



Return to: Betsy Roque @ Purchasing x 4858

2812 S. Bus. Hwy 281
Edinburg, Texas 78539
Phone: (956) 318-2626
Fax: (956) 318-2629
www.co.hidalgo.tx.us/purchasing

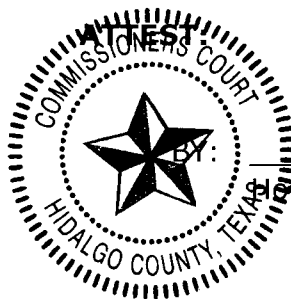
Equipment/Service Agreements

FILED	AT	3:00	O'CLOCK	P	M
MAY 10 2018					
ARTURO GUAJARDO, JR. COUNTY CLERK HIDALGO COUNTY, TEXAS					
BY					DEPUTY

Company Name: Kyocera Document Solutions America, Inc.

Department: County Judge's Office

CC Approval on 04/24/2018, AI- 64479



Arturo Guajardo Jr.
Honorable Arturo Guajardo, Jr., County Clerk

APPROVED AS TO FORM:

Office of Criminal District Attorney Ricardo Rodriguez, Jr.

BY: *Josephine Ramirez*
Honorable Josephine Ramirez, ADA



EQUIPMENT LEASE

v03.15.16

Agreement Number:

Agreement Date:

Lessee Name: HIDALGO (COUNTY OF) TX

Supplier: NDS Leasing

Lessee Address: 100 East Cano Ste. 201
Edinburg, TX 78539

2825 Story Rd W
Irving, TX 75038-5268

Equipment Location (if different):

Equipment Model(s)	Serial Number	Accessories
TA 3252ci		
<input type="checkbox"/> See attached schedule for additional equipment and accessories.		

Advanced Deposit Payments \$

Number of Payments 36 @ \$ 216.21 per month (plus taxes) Lease end purchase option: Fair Market Value

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT: 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. What this means for you: When you open an account, we will ask for (i) if you are a legal entity, your name, address, and other information that will allow us to identify you; (ii) if you are an individual, your name, address, and date of birth. We may also ask to see your driver's license or other identifying documents.

- 1. Lease.** You (the "Lessee") unconditionally and irrevocably agree to lease from us, NDS Leasing (the "Lessor"), the Equipment listed above (the "Equipment") on the terms set forth in this Lease Agreement and in any Exhibit(s) and/or other attachments referencing this Lease Agreement (collectively, this "Lease"), which Equipment is being purchased from the supplier(s) described above (each a "Supplier"). You authorize us to adjust the Lease payments by up to 15% if the cost of the Equipment or taxes differ from the Supplier's estimate. The Lease is effective on the date that it is accepted and signed by us, and the term of this Lease begins on that date or any later date that we designate (the "Commencement Date") and continues thereafter for the number of months indicated above. Lease payments are due as invoiced by us. The Lease starts on the day the Equipment is delivered to you and the Lease payments shall be payable in advance beginning on the Commencement Date or any later date designated by us. As you will have possession of the Equipment from the date of its delivery, if we accept and sign this Lease you will pay us interim rent for each day from the date the Equipment is delivered to you until the Commencement Date, calculated on the Lease payment amount, the number of days in that period, and a year of 360 days. If requested, you will sign a separate Equipment acceptance certificate. If the payment amount shown above includes support or maintenance charges, you acknowledge that we collect such charges for the service provider only as an accommodation to you. We reserve the right to increase the lease payment up to 10% annually. We may charge you and you shall pay to us a one-time administration fee of \$75.00 to reimburse us for documentation and investigation costs. Your Lease obligations are absolute, unconditional, and are not subject to cancellation, reduction, setoff or counterclaim. When a payment is not made when due, you agree to pay us a late charge of 10% for each payment or \$29, whichever is greater. We may charge you a fee of \$55 for any check that is returned. ONLY WE ARE AUTHORIZED TO WAIVE OR CHANGE ANY TERM, PROVISION OR CONDITION OF THE LEASE. You agree this is a non-cancelable Lease.
- 2. Equipment Use, Warranties and Maintenance.** We are leasing the Equipment to You "AS IS" AND MAKE NO WARRANTIES, EXPRESS OR IMPLIED, and INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE. We transfer to you any manufacturer warranties. You are required to keep the Equipment in good working condition and to pay for all supplies and repairs. If the Equipment is attached to real estate, it remains our personal property and you agree not to permit a lien to be placed upon the Equipment or remove it without our prior written consent. We are not responsible for any service obligations. Regardless of a default in maintenance by the service provider, Lessee is obligated to pay Lessor lease payments per the Lease agreement.
- 3. Assignment.** You agree not to transfer, sell, sublease, assign, pledge or encumber either the Equipment or any rights under this Lease without our prior written consent. You agree that we may sell, assign or transfer the Lease and the new owner will have the same rights and benefits we now have and will not be subject to any claims, defenses or setoffs that you may have against us or any Supplier.
- 4. Risk of Loss and Insurance.** You bear all risks of loss or damage to the Equipment and if any loss occurs you are nevertheless required to satisfy all of your Lease obligations. You will keep the Equipment insured against all risks of loss or damage for an amount equal to its replacement cost. You will list us as the sole loss payee for the insurance and give us written proof of the insurance. If you do not give us such proof, we may elect to obtain insurance and you will pay us for any insurance premium and related costs, and an insurance fee on which we may earn a profit. We are not responsible for any losses or injuries caused by the Equipment and you will reimburse us and defend us against any such claims at your expense. This Indemnity will continue after the termination of this Lease. You will obtain and maintain comprehensive public liability insurance naming us as an additional insured with coverage and amounts acceptable to us.
- 5. Taxes.** You agree to pay when due, either directly or as reimbursement to us, (i.e., sales, use and personal property) taxes and charges in connection with ownership and use of the Equipment. You will indemnify us on an after-tax basis against any loss of tax benefits we anticipated at the Commencement date, which loss arises out of your acts or omissions.
- 6. CREDIT INFORMATION; FINANCIAL STATEMENTS.** YOU AUTHORIZE US OR ANY OF OUR AFFILIATES TO OBTAIN CREDIT BUREAU REPORTS, AND MAKE OTHER CREDIT INQUIRIES THAT WE DETERMINE ARE NECESSARY. You agree to provide us copies of your balance sheet, income statement and other financial reports as we may reasonably request.
- 7. End of Lease.** If you do not give written notice to us at least 60 but not more than 120 days of your election to exercise any such purchase option or to return all of the Equipment at the end of Lease term, the Lease shall automatically renew for successive three-month periods on all of the original terms of this Lease. Provided you have given timely notice, you shall return the Equipment to us at your cost, in good condition and working order in a manner and to a location designated by us or remit the purchase option price. If you fail to notify us, or if you do not (i) purchase or (ii) return the Equipment as provided herein, this Lease will automatically renew at the same payment amount for consecutive 90-day periods until you notify us at least 30 days before the end of the renewal term that you will not renew and you return the Equipment at the end of the renewal term.
- 8. Default and Remedies.** You are in default on this Lease if a) you fail to pay a Lease payment or any other amount when due; or b) You breach any other obligation under the Lease. If you are in default on the Lease we may: a) declare the entire balance of unpaid Lease payments for the Lease plus the Equipment's anticipated end of Lease fair market value or fixed price purchase option (the "Residual") with future Lease payments and the Residual discounted to the date of default at 3% per annum from the date of default; b) require that You immediately return the Equipment to us or we may peaceably repossess it. Any return or repossession will not be considered a termination or cancellation of the Lease. If the Equipment is returned or repossessed we will sell or re-lease the Equipment at terms we determine, at one or more public or private sales, with or without notice to you, and apply the net proceeds (after deducting related expenses) to your obligations. You remain liable for any deficiency with any excess being retained by us. Lessee shall reimburse Lessor for all legal and collection costs related to any default or indemnity of this lease.
- 9. Miscellaneous.** You agree the Lease is a Finance Lease as defined in Article 2A of the UCC. You acknowledge we have given you the name of the Equipment Supplier; agree that you have rights under this contract with the Supplier and may contact the Supplier for a description of these rights. This Lease shall be governed and construed in accordance with the laws of the state of our principal place of business (or in the event of an assignment of this lease, the state of the assignee's state of principal place of business) and you consent to the jurisdiction of the state and federal courts located in such state. You waive your rights to a trial by jury. You agree to waive any and all rights and remedies granted to you under Sections 2A-508 through 2A-522 of the UCC. You agree that the Equipment will be used for business purposes and not for personal, family or household use. You agree that a facsimile copy of the Lease with facsimile signatures may be treated as an original and will be admissible as evidence of the Lease. We may inspect the Equipment during the Lease term.

