award (the “Contract”), as administered by the U.S. Department of Treasury (the “Department”), as provided in the provisions titled, “Part III, Scope of Basic Services” and attached hereto and incorporated by reference herein (the “Services”).

#### II. COMPENSATION AND METHOD OF PAYMENT

For and in consideration of the foregoing, Client agrees to pay Consultant a firm fixed price of Sixty-Four Thousand One Hundred and no/100 Dollars, (\$64,100.00) in accordance with the following schedule. Listing of specific milestones shall not be construed as a representation or warranty, and Consultant makes no representations or warranties, that these milestones measure overall contract progress facilitated by the Consultant’s performance of the services, and any particular milestone will be achieved or that any specific Department or other requirements ultimately will be met. The fee schedule shall be based upon identified contract milestones, as follows:

Milestone		Billable Amount	Project Deliverable
Project Selection completed	15%	\$9,615.00	List of projects created and assigned preliminary budgets
Policies/Procedures and/or implementation strategy established	16%	\$10,256.00	P&P documentation (where appropriate), procurement documents, documentation supporting eligibility of each expense / project
25% of allocated funds expended	16%	\$10,256.00	\$167,336.00 expended
50% of allocated funds expended	16%	\$10,256.00	\$334,672.00 expended
75% of allocated funds expended	16%	\$10,256.00	\$502,008.00 expended
All allocated funds expended	16%	\$10,256.00	\$669,344.00 expended
Transfer of all close-out docs	5%	\$3,205.00	All reports filed with TDEM / USDT, all docs and records transferred. Closeout meeting complete
<b>Total of all milestones</b>		<b>\$64,100.00</b>	

Note: Administrative Activities include General Administration, Financial Management, Basic Acquisition, and Construction Phase Management services as referenced in Part III—Scope of ARPA Administration Services.

#### III. ADDITIONAL SERVICES

Section III above discusses compensation for the administration of ARPA direct allocation under Subtitle M section 603 of the American Rescue Plan Act. Rates and/or Fee for application, administration, or

management of activities funded under other provisions of the ARP Act will be negotiated and provided as an addendum to this contract.

Fees for any professional services required to carry out project-related activities that must be furnished by a third-party professional including but not limited to accountant, appraiser, archaeologist, architect, attorney, auditor, biologist or other natural scientist, engineer, historic preservationist, or surveyor, shall be in addition to the base fee payable to Consultant specified in Section III. Expenditures for such services shall require prior approval by Client.

#### IV. CHANGES AND AMENDMENTS

The Client may, from time to time, request changes in the scope of services of the consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation, must be mutually agreed upon by and between the Client and the Consultant and shall be incorporated in written amendments to this Agreement. If a change is requested but the parties cannot agree on the specific terms of such change, the parties will mutually agree to terminate this Agreement.

#### V. ASSIGNABILITY

Neither party shall assign any interest in this Agreement or transfer any interest in the same, without the prior written consent of the other party, not to be unreasonably withheld, provided, however, that claims for money by the Consultant from the Client under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished reasonably promptly to the Client.

#### VI. RECORDS AND AUDITS

During the term of this Agreement, the Consultant shall assist the Client in maintaining fiscal records and supporting documentation for all expenditures of funds made under the Contract. Such records must include data on racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under the Contract. Client shall retain such records, and any supporting documentation, for the greater of three (3) years from closeout of the Contract or the period required by other applicable laws and regulations.

#### VII. MISCELLANEOUS PROVISIONS

- A. Governing Law and Venue.** This Agreement shall be governed and construed under and in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under the contract is fixed in any court of competent jurisdiction of Sutton County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the Client.
- B. Binding Effect; No Third-Party Beneficiaries.** This Agreement shall inure to the benefit of, be binding upon, and be enforceable against, each Party and their respective successors, assigns, transferees and delegates.
- C. Severability.** If any provision of this Agreement is construed to be illegal or invalid, such construction will not affect the legality or validity of any of its other provisions. The illegal or invalid provision will be deemed severable and stricken from the contract as if it had never been incorporated herein, but all other provisions will continue in full force and effect.
- D. Attorneys' Fees.** If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursement in addition to any other relief to which such party may be entitled.
- E. Provision of Information.** It is agreed that all information, data, reports and records and maps as are existing, available, and necessary for the carrying out of the work outlined in this Agreement shall be furnished to the Consultant by the Client and its agencies. No charge will be made to Consultant for such information and the Client, and its agencies will cooperate with Consultant in every way possible to facilitate the performance of the work described in this Agreement.
- F. Local Program Liaison.** For purposes of this Contract, the Client shall designate an authorized person to serve as the Local Program Liaison and primary point of contact to the Consultant. All required progress



reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.

- G. Waiver of Consequential Damages.** Notwithstanding any other provision to the contrary herein, neither party shall be liable to the other for any indirect, incidental, special or consequential damages or loss of profits, anticipated or otherwise, or loss of revenues in connection with or arising out of, or in connection with, the subject matter of this Agreement.
- H. Limitation of Liability.** Each party agrees that, regardless of the type, nature or number of causes of action or claims by the Client (including without limitation claims for indemnity under this Agreement) or any third party claiming by, through or under the Client, the maximum amount of damages, individually or in the aggregate, that either party will be liable for or can be required to pay to the other or any other claimant is the amount of fees to be paid to the Consultant by the Client under this Agreement. The parties agree that this limitation of damages is reasonable and acknowledge that but for this limitation, neither party would enter into this Agreement.
- I. Entire Agreement.** This Agreement constitutes the sole and entire agreement of the parties with regard to contemporaneous understandings or written or oral agreements between the parties respecting the subject matter of this Agreement.
- J. Negotiated Terms.** The parties agree that the terms and conditions of this Agreement are the result of negotiations between the parties and that this Agreement shall not be construed in favor of or against either party by reason of the extent to which such party or its professional advisors participated in the preparation of this Agreement.
- K. Ownership of Work and Copyright.** The parties agree that the Consultant retains all ownership rights to forms, reports, and other documents produced in whole or in part under this Agreement until such documents are completed as contemplated under this Agreement and placed in the official Contract record or submitted as final documents to the Client or the Department. Consultant shall retain all ownership rights to templates, internal tracking systems, and other documents produced by Consultant that have a common use applicable to multiple clients and are not produced specifically for the Client under this Agreement. No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant.
- L. Remedies, Alternative Dispute Resolution, and Program Non-Compliance.** The parties hereto agree to resolve all disputes arising hereunder in accordance with this section. If a dispute arises out of or relates to this Agreement or any alleged breach hereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or ARPA program requirements, the party desiring to resolve such dispute shall deliver a written notice of the dispute, including the specific claim in the dispute to the other party. Following the delivery of such notice, the parties involved in the dispute shall meet at least twice within the thirty (30) day period commencing with the date of the notice and in good faith shall attempt to resolve such dispute through negotiation. If any dispute is not resolved or settled by the parties as a result of such negotiation, the parties in good faith shall submit the dispute to non-binding mediation before a retired judge of a federal district court or Texas district court or a similarly qualified, mutually agreeable individual in San Angelo, Texas. The parties shall bear the costs of such mediation equally. If the dispute is not resolved through such mediation, either party may proceed to file suit.
- M. Force Majeure.** A "Force Majeure Event" means any event or cause beyond a party's reasonable control (including without limitation, construction delays, fire, flood, rain, weather, casualty, explosions, damage by third parties whether negligently or intentionally caused, strikes, work stoppages, picketing, acts of God or other casualties, or the laws or actions of any governmental authority), as a result of which at any time a party is unable to perform any of its obligations under this Agreement. If a Force Majeure Event occurs during the term of this Agreement that prevents the Consultant from performing its obligations hereunder, the Consultant and the Client will in good faith mutually agree on one of the following alternatives: (1) extend the time for performance, or (2) terminate this Agreement and, as mutually agreed, cause the payment to Consultant of fees not yet paid for services performed prior to the

occurrence of the Force Majeure Event or cause the refund to Client of fees previously paid for services that were not performed prior to the occurrence of the Force Majeure Event.

- N.** GrantWorks recognizes and follows COVID- 19 guidance, recommendations and advice as set forth by the Texas Department of State Health Services, and the United States Center for Disease Control. Current guidelines for private, public, and nonprofit sectors are available at [dshs.tex.gov/coronavirus](https://dshs.tex.gov/coronavirus) and [cdc.gov/coronavirus](https://cdc.gov/coronavirus). GrantWorks will continue to prioritize the health and safety of employees, clients, vendors, and other stakeholders by encouraging the use of appropriate and recognized public health mitigating measures, such as mask wearing and social distancing, and by offering virtual meeting and work options throughout the life of the contract. GrantWorks aims to be sensitive to the individual needs of each community whilst recognizing the challenges posed by the pandemic.

## **PART II - TERMS AND CONDITIONS**

- 1. USE OF FUNDS.** a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the "Act"), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing; b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
- 2. PERIOD OF PERFORMANCE.** The time of services of the Consultant shall commence no earlier than the date of this agreement. In any event, Consultant shall use commercially reasonable efforts to perform all services required and performed hereunder within either December 31, 2026, or the completion date of this program, whichever is sooner. Consultant shall issue and provide a copy of a Consultant's Certificate of Program Completion to the Client when the consultant is notified that Client has accepted the program.
- 3. REPORTING.** Recipient agrees to comply with any reporting obligations established by the Treasury as they relate to this award.
- 4. ACCESS TO RECORDS.** In accordance with 2 CFR 200.337, during the Agreement's time of performance the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives will have access to any books, documents, papers, and records maintained by the Consultant which are directly pertinent to the Contract for the purpose of making audit, examination, excerpts, and transcriptions.
- 5. PRE-AWARD COSTS.** Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
- 6. ADMINISTRATIVE COSTS.** Recipient may use funds provided under this award to cover both direct and indirect costs.
- 7. COST SHARING.** Cost sharing or matching funds are not required to be provided by the Recipient.
- 8. CONFLICTS OF INTEREST.** Recipient understands and agrees it must maintain a conflict-of-interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict-of-interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to the Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
- 9. COMPLIANCE WITH APPLICABLE RULES AND REGULATIONS.** a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award. b. Federal regulations applicable to this award include, without limitation, the following: i. Uniform

Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine, are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award. ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference. iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference. iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19. v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference. vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20. vii. New Restrictions on Lobbying, 31 C.F.R. Part 21. viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations. ix. Generally applicable federal environmental laws and regulations. c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following: i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance; ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability; iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance; iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

- 10. REMEDIAL ACTIONS.** In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
- 11. HATCH ACT.** Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
- 12. FALSE STATEMENTS.** Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
- 13. PUBLICATIONS.** Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
- 14. DEBTS OWED THE FEDERAL GOVERNMENT.** a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and

have not been repaid by Recipient shall constitute a debt to the federal government. b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). The Treasury will take any actions available to it to collect such a debt.

- 15. DISCLAIMER.** a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award. b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.
- 16. PROTECTIONS FOR WHISTLEBLOWERS.** a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of a law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant. b. The list of persons and entities referenced in the paragraph above includes the following: i. A member of Congress or a representative of a committee of Congress; ii. An Inspector General; iii. The Government Accountability Office; iv. A Treasury employee responsible for contract or grant oversight or management; v. An authorized official of the Department of Justice or other law enforcement agency; vi. A court or grand jury; or vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct. c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
- 17. TERMINATION OF AGREEMENT FOR CAUSE.** In accordance with 2 CFR 200 APPENDIX II (B), if the Consultant shall fail to fulfill in a timely and proper manner his/her obligations under this Agreement, or if the Consultant shall violate any of the covenants, agreements, or stipulations of this Agreement, the Client shall provide written notice to Consultant reasonably specifying the failure or violation. If Consultant fails to cure such failure or violation within five (5) business days of receiving such notice or, if the failure or violation is incapable of cure within such time frame, to begin to take actions to cure such failure or violation and to diligently pursue them to completion, Client thereupon shall have the right to terminate this Agreement immediately by giving written notice to the Consultant. Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. In such event, all finished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Consultant under this Agreement shall, at the option of the Client, become its property.
- 18. TERMINATION OF AGREEMENT FOR CONVENIENCE.** Either the Client or the Consultant may terminate this Agreement at any time by providing at least ten (10) day notice in writing to the other party to this Agreement. If the Agreement is terminated as provided herein, the Consultant will be paid for the time provided and expenses incurred up to the termination date. In such event, all finished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Consultant under this Agreement shall, at the option of the Client, become its property.
- 19. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689, 2 CFR part 180).** The Consultant certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally assisted programs under Executive Orders 12549 (1986) and 12689 (1989). The term "principal" for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Consultant. The Consultant understands that it must not

make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

- 20. FEDERAL COMPLIANCE.** During the term of this Agreement, the parties shall comply with all Federal laws, regulations, and rules including the following:
- a. CIVIL RIGHTS ACT OF 1964.** Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
  - b. Section 504 Rehabilitation Act of 1973, as amended.** The Consultant agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.
  - c. AGE DISCRIMINATION ACT OF 1975.** The Consultant shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
  - d. SECTIONS 106(b), 102(a)(4) and A109 OF THE HOUSING & COMMUNITY DEVELOPMENT ACT OF 1974.** Under Title VI of the Civil Rights Act of 1964, no person shall on the ground of race, color, religion, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Title.
  - e. EQUAL OPPORTUNITY CLAUSE.** During the performance of this Agreement, the Consultant agrees as follows:
    - i.** The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
    - ii.** The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
    - iii.** The Consultant will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.
    - iv.** The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- v. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, "Equal Employment Opportunity," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- vi. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- vii. In the event of the Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- viii. The Consultant will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

**21. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.**

- a. The Consultant must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- b. Affirmative steps must include:
  - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  - iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  - v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  - vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

**22. PATENT RIGHTS AND INVENTIONS.** The Consultant shall comply with the requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract. (2 CFR 200 Appendix II (f) and Rights to Inventions in 37 CFR Part 401).

