



EQUIPMENT SALES ORDER

Date: 2021-09-15

SELLER'S COPY

EQPO#: jmcconnell-1637

Customer #: MONTA002 PO/Check #: Salesman: JAMES MCDONNELL Support Contact: Chris McAlexander
 Buyer's Name: Mike Mayfield Company: MONTAGUE COUNTY Phone: 9408942131 Fax:
 Address: Po Box 416 County: Montague State: TX Zip: 76251
 City: Montague

Delivery Address / Point of Possession: Delivery County: Montague

Qty.	Unit	Make, Model, Description	Serial#	Price
1	K21439	KOMATSU GD655-6 2021 Hours: 4 Serial# 60875 Stock#K21439 SEAT CLOTH-COVERED AIR SUSPENSION; T&R 17.5 X 25 XTLA RADIAL MICHELIN TIRES; PUSH PLATE; MOLDBOARD 14' X 26" X 1; REAR-MOUNTED RIPPER/SCARIFIER ASSEMBLY; Purchased through Sourcewell contract 032119-KOM Includes Komatsu Care for 84/3500 (all services)	60875	264330
FINANCIAL ARRANGEMENTS: (upon approval)				Taxable Total: \$264,330.00
				Interest: \$0.00
				TOTAL PRICE: \$264,330.00

Purchaser hereby bargains, sells and conveys unto Seller the below described Trade-in Equipment and warrants and certifies it to be free and clear of liens, encumbrance, and security interests, except to the extent shown below. All trade-ins are subject to equipment being "as inspected condition" by Seller at time of delivery.

Trade Description	Trade Allowance
	\$0.00
	\$0.00
I. Total Trade Allowance:	\$0.00
II. Less Amount Owed To:	\$ 0.00
III. Net Trade Allowance (I - II)	\$0.00
IV. Other (Specify)	
V. Trade Down Payment (Transfer \$ to item 2 at right)	\$0.00

1. Cash Down Payment:	\$0.00
2. Trade Down Payment:	\$0.00
3. Total Down Payment:	\$0.00
4. Unpaid Cash Price:	\$264,330.00
5. State Tax: 0.000% City Tax: 0.000% CO. Tax: 0.000%	\$0.00
6. F.E.T. 0.000% HEIT: 0.000000% TERP: 0.000000%	\$0.00
7. CASH DUE ON DELIVERY (4-6)	\$264,330.00

The undersigned warrants that he/she has authority to execute this Equipment Purchase Agreement and to bind said company to the terms contained herein. Payments are to be in accordance with the terms set forth on invoices and shall be due to Kirby-Smith Machinery, Inc. at its office address as listed above. Past due amounts, 30 days or over, are subject to time price differential of 1.5% per month (18% per annum.) Should the service of any agency or attorney be necessary to collect amounts outstanding, I/we agree to pay all costs of such collection including reasonable attorney fees. Notice is hereby given that Kirby-Smith Machinery, Inc. has assigned its rights under all sales contracts of rental equipment to KSM Exchange, LLC to sell the rental equipment described therein and, if applicable, to purchase trade-in property described therein.

EQUIPMENT WARRANTY

Warranty coverage on the equipment covered by this order, if any, has been explained to Purchaser. The warranty coverage is outlined below and indicated by the box checked.

NEW - Manufacturer Warranty subject to qualification. If qualified, the following terms apply only if box at left is checked. Purchaser acknowledges He/She has read (Both Pages) and received a copy of this entire order and acknowledges the **DISCLAIMER OF WARRANTIES AND WAIVER OF CLAIMS** on Page 2 of this Sales Order.
 ▶ ADVANTAGE PREMIER 60 MONTHS / 4000 HOURS;

USED - When the equipment covered by this order is used equipment. THE PURCHASER STATES THAT HE/SHE HAS EXAMINED THE EQUIPMENT and is buying the equipment AS IS and with NO REPRESENTATION OR WARRANTIES, unless otherwise specified in writing below:

ACKNOWLEDGEMENT: _____ / _____
 Purchaser & Salesman's initials

NO AGREEMENTS OTHER THAN THOSE EITHER PRINTED OR WRITTEN ON THIS ORDER ARE BINDING ON EITHER PARTY OF THIS CONTRACT. This order is subject to the terms and conditions set forth on pages 1 and 2 of this document, including the applicable manufacturer's warranty. PURCHASER ACKNOWLEDGES HE/SHE HAS READ (BOTH PAGES) AND RECEIVED A COPY OF THIS ENTIRE ORDER.