Lessee
 Lessee Full Legal Name : HIDALGO (COUNTY OF) TX
 DBA : Hidalgo County Judge
 Title : County Judge
 FEIN/Soc. Security :
 Phone : 956.318.2600
 Print Name of Auth. Signer :
 Lessee Signature : X Ramon Mendez Date 3/9/18

Guaranty I unconditionally guaranty prompt payment and performance of all the lessee's obligations under this Lease. The Lessor is not required to proceed against the lessee or the equipment, or to enforce other remedies before proceeding against me. I waive notice of acceptance and all other notices or demand of any kind to which I may be entitled. This is a continuing guaranty and will remain in effect in the event of my death and may be enforced by, or, for the benefit of, any assignee or successor of the Lessor. I will pay all your expenses in enforcing the Lease and/or this guaranty. I consent to any extensions or modification granted to the Lessee and the release and/or compromise of any obligations of the Lessee or any other guarantors without releasing me from my obligations. I authorize Lessor to obtain a credit bureau report on my personal credit history.
 Signature : _____
 Print Name : _____

Acceptance This lease will not be considered valid without an authorized signature below. The lease and equipment is intended for business purposes only.
 Lessor : NDS Leasing, by : _____ Title : _____ Signature : _____

NDS Leasing • 2825 Story Rd W • Irving • TX 75038-5268 • 469.574.0041 • fax 469.574.0039
 APPROVED BY
 COMMISSIONERS' COURT
 ON: 4/24/18

FILED
 AT 3:00 O'CLOCK P M
 MAY 10 2018
 ARTURO GUAJARDO, JR. COUNTY CLERK
 HIDALGO COUNTY TEXAS
 BY [Signature] DEPUTY

STATE AND LOCAL GOVERNMENT ADDENDUM
(Commercial Pricing)

THIS ADDENDUM, entered into by and between Hidalgo (County of) TX, as lessee and/or customer ("Customer") and NDS Leasing, as the lessor, equipment owner, and/or the provider of financial services to Customer ("Lessor/Owner"), amends and modifies No. _____ (the "Agreement").

BACKGROUND

- A. By the above-referenced Agreement, Lessor/Owner has agreed to extend financing to Customer upon and subject to the terms and conditions set forth in the Agreement.
- B. Lessor/Owner and Customer desire to amend the terms and conditions of the Agreement, upon and subject to the terms and conditions of this Addendum.
- C. All capitalized terms not otherwise defined herein will have the meanings set forth in the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound agree as follows with respect to the Agreement and the transaction evidenced thereby:

1. EFFECT OF ADDENDUM. To the extent of any conflict between the terms of this Addendum and the terms of the Agreement, the terms of this Addendum will prevail and control. All terms and conditions of the Agreement not modified by this Addendum shall remain in full force and effect and are hereby ratified by the parties.

