

LARAMIE COUNTY CLERK BOARD OF COUNTY COMMISSIONERS AGENDA ITEM PROCESSING FORM

1. **DATE OF PROPOSED ACTION:** September 5, 2017

2. AGENDA ITEM:	<input type="checkbox"/> Appointments	<input type="checkbox"/> Bids/Purchases	<input type="checkbox"/> Claims
<input checked="" type="checkbox"/> Contracts/Agreements/Leases	<input type="checkbox"/> Grants	<input type="checkbox"/> Land Use: Board App/Subdivision/ZC	
<input type="checkbox"/> Proclamations	<input type="checkbox"/> Public Hearings/Rules & Reg's	<input type="checkbox"/> Reports & Public Petitions	
<input type="checkbox"/> Resolutions	<input type="checkbox"/> Other		

3. **DEPARTMENT:** Planning & Development Office

APPLICANT: Laramie County Planning **AGENT:** Laramie County Planning

4. DESCRIPTION:

Consideration of renewal of a Rental Agreement with Business Outfitters for two (2) Savin C9130 Color Digital Copier Systems for the Planning Office, for 24 months effective 10/1/2017, with a 12 month cancellation clause.

RECEIVED AND APPROVED AS
TO FORM ONLY BY THE
LARAMIE COUNTY ATTORNEY



Amount \$ 293.00/mo plus tax From _____

5. **DOCUMENTATION:** 3 Originals 0 Copies

<u>Commissioner</u>		<u>Clerks Use Only:</u>		<u>Signatures</u>	
Thompson	_____			Co Atty	_____
Kailey	_____			Asst Co Atty	_____
Ash	_____			Grants Manager	_____
Heath	_____				
Holmes	_____				
Action	_____			Outside Agency	_____

BUSINESS OUTFITTERS

Rental Agreement

Customer ("You or Yours")

Full Legal Name Laramie County Planning

Address 3966 Archer Parkway Cheyenne WY 82009

VENDOR

Business Outfitters 1414 Logan Ave Cheyenne, WY

EQUIPMENT AND PAYMENT TERMS

TYPE, MAKE, MODEL NUMBER, SERIAL NUMBER, AND INCLUDED ACCESSORIES

Two Savin C9130 Color Digital Copier Renewal

EQUIPMENT LOCATION: (Same)

B&W Images Included Monthly : 500/UNIT Overage at: \$.012 Color Images Included 0 Overage at : \$.08

TERMS IN MONTHS 24 Months MONTHLY PAYMENT AMOUNT \$293.00 (+Tax) SECURITY DEPOSIT 0 STARTING 10/01/2017

ADDITIONAL TERMS AND CONDITIONS

AGREEMENT: You want us to deliver (or pay your vendor for) the equipment reference herein ("Equipment") And you agree to pay us the amount payable under the terms of this agreement ("Agreement") each period by the due date. This agreement will begin on the date the equipment is delivered to you or any later date we designate. We may charge you a reasonable fee to cover documentation and investigation costs. If any amount payable to us is not paid when due, you will equal to 1) the greater of ten (10) cent for each dollar overdue or twenty six dollars (26); 2) The highest lawful charge, if less. Any security deposit will be commingled with our assets, will not earn interest and will be returned at the end of the term, provided you are not in default.

NET AGREEMENT: THIS AGREEMENT IS NON-CANCELABLE FOR THE ENTIRE AGREEMENT TERM. YOU UNDERSTAND THAT WE ARE PAYING FOR THE EQUIPMENT BASED ON YOUR UNCONDITIONAL EXCEPTION OF IT AND YOUR PROMISE TO PAY US UNDER THE TERM OF AGREEMENT, WITHOUT SET-OFFS FOR ANY REASON, EVEN IF THE EQUIPMENT DOES NOT WORK OR IS DAMAGED EVEN IF IT IS NOT YOUR FAULT.

EQUIPMENT USE: You will keep the equipment in good working order, use it for business purposes only and not modify or move it from its initial location without our consent. You must resolve any disputes you may have concerning the equipment with the manufacturer or vendor. Payments under this Agreement may include amounts you owe your vendor under a separate agreement (for maintenance service supply's etc.), which amount may be invoiced by us on the vendors behalf for your convenience.

SOFTWARE /DATA: Except as provided in the paragraph references to "equipment" include any software references above or installed on the equipment . We do not own the software and cannot transfer any interest in it to you. We are not responsible for the software or the obligation of you or the licensor under any license agreement. You are solely responsible for protecting and removing any confidential data /images stored on the equipment prior to its return for any reason.

Service: will be provided for the full term of this agreement, vendor will supply all labor, parts and supplies required to keep the equipment in good working order. Customer will be responsible for all service charges as outlined above.

