

AA1372

SPECIAL SESSION- Sept. 7, 1942

Be it remembered that on the 7th. day of September, 1942, the Commissioners Court met in Special Session at the Court House in Mt. Pleasant, Texas, with the following members present to-wit:

- Ed Dickson, County Judge
- T. L. Garrett Comm. Preet. #1
- C. N. Goodwin Comm. Preet. #4

and the following proceedings were had to-wit:

IN THE MATTER OF LEASING MAINTAINERS TO AUSTIN BRIDGE COMPANY & AUSTIN ROAD COMPANY

AUSTIN BRIDGE COMPANY  
AND  
AUSTIN ROAD COMPANY

General Contractors for  
LONE STAR STEEL COMPANY  
acting for and on behalf of  
DEFENSE PLANT CORPORATION  
Plant No. 763

Contract No. 37  
Field No. EC-6

EQUIPMENT RENTAL AGREEMENT

THIS AGREEMENT, entered into this 7th. day of September, 1942, between The Commissioners Court of Titus County of the City of Mt. Pleasant in the State of Texas hereinafter called the lessor, and the AUSTIN BRIDGE COMPANY AND AUSTIN ROAD COMPANY, corporations, as joint contractors, organized and existing under the laws of the State of Texas, of the City of Dallas in the State of Texas, hereinafter called the lessee.

WHEREAS, the Lessee has heretofore, to-wit: On the 30th day of July, 1942, entered into a contract with the Lone Star Steel Company, acting for and on behalf of the Defense Plant Corporation, to construct certain works to aid the Government of the United States in its National Defense Program, at or near Daingerfield, Texas.

WHEREAS, the Lessor has read and is familiar with each and every part of said principal contract, and the respective rights, powers, benefits and liabilities of the Lessee and Defense Plant Corporation.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That the parties hereto do mutually agree as follows ;

ARTICLE I

The Lessor shall furnish the equipment listed on Schedule "A" attached hereto and made a part hereof. Equipment shall be in a condition to render efficient, economic, and continuous service. Each piece of equipment shall be clearly marked with identification number as shown on this contract.

ARTICLE II.

All repairs except those resulting from defective workmanship or material used in the construction of the equipment, found to be necessary after acceptance of the equipment at the site of the work, shall be made by the lessee. All fuel and lubricants for the operation of such equipment shall be furnished by the Lessee.

## ARTICLE III

Equipment is rented without operators. Any operator deemed incompetent by the Lessor and the Lessee shall be removed from any piece of equipment. Should the Lessor and the Lessee fail to agree as to the competency of any operator the matter shall be submitted to the Supervising Engineer of the Defense Plant Corporation and his decision shall be final as to the parties hereto.

## ARTICLE IV.

The Lessor shall initiate shipment of the equipment to the site of the work immediately. It is estimated that the equipment will be used for approximately 100 working days, but the Lessee reserves the right to increase or decrease the rental period.

## ARTICLE V.

A. The Lessor shall be paid at the rate prescribed in Schedule "A". The rental period shall begin on Delivery of such equipment to a common carrier for shipment to the site of the work, as evidenced by Bill of Lading, or other satisfactory evidence covering such shipments. In the event the machinery or equipment, or parts thereof, are transported by means other than common carrier, the rental shall start at the time transportation to the site of the work begins, but shall not exceed the equivalent time of shipping by a common carrier. If such equipment is not in sound and workable condition when it arrives at the site of the work, the rental therefor shall not begin until such machinery or equipment shall have been placed in sound and workable condition at the expense of the Lessor, and no rental therefor shall be paid for any prior period. If such equipment cannot be placed in sound and workable condition, no transportation charges for the shipment thereof shall be paid by the Lessee. Determination as to whether such machinery or equipment is in sound and workable condition shall in every instance be made by the Supervising Engineer of the Defense Plant Corporation or his duly authorized representative. Delays in the use of such equipment caused by necessary minor or field repairs and replacements shall not interrupt the rental period, but no rental shall be paid for the period of any delay in the use of such machinery or equipment caused by major field repairs. The rental period shall cease on the date when the construction equipment is no longer needed for the efficient and economical prosecution of the work, at which time the Lessor shall be notified in writing.