2. GOVERNING LAW AND JURISDICTION. THE AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CUSTOMER'S LOCATION, AND THE PARTIES AGREE TO THE NON-EXCLUSIVE JURISDICTION AND VENUE OF THE STATE AND FEDERAL COURTS IN SUCH STATE.

3. NON-APPROPRIATION OF FUNDS. Notwithstanding any provisions of the Agreement, Customer's obligation to pay all amounts due under the Agreement, including but not limited to periodic rent payments, is contingent upon the approval of appropriation of funds by its governing body. Customer intends to remit all periodic payments and other sums when due and payable to Lessor/Owner for the full term of the Agreement (the "Term") if funds are legally available. In the event, despite Customer's good faith efforts and exhaustion of all administrative appeals, (i) Customer is not granted an appropriation of funds at any time during the Term of the Agreement for the Equipment or for other functionally similar equipment to the Equipment, and (ii) operating funds are not otherwise available to Customer to pay its obligations under the Agreement, and (iii) there is no other legal procedure or available funds by or with which payment can be made to Lessor/Owner, and (iv) the non-appropriation did not result from an act or omission by Customer, then Customer shall have the right to terminate the Agreement as of the last day of the fiscal period for which appropriations were received ("Termination Date"). At least thirty (30) days prior to the Termination Date, Customer's chief executive officer (or legal counsel) shall certify in writing that (a) funds have not been appropriated for the following fiscal period, (b) such non-appropriation did not result from any act or failure to act by Customer, and (c) Customer has exhausted all funds legally available for the payments due under the Agreement. Such termination shall be without penalty or expense to Customer, except that Customer shall remain obligated to pay any payments or sums due under the Agreement for which funds shall have been appropriated and budgeted, and Customer shall return the Equipment to Lessor/Owner on or prior to the Termination Date in accordance with the Equipment return provisions of the Agreement. If Customer terminates the Agreement because of non-appropriation of funds, Customer may not purchase, lease, or rent equipment performing functions similar to those performed by the Equipment for a period of twelve (12) months from the Termination Date. This paragraph shall not permit Customer to terminate the Agreement in order to acquire any other equipment or to allocate funds directly or indirectly to perform essentially the application for which the Equipment is intended.

4. OWNERSHIP; TAXES. Customer hereby acknowledges and agrees that Lessor/Owner will be the legal owner of the Equipment throughout the term of the Agreement, and may be assessed personal property taxes,

notwithstanding the fact that Customer may be exempt from the payment of such taxes. Consequently, Customer hereby agrees to either, at the option of Lessor/Owner: (a) reimburse Lessor/Owner annually for all personal property taxes which Lessor/Owner may be required to pay as the owner of the Equipment, or (b) remit to Lessor/Owner each month Lessor/Owner's estimate of the monthly equivalent of the annual personal property taxes to be assessed against the owner of the Equipment.

5. SPECIAL REPRESENTATIONS AND WARRANTIES OF CUSTOMER. Customer hereby represents and warrants to Lessor/Owner that as of the date of this Agreement, and throughout the Term thereof: (a) Customer is the entity indicated in the Agreement; (b) Customer is duly organized and existing under the Constitution and laws of the State in which it is located; (c) Customer is authorized to enter into and carry out its obligations under the Agreement, any documents relative to the acquisition of the Equipment and any other documents required to be delivered in connection with the Agreement (collectively, the "Documents"); (d) the Documents have been duly authorized, executed and delivered by Customer in accordance with all applicable laws, rules, ordinances, and regulations, and person(s) signing the Documents have the authority to do so, are acting with the full authorization of Customer's governing body, and hold the offices indicated below their signatures, each of which are genuine, and the Documents constitute the valid, legal, binding agreements of Customer, enforceable in accordance with their terms, (e) the Equipment is essential to the immediate performance of a governmental or proprietary function by Customer within the scope of its authority and shall be used during the Term of the Agreement only to perform such function; (f) Customer intends to use the Equipment for the entire Term and shall take all necessary action to include in its annual budget any funds required to fulfill its obligations for each fiscal year during the Term; (g) Customer has complied fully with all applicable law governing open meetings, public bidding and appropriations required in connection with the Agreement and the Equipment; (h) Customer's obligation to remit all amounts due and payable under the Agreement constitutes a current expense and not a debt under applicable state law, no provision of the Agreement constitutes a pledge of Customer's tax or general revenues, and any provision which is so construed by a court of competent jurisdiction is void from the inception of the Agreement; (i) all amounts due and to become due during Customer's current fiscal year are within the fiscal budget of such year, and are included within an unrestricted and unencumbered appropriation currently available for the use of the Equipment; (j) all financial information Customer has provided to Lessor/Owner is true and accurate and provides a good representation of Customer's financial condition; (k) no event of non-appropriation, as described herein, has occurred and it is not presently known that any such event will occur under any lease or other contract by which Customer is bound; and (l) If requested by Lessor/Owner, Customer will execute and deliver to Lessor/Owner in connection with the Agreement, a certificate of resolution and incumbency and/or an opinion of counsel in form and substance satisfactory to Lessor/Owner.

6. LIMITATIONS. The parties intend that the collection of any damages, the exercise of any remedy, the enforceability of any indemnity, and any requirements of Customer relative to non-appropriation set forth in the Agreement or in this Addendum are subject to any limitations imposed by applicable law.

7. EFFECTIVENESS OF ADDENDUM. This Addendum is incorporated into and made a part of the Agreement, effective as of the same day as the Agreement. This Addendum and the Agreement together constitute the entire agreement of the parties with respect to the subject matter hereof and thereof. All terms and conditions of the Agreement not expressly modified hereby remain in full force and are hereby ratified by the parties.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Addendum effective as of the effective date set forth above.