By: _____ Authorized Signature Date: _____
 Title: _____
 Salesman: JAMES MCDONNELL

By: Mike Mayfield Date: _____
 Signed X: _____ Authorized Signature
 Title: _____

EQUIPMENT SALES ORDER

ADDITIONAL TERMS & CONDITIONS

(Referred to on the Reverse Side Hereof)

1. The Seller reserves the right to accept or reject this order and shall not be required to give any reason for non-acceptance.
2. If financing terms are required on this order, Seller's acceptance is subject to the approval of the Lender. If financing terms are required, Purchaser hereby agrees to execute any security agreement and any financing statement required by Lender, and authorizes Seller to execute any such documents in Purchaser's name.
3. This order, when accepted by Seller, shall become a binding contract, but performance shall be conditioned upon and subject to strikes, lockouts, accidents, fires, delays in manufacture or transportation, supply shortages, acts of God, embargoes, governmental action or any other causes beyond the control of the Seller whether the same as, or different from the matters and things herein before specifically enumerated and any of said causes having an adverse effect on Seller's ability to perform shall absolutely absolve the Seller from any liability to the Purchaser under the terms hereof.
4. Title to and right of possession of said product(s) shall remain vested in the Seller until all indebtedness and all sums due or to become due from the Purchaser, whether evidenced by note, book account, judgment, or otherwise, shall have been fully paid, at which time title shall pass to the Purchaser.
5. The Seller's responsibility for shipments ceases upon delivery to a transportation company, and any claims for shortages, delays or damages occurring thereafter shall be made by the Purchaser to the transportation company. Any claims against the Seller for shortages in shipments shall be made within fifteen days after delivery by the transportation company to the point of delivery.
6. The Purchaser agrees that this order shall not be countermanded by him, and that when it is accepted (and until the execution and delivery of the contractor contracts and note or notes required to consummate the sale as above specified) it will incorporate all agreements between the parties relative to this transaction, and that the Seller is not bound by any representations or terms made by any agent relative to this transaction which are not contained here. This order shall not be binding upon the Seller until it is duly accepted in writing by an authorized official of the Seller. Any changes or modifications to this contract shall be made in writing and signed by both the Seller and Purchaser.
7. When the products necessary to fill this order have been appropriated to this contract, the Purchaser agrees on demand to execute and deliver to the Seller the notes and contracts required by the Seller to evidence the transactions, in the event the Purchaser fails to execute and deliver said notes and contracts to the Seller, the entire balance of the purchase price shall upon Seller's tender of performance and at the Seller's option become immediately due and payable.
8. Purchaser shall promptly pay all taxes, fees, transportation, and other costs, assessments and all governmental charges of any kinds or character, and any penalties, fines or interest thereon relating to equipment and the sale thereof by Seller to Purchaser.
9. Purchaser acknowledges that he/she has received a copy of any equipment warranty provided by the manufacturer and has read and understood said warranty.
10. **DISCLAIMER OF WARRANTIES AND WAIVER OF CLAIMS. KIRBY-SMITH MACHINERY, INC. (SELLER) IS NOT A MANUFACTURER OF EQUIPMENT. ALTHOUGH SELLER MAY ADMINISTER WARRANTIES ISSUED BY THE MANUFACTURER, CUSTOMER ACKNOWLEDGES AND AGREES THAT: 1) ANY EXPRESS WARRANTIES BY THE MANUFACTURER FOR THE EQUIPMENT ARE NOT THE RESPONSIBILITIES OF THE SELLER. 2) THE MANUFACTURER'S WARRANTY CONTAINS LIMITATIONS AND CUSTOMER MAY INCUR CERTAIN REPAIR, TRANSPORTATION OR OTHER CHARGES BY SELLER WHICH ARE NOT COVERED BY THE MANUFACTURER'S WARRANTY. SELLER MAKES NO WARRANTIES, REPRESENTATIONS, CONDITIONS OR PROMISES EXPRESS OR IMPLIED AS TO THE QUALITY, PERFORMANCE OR FREEDOM FROM DEFECT OF THE EQUIPMENT. EXCEPT ANY IMPLIED WARRANTIES THAT CANNOT BE DISCLAIMED UNDER APPLICABLE LAW, SELLER HEREBY DISCLAIMS AND EXCLUDES ALL WARRANTIES OF TITLE, EXPRESS WARRANTIES AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INFRINGEMENT AND THOSE WARRANTIES ARISING OUT OF USAGE OF TRADE OR COURSE OF DEALING. SELLER IS NOT LIABLE FOR ANY DAMAGES (WHETHER ORDINARY, SPECIAL OR PUNITIVE) ARISING FROM ANY FAILURE OF THE EQUIPMENT TO OPERATE OR THE FAULTY OPERATION OF THE EQUIPMENT, OR THE INSTALLATION, OPERATION, REPAIR OR USE OF THE EQUIPMENT.**
11. Purchaser agrees to indemnify, defend and hold harmless Seller for any and all claims, damages, causes of action, losses, costs and expenses, including reasonable attorneys' fees, arising from or relating to, directly or indirectly, (a) any breach of this order by Purchaser, including any representation or warranty, and (b) any use or operation of the equipment, including without limitation, any property damage, injury or death caused by such use or operation.
12. This contract is to be governed in accordance with the laws of the State of Oklahoma.
13. **Purchaser acknowledges Seller's Procedure for obtaining wiring instructions. For wire instructions please call (405) 495-7820 and ask for our Credit Department. They will immediately e-mail or fax you instructions for our account at Wells Fargo and follow up immediately with a phone call. These instructions will be on Kirby-Smith Machinery, Inc. letterhead. This is the only manner we will send you our instructions. If you receive wire instructions in any other way, do not wire the funds and please immediately report it to our Credit Department using the number above.**