**23. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.** If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding

agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. (2 CFR 200 Appendix II (B))

24. **ENERGY EFFICIENCY.** The Consultant shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94A 163, 89 Stat. 871). (2 CFR 200 APPENDIX II (H) and 42 U.S.C. 6201).
25. **VERIFICATION NO BOYCOTT ISRAEL.** As required by Chapter 2271.002, Texas Government Code, the Consultant hereby verifies that it does not boycott Israel and will not boycott Israel through the term of this Agreement. For purposes of this verification, "boycott Israel", as defined by §808.001(1) of the Texas Government Code, means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.
26. **NO FOREIGN TERRORIST ORGANIZATIONS.** Pursuant to Chapter 2252.152, Texas Government Code, the Consultant represents and certifies that, at the time of execution of this Agreement neither the Consultant, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same (i) engages in business with Iran, Sudan, or any foreign terrorist organization as described in Chapters 806 or 807 of the Texas Government Code, or Subchapter F of Chapter 2252 of the Texas Government Code, or (ii) is a company listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code. The term "foreign terrorist organization" in this paragraph has the meaning assigned to such term in Section 2252.151 of the Texas Government Code.

### **PART III - SCOPE OF BASIC SERVICES**

Depending on the selected project(s), some provisions may not apply. The type(s) of project(s) selected will determine the type(s) of service(s) necessary to implement the project(s). See below for project types.

#### **A. Projects with Beneficiaries including Households, Non-profits, Businesses, and Industries:**

1. Identify the need for this program.
2. Project planning, design, and startup: Assist recipient with procuring necessary vendors as needed.
3. Intake meetings: Advertise, schedule, and conduct intake with interested potential beneficiaries. During intake meetings case managers will collect all available documentation necessary to determine eligibility.
4. Eligibility verification: Management staff will review all intake documentation and verify eligibility; If applicable, verify duplicative benefits (DOB); Maintain recipient data in a secure system and comply with all record-keeping requirements: Assistance package generation and approval; Review change requests and all required documentation related to any change requests; and Final Documentation of recipients: File, audit, and closeout; and Complete final audit to ensure all procedures were properly followed.

#### **B. Premium Pay to Eligible Workers and Eligible Employers:**

1. Identify the need for this program.
2. Project planning, design, and startup.
3. Advertise, schedule, and conduct intake with interested potential eligible employers: During intake meetings case managers will collect all available documentation necessary to determine eligibility.
4. Eligibility verification: Management staff will review all intake documentation and verify eligibility; If applicable, verify duplicative benefits (DOB); and Maintain recipient data in a secure system and comply with all record-keeping requirements.
5. Assistance package generation and approval.
6. Review change requests and all required documentation related to any change requests.

7. Final Documentation of recipients: File, audit, and closeout; and Complete final audit to ensure all procedures were properly followed.

**C. Reconciliation of Revenue Reductions:**

1. Identify the need for this program.
2. Project planning, design, and startup.
3. Calculate revenue loss in accordance with Department of Treasury guidance.
4. Review change requests and all required documentation related to any change requests.
5. Final Documentation of recipients.
6. File, audit, and closeout.
7. Complete final audit to ensure all procedures were properly followed.

**D. Necessary Water, Sewer, or Broadband Infrastructure:**

1. Identify the need for this program.
2. Project planning, design, and startup: Assist recipient with procuring necessary vendors as needed.
3. Assist with developing contract/bid packages that meet ARP program requirements.
4. Assist with monitoring and reporting contractor's performance.
5. Receive, review, recommend, and process any change orders as appropriate to the individual projects.
6. Assist the recipient with vendor Draws/Close Out.
7. Compile and review for completeness contract/closeout packages that meet ARP program requirements.
8. Labor Standards duties (as required): Monitor compliance with all relevant labor standards regulations; and Maintain document files to support compliance.
9. Environmental Services: Review each project description to ascertain and/or verify the level of environmental review requirements; Prepare, complete, and submit required forms for environmental review and provide all documentation to support environmental findings; Consult and coordinate with oversight/regulatory agencies to facilitate environmental clearance; and Reporting.
10. Acquisition Duties: Submit acquisition reports and related documents; Establish acquisition files (if necessary); and Complete acquisition activities (if necessary).

**E. General Administration**

1. Provide general advice to the Client and its staff with respect to the implementation of the project and regulatory matters.
2. Furnish forms, policies, and procedures for implementation of the project.
3. Provide technical assistance to Client personnel who will be directly involved in the program for routine tasks, using the American Rescue Plan Act of 2021 ("ARPA") - Project Implementation Guidelines.
4. Assist Client in developing a record keeping system consistent with program guidelines, including the establishment and maintenance of program files.
5. Serve as liaison for the Client during normal monitoring visits by staff representatives from either the U.S. Department of Treasury ("USDT") or the state agency that oversees ARPA.
6. Prepare and submit to Department Client's required Periodic Progress Reports.
7. Assist Client in meeting 2 C.F.R. 200, Uniform Relocation Act, Section 504 of the Rehabilitation Act of 1973, as amended and other applicable requirements as may be required for participation in the ARPA program.
8. Assist Client in preparing Contract and/or Program Amendments and Modifications along with related documentation, public hearings, and notices as requested by Client.
9. Other general administration tasks not listed here that are requested by Client and agreed to in writing by Consultant.

**F. Financial Management**

1. Assist Client in establishing and maintaining a Direct Deposit account and/or separate local bank account, journals and ledgers.



2. Assist Client in submitting the Direct Deposit Authorization Form and/or Depository/Authorized Signatory form to Department.
3. Assist Client in preparation of drawdown requests from Department and disbursements of funds within the allotted time period.

**G. Environmental Review**

1. Assist Client in preparing environmental documents as necessary. Each ARP funded project shall, if applicable, be assessed to determine whether and/or to what extent environmental reviews may be required by local or state law. GrantWorks may assist in completing required environmental reviews once an assessment is completed.

**H. Audit/Close-out Procedures**

1. Prepare final Reports, including any General Report, Financial Reports and Completion Reports, as required.
2. Assist Client in responding to any monitoring and audit findings and resolving any third-party claims.

**Additional General Terms Regarding Third-Party Services**

Some services will be performed by third-party service providers. See Section IV of this Agreement regarding special services outside the scope of work.

Assistance by Consultant with (1) verification of equipment suppliers or other service contractors, (2) selection of bid award winners, or (3) any other activity relating to contractors, subcontractors, bid award winners or any other third party not directly engaged through a written agreement with Consultant to provide services required to be provided by Consultant under this Agreement (collectively "Third Parties") is not intended to be and shall not be construed as an endorsement, representation or warranty by Consultant of any kind relating to such Third Party Service Providers or of the quality of such Third Parties work, and all such endorsements, representations or warranties hereby are expressly disclaimed.

Assistance by Consultant with the fulfillment of any requirements imposed by Third Parties, governmental or otherwise, shall not be construed as a representation or warranty, and Consultant makes no representations or warranties, that any particular requirement will be achieved or met, and Consultant assumes no responsibility for the achievement or failure to achieve such requirements.

All assistance by Consultant described in this Agreement based on information provided by Third Parties shall be considered information provided by Client, and Consultant shall be entitled to rely on such information without any additional duty of inquiry or investigation.

**PART IV - SIGNATURE TERMS AND CONDITIONS**

This Agreement is subject to the provisions titled "Part I – General Conditions", "Part II Terms and Conditions" and "Part III Scope of Basic Services," which each are hereby incorporated by reference.

IN WITNESSETH HEREOF, the Client and the Consultant have executed this Agreement as of the effective date indicated above.


**GrantWorks, Inc.**  
2201 Northland Drive  
Austin, Texas 78756

**Sutton County, Texas**  
300 E. Oak, Suite 4  
Sonora, Texas 76950

BY:

BY:

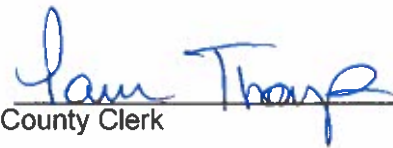
\_\_\_\_\_  
Bruce J. Spitzengel  
President

  
\_\_\_\_\_  
Rachel Chavez Duran  
County Judge

DATE: \_\_\_\_\_

DATE: January 24, 2022

ATTEST:

BY:   
\_\_\_\_\_  
County Clerk



**RACHEL CHAVEZ DURAN**  
**SUTTON COUNTY JUDGE**

300 E. OAK, STE. 4  
SONORA, TX 76950

COURT ASSISTANT  
CATHERINE AGUERO

**COUNTY OF SUTTON**  
**PROCUREMENT POLICIES AND PROCEDURES**

The County of Sutton follows the procurement standards in 2 CFR 200.317 – 2CFR 200.327 and Appendix II to Part 200 for procurement actions to be funded with Federal funds. All attempts are made to adhere to these policies and procedures and updates are made as needed. The entirety of the language found in 2 CFR 200.317 – 2 CFR 200.327 may not be applicable in all instances, programs, and/or situations. This document contains the most current 2 CFR 200.317 – 2 CFR 200.327 language available at the adoption of these policies and procedures.

**§200.317 Procurements by states.**

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by §200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§200.318 through 200.327.

**§200.318 General procurement standards.**

(a) The Non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§200.317 through 200.327.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The Non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The Non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

(f) The Non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The Non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The Non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.214.

(i) The Non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)(1) The Non-Federal entity may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The Non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

[85 FR 49543, Aug. 13, 2020, as amended at 86 FR 10440, Feb. 22, 2021]

### **§200.319 Competition.**

(a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and §200.320.

(b) In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;

(6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(c) The Non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(d) The Non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(e) The Non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

(f) Noncompetitive procurements can only be awarded in accordance with §200.320(c).

### **§200.320 Methods of procurement to be followed.**

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and §§200.317, 200.318, and 200.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

(a) **Informal procurement methods.** When the value of the procurement for property or services under a Federal award does not exceed the *simplified acquisition threshold (SAT)*, as defined in §200.1, or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to

expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

(1) **Micro-purchases—(i) Distribution.** The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of *micro-purchase* in §200.1). To the maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.

(ii) **Micro-purchase awards.** Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.

(iii) **Micro-purchase thresholds.** The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) (<https://www.ecfr.gov/current/title-48/chapter-1/subchapter-A/part-2/subpart-2.1>) in accordance with paragraphs (a)(1)(iv) and (v) of this section.

(iv) **Non-Federal entity increase to the micro-purchase threshold up to \$50,000.** Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The non-Federal entity may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with §200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

(A) A qualification as a low-risk auditee, in accordance with the criteria in §200.520 for the most recent audit;

(B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,

(C) For public institutions, a higher threshold consistent with State law.

(v) **Non-Federal entity increase to the micro-purchase threshold over \$50,000.** Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.



(2) **Small purchases**—(i) **Small purchase procedures.** The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.

(ii) **Simplified acquisition thresholds.** The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

(b) **Formal procurement methods.** When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with §200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate:

(1) **Sealed bids.** A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;



(B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(2) **Proposals.** A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

(i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(ii) The Non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;

(iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and

(iv) The Non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

(c) **Noncompetitive procurement.** There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

(1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);

(2) The item is available only from a single source;

(3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;

(4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or

(5) After solicitation of a number of sources, competition is determined inadequate.

**§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.**

(a) The Non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

**§200.322 Domestic preferences for procurements.**

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**§200.323 Procurement of recovered materials.**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

#### **§200.324 Contract cost and price.**

(a) The Non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The Non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under subpart E of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

#### **§200.325 Federal awarding agency or pass-through entity review.**

(a) The Non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The Non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The Non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The Non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The Non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

(2) The Non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

#### **§200.326 Bonding requirements.**

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by

law of all persons supplying labor and material in the execution of the work provided for in the contract.

**§200.327 Contract provisions.**

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to this part.

## Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

**(A)** Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

**(B)** All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

**(C)** Equal Employment Opportunity. Except as otherwise provided under [41 CFR Part 60](#), all contracts that meet the definition of "federally assisted construction contract" in [41 CFR Part 60-1.3](#) must include the equal opportunity clause provided under [41 CFR 60-1.4\(b\)](#), in accordance with [Executive Order 11246](#), "Equal Employment Opportunity" ([30 FR 12319](#), 12935, [3 CFR Part, 1964-1965 Comp.](#), p. 339), as amended by [Executive Order 11375](#), "Amending [Executive Order 11246](#) Relating to Equal Employment Opportunity," and implementing regulations at [41 CFR part 60](#), "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

**(D)** [Davis-Bacon Act](#), as amended ([40 U.S.C. 3141-3148](#)). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the [Davis-Bacon Act](#) ([40 U.S.C. 3141-3144](#), and [3146-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which



he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

**(E) [Contract Work Hours and Safety Standards Act](#) (40 U.S.C. [3701-3708](#)).** Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with [40 U.S.C. 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of [40 U.S.C. 3704](#) are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**(F) Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of "funding agreement" under [37 CFR § 401.2](#) (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

**(G) [Clean Air Act](#) (42 U.S.C. [7401-7671q](#).) and the [Federal Water Pollution Control Act](#) (33 U.S.C. [1251-1387](#)),** as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the [Clean Air Act](#) (42 U.S.C. [7401-7671q](#)) and the [Federal Water Pollution Control Act](#) as amended ([33 U.S.C. 1251-1387](#)). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**(H) Debarment and Suspension (Executive Orders 12549 and 12689) -** A contract award (see [2 CFR 180.220](#)) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 ([3 CFR part 1986](#) Comp., p. 189) and 12689 ([3 CFR part 1989](#) Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than [Executive Order 12549](#).