Hidalgo (County of) TX
Customer

NDS Leasing
Lessor/Owner

BY: Ramon Garcia
NAME: Ramon Garcia
TITLE: County Judge

BY: _____
NAME: _____
TITLE: _____

Approved by Commissioners' Court
on 4/24/18 BAS



FILED
AT 3:00 O'CLOCK P M
MAY 10 2018
ARTHUR GUERRERO, JR. COUNTY CLERK
HIDALGO COUNTY TEXAS

SLG

Lease with Maintenance Agreement

EQUIPMENT		
Equipment MFG Model & Description <u>TASK ALFA 3252ci</u>	Serial Number	Accessories
<input type="checkbox"/> See attached schedule for additional Equipment / Accessories		
Billing Address: <u>106 East Caro Ste-2 (Hidalgo County Judge)</u>		
Equipment Location: <u>SAME AS ABOVE</u>		

SUPPLIER	TRANSACTION TERMS
NDS Leasing 2825 Story Rd. Irving, TX 75038	Purchase Option: Fair Market Value Term: <u>36</u> (months)
	Lease Payment: \$ <u>216.21</u> (plus applicable taxes) Billing Period: Monthly
	Supplier Fuel/Freight Fee \$ <u>0</u> (Not to exceed \$75.00 per month)
	The following additional payments are due on the date this Lease is signed by you: Advance Payment: \$ <u>0</u> (plus applicable taxes) Applied to: <input type="checkbox"/> First <input type="checkbox"/> Last
	Document Fee: \$75.00 (included on first invoice)

YOU HAVE SELECTED THE EQUIPMENT. THE SUPPLIER AND ITS REPRESENTATIVES ARE NOT AGENTS OF ANY ASSIGNEE OF LESSOR OR ANY ASSIGNEE OF LESSOR AND ARE NOT AUTHORIZED TO MODIFY THE TERMS OF THIS LEASE. YOU ARE AWARE OF THE NAME OF THE MANUFACTURER OF EACH ITEM OF EQUIPMENT AND YOU WILL CONTACT EACH MANUFACTURER FOR A DESCRIPTION OF YOUR WARRANTY RIGHTS. WE MAKE NO WARRANTIES TO YOU, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY OR OTHERWISE. WE PROVIDE THE EQUIPMENT TO YOU AS-IS. YOU AGREE TO USE THE EQUIPMENT ONLY IN THE LAWFUL CONDUCT OF YOUR BUSINESS, AND NOT FOR PERSONAL, HOUSEHOLD OR FAMILY PURPOSES. WE SHALL NOT BE LIABLE FOR CONSEQUENTIAL OR SPECIAL DAMAGES. WE MAKE NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE LEGAL, TAX OR ACCOUNTING TREATMENT OF THIS LEASE AND YOU ACKNOWLEDGE THAT WE ARE AN INDEPENDENT CONTRACTOR AND NOT A FIDUCIARY OF LESSEE. YOU WILL OBTAIN YOUR OWN LEGAL, TAX AND ACCOUNTING ADVICE RELATED TO THIS LEASE AND WILL MAKE YOUR OWN DETERMINATION OF THE PROPER LEASE TERM FOR ACCOUNTING PURPOSES.

EXCEPT TO THE EXTENT PROVIDED IN SECTION 2, YOUR PAYMENT OBLIGATIONS ARE ABSOLUTE AND UNCONDITIONAL AND ARE NOT SUBJECT TO CANCELLATION, REDUCTION OR SETOFF FOR ANY REASON WHATSOEVER. BOTH PARTIES AGREE TO WAIVE ALL RIGHTS TO A JURY TRIAL. THIS LEASE SHALL BE DEEMED FULLY EXECUTED AND PERFORMED IN THE STATE OF LESSEE'S PRINCIPAL PLACE OF BUSINESS AND SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH SUCH LAWS.

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. WHAT THIS MEANS TO YOU: WHEN YOU OPEN AN ACCOUNT, WE WILL ASK FOR YOUR NAME, ADDRESS AND OTHER INFORMATION THAT WILL ALLOW US TO IDENTIFY YOU. WE MAY ALSO ASK TO SEE IDENTIFYING DOCUMENTS.

BY SIGNING THIS LEASE, YOU ACKNOWLEDGE RECEIPT OF PAGES 1 AND 2 OF THIS LEASE, AND AGREE TO THE TERMS ON BOTH PAGES 1 AND 2. ORAL AGREEMENTS OR COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE. TO PROTECT YOU AND US FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS WE REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS WRITING, WHICH IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN US, EXCEPT AS WE MAY LATER AGREE IN WRITING TO MODIFY IT.