PURCHASER ACCEPTS TERMS & CONDITIONS

Purchaser's Signature _____

Date _____

BILL OF SALE FOR PROPERTY TAKEN IN TRADE

For value received, I/we hereby grant, sell, transfer and deliver unto:

Kirby-Smith Machinery Inc. Fort Worth

at address: _____

Purchaser warrants that I/we are the absolute sole owner of the Trade-In Equipment, and full power and authority to sell the Trade-In Equipment. I/we hereby certify that there is no lien, claim, debt, mortgage or encumbrance of any kind, nature or description against this property now existing, of record or otherwise, and that same is free and clear. I/we agree to assume all risk of loss and/or damage to above described equipment, beyond normal wear, until delivery is promptly affected.

Authorized Signature _____

Title _____

TAX AND GENERAL CERTIFICATE

This certificate is given in regard to Lease Purchase Agreement Number 30021128 (the "Lease") between FIRST NATIONAL BANK DBA FIRST NATIONAL BANK LEASING and MONTAGUE COUNTY, TX (the "Governmental Entity"). The Lease payments in the Agreement contain both a principal component (for repayment to FIRST NATIONAL BANK DBA FIRST NATIONAL BANK LEASING for the principal amount it financed) and an interest component (as interest to FIRST NATIONAL BANK DBA FIRST NATIONAL BANK LEASING for making the financing available). The interest component is priced at a tax exempt interest rate.

The Governmental Entity hereby states for the benefit of FIRST NATIONAL BANK DBA FIRST NATIONAL BANK LEASING as follows:

1. The Governmental Entity has not and will not fund any other tax exempt debt transaction within 15 days of the funding of the Lease.
2. The Governmental Entity will own and operate the property financed by the Lease.
3. The Governmental Entity will spend all of the money advanced by FIRST NATIONAL BANK DBA FIRST NATIONAL BANK LEASING within no more than two weeks of the date the Lease is funded. None of these funds will be invested.
4. The Lease is not federally guaranteed.
5. The Lease is a privately placed bank loan and is not offered to the general public or a "public security" under Texas law.
6. There is no reserve fund or other specific fund established for payment of the Lease.
7. The proceeds of the Lease are not being used to reimburse the governmental Entity for any previous expenditure made by it. The proceeds of the Lease will be paid immediately to the vendor of the property.
8. The Lease is hereby designated by the Governmental Entity as a "qualified tax exempt obligation" under Section 265(b)(3) of the Internal Revenue Code. The reasonably anticipated amount of tax exempt obligations to be issued by the Governmental Entity during the same calendar year in which the Lease is funded will not exceed \$10,000,000. Additionally, in calculating the \$10,000,000 the Governmental Entity is including all tax exempt debt issued by local development corporations or other entities issuing "on behalf of" the Governmental Entity except private activity bonds other than Section 501(c)(3) bonds.
9. The weighted average maturity of the Lease (meaning when it is approximately one-half paid off) does not exceed 120% of the useful life of the property being financed.