**(I) Byrd Anti-Lobbying Amendment ([31 U.S.C. 1352](#)) -** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the

tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by [31 U.S.C. 1352](#). Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

**(J)** See § 200.323\*

**(K)** See § 200.216\*\*

**(L)** See § 200.322\*\*\*

**\*§ 200.323 Procurement of recovered materials.**

A [non-Federal entity](#) that is a [state](#) agency or agency of a political subdivision of a [state](#) and its [contractors](#) must comply with section 6002 of the [Solid Waste Disposal Act](#), as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**\*\*§ 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.**

(a) [Recipients](#) and sub [recipients](#) are prohibited from obligating or expending [loan](#) or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a [contract](#) to procure or obtain; or

(3) Enter into a [contract](#) (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any [subsidiary](#) or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any [subsidiary](#) or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under [Public Law 115-232](#), section 889, subsection (f), paragraph (1), heads of executive agencies administering [loan](#), grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered

communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

**(c)** See [Public Law 115-232](#), section 889 for additional information.

**(d)** See also [§ 200.471](#).

**\*\*\*§ 200.322 Domestic preferences for procurements.**

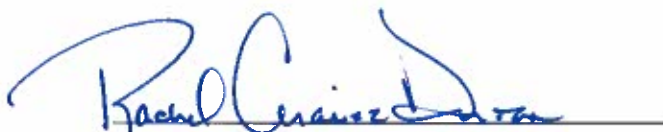
(a) As appropriate and to the extent consistent with law, the [non-Federal entity](#) should, to the greatest extent practicable under a [Federal award](#), provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United [States](#) (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all [subawards](#) including all [contracts](#) and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

These Policies and Procedures are passed and approved by the County of Sutton through the County Commissioners Court on January 24, 2022.



Rachel Chavez Duran  
Sutton County Judge



## Fees & Optional Charges

### Environmental Fee

In order to meet the equipment needs of our valued customers, Big Country Rentals & Sales handles potentially hazardous materials like fuel, oil, cleaners, and batteries every day. Making sure those materials do not harm the environment is an important part of our continued efforts to be responsible members of the communities where we work and live. Proper management of these materials and their waste by-products is expensive, but we are committed to protecting the environment and our communities. As a result, Big Country Rentals & Sales spends millions of dollars annually on good practice solutions to prevent impacts to our environment and maintaining compliance with Federal, State and local regulations.

The environmental fee is NOT a government mandated tax or fee. The environmental fee is our fee designed to offset a wide range of environmental expenses (direct and indirect). Expenses may include waste disposal, construction/maintenance of cleaning facilities, acquisition of more fuel-efficient equipment, labor costs, administrative costs, etc. This fee is not designed for any particular purpose or placed in an escrow account. It becomes part of Big Country Rentals & Sales' revenue and is used at our discretion. This fee is added to each piece of rental equipment identified as having a potential for environmental impact.

Without proper management, environmental impacts could occur as a result of cleaning the equipment after each rental, fuel handling, disposal of shop waste, and numerous other routine procedures. To minimize these impacts to the environment, Big Country Rentals & Sales implements procedures including containing our potentially hazardous materials, treating our wash bay run-off/waste, and proper disposal of oil, filters, tires, batteries, and shop waste.

### FUEL PAYMENT OPTIONS

Big Country Rentals & Sales allows you to choose how you want to replace the fuel before returning your equipment. For fuel replacement, Big Country Rentals & Sales provides three options: "No Sweat" Fuel Option (Prepay), Pay on Return and Return Full.

#### **PREPAY FUEL OPTION**

For your convenience, Big Country Rentals & Sales offers a "No Sweat" Fuel Option (Prepay). The "No Sweat" Fuel Option (Prepay) is a prepay option that permits you to purchase at the time of rental a full tank of fuel at a competitive, self-service per gallon price (posted fuel charge at Big Country Rentals & Sales location). The charge is based on the average fuel tank size for the equipment class. There is no hassle and this option saves time and money. As an added convenience, you can purchase the "No Sweat" Fuel Option (Prepay) at the time of the rental, however, if you decide to return the equipment full of fuel, you will be refunded the exact amount you paid for the "No

"No Sweat" Fuel Option (Prepay) This way, you can either decide to fill it up or let Big Country Rentals & Sales do it when you return the equipment—it's your choice.

### **PAY ON RETURN OPTION**

With this option, you can pay the full-service fuel price (posted fuel charge at Big Country Rentals & Sales location) per gallon of fuel used. This is another easy, timesaving option where you only pay for the fuel you use.

### **RETURN FULL OPTION**

The final option is returning the equipment full of fuel. You will be charged the "No Sweat" Fuel Option (Prepay) cost at the time of the rental, but you will receive a refund of the amount you prepaid for fuel when you return the equipment full of fuel.

### **RENTAL PROTECTION PLAN**

The Rental Protection Plan ("RPP") is NOT an insurance policy. The RPP is an extended rental protection plan, for you or your company, to offset possible damages or theft that may occur during the equipment rental period. While the RPP is completely optional, it is recommended to maximize your total protection while renting equipment. The RPP can also cover gaps in your insurance coverage such as when the loss is within your insurance deductible or when the loss is greater than the deductible, but not large enough to make filing a claim in your best interest. Actual terms of the RPP are outlined in the rental contract.

### **THEFT PROTECTION**

If you purchase the RPP, for equipment stolen, customer is only responsible for 10% of the manufacturer's suggested list price, up to a maximum of \$500.

In the case of theft of equipment, your responsibility is limited when you have paid for the RPP and comply with the rental contract, including filing a proper police report of the theft within 48-hours of discovery of theft. If the equipment is recovered later, Big Country Rentals & Sales retains ownership. Without the RPP, if equipment is stolen from your job site, you are 100% responsible for replacing the equipment. Even if your insurance covers the stolen equipment, you will likely have to meet your deductible. With the RPP, your maximum responsibility for stolen equipment is 10% of the manufacturer's suggested list price, up to a maximum of \$500.

### **DAMAGE PROTECTION (incidental & accidental)**

If you purchase the RPP, for the cost of repairs, the customer is only responsible for 10% of the cost of the repairs, up to a maximum of \$500.

The RPP can shield you, as the customer, against unexpected expenses that could result from damage during the use of rental equipment. Typically, insurance does not cover the cost of repair or such repair cost is within your deductible amount.

### **TIRE PROTECTION**

First \$50 of tire puncture repair costs are covered for each occurrence.

### **RENTAL LIABILITY**

Customers are exempt from rental charges on damaged equipment covered by RPP while it is being repaired.

The RPP limits your responsibility for cost of repairs, as well as eliminating your liability for the rental amount normally charged during the period in which the equipment is repaired.

There are limitations to the RPP coverage which are clearly listed on the Rental Contract. Please refer to your contract or ask to speak to a manager if you have questions about the RPP.

**BC Staff Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Print Name and Position:** \_\_\_\_\_

**Client Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Print Name and Position:** \_\_\_\_\_





Harrison Kothmann- (512) 461-8660  
Trish/Office- (325) 294-4422

## Big Country Rental & Sales, LLC Rental Agreement TERMS AND CONDITIONS

By accepting, you, the Customer (as defined below) agree and acknowledge that Customer has read, understands, accepts full responsibility for and is bound by the terms and conditions contained in this Rental Agreement (as defined below), which also consists of any optional products purchased by Customer in connection with this rental and the Reservation Details (as defined below) hereof for the Rental Period (as defined below) whether or not subsequent agreements are executed by Customer or if Big Country Equipment Rental and Sales assigns a new agreement number during the Rental Period for the purpose of invoicing Customer. The Customer agrees this Rental Agreement will remain in effect for each rental during the life of the Customer and Big Country's business relationship.

1. **DEFINITIONS.** "Rental Agreement" means this Rental Agreement, including the Reservation Details. "Big Country Equipment Rental and Sales" means Big Country Equipment Rental and Sales (North America), LLC. "Equipment" means any one or more of the items identified in the Reservation Details and any accessories, attachments or other similar items delivered to Customer, including, but not limited to air hoses, electric cords, blades, welding cables, liquid fuel tanks and nozzles. "Customer" means the person or entity identified as such in the Reservation Details or any representative, agent, officer or employee of Customer. "Store Location" means the closest Big Country Equipment Rental and Sales branch location to the Job Location described in the Reservation Details. "Rental Period" means the period of time between the date "From" and date "To," set forth in the Reservation Details, except that the Rental Period may extend or terminate earlier as provided in Sections 18 and 25 hereof or if Customer returns the Equipment earlier. "Reservation Details" means the Equipment, Rental Period, Delivery Information, Payment Information and other information set forth on the Confirmation/Order Summary Screen. "Credit Card" means the credit card provided by Customer as part of this Rental Agreement or otherwise kept on file with Big Country Equipment Rental and Sales.

2. **AUTHORITY TO SIGN.** Any individual agreeing to this Rental Agreement represents and warrants that he or she is of legal age and has the authority and power to sign this Rental Agreement on behalf of Customer.

3. **INDEMNITY / HOLD HARMLESS. TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD BIG COUNTRY EQUIPMENT RENTAL AND SALES, AND ANY OF ITS RESPECTIVE OFFICERS, AGENTS, SERVANTS, OR EMPLOYEES, AND AFFILIATES, PARENTS AND SUBSIDIARIES, HARMLESS FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, LOSS, DAMAGE OR COSTS (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES, LOSS OF PROFIT, BUSINESS INTERRUPTION OR OTHER SPECIAL OR CONSEQUENTIAL DAMAGES, DAMAGES RELATING TO PROPERTY DAMAGE, BODILY INJURY OR DAMAGES RELATING TO WRONGFUL DEATH) ARISING OUT OF OR RELATED TO THE OPERATION, USE, POSSESSION OR RENTAL OF THE EQUIPMENT. THIS INDEMNITY PROVISION ALSO APPLIES TO ANY CLAIMS ASSERTED AGAINST BIG COUNTRY EQUIPMENT RENTAL AND SALES BASED UPON STRICT OR PRODUCT LIABILITY CAUSES OF ACTION. HOWEVER, CUSTOMER SHALL NOT BE OBLIGATED TO INDEMNIFY BIG COUNTRY EQUIPMENT RENTAL AND SALES FOR THAT PART OF ANY LOSS, DAMAGE OR LIABILITY CAUSED SOLELY BY THE INTENTIONAL MISCONDUCT OR SOLE NEGLIGENCE OF BIG COUNTRY EQUIPMENT RENTAL AND SALES. IN FURTHERANCE OF, BUT NOT IN LIMITATION OF THE INDEMNITY PROVISIONS IN THIS AGREEMENT, CUSTOMER EXPRESSLY AND SPECIFICALLY AGREES THAT THE FOREGOING OBLIGATION TO INDEMNIFY SHALL NOT IN ANY WAY BE AFFECTED OR DIMINISHED BY ANY STATUTORY OR CONSTITUTIONAL LIMITATION OF LIABILITY OR IMMUNITY CUSTOMER ENJOYS FROM SUITS BY ITS OWN EMPLOYEES. THE DUTY TO INDEMNIFY WILL CONTINUE IN FULL FORCE AND EFFECT NOTWITHSTANDING THE EXPIRATION OR EARLY TERMINATION OF THE RENTAL AGREEMENT.**

4. **INSPECTION OF EQUIPMENT.** Customer acknowledges that Customer will inspect the Equipment prior to taking possession thereof, and Customer will only accept delivery of the Equipment if Customer determines that the Equipment is in good working order and repair and is suitable for Customer's needs. Customer further acknowledges that Customer will inspect the propulsion tank of vehicles registered and licensed, or required to be registered and licensed, for use on any highway or public road, prior to taking possession thereof, and Customer will take delivery of such Equipment only if such propulsion tank contains no dyed fuel. Customer

acknowledges that Customer is familiar with the proper operation and use of each item of Equipment. Customer acknowledges that, prior to taking possession of the Equipment, Customer will obtain and read all safety bulletins, operator manuals, and tabulated data for each item of Equipment. Customer agrees to inspect all hitches, bolts, safety chains, hauling tongues and other devices and materials used to connect the Equipment to any towing vehicle. Customer acknowledges Big Country Equipment Rental and Sales is not responsible for any damage to any towing vehicle caused by detachable hitches or mirrors.

**5. LIMITATION OF LIABILITY.** In no event shall Big Country Equipment Rental and Sales be liable or responsible to Customer or any other party for: (i) any loss, damage or injury caused by, resulting from or in any way connected with the Equipment, its operation or its use, (ii) Big Country Equipment Rental and Sales's failure to deliver the Equipment as required hereunder, or Big Country Equipment Rental and Sales's failure to repair or replace non-working Equipment; (iii) or any incidental, consequential, punitive or special damages. Customer acknowledges and assumes all risks inherent in the operation, use and possession of the Equipment from the time the Equipment is delivered to Customer until the Equipment is returned to Big Country Equipment Rental and Sales and will take all necessary precautions to protect all persons and property from injury or damage from the Equipment.

**6. USE OF EQUIPMENT.**

A. Customer will not use or allow anyone to use the Equipment: (i) for an illegal purpose or in an illegal manner; (ii) without a license, if required under any applicable law. (iii) or who is not qualified to operate it. Customer agrees, at Customer's sole expense, to comply with all applicable municipal, state, and federal laws, ordinances and regulations (including O.S.H.A. and the Internal Revenue Code) which may apply to the use of the Equipment. Customer shall not insert, or permit to be inserted, any dyed fuel into the propulsion tank of vehicles registered and licensed, or required to be registered and licensed, for use on any highway or other public road. **CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD BIG COUNTRY EQUIPMENT RENTAL AND SALES HARMLESS FROM ALL FINES, PENALTIES AND COSTS INCURRED BY BIG COUNTRY EQUIPMENT RENTAL AND SALES DUE TO DYED FUEL BEING INTRODUCED INTO THE PROPULSION TANK OF SUCH VEHICLES.** Customer agrees to: (i) check filters, oil, fluid levels and tire air pressure; (ii) clean and visually inspect the Equipment daily; (iii) and immediately notify Big Country Equipment Rental and Sales when Equipment needs repair or maintenance and cease using the Equipment. Customer acknowledges that Big Country Equipment Rental and Sales has no responsibility to inspect the Equipment while it is in Customer's possession. Big Country Equipment Rental and Sales shall have the right to replace the Equipment with other reasonably similar equipment at any time and for any reason.

B. **IN CALIFORNIA ONLY:** If any of the Equipment is power operated or power-driven excavating or boring equipment, it is the sole responsibility of Customer to follow the requirements of the regional notification center law pursuant to Article 2 (commencing with Section 4216) of Chapter 3.1 of Division 5 of Title 1 of the Government Code. By agreeing to this Rental Agreement, Customer accepts all liabilities and responsibilities contained in the California regional notification center law.