TERMS AND CONDITIONS

- COMMENCEMENT OF LEASE.** Commencement of this Lease and acceptance of the Equipment shall occur upon delivery of the Equipment to you ("Commencement Date"). To the extent that the Equipment includes intangible property or associated services such as periodic software licenses and prepaid database subscription rights, such intangible property shall be referred to as "Software". You understand and agree that we have no right, title or interest in the Software and you will comply throughout the Term of this Lease with any license and/or other agreement ("Software License") entered into with the supplier of the Software ("Software Supplier"). You are responsible for entering into any Software License with the Software Supplier no later than the Commencement Date of this Lease. You agree to inspect the Equipment upon delivery and verify by telephone or in writing such information as we may require. If you signed a purchase order or similar agreement for the purchase of the Equipment, by signing this Lease you assign to us all of your rights, but none of your obligations under it. All attachments, accessories, replacements, replacement parts, substitutions, additions and repairs to the Equipment shall form part of the Equipment under this Lease.
- LEASE PAYMENTS.** You agree to remit to us the Lease Payment and all other sums when due and payable each Billing Period at the address we provide to you from time to time. You agree that you will remit payments to us in the form of company checks (or personal checks in the case of sole proprietorships), direct debit or wires only. You also agree cash and cash equivalents are not acceptable forms of payment for this Lease and that you will not remit such forms of payment to us. Payment in any other form may delay processing or be returned to you. Furthermore, only you or your authorized agent as approved by us will remit payments to us. Lease Payments will include any freight, delivery, installation and other expenses we finance on your behalf at your request. You agree that after the first twelve (12) months of the Term (or any extension or renewal of this Lease, and at the end of each following twelve (12) month period thereafter, the Lease Payments may be increased by an amount equal to the lesser of: (a) up to 15% of the Lease Payments in effect at the end of the prior twelve (12) month period; or (b) the maximum amount permitted by applicable law. Lease Payments are due whether or not you receive an invoice. You authorize us to adjust the Lease Payments by not more than 15% to reflect any reconfiguration of the Equipment or adjustments to reflect applicable sales taxes or the cost of the Equipment by the manufacturer and/or Supplier.
- NON-APPROPRIATION OF FUNDS.** You intend to remit to us all Lease Payments and other payments for the full Term if funds are legally available. In the event you are not granted an appropriation of funds at any time during the Term for the Equipment or for equipment which is functionally similar to the Equipment and operating funds are not otherwise available to you to pay Lease Payments and other payments due and to become due under this Lease, and there is no other legal procedure or available funds by or with which payment can be made to us, and the non-appropriation did not result from an act or omission by you, you shall have the right to return the Equipment in accordance with Section 11 of this Lease and terminate this Lease on the last day of the fiscal period for which appropriations were received without penalty or expense to you, except as to the portion of the Lease Payments for which funds shall have been appropriated and budgeted. At least thirty (30) days prior to the end of your fiscal period, your chief executive officer (or legal counsel) shall certify in writing that: (a) funds have not been appropriated for the fiscal period; (b) such non-appropriation did not result from any act or failure to act by you; and (c) you have exhausted all funds legally available to pay Lease Payments. If you terminate this Lease because of a non-appropriation of funds, you may not purchase, lease or rent, during the subsequent fiscal period, equipment performing the same functions as, or functions taking the place of, those performed by the Equipment provided, however, that these restrictions shall not be applicable if or to the extent that the application of these restrictions would affect the validity of this Lease. This Section 2 shall not permit you to terminate this Lease in order to acquire any other Equipment or to allocate funds directly or indirectly to perform essentially the application for which the Equipment is intended.
- LEASE CHARGES.** You agree to: (a) pay all costs and expenses associated with the use, maintenance, servicing, repair or replacement of the Equipment; (b) pay all fees, assessments, taxes and charges governmentally imposed upon Lessor's purchase, ownership, possession, leasing, renting, operation, control or use of the Equipment and pay all premiums and other costs of insuring the Equipment; (c) reimburse

Continued on page 2

LESSOR ("We", "Us")	LESSEE ("You")
NDS Leasing	<u>Hidalgo County TX</u> (Lessee Full Legal Name)
By: X _____	By: X <u>Ramon Garcia</u>
Name: _____	Name: <u>Ramon Garcia</u> Title: <u>County Judge</u>
Title: _____ Date: _____	Date: <u>5/9/18</u> Federal Tax ID: _____

APPROVED BY
COMMISSIONERS' COURT
ON: 4/24/18 *mg*

us for all costs and expenses incurred in enforcing this Lease; and (d) pay all other costs and expenses for which you are obligated under this Lease (1a) through (d) collectively referred to as "Lease Charges"). NOTWITHSTANDING THE FACT THAT YOU MAY BE EXEMPT FROM THE PAYMENT OF PERSONAL PROPERTY TAXES, you acknowledge that as owner of the Equipment, we may be required to pay personal property taxes, and you agree, at our discretion, to either: (1) reimburse us for all personal property and other similar taxes and governmental charges associated with the ownership, possession or use of the Equipment when billed by the jurisdictions; or (2) remit to us each Billing Period our estimate of the pro-rated equivalent of such taxes and governmental charges. In the event that the Billing Period sums include a separately stated estimate of personal property and other similar taxes, you acknowledge and agree that such amount represents our estimate of such taxes that will be payable with respect to the Equipment during the Term. As compensation for our internal and external costs in the administration of taxes related to each unit of Equipment, you agree to pay us a "Tax Administrative Fee" equal to \$12 per unit of Equipment per year during the Term, not to exceed the maximum permitted by applicable law. The Tax Administrative Fee, at our sole discretion, may be increased by an amount not exceeding 10% thereof for each subsequent year of the Term to reflect our increased cost of administration and we will notify you of any such increase by indicating such increased amount in the relevant invoice or in such other manner as we may deem appropriate. We may take on your behalf any action required under this Lease which you fail to take, and upon receipt of our invoice you will promptly pay our costs (including insurance premiums and other payments to affiliates), plus reasonable processing fees. Restrictive endorsements on checks you send to us will not reduce your obligations to us. We may charge you a return check or non-sufficient funds charge of \$25 for any check which is returned by the bank for any reason (not to exceed the maximum amount permitted by law). You agree to pay a monthly Fuel/Freight Fee, specified on page 1 of this Lease, which will be remitted by us to the Supplier. If you have a dispute with the Supplier regarding the Equipment or any service, repair or maintenance of the Equipment (including, without limitation, any Equipment designated "Service Only"), you shall continue to pay the Lease Payment without deduction or withholding of any amounts.

4. **LATE CHARGES.** For any payment which is not received within three (3) days of its due date, you agree to pay a late charge not to exceed the higher of 10% of the amount due or \$35 (not to exceed the maximum amount permitted by law) as reasonable collection costs.