General Provisions

1. The Lease has been duly authorized by the governing body of the Governmental Entity at a meeting which the open meeting notice was posted regarding the Lease transaction, and at which a quorum was present.
2. There is no litigation pending regarding the Lease, or to the best of the knowledge of the Governmental Entity threatened in regard to the Lease.
3. Entering the Lease does not constitute an event of default or contravene any other agreement to which the Governmental Entity is a party.
4. The Governmental Entity has the ability to pay the Lease provided the duty to pay the Lease is subject to annual appropriation as set forth in the Lease documents.
5. The property being financed is personal property for which bids were taken in the manner required by law.
6. The Governmental Entity will use the property for one of its essential purposes.

Signed as of this day September 27, 2021

(MONTAGUE COUNTY, TX)


Kevin Benton – County Judge

CONTRACT (LEASE) NO. 30021128

FIRST NATIONAL BANK DBA FIRST NATIONAL BANK LEASING
3801 FAIRWAY BLVD.
WICHITA FALLS, TEXAS 76310

EQUIPMENT LEASE BY COUNTY

PARTIES:

Lessor: FIRST NATIONAL BANK DBA FIRST NATIONAL BANK LEASING
3801 FAIRWAY BLVD.
WICHITA FALLS, TEXAS 76310

Lessee: MONTAGUE COUNTY
P.O. BOX 186
MONTAGUE, TX. 76251
TAX ID # 75-6001078

TERMS AND CONDITIONS:

1.) **LEASE:** Lessor leases to Lessee, and Lessee leases from Lessor the Equipment listed in "Equipment Information" (the "Equipment"). Said Equipment will be located inside MONTAGUE County and will not be moved to another location without written permission first given by Lessor. Lessor acknowledges receipt of the first Lease payment referred to on Exhibit 1 from Lessee. Any amounts received by the Lessor from Lessee, at or prior to the date of this Lease, in excess of the first Lease payment as shown on Exhibit 1, shall be held as security for the performance of the terms of this Lease. If Lessee is not in default hereunder, or under any other lease between the parties hereto, said security shall be applied toward the payment of Lease at the end of the term of this Lease, or (at Lessor's option) returned to Lessee.

2.) **ACCEPTANCE; DELIVERY:** Lessee agrees that it has selected the Equipment, and the Lessor shall not be liable for specific performance or for damages, if any, if for any reason the vendor delays or fails to fill the Equipment order. Lessee shall accept such Equipment as delivered by Lessor and authorizes Lessor to insert the serial number and any additional descriptive matter in "Equipment Information" in connection with the Equipment. Lessee represents that it has acquired the Equipment in accordance with applicable Texas bid or procurement law.

3.) **WARRANTIES AND REPRESENTATIONS:** Lessee agrees that all maintenance, service, and Equipment warranties, are the sole obligation of the vendor or supplier of the Equipment and not Lessor. Lessor authorizes the Lessee to enforce in Lessee's own name any warranty, agreement or representation, if any, which may be made regarding the Equipment by the vendor or supplier BUT LESSOR ITSELF MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE EQUIPMENT AT TIME OF LEASE. Lessor specifically disclaims any representation or warrant with regard to merchantability or fitness for a particular use or purpose. Lessee has inspected the Equipment and has selected the Equipment to be financed by this Lease. Lessor is merely providing financing for such Equipment. Lessor is not the vendor of the Equipment, and Lessor makes no warranties in regard to the Equipment. All warranties regarding the Equipment, including but not limited to the warranties of MERCHANTABILITY and FITNESS FOR A PARTICULAR USE OR PURPOSE are expressly disclaimed by Lessor.

The disclaimers or limitations in this Section 3 do not apply to any warranties made by the vendor or supplier of the Equipment, all of which may be enforced by Lessee. Lessor retains all rights to make warranty claims and settle all warranty disputes on the Equipment in either Lessor's or Lessee's name and for Lessor's benefit without notice to, or consent from, Lessee.