ASSIGNMENT: You May not sell assign or sublease the equipment or this agreement without our written consent. We may sell or assign this agreement or our rights in the equipment in whole or in part, to a third party without notice to you. You agree that if we do so the assignee will have our rights but will not be subject to any claims, defense or set-off assert able against us or anyone else.

LAW FORUM: This Agreement and any claim related to this agreement will be governed by Wyoming law. Any disputes will be adjudicated in a state or federal court located in Laramie County Wyoming. You consent to personal jurisdiction and venue in such courts and waive transfer of venue. Each party waives any right to a jury trial.

LOSS OR DAMAGE: You are responsible for any damage to or loss of the Equipment . No such loss or damage will relieve you from your payment obligation hereunder. We are not responsible for and you will indemnify us against any claims, losses or damages, including, attorney fees in any way related to the Equipment . In no event will we be liable for any consequential or indirect damage.

INSURANCE: You agree to maintain comprehensive liability insurance acceptable to us. You also agree to: 1) Keep the equipment fully insured against loss at its replacement cost with us named as loss payee; And 2) provide proof of insurance satisfactory to us no later than 30 days following the commencement of this agreement, and thereafter upon our written request. If you fail to maintain property loss insurance satisfactory to us and/or you fail to timely provide proof of such insurance, we have the option but not the obligation, to secure property loss insurance on the Equipment from a carrier of our choosing in such for and amount as we deem reasonable to protect our interests. If we secure insurance on the equipment we will not name you as an insured party, your interest may not be fully protected , and you will reimburse us the premium which may be higher than the premium you would pay if you obtained insurance and which may result in a profit for us through an investment in reinsurance. If you are current in al l of your obligations under the agreement at the time of loss , any insurance proceeds received will be applied , at our option, to repair or replace the equipment or to pay us the remaining payments due or to become due under this agreement, plus our booked residual , both discounted at 3% annum.

TAXES: We own the equipment, and you will pay when due, either directly or by reimbursing us, all taxes and fees related to the Equipment and this Agreement. Sales or use tax due up front will be payable over the term with a finance charge.

END OF TERM: At the end of term of this Agreement (or any renewal term) ("the End Date") this Agreement will renew month to month unless A) you provide us with written notice of your intent to return the Equipment at least 60 days prior to the end of date and B) you timely return the Equipment to the location designated by us , at your expense. If the returned Equipment is not immediately available for use by another without need of repair you will reimburse us for all repair costs. You cannot pay off this Agreement or return the Equipment prior to the end date without our consent. If we consent we may charge you, in addition to other amounts owed, an early termination fee equal to 5% of the amount we paid for the Equipment.

DEFAULT AND REMEDIES: If you do not pay any sum within 10 days after its due date, or if you breach any other term of the Agreement or any other agreement with us , you will be in default and we may require that you return the Equipment to us at your expense and pay us, 1) all past due amounts 2) all remaining payments for the unexpired term, plus our booked residual, both discounted at 4% per annum. We may also use all other legal remedies available to us, including disabling or repossessing the Equipment. You agree to pay all our costs and expenses including reasonable attorney fees incurred in enforcing this Agreement. You also agree to pay interest on all past due amounts from the due date at 1.5% per month.

UCC : You agree that this Agreement is (and or shall be treated as) "Finance Lease" as that term is defined in article 2A of the uniform commercial code ("UCC"). You agree to forgo the rights and remedies provided under section 507-522 of article 2A of the UCC.

MISCELLANEOUS: This is the entire Agreement between you and us and supersedes any prior representation of agreement, including any purchase orders. Amount payable under this Agreement may include a profit to us. The original of this agreement shall that copy which bears your facsimile or original signature, and which bears our original signature. Any changes must be written signed by each party

Cancellation: This is a non-cancellable agreement unless the following condition of 60 Day written notice is given, after 12 Months from the start of this agreement, and approved by Authorized signer of Business Outfitters.

Approved by: [Signature] Title Pres Date 8/25/17

OWNER ("WE", "US", "OUR")

OWNER: Business Outfitters

SIGNATURE [Signature] DATE 8/25/17

PRINT NAME AND TITLE Guy J. Baldino Pres.