5. **OWNERSHIP, USE, MAINTENANCE AND REPAIR.** We own the Equipment and you have the right to use the Equipment under the terms of this Lease. If this Lease is deemed to be a secured transaction, you grant us a first priority security interest in the Equipment to secure all of your obligations under this Lease. We hereby assign to you all our rights under any manufacturer and/or supplier warranties, so long as you are not in default hereunder. You must keep the Equipment free of liens. You may not remove the Equipment from the address indicated on page 1 of this Lease without first obtaining our approval. You agree to: (a) keep the Equipment in your exclusive control and possession; (b) use the Equipment in conformity with all insurance requirements, manufacturer's instructions and manuals; (c) keep the Equipment repaired and maintained in good working order and as required by the manufacturer's warranty, certification and standard full service maintenance contract; and (d) give us reasonable access to inspect the Equipment and its maintenance and other records.

The Supplier identified on page 1 of this Lease has agreed to provide FULL SERVICE MAINTENANCE DURING NORMAL BUSINESS HOURS, INCLUDING ALL TONER, DEVELOPER AND PARTS NECESSARY TO PRODUCE COPIES. YOU MUST PURCHASE PAPER AND STAPLES SEPARATELY. You acknowledge that: (a) the Supplier is solely responsible for all service maintenance of the Equipment set forth herein; (b) in the event that we assign this Lease, our assignee (1) shall not be responsible for any service, repair or maintenance of the Equipment, and (2) we will bill (on a pass through basis) on behalf of Supplier that portion of the Lease Payment attributable to service maintenance of the Equipment, whether "Service Only" or not; and (c) no assignee of us shall be a party to any service maintenance agreement. You agree to pay for service maintenance outside of the Supplier's normal business hours for service required by your negligence or misuse of the Equipment at Supplier's customary rates. If any Equipment is designated "Service Only", you acknowledge and agree that: (1) Lessor does not own such Equipment; (2) Lessor is not providing such Equipment to you pursuant to the terms of this Agreement; (3) Supplier has agreed to provide full service, maintenance of such Equipment pursuant to the terms above; and (4) the portion of the Lease Payment which relates to such Equipment includes only the full service maintenance of such Equipment and not the use or rental of such Equipment.

6. **INDEMNITY.** You are responsible for all losses, damages, claims, infringement claims, injuries and attorneys' fees and costs, including, without limitation, those incurred in connection with responding to subpoenas, third party or otherwise ("Claims"), incurred or asserted by any person, in any manner relating to the Equipment, including its use, condition or possession. You agree to defend and indemnify us against all Claims, although we reserve the right to control the defense and to select or approve defense counsel. This indemnity continues beyond the termination of this Lease for acts or omissions which occurred during the Term of this Lease. You also agree that this Lease has been entered into on the assumption that we are the owner of the Equipment for U.S. federal income tax purposes and will be entitled to certain U.S. federal income tax benefits available to the owner of the Equipment. You agree to indemnify us for the loss of any U.S. federal income tax benefits resulting from the failure of any assumptions in this Lease to be correct or caused by your acts or omissions inconsistent with such assumption or this Lease. In the event of any such loss, we may increase the Lease Payments and other amounts due to offset any such adverse effect.

7. **LOSS OR DAMAGE.** If any item of Equipment is lost, stolen or damaged you will, at your option and cost, either: (a) repair the item or replace the item with a comparable item reasonably acceptable to us; or (b) pay us the sum of: (i) all past due and current Lease Payments and Lease Charges; (ii) the present value of all remaining Lease Payments and Lease Charges for the effected item(s) of Equipment, discounted at the rate of 6% per annum (or the lowest rate permitted by law, whichever is higher); and (iii) the Fair Market Value of the effected item(s) of Equipment. We will then transfer to you all our right, title and interest in the effected item(s) of Equipment AS-IS AND WHERE-IS, WITHOUT ANY WARRANTY AS TO CONDITION, TITLE OR VALUE. Insurance proceeds shall be applied toward repair, replacement or payment hereunder, as applicable. In this Lease, "Fair Market Value" of the Equipment means its fair market value at the end of the Term, assuming good order and condition (except for ordinary wear and tear from normal use), as estimated by us. No such loss or damage shall relieve you of your payment obligations under this Lease.

8. **INSURANCE.** You agree, at your cost, to: (a) keep the Equipment insured against all risks of physical loss or damage for its full replacement value, naming us as loss payee; and (b) maintain public liability insurance, covering personal injury and Equipment damage for not less than \$300,000 per occurrence, naming us as additional insured. The policy must be issued by an insurance carrier acceptable to us, must provide us with not less than 15 days' prior written notice of cancellation, non-renewal or amendment, and must provide deductible amounts acceptable to us. If you do not provide insurance, we have the right, but no obligation, to obtain insurance covering our interest (and only our interest) in the Equipment for the Lease Term and any renewals. Any insurance we obtain will not insure you against third party or liability claims and may be cancelled at any time. In the event that we elect to obtain such insurance, you will be required to pay us an additional amount each Billing Period for the cost of such insurance and an administrative fee, the cost of which insurance and administrative fee may be more than the cost to obtain your own insurance on which we may make a profit.

9. **DEFAULT.** You will be in default under this Lease if: (a) you fail to remit to us any payment within ten (10) days of the due date or breach any other obligation under this Lease; (b) a petition is filed by or against you or any guarantor under any bankruptcy or insolvency law; or (c) any representation made by you is false or misleading in any material respect; (d) you become insolvent, are liquidated or dissolved, merge, transfer a material portion of your ownership interest or assets, stop doing business, or assign rights or property for the benefit of creditors; or (e) you default under any other agreement with us or our assignees.