**7. DISCLAIMER OF WARRANTIES.** BIG COUNTRY EQUIPMENT RENTAL AND SALES MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY OF THE EQUIPMENT OR ITS FITNESS FOR ANY PARTICULAR PURPOSE. THERE IS NO WARRANTY THAT THE EQUIPMENT IS SUITED FOR CUSTOMER'S INTENDED USE, OR THAT IT IS FREE FROM DEFECTS. EXCEPT AS MAY BE SPECIFICALLY SET FORTH IN THIS RENTAL AGREEMENT, BIG COUNTRY EQUIPMENT RENTAL AND SALES DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, MADE IN CONNECTION WITH THIS RENTAL TRANSACTION.

**8. MALFUNCTIONING EQUIPMENT.** Should the Equipment be involved in an accident, become unsafe, malfunction or require repair, Customer shall immediately cease using the Equipment and immediately notify Big Country Equipment Rental and Sales. If such condition is the result of normal operation, Big Country Equipment Rental and Sales will repair or replace the Equipment with reasonably similar Equipment in working order, if such replacement Equipment is available. Big Country Equipment Rental and Sales has no obligation to repair or replace Equipment rendered inoperable by misuse, abuse or neglect. Customer's sole remedy for any failure or defect in Equipment shall be the termination of any rental charges accruing after the time of failure. Customer must return the Equipment to the Store Location within 24 hours from the time of defect in order to terminate rental charges.

**9. RETURN OF EQUIPMENT /DAMAGED & LOST EQUIPMENT.** At the expiration of the Rental Period, Customer will return the Equipment to the Store Location during Big Country Equipment Rental and Sales's regular business hours. The Equipment is to be in the same condition as when delivered to Customer, subject to reasonable wear and tear, as defined below. In the event that Big Country Equipment Rental and Sales has agreed to pick up the Equipment from Customer, Customer shall notify Big Country Equipment Rental and Sales in writing that the Equipment is "off rent" and shall obtain an "off rent" confirmation number from Big Country Equipment Rental and Sales. Big Country Equipment Rental and Sales shall endeavor to pick up the Equipment within a commercially reasonable period of time after the Equipment is called "off rent." Customer shall be liable for all damages to or loss of the Equipment from the time the Equipment leaves the Store Location until the Equipment is (i) returned to the Store Location, including any damage during transit to or from Customer; (ii) or picked up by Big Country Equipment Rental and Sales after issuance of an "off rent" confirmation number. In the case of the loss or destruction of any Equipment, or inability or failure to return same to Big Country Equipment Rental and Sales for any reason whatsoever, Customer will pay Big Country Equipment Rental and Sales the then full replacement list value of the Equipment together with the full rental rate as specified until such Equipment is replaced. If the Equipment is returned in a damaged or excessively worn condition, Customer shall pay Big Country Equipment Rental and Sales the reasonable cost of repair and pay rental on the Equipment at the regular rental rate until all repairs have been completed. Big Country Equipment Rental and Sales shall be under no obligation to commence repair work until Customer has paid to Big Country

Equipment Rental and Sales the estimated cost therefor. Customer agrees that Big Country Equipment Rental and Sales reserves the right to charge the Credit Card and/or Customer's account for any amount owed by Customer pursuant to this section due to damaged or lost Equipment.

10. **REASONABLE WEAR AND TEAR.** Reasonable wear and tear of the Equipment shall mean only the normal deterioration of the Equipment caused by ordinary and reasonable use on a one shift basis (as defined in Section 12 below). The following shall not be deemed reasonable wear and tear: (i) damage resulting from lack of lubrication, insertion of improper fuel, or maintenance of necessary oil, water and air pressure levels; (ii) except where Big Country Equipment Rental and Sales expressly assumes the obligation to service or maintain the Equipment, any damage resulting from lack of servicing or preventative maintenance suggested in the manufacturer's operation and maintenance manual; (iii) damage resulting from any collision, overturning, or improper operation, including overloading or exceeding the rated capacity of the Equipment; (iv) damage in the nature of dents, bending, tearing, staining, corrosion or misalignment to or of the Equipment or any part thereof; (v) wear resulting from use in excess of shifts for which rented; (vi) and any other damage to the Equipment which is not considered ordinary and reasonable in the equipment rental industry.

11. **LATE RETURN.** Customer agrees that if the Equipment is not returned by the end of the Rental Period, Big Country Equipment Rental and Sales, in its sole discretion, may require Customer to do any of the following: (i) continue to pay the rental rate(s) applicable to the Equipment as specified in the Reservation Details; (ii) for periods less than 24 hours, pay the full daily rental rate applicable to the Equipment; (iii) or pay any increased rental rate(s) in effect at the time of, or after, the expiration of the Rental Period. Customer agrees that Big Country Equipment Rental and Sales reserves the right to charge the Credit Card and/or Customer's account for any amount owed by Customer pursuant to this section due to late return of Equipment.

12. **RENTAL PERIOD / CALCULATION OF CHARGES.**

A. Rental charges commence when the Equipment leaves the Store Location and ends when the Equipment is returned to the Store Location during Big Country Equipment Rental and Sales's regular business hours. Rental charges do not include the cost of the Refueling Service Charge, any applicable taxes, the cost of the Delivery and Pickup Service Charge, transportation surcharges, the cost of the Environmental Service Charge or other miscellaneous charges. If Customer chooses to have Big Country Equipment Rental and Sales deliver and pick up the Equipment, Customer agrees to pay a Delivery and Pickup Service Charge. In the event that Customer has elected to pay for the Delivery and Pickup Service Charge, Customer shall notify Big Country Equipment Rental and Sales in writing that the Equipment is "off rent" and obtain an "off rent" confirmation number from Big Country Equipment Rental and Sales, at which time rental charges shall no longer be assessed, unless otherwise provided herein. Rental charges accrue during Saturdays, Sundays and Holidays. Rental rates are for normal "one shift" usage based on an 8-hour day, 40 hours per week and 160 hours per 4-week period. On power equipment, operations in excess of one shift will be as follows: 1.5 times the rental charges for double shift and 2 times the rental charges for triple shift. Customer will truthfully and accurately certify to Big Country Equipment Rental and Sales the number of shifts the Equipment was operated. Customer's right to possess the Equipment terminates on the expiration of the Rental Period and retention of possession after this time is a material breach of this Rental Agreement. **TIME IS OF THE ESSENCE.**

B. Rental charges commence when the Equipment leaves the Store Location and ends when the Equipment is returned to the Store. If the rental equipment is rented out by an Hourly rate, the hourly rate has a minimum of 200 hours. If the renter goes over the 200-hour minimum the renter will not be charged an extra fee but just the hourly rate of the piece of equipment.

C. IN CALIFORNIA ONLY: Customer acknowledges that an "Estimated Personal Property Tax Reimbursement Charge" will be applied to all rented Equipment at a rate of up to 0.75% of the rental amount. By agreeing to this Rental Agreement, Customer agrees to pay this charge.

13. **REFUELING SERVICE CHARGE.** Customer acknowledges that a "Refueling Service Charge" will be applied to all Equipment not returned with a full tank of fuel. The exact cost of the Refueling Service Charge may vary depending on the rate being charged by the Store Location on the date Customer returns the Equipment. Customer acknowledges that the Refueling Service Charge is not a retail sale of fuel. Customer may avoid the Refueling Service Charge if Customer returns the Equipment with a full tank of fuel.

14. **DEPOSIT.** In addition to securing the payment of rental charges hereunder, Customer agrees that any rental deposit shall be deemed to be a guarantee by Customer of the full and complete performance of each and all of the terms, covenants, and agreements to be performed by Customer hereunder. In the event of any breach by Customer, the deposit will be credited against any damages, cost or expense incurred by Big Country Equipment Rental and Sales as a result of the breach.

15. **PAYMENT.** All amounts due hereunder shall be payable in full upon receipt of invoice by Customer. Customer acknowledges that timely payment of rental charges is essential to Big Country Equipment Rental and Sales's business operations and it would be impractical and extremely difficult to fix the actual damages caused by late payment. Customer and Big Country Equipment Rental and Sales agree that there shall be added to all past due rental charges a late payment fee equal to the lesser of 2% per month (24% per annum) on any such payments outstanding after 30 days, or the maximum amount allowed by applicable law. Customer agrees that Big Country Equipment Rental and Sales reserves the right to charge the Credit Card and/or Customer's account for any amount owed by Customer pursuant to this section due to late or past due payment(s) or rental charges.

16. **TITLE / NO PURCHASE OPTION / NO LIENS.** This Rental Agreement is not a contract of sale, and title to the Equipment shall at all times remain with Big Country Equipment Rental and Sales. Unless covered by a specific supplemental agreement signed



by Big Country Equipment Rental and Sales. Customer has no option or right to purchase the Equipment. Customer shall keep the Equipment free and clear of all mechanics and other liens and encumbrances.

**17. TIRE AND TUBE REPAIR OR REPLACEMENT.** Repair or replacement of tires and tubes is the responsibility of Customer and is not included in the rental rate.

**18. DEFAULT.** Customer shall be deemed in default should Customer: (i) in any way fail to pay any amount when due hereunder, or to perform, observe or keep any provision of this Rental Agreement; (ii) become "insolvent" (as defined herein), or should Big Country Equipment Rental and Sales anticipate that Customer may become insolvent; (iii) or otherwise be in default. If Customer is in default, Big Country Equipment Rental and Sales may do any one or more of the following: (i) terminate the Rental Period; (ii) declare the entire amounts due hereunder immediately due and payable and commence legal action therefor; (iii) cause Big Country Equipment Rental and Sales's employees or agents, with notice but without legal process, to enter upon Customer's property and take all action necessary to retake and repossess the Equipment, and Customer hereby consents to such entry, retaking and repossession and hereby waives all claims for damages and losses, physical and pecuniary, caused thereby and shall pay all costs and expenses incurred by Big Country Equipment Rental and Sales in retaking and repossessing the Equipment; (iv) or pursue any other remedies available by law. Customer shall be considered "insolvent" if Customer shall: (i) generally not pay, or be unable to pay, or admit its inability or anticipated inability to pay its debts as such debts become due; (ii) make an assignment for the benefit of creditors, or petition or apply to any tribunal for the appointment of a custodian, receiver, or trustee for it or a substantial part of its assets; (iii) commence any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; (iv) have had any such petition or application filed or any such proceeding commenced against it in which an order for relief is entered or an adjudication or appointment is made; (v) or take any action indicating its consent to, approval of, or acquiescence in any such petition, application, proceeding, or order for relief or the appointment of a custodian, receiver, or trustee for all or any substantial part of its properties.

**19. CUSTOMER'S INSURANCE COVERAGE.** Customer agrees to maintain and carry, at Customer's sole cost, the following insurance: (i) commercial auto liability insurance with at least a per occurrence limit of \$2 million; (ii) commercial general liability insurance ("CGL") (providing coverage equal to or greater than the standard ISO CG 00 01 12 04 form) with limits of insurance not less than \$2 million per occurrence and \$4 million in the aggregate; (iii) and property insurance for the full replacement cost of the Equipment, including coverage for all risks of loss or damage to the Equipment. Customer shall obtain insurance policies that provide, or are endorsed to provide, that all insurance required hereunder is primary and non-contributory to any other insurance maintained by Big Country Equipment Rental and Sales. Big Country Equipment Rental and Sales shall be named as an additional insured for liability insurance and, if applicable, additional loss payee for property insurance. Any deductibles or self-insured retentions shall be the sole responsibility of the Customer. All insurance required by this Rental Agreement shall include a waiver of rights of recovery against Big Country Equipment Rental and Sales or its insurers by the Customer and its insurers, as well as a waiver of subrogation against Big Country Equipment Rental and Sales or its insurers. The policies required hereunder shall provide that Big Country Equipment Rental and Sales must receive not less than 90 days' notice prior to any cancellation. **FOR RENTAL OF EQUIPMENT NOT LICENSED FOR ROAD USE, CUSTOMER MUST EITHER (i) ELECT TO NAME BIG COUNTRY EQUIPMENT RENTAL AND SALES AS LOSS PAYEE EVIDENCING PROPERTY INSURANCE COVERAGE, OR (ii) ELECT TO PURCHASE THE RENTAL PROTECTION PLAN.**

**20. NO ASSIGNMENT, LENDING OR SUBLETTING.** Customer shall not sublease, sub rent, assign or loan the Equipment without first obtaining the written consent of Big Country Equipment Rental and Sales, and any such action by Customer, without Big Country Equipment Rental and Sales's written consent, shall be void. Customer agrees to use and keep the Equipment at the job site set forth on the first page of this Rental Agreement unless Big Country Equipment Rental and Sales approves otherwise in writing. Big Country Equipment Rental and Sales may at any time, without notice to Customer, transfer or assign this Rental Agreement or any Equipment or any moneys or other benefits due or to become due hereunder.

**21. ENTIRE AGREEMENT / ONLY AGREEMENT.** The Rental Agreement, including the Reservation Details, represents the entire agreement between Customer and Big Country Equipment Rental and Sales with respect to the Equipment and the rental of the Equipment. There are no oral or other representations or agreements not included herein. None of Big Country Equipment Rental and Sales's rights or Customer's rights may be changed and no extension of the terms of this Rental Agreement may be made except in writing, signed by both Big Country Equipment Rental and Sales and Customer. Any use of Customer's purchase order number on this Rental Agreement is for Customer's convenience only and terms and conditions, whether oral or written, that are different or inconsistent with the terms contained herein are hereby rejected by Big Country Equipment Rental and Sales.

**22. ORDER OF PRECEDENCE.** The terms and conditions of this Rental Agreement shall control over any conflicting preprinted terms and conditions contained in Customer's purchase order or similar documents and such other terms are hereby rejected by Big Country Equipment Rental and Sales.

**23. CLASS ACTION WAIVER.** Customer agrees that any claims or proceedings brought by Customer relating to this Rental Agreement will be conducted on an individual basis, and not on a class-wide, collective, or representative basis, and that any one person's claims or proceedings may not be consolidated with any other claims or proceedings. Customer will not sue Big Country Equipment Rental and Sales as a class plaintiff or class representative, join as a class member, or participate as an adverse party in any way in a class-action lawsuit against Big Country Equipment Rental and Sales. Nothing in this paragraph, however, limits Customer's right to bring a lawsuit as an individual plaintiff.