CUSTOMER'S AUTHORIZED SIGNATURE

CUSTOMER: (AS STATED ABOVE)

SIGNATURE : X DATE _____

PRINT NAME AND TITLE _____

**ADDENDUM TO RENTAL AND MAINTENANCE AGREEMENT
LARAMIE COUNTY, WYOMING /BUSINESS OUTFITTERS OFFICE SYSTEM
SUPPLIERS**

THIS ADDENDUM is made and entered into by and between Laramie County, Wyoming, P.O. Box 608, Cheyenne, Wyoming 82003-0608, ("COUNTY") and Business Outfitters, 1422 Logan Ave., Cheyenne, Wyoming 82001 ("CONTRACTOR"). The parties agree as follows:

I. PURPOSE

The purpose of this Addendum is to modify CONTRACTOR's Rental Agreement for two (2) Savin C9130 Color Digital Copier Systems as more fully described in Attachment 'A', consisting of the following: CONTRACTOR's "Rental Agreement" (1 page) specifically incorporated herein by reference. Said copier systems are for the use of the Laramie County Planning Department

II. TERM

This Addendum shall run from the date of the last affixed signature and shall remain in full force and effect until its completion unless terminated at an earlier date pursuant to the provisions of this Addendum, or pursuant to federal or state statute, rule or regulation.

III. MODIFICATIONS

A. In Attachment 'A' The Section of the "Rental Agreement" entitled "TAXES," is excluded and of no force and effect.

B. In attachment A, The Section of the "Rental Agreement" entitled "INSURANCE" is modified as follows: All language in the provision is stricken and of no further force and effect with the exception of the first sentence which states, "You agree to maintain comprehensive liability insurance acceptable to us."

Further, the following is added to this provision. "Laramie County agrees to keep the equipment insured against loss to the extent of the County's insurance coverage. Business Outfitters acknowledges and accepts as sufficient for the purposes of this subsection, Laramie County's property insurance coverage obtained through the Wyoming Association of Risk Management's."

C. In Attachment 'A' The Section of the "Rental Agreement" entitled "DEFAULT AND REMEDIES" is stricken and of no further force and effect.

D. In Attachment 'A' The Section of the "Rental Agreement" entitled "UCC" is stricken and of no further force and effect.

E. In Attachment 'A' The Section of the "Rental Agreement" entitled "End of Term" is stricken and of no further force and effect.

F. In Attachment 'A' The Section of the "Rental Agreement" entitled "LOSS OR DAMAGE" the following language is stricken and of no further force and effect; "We are not responsible for and you will indemnify us against any claims, losses or damages, including attorney fees in any way related to the equipment."

G. Notwithstanding any provisions or terms in the "Rental Agreement" County's financial obligations and payments shall be in accordance with WYO. STAT. ANN. § 16-6-602 as amended. The parties recognize that this provision renders several sections of Exhibit A, moot and unenforceable.

IV. RESPONSIBILITIES OF CONTRACTOR

A. CONTRACTOR shall provide the services and equipment as provided in accord with the provisions in Attachment 'A'.

B. CONTRACTOR agrees to retain all required records for three (3) years after the County makes final payment and all other matters relating to the Agreement are concluded. CONTRACTOR agrees to permit access by the COUNTY or any of its duly authorized representatives to any books, documents, papers and records of the CONTRACTOR which are directly pertinent to this specific Agreement for purposes including but not limited to audit, examination, excerpts, and transcriptions. It is agreed that finished or unfinished documents, data or reports, prepared by CONTRACTOR under this contract shall be considered the property of the COUNTY and upon completion of the services to be performed, or upon termination of this Agreement for cause, or for the convenience of the COUNTY, will be turned over to the COUNTY.

V. GENERAL PROVISIONS

A. Independent Contractor: The services to be performed by CONTRACTOR are those of an independent contractor and not as an employee of COUNTY. CONTRACTOR is not eligible for Laramie County Employee benefits and will be treated as an independent contractor for federal tax filing purposes. CONTRACTOR assumes responsibility for its personnel who provide

services pursuant to this contract and will make all deductions required of employers by state, federal and local laws and shall maintain liability insurance for each of them. CONTRACTOR is free to perform the same or similar services for others.

B. Acceptance Not Waiver: COUNTY approval of the reports, and work or materials furnished hereunder shall not in any way relieve CONTRACTOR of responsibility for the technical accuracy of the work. COUNTY approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

C. Termination: This Agreement may be terminated (a) by either party at any time for failure of the other party to comply with the terms and conditions of this agreement; (b) by either party, with thirty (30) days' prior written notice to the other party; or (c) upon mutual written agreement by both parties.

D. Entire Agreement: This Addendum (6 pages) and Attachment 'A' "Rental Agreement" (1 pages); and "Maintenance Agreement" (2 pages) represent the entire and integrated agreement and understanding between the parties and supersedes all prior negotiations, statements, representations and agreements, whether written or oral.

E. Assignment: Neither this Agreement, nor any rights or obligations hereunder shall be assigned or delegated by a party without the prior written consent of the other party.