4.) **LEASE PAYMENTS:** The total Lease payments for lease of the Equipment are shown on Exhibit 2. Lessee promises and agrees to pay all specified Lease payments in advance on or before the date designated for the payments in Exhibit 2

without demand. Said Lease payments shall be payable at the office of Lessor, or to such other person and/or at such other place as Lessor may from time to time designate to Lessee in writing.

In the event this Lease is not "bank qualified" under Section 265(b)(3) of the Internal Revenue Code or if the interest portion of the Lease payments is not excluded from federal income taxation, the Lease payments shall be recalculated using a "Gross Up Rate" (meaning a new interest rate on the amount funded by Lessor) of the *Wall Street Journal* Prime Rate +4% per annum, as in effect for the entire period of non-bank qualified status, or taxability.

5.) **LEASE TERM:** This Lease shall have a term commencing on the Date of Acceptance by Lessee (shown in the "Lessee's Acceptance") until the Lease End Date as set forth on Exhibit 1.

6.) **OWNERSHIP; RETURN; PERSONAL PROPERTY:** Subject to all rights granted to or retained by Lessor under this Agreement (including Lessee's unconditional obligation to return possession and title to the Equipment to Lessor at the end of the term of this Lease regardless of the reason for termination unless Lessee pays the Purchase Option Price in full) title to the Equipment shall be in the name of the Lessee. Upon the termination of this Lease for any reason, Lessee will immediately return said Equipment and all additions to the Equipment to Lessor in as good condition as received, normal wear and tear excepted, or Lessee may purchase the Equipment for the Purchase Option Price then in effect. Any profit or loss from disposition of the Equipment after it is returned to Lessor will be the sole property of Lessor. The Equipment shall always remain and be deemed personal property even though attached to realty. All replacements, Equipment repairs or accessories made to or placed in or upon said Equipment shall become a component part thereof; and title thereto shall be immediately vested in Lessor; and shall be included under the terms hereof. All advances made by Lessor to preserve said Equipment or to pay insurance premiums for insurance thereon or to discharge and pay any taxes, liens or encumbrances thereon shall be added to the unpaid balance of Lease Payments due hereunder and shall be repayable by Lessee to Lessor immediately together with interest thereon at the rate of the maximum rate allowed by law.

Lessee hereby grants to Lessor and Lessor's assigns a consensual security interest in and lien against the equipment as fully described in Exhibit 1 attachment. If ownership of the Equipment is evidenced by a certificate of title (for example, a motor vehicle), such title shall be endorsed to show Lessor or Lessor's assigns as a lienholder. Lessee further consents to Lessor filing a UCC-1 Financing Statement to reflect Lessor's security interest in the Equipment. Lessee shall return the title, endorsed to Lessor or Lessor's assigns, at the same time Lessee returns the Equipment. Should Lessee fail to return the title endorsed to Lessor, Lessee hereby designates Lessor or Lessor's assigns as having full legal power and authority (including a limited irrevocable power of attorney coupled with an interest) either to apply for a new title in Lessor's name, or to endorse the current title to Lessor's name. At the end of the Term or other termination of this Agreement, if Lessee has not exercised its rights to purchase the Equipment, and paid the Purchase Option Price in full, the Equipment shall be returned to Lessor as provided above, and such return shall not be deemed a forced sale under Texas law.

7.) **PURCHASE OPTION:** If no Event of Default has occurred and is continuing, Lessee shall have the option at any time to purchase all (but not less than all) the Equipment at the price stated in Exhibit 1, plus any applicable sales taxes and fees (all being the "Purchase Option Price"), it being understood no taxes are due under current Texas law. Lessee must give Lessor irrevocable written notice at least 30 days before the purchase date that it will purchase the Equipment unless the purchase is being made at the end of the term of this Agreement and the Purchase Option Price is \$1.00. The Purchase Option Price as defined in Exhibit 1 shall be used for any purchase of the Equipment by the Lessee prior to the end of the scheduled term. Upon payment by Lessee of the Purchase Option Price, Lessor shall transfer all of Lessor's rights in the Equipment to Lessee AS-IS, WHERE-IS AND WITH ALL FAULTS without any representation or warranty whatsoever.

Lessee may also buy the Equipment at any time prior to the end of the full stated Lease term by paying to Lessor:

- (a) the remaining unpaid balance of the principal payments due for the entire stated term of the Lease shown on Exhibit 2 (the Lease payments have both a principal and interest component like any loan); plus
- (b) accrued but unpaid interest on such principal amount as of such purchase date.