**24. JURY WAIVER.** The federal and state courts in the county in which the Store Location is located shall have exclusive jurisdiction over all matters relating to this Rental Agreement. **TRIAL BY JURY IS WAIVED.** In order to affect service of process on Big Country Equipment Rental and Sales, please contact the Secretary of State Corporations Division or the equivalent office in your state to obtain the name of the registered agent and the registered office address that is on file with the Secretary of State for Big Country Equipment Rental and Sales. Big Country Equipment Rental and Sales shall be entitled to decrees of specific performance (without posting bond or other security) in addition to such other remedies as may be available.

**25. OTHER PROVISIONS.**

A. Any failure of Big Country Equipment Rental and Sales to insist upon strict performance by Customer of any terms and conditions of this Rental Agreement shall not be construed as a waiver of Big Country Equipment Rental and Sales's right to demand strict compliance. Customer has carefully reviewed this Rental Agreement and waives any principle of law which would construe any provision hereof against Big Country Equipment Rental and Sales as the drafter of this Rental Agreement. Any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Rental Agreement.

B. Customer agrees to pay all reasonable costs of collection, court, attorneys' fees and other expenses incurred by Big Country Equipment Rental and Sales in the collection of any charges due under this Rental Agreement or in connection with the enforcement of its terms.

C. Customer shall pay the rental charge(s) without any offsets, deductions or claims.

D. Customer consents to the collection, use, and disclosure of his or her personal identification and financial information as described herein. Customer's personal identification and financial information is provided voluntarily and not as part of a credit card transaction. Personal identification information includes, for example, Customer's name, billing address, ZIP code, telephone number, date of birth, driver's license number, and email address. Financial information includes, for example, information related to any balances or invoices related to the Rental Agreement. Customer's personal identification information can be used for purposes of this transaction, any subsequent transactions with Big Country Equipment Rental and Sales, and for Big Country Equipment Rental and Sales to evaluate and improve its products and services and/or develop new products or services. Customer's personal identification information and/or financial information may be disclosed to contractors, service providers, and other third parties that support Big Country Equipment Rental and Sales's business and who are bound by contractual obligations to keep personal information confidential and use it only for the purposes for which we disclose it to them.

E. Big Country Equipment Rental and Sales shall have the right to immediately repossess the Equipment, without any liability to Customer, in the event of: (i) permanent closure of the Store Location; (ii) declaration of any emergency, disaster or similar situation by any federal, state or local government; (iii) or as otherwise set forth in this Rental Agreement.

F. Customer expressly acknowledges that Customer and Big Country Equipment Rental and Sales are the only parties to this Agreement, notwithstanding that a reservation for the Equipment may have been arranged by a third party or that a third party may pay for all or part of the rental bill.

G. For matters arising from this Agreement, Customer authorizes Big Country Equipment Rental and Sales to verify and obtain through credit agencies or other sources Customer's credit and insurance information.

H. A Cleaning Charge will apply to Equipment returned with excessive dirt, concrete and/or paint. Customer is responsible for all damage. There will be an additional charge for missing keys.

I. In the event the terms contained in this Rental Agreement conflict with any terms of any preexisting written agreement signed by authorized representatives of the Customer and Big Country Equipment Rental and Sales (the "Written Agreement"), the terms of the Written Agreement shall supersede the terms of this Rental Agreement.

J. **CRIMINAL WARNING.** The use of false identification to obtain Equipment or the failure to return the Equipment by the end of the Rental Period may be considered a theft subject to criminal prosecution pursuant to applicable criminal or penal code provisions.

**26. OPTIONAL RENTAL PROTECTION PLAN.**

A. The Rental Protection Plan ("*RPP*") is an optional product that modifies certain terms of this Rental Agreement. **THIS SECTION 26 IS ONLY APPLICABLE PROVIDED YOU HAVE ELECTED TO "ACCEPT" THE RENTAL PROTECTION PLAN.**

**B. NOTICE:**

FOR ALL RENTALS OF EQUIPMENT NOT LICENSED FOR ROAD USE, YOU MAY EITHER SHOW PROOF OF PROPERTY INSURANCE IN ACCORDANCE WITH SECTION 19 ABOVE OR PURCHASE THE RENTAL PROTECTION PLAN. THE PURCHASE OF THE RENTAL PROTECTION PLAN FOR RENTALS OF EQUIPMENT IS NOT MANDATORY AND MAY BE DECLINED IF YOU HAVE PROOF OF INSURANCE AS REQUIRED BY SECTION 19.

RPP IS NOT INSURANCE. RPP IS AVAILABLE TO DIRECT COMMERCIAL CUSTOMERS ONLY IN CONNECTION WITH THE RENTAL OF EQUIPMENT FROM BIG COUNTRY EQUIPMENT RENTAL AND SALES.

FOR AN ADDITIONAL CHARGE, RPP OFFERS A DAMAGE WAIVER TO LIMIT YOUR FINANCIAL RESPONSIBILITY FOR DAMAGE TO, OR THEFT OF, THE RENTAL EQUIPMENT. BEFORE DECIDING WHETHER TO PURCHASE THE DAMAGE WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN INSURANCE COVERAGE AFFORDS YOU COVERAGE FOR DAMAGE TO OR THEFT OF THE RENTAL EQUIPMENT AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSURANCE COVERAGE. READ THIS SECTION CAREFULLY BEFORE SIGNING.

**C. TERMS AND CONDITIONS.** In return for payment of the fee set forth in the Rental Agreement, Big Country Equipment Rental and Sales agrees to limit its rights under Sections 9 and 19 thereof as follows:

- i. **DAMAGE WAIVER.** Subject to the conditions set forth herein, Big Country Equipment Rental and Sales waives its right to collect amounts from Customer exceeding the lesser of 10% of replacement value of the Equipment, 10% of the cost of repairs, or \$500, plus applicable state and local taxes, from losses arising from theft of or direct physical damage to the Equipment. Lessee should check all equipment when delivered for any defects and notify Big Country Rental & Sales of any and all defects. Lessee will be held responsible for payment of any and all damages to equipment while equipment is in their possession.
- ii. **USER.** Customer agrees that Customer, or a permissive user of a Customer, will be the only driver of any Big Country Equipment Rental and Sales vehicle, and that Customer will not use the vehicle in violation of any terms of this Rental Agreement or law.
- iii. **EXCLUSIONS.** Big Country Equipment Rental and Sales will not waive a claim for loss or damage to tires and tubes caused by blow out, bruises, cuts, punctures or other causes inherent in the use of the Equipment; or resulting from intentional abuse of the Equipment. Such losses shall remain subject to Section 9 above.
- iv. **FEE.** Customer shall pay a fee equal to 15% of the charges under the Rental Agreement in exchange for participation in RPP as set forth in this Section.
- v. **IN KANSAS ONLY.** With respect to a motor vehicle rented for 60 days or less subject to RPP, Section C "tire exclusion" of this Section shall not apply.
- vi. **IN MINNESOTA ONLY.** With respect to a motor vehicle rental, RPP is a discharge of the responsibility of the renter to return the motor vehicle in the same condition as when it was first rented, and Section C "tire exclusion" of this Section shall not apply. Pursuant to Minn. Stat. § 168.011(4), motor vehicle means "any self-propelled vehicle designed and originally manufactured to operate primarily on highways, and not operated exclusively upon railroad tracks. It includes any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys that are propelled by electric power obtained from overhead trolley wires but not operated upon rails. It does not include snowmobiles, manufactured homes, or park trailers."

\_\_\_\_\_  
Customer Print Name

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Date



Harrison Kothmann- (512) 461-8660  
Trish/Office- (325) 294-4422

## Credit Card Payment Authorization Form

Please complete ALL items and sign. Incomplete forms will not be processed

<b>Full name as shown on Credit Card:</b> _____
<b>Billing Address Including Zip Code:</b> _____ _____
<b>Telephone:</b> _____
<b>Credit card type:</b> Master Card <input type="checkbox"/> Visa Card <input type="checkbox"/> American Express <input type="checkbox"/> Discover <input type="checkbox"/>
<b>Credit Card Number:</b> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
<b>CVC Code</b> (4-digit code on front of Am Ex cards; 3- digit code on all other cards): <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
<b>Expiration Date Month:</b> _____ <b>Year:</b> _____

Please charge my credit card listed above for the amount and consular service(s) discussed. I understand that this charge will be levied in U.S. Dollars.

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_



## RENTAL INSURANCE REQUIREMENTS

### General:

1. Certificate of Insurance Holder to be:  
Big Country Rentals & Sales LLC, 805 Austin St., Mason, Texas 76856
2. Insured's name on the certificate must match the customer's name on the rental agreement

### Equipment Physical Damage:

1. In order to avoid 14% LDW charges on rented equipment, we must have "All Risk" property insurance on file which will pay for loss of or damage to all rented equipment
2. "Blanket All Rented Equipment" limit must be greater than the total value of all rented equipment
3. If "machine specific", the certificate must reference the:  
Model \_\_\_\_\_  
Serial Number \_\_\_\_\_  
Actual Cash Value of the rented equipment \_\_\_\_\_
4. If your insurance company needs this information, it is:  
Year \_\_\_\_\_  
Make \_\_\_\_\_
5. Big Country Rentals & Sales LLC must be named Loss Payee

### General Liability:

1. General Liability coverage must be provided protecting both the customer and Big Country Rentals & Sales LLC in the event that persons are injured, or property is damaged as the result of an accident
2. Minimum \$1,000,000 per Occurrence
3. Big Country Rentals & Sales LLC named as Additional Insured
4. Waiver of Subrogation in favor of Big Country Rentals & Sales LLC

### Automobile Liability:

1. Automobile Liability coverage must be provided protecting both the customer and Big Country Rentals & Sales LLC in the event that persons are injured, or property is damaged as the result of a vehicle accident
2. Minimum \$1,000,000 per Occurrence
3. Big Country Rentals & Sales LLC named as Additional Insured
4. Waiver of Subrogation in favor of Big Country Rentals & Sales LLC

### Workers' Compensation:

1. Minimum \$1,000,000 per Occurrence for the Employer's Liability limits
2. Waiver of Subrogation in favor of Big Country Rentals & Sales LLC



# CNH INDUSTRIAL CAPITAL™ PRODUCTIVITY PLUS™ ACCOUNT APPLICATION – U.S.

MERCHANT NUMBER (REQUIRED): \_\_\_\_\_

MERCHANT NAME: \_\_\_\_\_

MERCHANT CITY/STATE: \_\_\_\_\_

FAX TO 1-866-900-1101 FOR PROCESSING. IF ENTERED IN FINANCE PLUS, FAX TO 1-866-351-2202.

## BEFORE YOU APPLY

You must be a Sole Proprietor or be authorized by the Business to submit this application. If the information is incomplete, we may not be able to process the application. Supporting documents may be required for verification. Unless you qualify for a Business Liability Account, both the Authorized Officer and the Business will be jointly and severally liable for all amounts owed on the account.

NOTE: Taxpayer ID Number is required by the USA Patriot Act, except for Sole Proprietors. Social Security Number is required if you are a sole proprietor.

USAGE:  AG  CE/Non-AG

## REQUIRED FOR ALL APPLICANTS

Organization Type: <input type="checkbox"/> Embassy <input type="checkbox"/> Non-Profit <input type="checkbox"/> Government <input type="checkbox"/> Financial Institution <input type="checkbox"/> Other Business Type If a financial institution, specify the type: <input type="checkbox"/> Bank <input type="checkbox"/> Non-Bank <input type="checkbox"/> Funds <input type="checkbox"/> MSB (Money Service Business) Bank: license and transfer/invest/lend money; Non-Bank: no bank license but transfer/invest/lend money (insurance companies, credit card companies, etc.); Funds: mutual funds, hedge funds, pension funds, private equity funds; MSB: exchange /transfer/money mechanisms (currency dealer, check casher, etc.)		Legal Type: <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Corporation <input type="checkbox"/> Government/School/Embassy <input type="checkbox"/> Limited Liability <input type="checkbox"/> Partnership	
Full Legal Business Name:		Name of Business (As you would like it to appear on your card, 24 characters maximum):	
Physical Address (If Sole Proprietor, provide Home Address) (No P.O. Box):		City:	State: Zip Code:
Billing Address (If different than Physical Address above):		City:	State: Zip Code:
Business Phone Number (If Sole Proprietor, provide Home Phone Number)*: Ext:		Billing Phone Number (If different than Business Phone Number)*: Ext:	
Business Fax Number:	Anticipated Monthly Highest Purchase Volume:	Federal Taxpayer ID Number (optional for Sole Proprietor):	
Email Address:			
If you provide your email address, Citibank, N.A. may use it to contact you about your account and tell you about useful products and services. You are also providing your email address to CNH Industrial America LLC and CNH Industrial Capital America LLC, both of which may use it to send you offers and news about the latest merchandise, promotions and sales.			
In Business Since (YYYY):	Number of Employees:	Number of Cards Requested*: <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5	Annual Revenue:

To acquire more cards, please contact customer service after your account has been established. Authorized users must be employees or contractors under written contract with your business. Authorized user's full name and date of birth will be required when calling. By providing this information, you certify that each authorized user is (1) an employee of or contractor under written contract with your business; (2) has given you permission to share with us the information provided; and (3) has consented to allow us to share information about them in accordance with Citibank's Privacy Notice, located online at [www.cit.com/Privacy](http://www.cit.com/Privacy).