B. Transportation will be paid by the Lessee f.o.b. cars at original point of shipment and return transportation f.o.b. cars to original point of shipment or equivalent mileage.

C. The Lessor shall not be required to pay for damages incurred to said equipment while in transit.

## ARTICLE VI.

In the event the rental paid by the Lessee to the Lessor for any item of equipment equals seventy-five per cent (75%) of the replacement value thereof, as determined by Lessee, SUCH items of equipment shall be used by the Lessee in the performance of the construction work without further payment of rental by Lessee. It is expressly understood and agreed that the title of such equipment shall remain in the name of the lessor.

## ARTICLE VII.

The Lessee agrees to properly care for and protect the above equipment and to place it in the charge of a competent engineer or operator and to return it to Lessor in as good condition as when received, less natural wear, and pay for all parts damaged or missing.

AA1372

ARTICLE VIII.

Whenever the Lessor and the Lessee are unable to agree on any question arising under this contract, the dispute shall be submitted to the Supervising Engineer of Defense Plant Corporation for determination.

ARTICLE IX.

The Lessor agrees to apply to the liquidating of all indebtedness incurred by liens or other encumbrances against equipment rented under this agreement, such portion of the rental paid as is necessary for the prompt discharge of such indebtedness. It is agreed that if, at any time, any person holding a lien or other encumbrance against any piece of equipment rented under this agreement shall submit to Lessee evidence that the Lessor is not discharging his indebtedness to such holder of a lien or encumbrance in accordance with the written terms under which such indebtedness was incurred, the Lessee shall have the right to impound all further rental due or to become due until such time as the rights of the Lessor and the lien holder are determined and all just and proper claims of the lien holder are satisfied, provided that nothing in this article shall be construed as requiring the Lessor to pay to the lien holder any sum not required to be paid by the terms under which the indebtedness was incurred, or to pay any sum to the lien holder, provided further that no rentals due the Lessor shall be impounded under the provisions of this article, unless written notice of the Lessee's intention to impound the rental shall have been given to the Lessor at least seventy-two (72) hours prior to the time rentals shall be impounded.

ARTICLE X.

This contract shall be subject to the written approval of the Supervising Engineer of Defense Plant Corporation and shall not be binding until so approved.

ARTICLE XII.

The following changes were made in this agreement before it was signed by the parties hereto:

SCHEDULE "A"

Part I- Rates of Rental

The basic rental rates shown on this schedule are monthly rates and shall constitute the maximum rental payable during any one calendar month, regardless of the number of days in any month, except as provided herein. If any piece of equipment is in actual use in excess of 240 during any one calendar month there shall be paid, in addition to the basic rate, one-half of the hourly rate for each hour in excess of 240 during which the equipment is in actual use during any one calendar month. The hourly rate shall be computed by dividing the basic rate by 240.

Part II- Description of Equipment.

|   |   |
|---|---|
| Type of Equipment: Motor Grader, Adams, Tandem Drive, 12-ft blade | Motor No. Internationas Gas Motor, 6 Cyl. |
| Year and/or Model Model No. 50                                    | License No. None                          |
| Serial No. 528  | Rental \$400.00 per month.                |
| Valuation \$4,650.00  |   |

IN WITNESS WHEREOF, said parties have hereunto set their hands and seals on the day and year first above written;

WITNESS: T. L. Garrett  
C. N. Goodwin.