The Lessor will calculate such payments and furnish them to Lessee as requested.

8.) **ASSIGNMENT:** Lessor may assign this Lease and its assignee may reassign the same, without the consent of Lessee. All rights of Lessor hereunder shall be succeeded to by any assignee hereof and said assignee's title to this Lease, to the Lease payments or other amounts due hereunder, and in and to the Equipment shall be free from all defenses, setoffs or counterclaims of any kind or character which Lessee may be entitled to assert against the original Lessor; it being understood and agreed that any assignee of Lessor does not assume any obligations of the original Lessor herein named.

Neither this Lease nor any interest herein is assignable or transferable by operation of law, or otherwise, by Lessee.

9.) **LOSS; DAMAGE; INSURANCE:** As between Lessor and Lessee, Lessee assumes the entire risk of loss from all use and operation of the Equipment and no such loss shall relieve Lessee of its obligations hereunder. To the full extent permitted by law, Lessee agrees to and does hereby release, indemnify and hold Lessor harmless, from and against all claims, costs, expenses, damages and liabilities, court costs including reasonable attorney fees resulting from or pertaining to the ownership, use or operation of the Equipment during the term of this Agreement subsequent to the termination or expiration of this Agreement or while said Equipment is otherwise in possession of the Lessee. Lessee agrees to keep the Equipment insured (i.e., property insurance) to protect all interests of Lessee and Lessor, at Lessee's expense, against all risks of loss or damage from every cause whatsoever for not less than the unpaid balance of the Lease payments due hereunder to maturity or 80% of the then current value of said Equipment, whichever is higher. Lessee shall further maintain commercial general liability insurance regarding injury, damage to the Equipment, injury or damages to third parties or death resulting out of the operation of the Equipment during the term hereof or while the Equipment is in the possession of Lessee, and including any liability of Lessor for public liability and property damage. Lessor may, but shall not be obligated to, insure said Equipment at the expense of Lessee for any purpose for which insurance may be purchased. The proceeds from such insurance policies shall be paid to Lessor as its interests may appear and Lessor shall be named as lien holder and loss payee in all said policies. The proceeds of such insurance, whether resulting from loss or damage or return premium or otherwise, shall be applied toward the replacement or repair of the said Equipment or the payment of obligations of Lessee hereunder, at the option of Lessor or Lessor's assigns. Lessee hereby appoints Lessor and Lessor's assigns as Lessee's attorney-in-fact to make claims for, compromise and settle, receive payment of and execute or endorse all documents, checks or drafts for loss or damage or return premium under any insurance policy issued in regard to said Equipment.

Lessor and Lessee acknowledge that Lessor is only leasing the Equipment, and Lessor does not hold title to, use, operate, control or maintain the Equipment, all of which shall be done by Lessee during the term hereof.

10.) **USE; TAXES; INSPECTION AND CONDITION:** Lessee agrees to use, operate and maintain said Equipment in accordance with all applicable laws; to pay all licensing or registrations fees for said Equipment and to keep the same free of levies, liens and encumbrances; to file all personal property tax returns (if any are due on the Equipment), to pay all taxes, assessments, fees and penalties which may be levied or assessed on or in respect to said Equipment or its use or any interest therein, or upon the Lease payments (provided Lessor shall pay its own income taxes on the Lease payments), including but not limited to, all federal, state and local taxes, however designated, levied or assessed upon the Lessee and Lessor or either of them in regard to said Equipment, or upon the use or operation thereof. Lessee shall permit Lessor to inspect said Equipment at any time; and to keep it in first class condition and repair at Lessee's expense and house the same in suitable shelter; and not to sell or otherwise dispose of Lessee's interest therein or in any additions or accessories attached thereto during the term of this Lease.