## AUTHORIZED OFFICER (FOR ALL ACCOUNTS EXCEPT BUSINESS LIABILITY ONLY)

The person signing below certifies, agrees or authorizes as follows on behalf of the Business above and in their personal capacity in the case of a Sole Proprietor or a person named as an Authorized Officer (the Business, such Sole Proprietor and such Authorized Officer collectively, "you or your"): you agree that the Business and such Authorized Officer, if any, are jointly and severally liable for all amounts owed on the account. By signing below, you also: (1) certify that you have read and agree to the Credit Card Disclosures and Terms and Conditions of Offer; (2) agree to the terms and conditions of the Citibank Card Agreement that will be sent with your card if credit is granted and you agree to pay all charges incurred under such terms; (3) certify that all the information provided in this application is true and correct and you are authorized to sign the application on behalf of the applicant; (4) authorize us to obtain information about you personally (whether or not you have personally guaranteed the account), your business and any guarantor from employers, banks, credit bureau, and others to verify your identity and to determine the applicant's eligibility for credit, future extensions of credit, and to collect on any account resulting from this application; and (5) authorize us to share with CNH Industrial Capital America LLC and CNH Industrial America LLC, any credit or credit-related information we obtain or develop concerning you and/or your business for the purpose of determining the applicant's eligibility for credit, renewal or credit, and future extensions of credit. This includes information we get from you and others. It also includes information about your transactions with us. You understand and agree that we may share all personal, transaction and experience information about you personally and your business, as permitted by law, with Case New Holland, its affiliates and its dealers. **IMPORTANT NOTICE REGARDING PRIVACY:** By submitting this application, you understand and agree that Citibank may use any information collected from you regarding you personally and your business in accordance with Citibank's Privacy Notice located online at [www.cit.com/Privacy](http://www.cit.com/Privacy).

Signature of Authorized Officer or Sole Proprietor:			Date:		
First Name:	Initial:	Last Name:	Home Address (No P.O. Box):		
City:			State:	Zip Code:	Date of Birth (MM/DD/YYYY):
Home Phone*:			Social Security Number:		Annual Income:

\*By giving us a cell number or a number later converted to a cell number, you agree that we or our service providers can contact you at that number by autodialer, recorded or artificial voice, or a text. Your phone plan charges may apply.

If your business meets any of the following criteria, you may be eligible for a Business Liability Only account:  
 • LLC, Partnership or Corporation and in business for at least 2 years • Government (including public schools) • Non-profit organization

## BUSINESS LIABILITY ONLY

By signing below, you: (1) certify that you have read and agree to the Credit Card Disclosures and Terms and Conditions of Offer; (2) agree to the terms and conditions of the Citibank Card Agreement that will be sent with your card if credit is granted and you agree to pay all charges incurred under such terms; (3) certify that all the information provided in this application is true and correct and you are authorized to sign the application on behalf of the applicant; (4) authorize us to obtain information about you personally (whether or not you have personally guaranteed the account), your business and any guarantor from employers, banks, credit bureau, and others to verify your identity and to determine the applicant's eligibility for credit, future extensions of credit, and to collect on any account resulting from this application; and (5) authorize us to share with CNH Industrial Capital America LLC and CNH Industrial America LLC, any credit or credit-related information we obtain or develop concerning you and/or your business for the purpose of determining the applicant's eligibility for credit, renewal or credit, and future extensions of credit.

Signature of Company's Authorized Officer:			Date:		
First Name:	Initial:	Last Name:	Home Address (No P.O. Box):		
City:			State:	Zip Code:	Date of Birth (MM/DD/YYYY):

### FOR MERCHANT USE ONLY:

### FOR INTERNAL USE ONLY:

ID Type (Required):	ID Number (Required):
FAX APPLICATION TO 1-866-900-1101 FOR PROCESSING. IF ENTERED IN FINANCE PLUS, FAX TO 1-866-351-2202.	

Account Number/Pending Number:
Store Code: CNHUS

**CNH INDUSTRIAL CAPITAL™ PRODUCTIVITY PLUS™ ACCOUNT DISCLOSURES**

<b>Annual percentage rate (APR) for purchases</b>	<b>17.90%</b> variable.
<b>Other APRs</b>	Default APR: 22.90% variable. See explanation below.*
<b>Variable Rate Information</b>	Your APRs may vary each billing period.** The purchase APR equals the Prime Rate plus 9.90% (with a minimum of 17.90% and a maximum of 25.90%). The default APR equals the Prime Rate plus 16.90% (with a minimum of 22.90% and a maximum of 25.90%).
<b>Grace period for repayment of the balance for purchases</b>	At least 25 days if you pay the total balance in full by the due date every billing period. If you do not, you will not get a grace period.
<b>Method of computing the balance for purchases</b>	Daily balance. This includes new purchases.
<b>Minimum finance charge</b>	\$1.00.
<b>Annual fees</b>	None.
<b>Other fees</b>	Late fee: \$25 Returned Payment Fee: \$25

**\*How can your actions trigger the default APR?** If you default under the account agreement because you do not make the Minimum Payment Due by the payment due date for three billing periods in a row, your APRs (excluding promotional APRs on promotional balances) may automatically increase to the default APR.

**\*\*How do we calculate variable rates?** For each billing period we use the Prime Rate published in *The Wall Street Journal* two business days prior to the Closing Date for that billing period.

**When can we change the rates, fees, and terms of your account agreement?** We may change the rates, fees, and terms of your account agreement at any time, for any reason. These reasons may be based on information in your credit report or general market conditions. If the change will cause a rate or fee to increase, you will receive advance notice and a right to opt out. If you opt out, we will close your account. You can then pay the remaining balance under the old rates, fees and terms.

The Account Disclosures are accurate as of April 1, 2021. To find out what may have changed after that date write to us at Citibank, N.A., P.O. Box 790449, St. Louis, MO 63179.

**TERMS AND CONDITIONS OF OFFER**

- This offer is only valid for new accounts. You must be at least 18 years of age. This account is only for business or commercial purposes. It is not for personal, family or household purposes. Citibank, N.A. ("we" or "us") is the issuer of your Productivity Plus account. Citibank, N.A. is located in Sioux Falls, SD. Credit card offers are intended for residents of, and this is not an offer for the credit card to individuals outside of, the United States and its Territories.
- To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. This means that we will ask for your name, address, date of birth, and other information that will allow us to identify you when you open an account. In addition, the bank must obtain the business' legal name, its street address, and its taxpayer identification number. We may also ask to see your driver's license or other identifying documents; and obtain identification information about you or any employees you add to your account.
- We may gather information about you, including from your employer, your bank, credit bureaus, and others, to verify your identity and determine your eligibility for credit, renewal of credit, and future extensions of credit. If you ask us, we will tell you whether or not we requested a credit bureau report, and the names and addresses of any credit bureaus that provided us with such reports.
- You authorize us to share with merchants, the retailer for whom this card is issued, and its affiliates, experiential and transactional information regarding you and your account.
- To receive a Productivity Plus Account, you must meet our credit qualification criteria. Your credit limit will be determined by a review of your credit report and, in some instances, a review of such other financial information as we may ask you to provide. You will be informed of the amount of your credit line when your account is opened.
- Please see the following Initial Disclosure Statement for important additional information. If you are approved for credit, you will receive an account agreement with your card(s).



## INITIAL DISCLOSURE STATEMENT

Please read this Initial Disclosure Statement ("Statement") and keep it for your records. If you are approved for credit, you will receive an Account Agreement ("Agreement") with your card.

Each use of the card to charge purchases constitutes a loan from us to you for commercial, business, agricultural, or governmental purposes. If you are approved for credit, your account may be used only for purchasing goods and services to be used for commercial, business, agricultural, or governmental purposes on behalf of the Business. You may not use this account to purchase goods or services for personal, family or household purposes.

### Definitions

**account** means the relationship established between you and us by this Agreement. This includes any sub-account we establish for you or any authorized user.

**APR** means an annual percentage rate.

**Authorized Officer** means any natural person, whether or not an actual officer of the Business, who applies for the account on behalf of the Business.

**authorized user** means any person you allow to use your account.

**Business** means the corporation, limited liability company, partnership, sole proprietorship, association, governmental agency, or other entity or organization that applied to open the account and any successors to that entity or organization.

**Business Liability Only account** means an account that was not opened as a joint account, the account did not later become a joint account, and the Authorized Officer did not agree when applying for the account to be jointly and severally (or otherwise) liable with the Business for all amounts owed on the account.

**card** means one or more cards or other access devices that we give you to get credit under this Agreement. This includes account numbers.

**we, us, and our** mean Citibank, N.A., the issuer of your account. Citibank, N.A. is located in Sioux Falls, SD.

**you, your, and yours** means the Business and, except for a Business Liability Only account, each Authorized Officer, who are jointly and severally liable for all amounts owed on the account.

### Your Account

You agree to use your account in accordance with this Agreement. You must pay us for all amounts due on your account. This Agreement is binding on you unless you close your account within 30 days after receiving the card and you have not used or authorized use of the card. Your account must only be used for lawful transactions.

**Business Purpose.** You agree that your account is a business account. You agree that each use of the card is a loan from us to you for commercial, business, agricultural, and governmental purposes. You agree that the account will be used only for such purposes. You therefore agree that the account will not be used for personal, family, or household purposes. This applies to use of the account by you and by authorized users. But you will still be liable to us for any use of the account for personal, family or household purposes by you or authorized users. This applies even if the use does not benefit you. Because this is a business account, you understand that certain federal and state consumer protection laws do not apply to it.

**Joint and Several Liability.** Except for a Business Liability Only account, the Business and each Authorized Officer are jointly and severally liable for all amounts owed on your account. We may enforce any right or remedy we may have regarding any of your obligations under this Agreement without affecting our other rights or remedies. You waive (i) any right to require us to proceed against any other entity, individual, organization, or other person liable on the account or pursue any other remedy in our power whatsoever; (ii) any defense because of any disability or other defense or cessation of liability on the account by anyone else for any reason other than full payment; (iii) any defense or right against us arising out of the exercise of our rights under this Agreement to the extent that such exercise of rights results in the loss of any right of subrogation, reimbursement or other right you may have against anyone else liable on the account; and (iv) all presentments, diligence, protests, demands and notices or protest, dishonor or nonperformance.

**Joint Notices and Instructions.** The Business and each Authorized Officer agree that the delivery of notices or billing statements to any one of them constitutes delivery to each of them. The Business and each Authorized Officer agree that instructions from any of them constitute instructions from each of them. If we rely on such instructions, we are not liable to any of them for doing so. This paragraph does not apply to a Business Liability Only account.

**Authorized Users.** You may request additional cards for authorized users. You must pay us for all charges made by authorized users. You must pay us even if you did not intend to be responsible for those charges. You are responsible for controlling authorized users. We are not responsible for controlling them.

We may cancel an authorized user's right to use your account at any time. We may do this for any reason. We may do this without prior notice to you or the authorized user. You also may cancel an authorized user's right to use your account at any time. To do this, you must notify us in writing of the cancellation. After a cancellation, you must promptly retrieve any cards given to an authorized user. You must promptly destroy all cards unless we tell you otherwise. You must do these things whether the cancellation was begun by us or you. When you begin the cancellation, you must also inform the authorized user of the cancellation. You must tell the authorized user to stop using the card and your account immediately. If an authorized user brings a claim of wrongful cancellation against us because of a cancellation begun by you, the claim is your responsibility. You agree to indemnify and hold harmless us and our parent company, subsidiaries and affiliates from any losses, damages or other liability arising from the claim.

**Credit Line.** The full amount of your credit line is available to use where the card is honored. We may reduce or increase your credit line at any time for any reason. We will notify you of any change, but the change may take effect before you receive the notice. You should always keep your total balance below the credit line. However, if the total balance goes over your credit line you still must pay us. If your account has a credit balance, we may reduce the credit balance by any new charges on your account. You may not maintain a credit balance in excess of your credit line.

**Billing Statement.** Your billing statement shows the New Balance. This is the total amount you owe us on the Closing Date. To determine the New Balance, we begin with the total balance at the start of the billing period. We add any purchases. We subtract any credits or payments. We then add any periodic finance charges or fees and make other adjustments.

Your billing statement also shows your transactions; the Minimum Payment Due and payment due date; your credit line; and your periodic finance charges and fees. On the statement, a regular purchase balance will appear under the heading "regular revolve credit plan."

We deliver a billing statement to only one address. You must notify Customer Service of a change in address. We may stop sending you statements if we deem your account uncollectible. We may also stop sending you statements if we send your account to an outside agency or attorney for collection. Periodic finance charges and fees continue to add up even if we stop sending statements.

#### **APRs**

**APRs Based on Prime.** We calculate any APR based on the U.S. Prime Rate ("Prime Rate") by adding the applicable amount that appears on the card carrier to the Prime Rate. For each billing period we use the Prime Rate published in *The Wall Street Journal* two business days prior to the closing date for that billing period. If *The Wall Street Journal* does not publish the Prime Rate, we may substitute a similar published rate. A change in an APR due to a change in the Prime Rate takes effect as of the first day of the billing period for which we calculate the APR. We apply the new applicable APR to any existing balances, subject to any promotional rate that may apply.

**Purchase APR.** The ANNUAL PERCENTAGE RATE for regular purchases equals the Prime Rate plus 9.90%, but not less than 17.90%. As of April 1, 2021, this APR is 17.90%. This APR will not exceed 25.90%. This APR equals a daily periodic rate of 0.04904%.

**Default APR.** Your APRs on your balances (excluding promotional APRs on promotional balances) will automatically increase to the default APR if you default because you do not make the Minimum Payment Due by the payment due date for three billing periods in a row.

The default ANNUAL PERCENTAGE RATE equals the Prime Rate plus 16.90%, but not less than 22.90%. As of April 1, 2021, this APR equals a daily periodic rate of 0.06273%. The default APR will not exceed 25.90%. The default APR takes effect as of the first day of the third consecutive billing period in which you fail to make the Minimum Payment Due by the payment due date. We will lower the APR for all balances at the default APR if you meet the terms of this Agreement for six billing periods in a row.

**Effect of APR Increases.** If an APR increases, periodic finance charges increase. Your minimum payment may increase as well.

#### **Promotions**

We may offer you promotional terms for all or a part of any balances. Any promotional terms may apply for a limited period of time. They will be governed by the terms of the promotional offer and this Agreement. They may include the Deferred Interest and No Interest offers described below.

**Deferred Interest.** No finance charges will be imposed on this balance if you pay the balance in full by the end of the promotional period. We will impose finance charges on this balance if you do not pay the balance in full by the end of the promotional period. We will impose these finance charges from the date of purchase until the balance is paid in full.