THE COMMISSIONERS COURT OF TITUS COUNTY.  
Lessor

By Ed Dickson, Titus, County Judge

WITNESS: L. W. Cleckler  
Bill Moore

AUSTIN BRIDGE COMPANY and  
AUSTIN ROAD COMPANY  
(Lessee)  
By C. E. Zigenbein  
Title: Chief Engineer

approved for:  
DEFENSE PLANT CORPORATION:  
By Alfred B. Carson  
Title: Supervising Engineer

Approved for:  
Lone Star Steel Company  
By Allen Gano 9/14/42  
Title: Field Auditor

- - - ( ) - - -

AUSTIN BRIDGE COMPANY  
and  
AUSTIN ROAD COMPANY  
General Contractors for  
acting for and on behalf of  
DEFENSE PLANT CORPORATION  
Plancor 763

Contract No. 36  
Field No. R2-5

EQUIPMENT RENTAL AGREEMENT

THIS AGREEMENT, entered into this 7th. day of September, 1942, between the Commissioners Court of Tarrant County of the City of Ft. Worth in the State of Texas hereinafter called the Lessor, and the AUSTIN BRIDGE COMPANY AND AUSTIN ROAD COMPANY, corporations, as joint contractors organized and existing under the laws of the State of Texas, of the City of Dallas in the State of Texas, hereinafter called the Lessee.

WHEREAS, the Lessee has heretofore, to-wit: on the 30th. day of July, 1942, entered into a contract with the Lone Star Steel Company, acting for and on behalf of the Defense Plant Corporation, to construct certain works to aid the Government of the United States in its National Defense Program, at or near Daingerfield, Texas.

WHEREAS, the lessor has read and is familiar with each and every part of said principal contract and the respective rights, powers, benefits and liabilities of the Lessee and Defense Plant Corporation.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That the parties hereto do mutually agree as follows:

ARTICLE I

The lessor shall furnish the equipment listed on Schedule "A" attached hereto and made apart hereof. Equipment shall be in a condition to render efficient, economic, and continuous service. Each piece of equipment shall be clearly marked with identification number as shown on this contract.

ARTICLE II.

All repairs except those resulting from defective workmanship or material used in the construction of the equipment, found to be necessary after acceptance of the equipment at the site of the work, shall be made by the Lessee. All fuel and lubricants for the operation of such equipment shall be furnished by the Lessee.

ARTICLE III.

Equipment is rented without operators. Any operator deemed incompetent by the Lessor and the Lessee shall be removed from any piece of equipment. Should the Lessor and the Lessee fail to agree as to the competency of any operator the matter shall be submitted to the Supervising Engineer of the Defense Plant Corporation and his decision shall be final as to the parties hereto.

## ARTICLE IV.

The Lessor shall initiate shipment of the equipment to the site of the work immediately. It is estimated that the equipment will be used for approximately 100 working days, but the Lessee reserves the right to increase or decrease the rental period.

## ARTICLE V.

- A. The Lessor shall be paid at the rate prescribed in Schedule "A". The rental period shall begin on delivery of such equipment to a common carrier for shipment to the site of the work, as evidenced by Bill of Lading or other satisfactory evidence covering such shipment. In the event the machinery or equipment, or parts thereof, are transported by means other than common carrier, the rental shall start at the time transportation to the site of the work begins, but shall not exceed the equivalent time of shipping by a common carrier. If such equipment is not in sound and workable condition when it arrives at the site of the work, the rental therefor shall not begin until such machinery or equipment shall have been placed in sound and workable condition at the expense of the lessor, and no rental therefor shall be paid for any prior period. If such equipment cannot be placed in sound and workable condition, no transportation charges for the shipment thereof shall be paid by the Lessee. Determination as to whether such machinery or equipment is in sound and workable condition shall in every instance be made by the Supervising Engineer of the Defense Plant Corporation or his duly authorized representative. Delays in the use of such equipment caused by necessary minor or field repairs and replacements shall not interrupt the rental period, but no rental shall be paid for the period of any delay in the use of such machinery or equipment caused by major field repairs. The rental period shall cease on the date when the construction equipment is no longer needed for the efficient and economical prosecution of the work, at which time the Lessor shall be notified in writing.
- B. Transportation will be paid by the Lessee f.o.b. cars at original point of shipment and return transportation, f.o.b. cars to original point of shipment or equivalent mileage.
- C. The Lessor shall not be required to pay for damages incurred to said equipment while in transit.