10. **REMEDIES.** If you default, we may do one or more of the following: (a) recover from you, AS LIQUIDATED DAMAGES FOR LOSS OF BARGAIN AND NOT AS A PENALTY, the sum of: (i) all past due and current Lease Payments and Lease Charges; (ii) the present value of all remaining Lease Payments and Lease Charges, discounted at the rate of 6% per annum (or the lowest rate permitted by law, whichever is higher); and (iii) the Fair Market Value of the Equipment; (b) declare any other agreements between us in default; (c) require you to return all of the Equipment in the manner outlined in Section 12, or take possession of the Equipment, in which case we shall not be held responsible for any losses directly or indirectly arising out of, or by reason of the presence and/or use of any and all proprietary information residing on or within the Equipment, and to lease or sell the Equipment or any portion thereof, and to apply the proceeds, less reasonable selling and administrative expenses, to the amounts due hereunder; (d) charge you interest on all amounts due us from the due date until paid at the rate of 1-1/2% per month, but in no event more than the lawful maximum rate; and (e) charge you for expenses incurred in connection with the enforcement of our remedies including, without limitation, repossession, repair and collection costs, attorneys' fees and court costs. These remedies are cumulative, are in addition to any other remedies provided for by law, and may be exercised concurrently or separately. Any failure or delay by us to exercise any right shall not operate as a waiver of any other right or future right.

11. **END OF TERM OPTIONS: RETURN OF EQUIPMENT.** At the end of the Term and upon 30 days prior written notice to us, you shall either: (a) return all, but not less than all, of the Equipment; or (b) purchase all, but not less than all, of the Equipment AS-IS AND WHERE-IS, WITHOUT ANY WARRANTY AS TO CONDITION, TITLE OR VALUE, for the Fair Market Value, plus applicable sales and other taxes. If you do not provide us with such written notice and either return all of the Equipment or purchase all of the Equipment at the end of the Term, then this Lease will automatically renew on a month-to-month basis and all of the provisions of this Lease shall continue to apply, including, without limitation, your obligations to remit Lease Payments, Lease Charges and other charges, until all of the Equipment is either returned to us (either because we demand return of the Equipment or you decide to return the Equipment) or purchased by you for the applicable Fair Market Value, plus applicable sales and other taxes, in accordance with the terms hereof. If you are in default (or a non-appropriation of funds occurs), or you do not purchase the Equipment at the end of the Term (or any month-to-month renewal term), you shall: (1) return all of the Equipment, freight and insurance prepaid at your cost and risk, to wherever we indicate in the continental United States, with all manuals and logs, in good order and condition (except for ordinary wear and tear from normal use), packed per the shipping company's specifications; and (2) securely remove all data from any and all disk drives or magnetic media prior to returning the Equipment (and you are solely responsible for selecting an appropriate removal standard that meets your business needs and complies with applicable laws). You will pay us for any loss in value resulting from the failure to maintain the Equipment in accordance with this Lease or for damages incurred in shipping and handling.

12. **ASSIGNMENT.** You may not assign or dispose of any rights or obligations under this Lease or sublease the Equipment without our prior written consent. We may, without notifying you: (a) assign all or any portion of this Lease or our interest in the Equipment; and (b) release information we have about you and this Lease to the manufacturer, Supplier or any prospective investor, participant or purchaser of this Lease. If we do make an assignment under subsection 13(a) above, our assignee will have all of our rights under this Lease, but none of our obligations. You agree not to assert against our assignee claims, offsets or defenses you may have against us.

13. **MISCELLANEOUS.** Notices must be in writing and will be deemed given five (5) days after mailing to your (or our) business address. You represent that: (a) you are the entity indicated in this Lease; (b) any documents required to be delivered in connection with this Lease (collectively, the "Documents") have been duly authorized by you in accordance with all applicable laws, rules, ordinances and regulations; (c) the Documents are valid, legal, binding agreements, enforceable with their terms and the person(s) signing the Documents have the authority to do so, are acting with the full authorization of your governing body, and hold the offices indicated below their signatures; (d) the Equipment is essential to the immediate performance of a governmental or proprietary function by you within the scope of your authority and shall be used during the Term only by you to perform such function; (e) you intend to use the Equipment for the entire Term and shall take all necessary action to include in your annual budget any funds required to fulfill your obligations each fiscal period during the Term; (f) you have complied fully with all applicable law governing open meetings, public bidding and appropriations, required in connection with this Lease and the debt under applicable state law; (g) your obligations to remit Lease Payments constitutes a current expense and not a debt under applicable state law; (h) this Lease is binding on you and your successors and assigns; and (i) all financial information you have provided is true and a reasonable representation of your financial condition. This Lease: (i) constitutes the entire agreement of the parties with respect to the subject matter thereof; (ii) supersedes all other writings, communications, understandings, agreements, purchase orders, solicitation documents (including, without limitation, any request for proposal and responses thereto and other related documents (together, the "Bid Documents")) and other representations, express or implied ("Prior Understandings"), and may not be contradicted or amended by Prior Understandings; and (iii) may be amended or modified only by written documents duly authorized, executed and delivered by the parties. This Lease is binding on you and your successors and assigns. All financial information you have provided is true and a reasonable representation of your financial condition. You authorize us, our agent or our assignee to: (a) obtain credit reports and make credit inquiries; (b) furnish your information, including credit application, payment history and account information, to credit reporting agencies and our assignees, potential purchasers or investors and parties having an economic interest in this Lease or the Equipment, including, without limitation, the seller, Supplier or any manufacturer of the Equipment; and (c) you irrevocably grant us the power to prepare, sign on your behalf (if applicable), and file, electronically or otherwise Uniform Commercial Code ("UCC") financing statements and any amendments thereto or continuation thereof relating to the Equipment, and containing any other information required by the applicable UCC. Any claim you have against us must be made within two (2) years after the event which caused it. If a court finds any provision of this Lease to be unenforceable, all other terms shall remain in effect and enforceable. You authorize us to insert or correct missing information on this Lease, including your proper legal name, serial numbers and any other information describing the Equipment. If you so request, and we permit the early termination of this Lease, you agree to pay a fee for such privilege. THE PARTIES INTEND THIS TO BE A "FINANCE LEASE" UNDER ARTICLE 2A OF THE UCC. YOU WAIVE ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A OF THE UCC. YOU FURTHER HEREBY ACKNOWLEDGE AND AGREE THAT WE AND/OR SUPPLIER MAY MAKE A PROFIT ON ANY AND ALL FEES REFERENCED HEREIN AND, IN SO DOING WAIVE ANY AND ALL CLAIM WHICH YOU MAY HAVE FOR UNJUST ENRICHMENT. We may receive compensation from the manufacturer and/or Supplier of the Equipment in order to enable us to reduce the cost of this Lease below what we otherwise would charge. If we received such compensation, the reduction in the cost of this Lease is reflected in the Lease Payment.