**No Interest.** No finance charges are imposed on this balance during the promotional period.

**Rentals.** From time to time, we may offer you the ability to charge to your account the monthly rental fee and related rental costs (such as transportation and shipping fees, repair costs and incidentals like fuel) associated with the rental of equipment or other eligible items from participating dealers ("rental transaction"). Rental transaction charges are not subject to a finance charge but are due in full on the payment due date for the billing period that includes the date thirty (30) days after the charge is added to the account and cannot be deferred or revoked to a future payment date. Refer to your dealer's rental agreement to determine the applicable monthly rental fee and the related rental costs that your dealer will charge to your account, as well as all other terms governing your rental transaction.

#### **Periodic Finance Charges Based on APRs**

**Periodic Finance Charges.** We impose periodic finance charges when we apply APRs to your account balances. We do this every day by using a daily periodic rate. To get a daily periodic rate, we divide the APR by 365.

**When Periodic Finance Charges Begin.** Periodic finance charges begin the first day we add a charge to a daily balance. The charges we add to a daily balance include purchases. They also include finance charges and fees. We continue to impose periodic finance charges until we credit your account with full payment of the total amount you owe us.

**Grace Period on Purchases.** You can avoid periodic finance charges on purchases. This is called a grace period on purchases. The grace period is at least 25 days. To get the grace period on purchases, you must pay the New Balance by the payment due date every billing period.

If you have a balance subject to a Deferred Interest promotion or a No Interest promotion and that promotion does not expire before the payment due date, that balance (an "excluded balance") is excluded from the amount you must pay in full to get a



grace period on a purchase balance other than an excluded balance. In addition, if you have a major purchase plan balance, that balance (an "excluded balance") is excluded from the amount you must pay in full to get a grace period on a purchase balance other than an excluded balance. However, you must still pay any separately required payment on the excluded balance. In billing periods in which payments are allocated to Deferred Interest balances first, the Deferred Interest balance will be reduced before any other balance on the account. However, you will continue to get a grace period on purchases, other than an excluded balance, so long as you pay the New Balance (including any rental transaction charges), less any excluded balance, plus any separately required payment on an excluded balance in full by the payment due date each billing period.

In addition, certain promotional offers may take away the grace period on purchases. Other promotional offers not described above may also allow you to have a grace period on purchases without having to pay all or a portion of the promotional balance by the due date. If either is the case, the promotional offer will describe what happens.

**Calculation of Periodic Finance Charges.** We calculate periodic finance charges each billing period. To do this:

- We start with each of your different balances. These balances include, for example, regular purchases and different promotional balances, but do not include rental transaction charges. (Purchases made under the same promotional terms, including APR and expiration date, will be part of the same promotional balance.)
- We calculate the daily balance for each of your different balances. To get a daily balance, we start with the balance as of the end of the previous day. We add any periodic finance charge on the previous day's balance. (This results in daily compounding of finance charges.) We add any new charges. We then subtract any new credits or payments.
- We multiply each daily balance by the daily periodic rate that applies to it. We do this for each day in the billing period. This gives us the daily periodic finance charges for each of your different balances.
- We add up all the daily periodic finance charges. The sum is the total periodic finance charge for the billing period. You authorize us to round the total periodic finance charge to the nearest cent.

When we calculate daily balances, we add a purchase as of the Transaction Date. We subtract a payment or credit as of the day it is credited to the account and then make other adjustments. We treat a credit balance as a balance of zero.

**Balance Subject to Finance Charge.** For each different balance, your statement shows any Balance Subject to Finance Charge. The Balance Subject to Finance Charge is the average of the daily balances during the billing period. A billing period begins on the day after the Closing Date of the previous billing period. It includes the Closing Date of the current billing period.

You can use your billing statement to calculate periodic finance charges. For each different balance, multiply the Balance Subject to Finance Charge by its daily periodic rate. Multiply that amount by the number of days in the billing period. The result is the total periodic finance charge on that balance. Rounding may cause a small difference.

**Minimum Finance Charge.** If the total periodic finance charge is less than \$1, we charge a minimum **FINANCE CHARGE** of \$1. We add the additional amount to the regular purchase balance or to one or more of the balances that is assessed a periodic finance charge.

#### **Other Fees**

**Late Fee.** We add a late fee of \$25 for each billing period you do not pay the Minimum Payment Due by the payment due date. We add this fee to the regular purchase balance.

**Returned Payment Fee.** We add a fee of \$25 if a payment check or similar instrument is not honored or if it is returned because it cannot be processed. We also add this fee if an automatic debit is returned unpaid. We assess this fee the first time your check or payment is not honored, even if it is honored upon resubmission. We add this fee to the regular purchase balance.

#### **Payments**

**Minimum Payment Due.** You must pay at least the Minimum Payment Due by the payment due date each billing period. The sooner you pay the New Balance, the less you will pay in periodic finance charges.

We calculate the Minimum Payment Due as follows. We begin with any past due amount. We add the amount due on each major purchase plan balance. We add any additional amount specified in a promotional offer, including any amount due for rental transaction charges. We then add the largest of the following:

- The Calculated New Balance if it is less than \$10.
- \$10 if the Calculated New Balance is at least \$10.
- 1% of the Calculated New Balance plus the amount of your billed periodic finance charges on the Calculated New Balance and any applicable late fee (the result is rounded up to the nearest dollar). For this purpose, billed periodic finance charges do not include periodic finance charges that accrued during prior billing periods on a Deferred Interest or other promotional balance that ended during the billing period covered by the statement.

The Calculated New Balance equals the New Balance on the billing statement less any balances subject to a major purchase plan, or to either of two types of promotional terms. The first are terms that do not require a minimum payment. The second are terms that require an additional amount as part of the Minimum Payment Due, such as rental transaction charges.

The amount due on a major purchase plan balance is the smaller of:

- The Repayment Percentage times the major purchase plan's Highest Balance plus any credit protection or credit insurance fee allocated to that balance. (The result is rounded up to the nearest dollar.) Or

- The major purchase plan's balance on the Statement Closing Date.

For each 0% APR major purchase plan balance, we determine the payment as follows:

- We take the plan balance on the last day of the billing cycle in which the transaction is posted to your account.
- We divide the result by the number of months of the major purchase plan. (The result is rounded up to the nearest dollar.) This gives us the major purchase plan payment.

The amount due on each interest-bearing major purchase plan balance is the smaller of:

- The Repayment Percentage times the major purchase plan's Highest Balance. (The result is rounded up to the nearest dollar.) Or
- The major purchase plan's balance on the Statement Closing Date.

For each interest-bearing major purchase plan balance, the Highest Balance is the highest major purchase plan balance on a Statement Closing Date, less any credit protection or credit insurance fee allocated to that balance for that cycle, since the last time that balance was zero. The balance is zero at account opening.

The Repayment Percentage for each interest-bearing major purchase plan is as follows:

- 12 month major purchase plan with an APR of 3.99%: 8.5145%
- 18 month major purchase plan with an APR of 5.99%: 5.8227%
- 24 month major purchase plan with an APR of 3.99%: 4.3421%
- 24 month major purchase plan with an APR of 7.99%: 4.5223%
- 36 month major purchase plan with an APR of 3.99%: 2.9520%
- 36 month major purchase plan with an APR of 7.99%: 3.1332%
- 48 month major purchase plan with an APR of 3.99%: 2.2575%
- 48 month major purchase plan with an APR of 7.99%: 2.4409%

The Minimum Payment Due never exceeds your Calculated New Balance plus two amounts. The first is any amount required by a major purchase plan. The second is any required additional amount specified in a promotional offer, including any rental transaction charges. In calculating the Minimum Payment Due, we may subtract from the New Balance certain fees added to your account during the billing period.

**Application of Payments.** You authorize us to apply payments and credits in a way that is most favorable or convenient for us. This may include applying payments and credits to low APR balances first.

**Payment Instructions.** We credit your payments in accordance with our payment instructions on the billing statement. You must pay us in U.S. dollars. To do so, you must use a check, similar instrument, or automatic debit that is drawn on and honored by a bank in the U.S. Do not send cash. We can accept late or partial payments, or payments that reflect "paid in full" or other restrictive endorsements, without losing our rights. We also reserve the right to accept payments made in foreign currency and instruments drawn on funds on deposit outside the U.S. If we do, we select the currency conversion rate. We will then credit your account in U.S. dollars after deducting any costs incurred in processing your payment. Or we may bill you separately for these costs.

**Optional Pay by Phone Service.** You may use our optional Pay by Phone Service to make your payment by phone. To do so, call us to request the service. Each time you do, you agree to pay us the amount shown in the Pay by Phone section on the back of the billing statement. Our representatives are trained to tell you this amount whenever you call to use the service.

#### **Credit Reporting**

We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report. We may also obtain follow-up credit reports on you.

If you think we reported incorrect information to a credit bureau, write us at the Customer Service address on the billing statement. We will investigate the matter. We will then tell you if we agree or disagree with you. If we agree with you, we will contact each credit bureau to which we reported and request a correction. If we disagree with you, we will tell you that.

#### **Information Sharing**

You authorize us to share any information about you with others (including with CNH Industrial Capital America LLC and CNH Industrial America LLC, their affiliates and merchants). This includes information we get from you and from others, including, but not limited to information you provided with your application. It also includes information about the account and your transactions with us. You authorize us, and any one we share information with, to use it in any manner permitted by law.

#### **Changes to this Agreement**

We may change the rates, fees, and terms of this Agreement at any time for any reason. These reasons may be based on information in your credit report or general market conditions. Any changes we make may add, replace, or remove provisions of this Agreement. They may also change your rights and obligations under this Agreement as well as ours. These changes are binding on you unless you have the right to opt out and you choose to opt out by following our instructions.

You will have a right to opt out if the change will cause a rate or fee to increase. In that case, we will mail you advance written notice of the change. We will do this at least 15 days before the beginning of the billing period in which the change takes effect. If you do not agree to the change, you can opt out by contacting us. You must do



this within 25 days of the effective date of the change. If you opt out, we will close your account. You can then pay the remaining balance under the old rates, fees, and terms. If you use the card after the effective date of a change, you will be deemed to have accepted the change. This applies even if the 25 day opt out period has not expired.

#### **Default**

You default under this Agreement if you fail to pay the Minimum Payment Due by its due date; go over your credit line; pay by a check or similar instrument that is not honored or that we must return because it cannot be processed; pay by automatic debit that is returned unpaid; fail to comply with the terms of this Agreement or have made any false or misleading statements on the application for your account. You also default under this Agreement if you become insolvent; suffer an attachment, execution, or levy against you or your property; make an assignment for the benefit of creditors; file a bankruptcy petition or have one filed against you; have a guardian, conservator, receiver, custodian or trustee appointed for you; are generally not paying your debts as they become due; or experience an adverse change in your financial standing. You also default under this Agreement if you agree to, become subject to, or experience a material change in the nature of your business; a cessation of ongoing business operations; a change in the control or structure of you or your business; or the sale or other transfer of all or substantially all of your assets. If you default, we may close your account and demand immediate payment of the total balance.

#### **Refusal of the Account or Card, Closed Accounts, and Related Provisions**

**Refusal of the Account or Card.** We do not guarantee approval of transactions. We are not liable for transactions that are not approved. That is true even if you have enough credit. We may limit the number of transactions approved in one day. If we detect unusual or suspicious activity, we may suspend your credit privileges.

**Preauthorized Charges.** We may suspend any automatic or other preauthorized card charges you arrange with a third party. We may do this if you default; if the card is lost or stolen; or we change your account for any reason. If we do this, you are responsible for paying the third party directly if you wish to do so. You are also responsible for reinstating the preauthorized charges if you wish to do so and we permit it.

**Lost or Stolen Cards or Account Numbers.** You must call us if any card or account number is lost or stolen. You must also call us if you think someone used or may use them without permission. When you call, we may require you to provide information to help our investigation. We may require you to provide this information in writing. For example, we may ask you to identify any charges that were not made by you or someone authorized by you. We may also ask you to confirm that you received no benefit from those charges.

**Unauthorized Use Liability.** You agree to be liable for any unauthorized use of your account if we have, at your request, issued ten (10) or more cards for use by your employees. (This includes any unauthorized use of cards or account numbers). This waives all limitations on your liability for unauthorized use of your account under the federal Truth in Lending Act. This waiver is allowed by Section 135 of that Act.

**Closing Your Account.** You may close your account by notifying us in writing or over the phone. When you do, you must promptly retrieve and, unless we instruct you otherwise, destroy all cards issued on your account. If you close your account, you must still repay the total balance in accordance with this Agreement. We may also close your account or suspend account privileges at any time for any reason. We may do this without prior notice to you. We may also reissue a different card at any time. You must return any card to us upon request.

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#### **ARBITRATION**

**PLEASE READ THIS PROVISION OF THE AGREEMENT CAREFULLY. IT PROVIDES THAT ANY DISPUTE MAY BE RESOLVED BY BINDING ARBITRATION. ARBITRATION REPLACES THE RIGHT TO GO TO COURT, INCLUDING THE RIGHT TO A JURY AND THE RIGHT TO INITIATE OR PARTICIPATE IN A CLASS ACTION OR SIMILAR PROCEEDING. IN ARBITRATION, A DISPUTE IS RESOLVED BY AN ARBITRATOR INSTEAD OF A JUDGE OR JURY. ARBITRATION PROCEDURES ARE SIMPLER AND MORE LIMITED THAN COURT PROCEDURES.**

**Agreement to Arbitrate:** Either you or we may, without the other's consent, elect mandatory, binding arbitration for any claim, dispute, or controversy between you and us (called "Claims").