F. Modification: This Agreement shall be modified only by a written agreement, duly executed by all parties hereto.

G. Invalidity: If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, or if the COUNTY is advised of any such actual or potential invalidity or inability to enforce, such holding or advice shall not invalidate or render unenforceable any other provision hereof. It is the express intent of the parties that the provisions of this Agreement are fully severable.

H. Applicable Law and Venue: The parties mutually understand and agree this Agreement shall be governed by and interpreted pursuant to the laws of the State of Wyoming. If any dispute arises between the parties from or concerning this Agreement or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in the District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming. The foregoing provisions of this paragraph are agreed by the parties to be a material inducement to CONTRACTOR and to COUNTY in executing this Agreement. This provision is not intended nor shall it be construed to waive COUNTY's governmental immunity as provided in this Agreement.

I. Contingencies: CONTRACTOR certifies and warrants no gratuities, kick-backs or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts or other considerations made contingent upon the award of this Agreement.

J. Discrimination: All parties agree they will not discriminate against any person who performs work under the terms and conditions of this Agreement because of race, color, gender, creed, handicapping condition, or national origin.

K. ADA Compliance: All parties agree they will not discriminate against a qualified individual with disability, pursuant to a law as set forth in the Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. § 12101, *et seq.*, and/or any properly promulgated rules and regulations relating thereto.

L. Governmental/Sovereign Immunity: COUNTY does not waive its Governmental/Sovereign Immunity, as provided by any applicable law including WYO. STAT. ANN. §§ 1-39-101-121 (2007), by entering into this Agreement. Further, COUNTY fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Agreement.

M. Indemnification: To the fullest extent permitted by law, CONTRACTOR agrees to indemnify and hold harmless COUNTY, its elected and appointed officials, employees and volunteers from any and all liability for injuries, damages, claims, penalties, actions, demands or expenses arising from or in connection with work performed by or on behalf of CONTRACTOR for COUNTY except to the extent liability is caused by the sole negligence or willful misconduct of COUNTY or its employees.

N. Third Parties: The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to the Agreement, and shall inure solely to the benefit of the parties to this Agreement.

O. Conflict of Interest: COUNTY and CONTRACTOR affirm, to their knowledge, no CONTRACTOR employee has any personal beneficial interest whatsoever in the agreement described herein. No staff member of CONTRACTOR, compensated either partially or wholly with funds from this Agreement, shall engage in any conduct or activity which would constitute a conflict of interest relative to this Agreement.

P. Force Majeure: Neither party shall be liable to perform under this Agreement if

such failure arises out of causes beyond control, and without the fault or the negligence of said party. Such causes may include, but are not restricted to, Act of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. In every case, however, a failure to perform must be beyond the control and without the fault or the negligence of said party.

Q. Limitation on Payment: COUNTY's payment obligation is conditioned upon the availability of funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services and equipment provided by CONTRACTOR the Agreement may be terminated by COUNTY at the end of the period for which funds are available. COUNTY shall notify CONTRACTOR at the earliest possible time of the services which will or may be effected by a shortage of funds. At the earliest possible time means at least thirty (30) days before the shortage will affect payment of claims, if COUNTY knows of the shortage at least thirty (30) days in advance. No penalty shall accrue to COUNTY in the event this provision is exercised, and COUNTY shall not be obligated or liable for any future payments due or for any damages as a result of termination under this provision.

R. Addendum Controls: Where a conflict exists or arises between any provision and condition of this Addendum and Attachment 'A', the provisions and conditions set forth in this Addendum shall control.

S. Notices: All notices required and permitted under this Agreement shall be deemed to have been given, if and when deposited in the U.S. Mail, properly stamped and addressed to the party for whom intended at such parties' address listed herein, or when personally delivered personally to such party. A party may change its address for notice hereunder by giving written notice to the other party.

T. Compliance with Law: CONTRACTOR shall comply with all applicable laws, regulations and ordinances, whether Federal, State or Local.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

**ADDENDUM TO RENTAL AND MAINTENANCE AGREEMENT
LARAMIE COUNTY, WYOMING /BUSINESS OUTFITTERS OFFICE SYSTEM
SUPPLIERS**

Signature page:

LARAMIE COUNTY, WYOMING

By: _____ Date _____
Troy Thompson, Chairman, Laramie County Commissioners

ATTEST:

By: _____ Date _____
Debra Lee, Laramie County Clerk

CONTRACTOR: Business Outfitters

By: John D. Atken _____ Date 8-29-2017
Title: Manager

This Agreement is effective the date of the last signature affixed to this page.

REVIEWED AND APPROVED AS TO FORM ONLY:

By: _____
Mark Voss
Laramie County Attorney

Date 8/30/17