11.) EVENTS OF DEFAULT; REMEDIES; LATE CHARGES; EXPENSES OF ENFORCEMENT:

(a) Events of Default. In the event Lessee shall default in the payment of any Lease payment due, or any other sums due hereunder for a period of fifteen (15) days or more, or in the event of any default or breach of the terms and conditions of this Lease, or any other lease between the parties hereto, or if any execution or other writ or process shall be issued in any action or proceeding, against the Lessee, whereby the said Equipment may be taken or distrained, or if a proceeding in bankruptcy, receivership or insolvency shall be instituted by or against the Lessee or its property, or if the Lessee shall enter into any agreement or composition with its creditors, breach any of the terms of any loan or credit agreement, or default thereunder, or if the condition of the Lessee's affairs shall so change as to, in the Lessor's opinion, impair the Lessor's security or increase the credit risk involved, then and in that event Lessee shall return the Equipment as provided in Section 6 and Section 11(b). If Lessee fails to do so, the Lessor shall have the right to retake immediate possession of the Equipment, and for such purpose, the Lessor may enter upon any premises where said Equipment may be and may remove the same therefrom with or without notice of its intention to do same, without being liable to any suit or action or other proceeding by the Lessee.

(b) **Remedies.** If this Lease terminates by reason of event of default (Section 11), non-appropriation (Section 14) or otherwise prior to the end of the entire Lease term shown on Exhibit 1, and if Lessee has not paid the applicable Purchase Option Price Lessor's remedies shall be the following:

- (i) Lessee shall return the Equipment to Lessor as provided in Section 6.
- (ii) Lessor may retain all Lease payments previously paid by Lessee.
- (iii) Upon return of the Equipment full legal title thereto shall be automatically vested in Lessor, and Lessee will deliver evidence of title as provided in Section 6.
- (iv) After return of the Equipment, Lessor may, at its option, sell the Equipment at public or private sale for cash or on credit and may become the purchaser at such sale. Any gain or loss on such sale shall accrue and belong to Lessor.
- (v) Lessor may enforce its rights hereunder by writ of mandamus.

(c) **Late Charges.** Whenever any payment is more than ten (10) days late, the Lessee promises to pay to the Lessor or its assigns, not later than one month thereafter, an amount calculated at the rate of the lesser of (i) five cents per one dollar of each such delayed payment and to make such payments as liquidated damages occasioned by such delay, if allowed by law, or (ii) the maximum rate allowed by law.

(d) **Expense of Enforcement.** Upon default under any provision of this Lease, the Lessee shall be liable for arrears of lease payments, during any period for which Lessee has made appropriation under Section 14, if any. Further, if Lessee fails to return the Equipment (and title, if any) to Lessor, Lessee shall be liable for (i) the expense of re-taking possession and the removal of the Equipment, (ii) court costs, and (iii) Lessor's reasonable attorney fees.

12.) **NON-WAIVER:** The omission by the Lessor at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants or provisions hereof by the Lessee at any time designated, shall not be a waiver of any such default or right to which the Lessor is entitled, nor shall it in any way affect the right of the Lessor to enforce such provisions thereafter. The Lessor may exercise all remedies simultaneously, pursuant to the terms hereof, and any such action shall not operate to release the Lessee until the full amount of the Lease Payments due and to become due and all other sums to be paid hereunder have been paid in cash.

13.) **SEVERABILITY:** The provisions of this Lease are severable, and if any one of such provisions are determined to be illegal or unenforceable, the same shall not impair the effectiveness of the remaining provisions hereof.

14.) **SPECIAL PROVISIONS: FISCAL FUNDING:** The Lessee warrants that it has funds available to pay the Lease payments payable pursuant to this Agreement until the end of its current appropriation period and warrants that it presently intends to make payments in each appropriation period from now until the end of the Lease term. The officer of the Lessee responsible for preparation of Lessee's annual budget shall request from its legislative body funding to be paid to Lessor under this Agreement. If notwithstanding the making in good faith of such request in accordance with appropriate procedures and with the exercise of reasonable care and diligence, such legislative body over funding authority does not appropriate funds to be paid to Lessor then at the end of the fiscal year for which Lessee has made appropriation, Lessee shall be released of its obligation to make Lease payments to Lessor due after the end of the period for which appropriation was made, provided the Equipment (and any related title documents) are returned to Lessor by Lessee and at Lessee's expense, in good condition, normal wear and tear excepted. In addition to return of the Equipment pursuant to the terms of this Agreement, Lessor shall retain all sums paid by Lessee and for which appropriation was made. All obligations and payments required of Lessee herein shall be subject to appropriation by Lessee of sufficient funds.