## ARTICLE VI.

In the event the rental paid by the Lessee to the Lessor for any item of equipment equals seventy five per cent (75%) of the replacement value thereof, as determined by Lessee, such items of equipment shall be used by the Lessee in the performance of the construction work without further payment of rental by lessee. It is expressly understood and agreed that the title of such equipment shall remain in the name of the Lessor.

## ARTICLE VII

The Lessee agrees to properly care for and protect the above equipment and to place it in the charge of a competent engineer or operator and to return it to Lessor in as good condition as when received, less natural wear, and pay for all parts damaged or missing.

## ARTICLE VIII

Whenever the Lessor and the Lessee are unable to agree on any question arising under this contract, the dispute shall be submitted to the Supervising Engineer of Defense Plant Corporation for determination.

## ARTICLE IX

The Lessor agrees to apply to the liquidating of all indebtedness incurred by liens or

AA1372

other encumbrances against equipment rented under this agreement, such portion of the rental paid as is necessary for the prompt discharge of such indebtedness. It is agreed that if, at any time, any person holding a lien or other encumbrance against any piece of equipment rented under this agreement, shall submit to Lessee evidence that the Lessor is not discharging his indebtedness to such holder of a lien or encumbrance in accordance with the written terms under which such indebtedness was incurred; the lessee shall have the right to impound all further rental due or to become due until such time as the rights of the lessor and the lien holder are determined and all just and proper claims of the lien holder are satisfied, provided that nothing in this article shall be construed as requiring the Lessor to pay to the lien holder any sum not required to be paid by the terms under which the indebtedness was incurred, or to pay any sum to the lien holder, provided further that no rentals due the Lessor shall be impounded under the provisions of this article, unless written notice of the Lessee's intention to impound the rental shall have been given to the lessor at least seventy two (72) hours prior to the time rentals shall be impounded.

#### ARTICLE X.

This contract shall be subject to the written approval of the Supervising Engineer of Defense Plant Corporation and shall not be binding until so approved.

#### ARTICLE XII

The following changes were made in this agreement before it was signed by the parties hereto:

It is expressly agreed that Lessor shall have the right after four months from date of this contract to recall said machinery by giving Lessee written notice thereof at least ten (10) days prior to the date Lessor desires the return of said machinery.

#### SCHEDULE "A"

##### Part I- Rates of Rental

The basic rental rates shown on this schedule are monthly rates and shall constitute the maximum rental payable during any one calendar month, regardless of the number of days in any month, except as provided herein. If any piece of equipment is in actual use in excess of 240 during any one calendar month there shall be paid, in addition to the basic rate, one-half of the hourly rate for each hour in excess of 240 during which the equipment is in actual use during any one calendar month. The hourly rate shall be computed by dividing the basic rate of 240.

##### PART II- Description of Equipment

|                       |   |   |
|-----------------------|---|---|
| Type of Equipment:    | Motor Grader, Adams, Tandem Drive, 12 ft. blade |   |
| Year and/or Model     | Model No. 50                                    | Motor No. International Gas Motor, 6 cyl. |
| Serial No. 529        |   | License No. None                          |
| Valuation: \$4,650.00 |   | Rental \$400.00 per month.                |

AA1372

IN WITNESS WHEREOF, said parties have hereunto set their hands and seals on the day and year first above written:

WITNESS: T. L. Garrett  
C. N. Goodwin

THE COMMISSIONERS COURT OF TITUS COUNTY,  
Lessor

By Ed Dickson  
Title: County Judge

WITNESS: L. W. Cleckler  
Bill Moore

AUSTIN BRIDGE COMPANY AND  
AUSTIN ROAD COMPANY (Lessee)  
By C. E. Eigenbein,  
Title: Chief Engineer

APPROVED FOR: DEFENSE PLANT CORPORATION  
BY: Alfred B. Carson

APPROVED FOR: LONE STAR STEEL COMPANY  
By Allen Gano, 9/14/42  
Title: Field Auditor

-----  
There being no further business before the court, upon motion by Comm. Garrett and Seconded  
by Commissioner Goodwin the court adjourned to meet in regular session the 14th. day of  
September, 1942.  
-----