14. **ELECTRONIC TRANSMISSION OF DOCUMENTATION.** This Lease may be executed in counterparts. The executed counterpart which has our original signature and/or is in our possession shall constitute chattel paper as that term is defined in the UCC and shall constitute the original agreement for all purposes, including, without limitation: (i) any hearing, trial or proceeding with respect to this Lease; and (ii) any determination as to which version of this Lease constitutes the single true original item of chattel paper under the UCC. If you sign and transmit this Lease to us by facsimile or other electronic transmission, the transmitted copy shall be binding upon the parties. You agree that the facsimile or other similar electronic transmission of this Lease manually signed by us, when attached to the facsimile or other electronic copy signed by you, shall constitute the original agreement for all purposes. The parties further agree that, for purposes of executing this Lease, and subject to our prior approval and at our sole discretion: (a) a document signed and transmitted by facsimile or other electronic transmission shall be treated as an original document; (b) the signature of any party on such document shall be considered as an original signature; (c) the document transmitted shall have the same effect as a counterpart thereof containing original signature; and (d) at our request, you, who executed this Lease and transmitted its signature by facsimile or other electronic transmission shall provide the counterpart of this Lease containing your original manual signature to us. No party may raise as a defense to the enforcement of this Lease that a facsimile or other electronic transmission was used to transmit any signature of a party to this Lease.

10. Purchasing Dept - Notes:
- A. FOR ANY CONTRACTS(S) AWARDED AND APPROVED UNDER THIS AGENDA, EXECUTED COPIES OF THE CONTRACT(S) WILL BE AVAILABLE ON THE COUNTY INTRA-NET WEBSITE AND WILL BE FORWARDED VIA E-MAIL, FAX OR HAND DELIVERED TO HIDALGO COUNTY AUDITOR'S OFFICE.
 - B. ANY AND ALL REQUESTS FOR PAYMENT(S) APPROVED WILL BE SUBJECT TO COUNTY AUDITORS PROCESSING PROCEDURES INCLUDING AUTHORITY FOR COUNTY TREASURER TO ISSUE PAYMENT(S)/CHECK(S).

- A. **AI-64021** Treasurer's:
 - 1. Requesting approval of the equipment purchase agreement to upgrade the existing Security Monitoring System in the amount of \$ 330.00.
 - 2. Requesting approval to enter into a 36 month Commercial Alarm Monitoring Agreement in the amount of \$360.00 per year commencing 6/1/18 with Superior Alarms thru [awarded vendor Buyboard co-op contract# 493-15], with authority for County Judge to execute agreements, for the following location: 2802 S. Closser Edinburg, Texas. Subject to compliance with all required/statutory documentation.

- B. **AI-64632** Pursuant to Hidalgo County's Existing Elected Official Expenditure Policy, requesting approval of REQ# 370838 with B2Z Engineering, LLC in the amount of \$314,965.00 for the engineering services required to proceed with Tex-Mex Road.

- C. **AI-64612** County Court at Law # 5:
Requesting approval to enter into a 36 month service maintenance and supplies agreement for their (1) county owned copier model #SP4510DN through vendor Ricoh USA/GE Ricoh USA contract DIR-TSO-3041.

- D. **AI-64416** Acceptance and approval to exercise the County's option to utilize the first (1st) [of two (2) one year renewal options allowed] under contract C-17-059-07-11-[with same rates, terms and conditions] with vendor, CTC Distributing, Ltd. for the provision of "Off Premises Record Storage, Pick-up, Retrieval Delivery and Shredding Services" effective 08-~~11~~-18 through 08-~~12~~-19.

8/2/18 8/01/19

- E. **AI-64481** Requesting authority to advertise and approval of procurement packet (i.e. specifications/requirements, legal notice, draft requirement agreement, etc.) as attached hereto for: Hidalgo County "Hot Mix-Cold Laid" - RFB No.: 2018-101-00-00-FAZ, including re-advertising if/when necessary and/or required.

- F. **AI-64443** Requesting authority to advertise and approval of procurement packet (i.e. specifications/requirements, legal notice, draft requirement agreement, etc.) as attached hereto for Hidalgo County-"Hauling Service of All Road Materials" - RFB No.: 2018-105-00-00-TDL, including the re-advertisement if and when required.

- G. **AI-64479** Requesting approval to enter into a 36 month copier lease for County Judge's Office.

REQ#	Vendor	Lease Length	Model	Monthly Payment
00369534	Kyocera Document Solutions America, Inc.	36 months	TASKalfa 3252ci	\$216.21