#### **Claims Covered**

**What Claims are subject to arbitration?** All Claims relating to your account, a prior related account, or our relationship are subject to arbitration, including Claims regarding the application, enforceability, or interpretation of this Agreement and this arbitration provision. All Claims are subject to arbitration, no matter what legal theory they are based on or what remedy (damages, or injunctive or declaratory relief) they seek. This includes Claims based on contract, tort (including intentional tort), fraud, agency, your or our negligence, statutory or regulatory provisions, or any other sources of law; Claims made as counterclaims, cross-claims, third-party claims, interpleaders or otherwise; and Claims made independently or with other claims. A party who initiates a proceeding in court may elect arbitration with respect to any Claim advanced in that proceeding by any other party. Claims and remedies sought as part of a class action, private attorney general or other representative action are subject to arbitration on an individual (non-class, non-representative) basis, and the arbitrator may award relief only on an individual (non-class, non-representative) basis.

**Whose Claims are subject to arbitration?** Not only ours and yours, but also Claims made by or against anyone connected with us or you or claiming through us or you, such as a co-applicant or authorized user of your account, an employee, agent, representative, affiliated company, predecessor or successor, heir, assignee, or trustee in bankruptcy.

**What time frame applies to Claims subject to arbitration?** Claims arising in the past, present, or future, including Claims arising before the opening of your account, are subject to arbitration.

**Broadest Interpretation.** Any questions about whether Claims are subject to arbitration shall be resolved by interpreting this arbitration provision in the broadest way the law will allow it to be enforced. This arbitration provision is governed by the Federal Arbitration Act (the "FAA").

**What about Claims filed in Small Claims Court?** Claims filed in a small claims court are not subject to arbitration, so long as the matter remains in such court and advances only an individual (non-class, non-representative) Claim.

#### ***How Arbitration Works***

**How does a party initiate arbitration?** The party filing an arbitration must choose one of the following two arbitration firms and follow its rules and procedures for initiating and pursuing an arbitration: American Arbitration Association or JAMS. Any arbitration hearing that you attend will be held at a place chosen by the arbitration firm in the same city as the U.S. District Court closest to your then current billing address, or at some other place to which you and we agree in writing. You may obtain copies of the current rules of each of the arbitration firms and forms and instructions for initiating an arbitration by contacting them as follows:

American Arbitration Association  
800-778-7879 (toll-free) (TTY: Use 711 or other Relay Service)  
Website: [www.adr.org](http://www.adr.org)

JAMS  
800-352-5267 (toll-free) (TTY: Use 711 or other Relay Service)  
Website: [www.jamsadr.com](http://www.jamsadr.com)

At any time you or we may ask an appropriate court to compel arbitration of Claims, or to stay the litigation of Claims pending arbitration, even if such Claims are part of a lawsuit, unless a trial has begun or a final judgment has been entered. Even if a party fails to exercise these rights at any particular time, or in connection with any particular Claims, that party can still require arbitration at a later time or in connection with any other Claims.

**What procedures and law are applicable in arbitration?** A single, neutral arbitrator will resolve Claims. The arbitrator will be either a lawyer with at least ten years experience or a retired or former judge, selected in accordance with the rules of the arbitration firm. The arbitration will follow procedures and rules of the arbitration firm in effect on the date the arbitration is filed unless those procedures and rules are inconsistent with this Agreement, in which case this Agreement will prevail. Those procedures and rules may limit the discovery available to you or us. The arbitrator will take reasonable steps to protect customer account information and other confidential information if requested to do so by you or us. The arbitrator will apply applicable substantive law consistent with the FAA and applicable statutes of limitations, will honor claims of privilege recognized at law, and will have the power to award to a party any damages or other relief provided for under applicable law. You or we may choose to have a hearing and be represented by counsel. The arbitrator will make any award in writing and, if requested by you or us, will provide a brief statement of the reasons for the award. An award in arbitration shall determine the rights and obligations between the named parties only, and only in respect of the Claims in arbitration, and shall not have any bearing on the rights and obligations of any other person, or on the resolution of any other dispute.

**Who pays?** Whoever files the arbitration pays the initial filing fee. If we file, we pay; if you file, you pay, unless you get a fee waiver under the applicable rules of the arbitration firm. If you have paid the initial filing fee and you prevail, we will reimburse you for that fee. If there is a hearing, we will pay any fees of the arbitrator and arbitration firm for the first day of that hearing. All other fees will be allocated as provided by the rules of the arbitration firm and applicable law. However, we will advance or reimburse your fees if the arbitration firm or arbitrator determines there is good reason for requiring us to do so, or if you ask us and we determine there is good reason for doing so. Each party will bear the expense of that party's attorneys, experts, and witnesses, and other expenses, regardless of which party prevails, but a party may recover any or all expenses from another party if the arbitrator, applying applicable law, so determines.

**Who can be a party?** Claims must be brought in the name of an individual person or entity and must proceed on an individual (non-class, non-representative) basis. The arbitrator will not award relief for or against anyone who is not a party. If you or we require arbitration of a Claim, neither you, we, nor any other person may pursue the Claim in arbitration as a class action, private attorney general action or other representative action, nor may such Claim be pursued on your or our behalf in any litigation in any court. Claims, including assigned Claims, of two or more persons may not be joined or consolidated in the same arbitration. However, applicants, co-applicants, authorized users on a single account and/or related accounts, or corporate affiliates are here considered as one person.

**When is an arbitration award final?** The arbitrator's award is final and binding on the parties unless a party appeals it in writing to the arbitration firm within fifteen days of notice of the award. The appeal must request a new arbitration before a panel of three neutral arbitrators designated by the same arbitration firm. The panel will consider all factual and legal issues anew, follow the same rules that apply to a proceeding using a single arbitrator, and make decisions based on the vote of the majority. Costs will be allocated in the same way they are allocated for arbitration before a single arbitrator. An award by a panel is final and binding on the parties after fifteen days has passed. A final and binding award is subject to judicial review and enforcement as provided by the FAA or other applicable law.

#### ***Survival and Severability of Terms***

This arbitration provision shall survive: (i) termination or changes in the Agreement, the account, or the relationship between you and us concerning the account; (ii) the bankruptcy of any party; and (iii) any transfer, sale or assignment of your account, or any amounts owed on your account, to any other person or entity. If any portion of this arbitration provision is deemed invalid or unenforceable, the entire arbitration provision shall not remain in force. No portion of this arbitration provision may be amended, severed or waived absent a written agreement between you and us.



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### **Governing Law and Enforcing our Rights**

**Governing Law.** Federal law and the law of South Dakota, where we are located, govern the terms and enforcement of this Agreement.

**Enforcing this Agreement.** We will not lose our rights under this Agreement because we delay in enforcing them or fail to enforce them.

**Information Requests.** You will give us any information that we may lawfully request about use of the card or account. This includes any use by you or an authorized user. You will give us any documents that we may reasonably request about such use. You will give us reasonable help in any investigation about use of the card or account. You will also give us reasonable cooperation in any prosecution or other litigation about such use.

**Collection Costs.** To the extent permitted by law, you are liable to us for our legal costs if we refer collection of your account to a lawyer who is not our salaried employee. These costs may include reasonable attorneys' fees. They may also include costs and expenses of any legal action.

**Assignment.** We may assign any or all of our rights and obligations under this Agreement to a third party.

**Notify Us In Case of Errors or Questions About Your Bill.** If you think your billing statement is wrong, or if you need more information about a transaction on your billing statement, write to us (on a separate sheet) as soon as possible at the billing errors address on the front of your statement. We must hear from you in writing no later than 60 days after we sent you the first statement on which the error or problem appeared.

In your letter, give us the following information:

- Your name and account number.
- The dollar amount of the suspected error.

Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are unsure about.

### **For Further Information**

Call us toll-free for further information. Call the toll-free Customer Service telephone number shown on the billing statement or on the back of your card. You can also call local or toll-free Directory Assistance to get our telephone number.

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**CNH-USA-COMAPP-OLDL-0621**

## Texas Agricultural Sales and Use Tax Exemption Certificate

Commercial agricultural producers must use this form to claim exemption from Texas sales and use tax when buying, leasing or renting qualifying agricultural items they will use exclusively in the production of agricultural products for sale.

You cannot use this form to claim exemption from motor vehicle tax when buying motor vehicles, including trailers. To claim motor vehicle tax exemption, you must give a properly completed Texas Motor Vehicle Tax Exemption Certificate for Agricultural and Timber Operations (Form 14-319) to the vehicle's seller or dealer. You must also claim the exemption on the Application for Texas Title (Form 130-U) when titling or registering the vehicle with the local County Tax Assessor-Collector.

This form is not required when purchasing the following types of agricultural items:

- horses, mules and work animals commonly used in agricultural production;
- animal life, the products of which ordinarily constitute food for human consumption, such as cows, goats, sheep, chickens, turkeys and pigs;
- feed for farm and ranch animals, including oats, corn, chicken scratch and hay; and
- seeds and annual plants, the products of which are commonly recognized as food for humans or animals (such as corn, oats and soybeans) or are usually only raised to be sold in the regular course of business (such as cotton seed).

All other purchases of agricultural items require this properly completed form to claim a sales tax exemption. See the back of this form for examples of exempt and taxable items.

Name of retailer
Address (Street and number, P.O. Box or route number)
City, State, ZIP code

### Proper use of this certificate

**Purchasers** - You can only use this certificate for items you purchase for exclusive use in an exempt manner. You should be familiar with qualifying items. Any non-agricultural or personal use disqualifies the purchase from exemption. See the back of this form for examples of exempt and taxable items.

**Retailers** - You can accept this certificate in good faith at the time of sale if it is properly completed with an ag/timber number and expiration date. You can also accept it as a blanket certificate covering all sales made during the time this certificate is valid on qualifying items that can reasonably be used to produce agriculture products for sale.

Name of purchaser	
Address (Street and number, P.O. Box or route number)	
City, State, ZIP code	Phone (Area code and number)
Ag/Timber number _____	Name of person to whom number is registered, if different than purchaser
This exemption certificate expires on <b>Dec. 31, 20</b> _____	

I understand that I am required to keep records to verify eligibility for the exemption(s) claimed and that I will be required to pay sales or use tax on purchases that do not qualify for the exemption(s), in addition to any applicable interest and penalties.

I understand that it is a criminal offense to issue an exemption certificate to the seller for taxable items that I know will be used in a manner that does not qualify for the exemptions found in Tax Code Section 151.316. The offense may range from a Class C misdemeanor to a felony of the second degree.

Purchaser's signature	Purchaser's name (print or type)	Date
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This certificate should be given to the retailer. Do **not** send the completed certificate to the Comptroller of Public Accounts.

## Always Exempt

These items are always exempt and do not require an exemption certificate or an ag/timber number.

- Horses, mules and work animals commonly used in agricultural production;
- Animal life, the products of which ordinarily constitute food for human consumption, such as cattle, goats, sheep, chickens, turkeys and hogs;
- Feed such as oats, hay, chicken scratch, wild bird seed and deer corn for livestock and wild game (pet food is not exempt); and
- Seeds and annual plants, the products of which are commonly recognized as food for humans or animals, such as corn, oats and soybeans or for fiber, such as cotton seed.

## Exempt

Here are examples of items that are exempt from sales tax when used exclusively on a farm or ranch to produce agricultural products for sale and purchased by a person with a current ag/timber number.

Air tanks	Discs	Grain handling equipment	Rotary hoes
Augers	Drags	Greases, lubricants and oils for qualifying farm machinery and equipment	Salt stands
Bale transportation equipment	Dryers	Harrows	Seed cleaners
Baler twine	Dusters	Head gates	Shellers
Baler wrap	Egg handling equipment	Hoists	Silo unloaders
Balers	Ensilage cutters	Husking machines	Solimovers used to grade farmland
Binders	Farm machinery and repair or replacement parts	Hydraulic fluid	Sorters
Branding irons	Farm tractors	Hydro-coolers	Sowers
Brush hogs	Farm wagons	Implements of husbandry	Sprayers
Bulk milk coolers	Farrowing houses (portable and crates)	Incubators	Spreaders
Bulk milk tanks	Feed carts	Irrigation equipment	Squeeze chutes
Calf weaners and feeders	Feed grinders	Manure handling equipment	Stalls
Cattle currying and oiling machines	Feeders	Manure spreaders	Stanchions
Cattle feeders	Fertilizer	Milking equipment	Subsoilers
Chain saws used for clearing fence lines or pruning orchards	Fertilizer distributors	Mowers (hay and rotary blade)	Telecommunications services used to navigate farm machinery and equipment*
Choppers	Floats for water troughs	Pesticides	Threshing machines
Combines	Foggers	Pickers	Tillers
Conveyors	Forage boxes	Planters	Tires for exempt equipment
Corn pickers	Forage harvesters	Poultry feeders	Troughs, feed and water
Corral panels	Fruit graters	Poultry house equipment	Vacuum coolers
Cotton pickers, strippers	Fruit harvesters	Pruning equipment	Vegetable graders
Crawlers – tractors	Grain binders	Rollbar equipment	Vegetable washers
Crushers	Grain bins	Rollers	Vegetable waxers
Cultipackers	Grain drills	Root vegetable harvesters	

\* As of Sept 1, 2015, telecommunications services used to navigate farm machinery and equipment are exempt

## Taxable

These items DO NOT qualify for sales and use tax exemption for agricultural production

- Automotive parts, such as tires, for vehicles licensed for highway use, even if the vehicle has farm plates
- Clothing, including work clothing, safety apparel and shoes
- Computers and computer software used for any purposes other than agricultural production
- Furniture, home furnishings and housewares
- Golf carts, dirt bikes, dune buggies and go-carts
- Guns, ammunition, traps and similar items
- Materials used to construct roads or buildings used for shelter, housing, storage or work space (examples include general storage barns, sheds or shelters)
- Motor vehicles and trailers\*
- Pet food
- Taxable services such as nonresidential real property repairs or remodeling, security services, and waste removal

\* See [www.comptroller.texas.gov/taxes/ag-timber/](http://www.comptroller.texas.gov/taxes/ag-timber/).

Tax Help: [www.comptroller.texas.gov/taxes/](http://www.comptroller.texas.gov/taxes/) • Window on State Government: [www.comptroller.texas.gov](http://www.comptroller.texas.gov)  
Tax Assistance: 1-800-252-5555

Sign up to receive email updates on the Comptroller topics of your choice at [www.comptroller.texas.gov/subscribe](http://www.comptroller.texas.gov/subscribe).