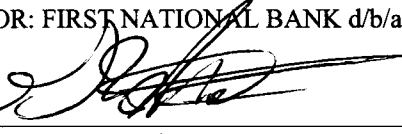
To the extent permitted by law, (i) Lessee may not terminate the Lease in order to purchase, rent or lease property performing functions similar to those performed by the Equipment through the stated maturity date of the Lease, and (ii) Lessee agrees not to permit functions similar to those performed through the use of the Equipment to be performed by its own employees or by any agency or entity affiliated with or hired by the Lessee.

THIS LEASE IS SUBJECT TO THE TERMS AND CONDITIONS PRINTED ABOVE WHICH ARE MADE A PART HEREOF AND WHICH LESSEE ACKNOWLEDGES THAT IT HAS READ. LESSEE REPRESENTS THAT ALL ACTION TO AUTHORIZE THE EXECUTION OF THIS AGREEMENT ON BEHALF OF THE LESSEE BY THE FOLLOWING SIGNATORIES HAS BEEN TAKEN.

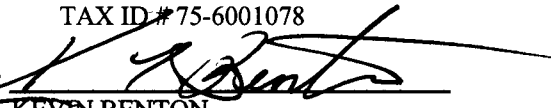
THERE ARE NO ORAL AGREEMENTS BETWEEN THE LESSOR AND LESSEE.

DATE OF ACCEPTANCE: SEPTEMBER 27th, 2021

LESSOR: FIRST NATIONAL BANK d/b/a FIRST NATIONAL BANK LEASING

By: 
GORDON W. MCCAIN III
ASSISTANT VICE PRESIDENT

LESSEE: MONTAGUE COUNTY
P.O. BOX 186
MONTAGUE, TX. 76251
TAX ID # 75-6001078

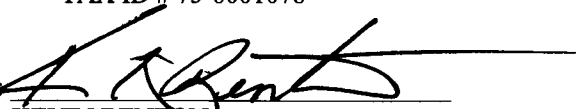
By: 
KEVIN BENTON
COUNTY JUDGE – MONTAGUE COUNTY

LESSEE'S ACCEPTANCE

TO VENDOR: ACCEPTANCE MUST BE SIGNED BY LESSEE AND RETURNED TO US BEFORE YOUR INVOICE CAN BE PROCESSED FOR PAYMENT.

We as Lessee agree the above listed Equipment has been inspected by Lessee, is satisfactory in every way, accepted by Lessee and we as Lessee have approved payment of the Total Capitalized Cost by Lessor to Vendor. We, as Lessee, hereby agree that we have fully inspected the Equipment leased hereunder and acknowledged it to be in good condition to our complete satisfaction. We understand that you, as Lessor, make no warranties, either expressed or implied, as to the condition of the Equipment, or its fitness for any particular purpose. We understand that this installation is not made on a trial basis.

LESSEE: MONTAGUE COUNTY
P.O. BOX 186
MONTAGUE, TX. 76251
TAX ID # 75-6001078

By: 
KEVIN BENTON
COUNTY JUDGE – MONTAGUE COUNTY

DATE OF ACCEPTANCE: SEPTEMBER 27th, 2021

Exhibit 1

<u>Model Number</u>	<u>Serial #</u>	<u>EQUIPMENT INFORMATION</u> Item/Description:	<u>Qty</u>	<u>Price</u>
GD655-6	60875	2021 KOMATSU GD655-6 Motor Grader Purchased from Kirby-Smith Machinery, Inc. Source Well Contract # 032119-KOM	1	\$264,330.00
		SUB TOTAL:		\$264,330.00
		TOTAL:		\$264,330.00
		LESS DOWN PAYMENT:		(\$170,000.00)
		Document Fees:		\$300.00
		TOTAL CAPITALIZED COST:		\$94,630.00

SCHEDULE OF LEASE PAYMENTS DURING THE BASE TERM:

No. of Years:	5	Base Lease Payment:	\$20,350.93
No. of Lease Payments:	5	Interest Rate:	2.50%
For Business Use Inside: MONTAGUE COUNTY		Property Tax:	N/A
		Total Payment:	\$20,350.93
		Lease End Date:	SEPTEMBER 15th, 2026

Exhibit 2

Lease payments:

<u>Payment Date</u>	<u>Lease Payment</u>
09/28/21	\$0.00
09/15/22	\$20,350.93
09/15/23	\$20,350.93
09/15/24	\$20,350.93
09/15/25	\$20,350.93
09/15/26	\$20,350.93

WORKSHEET FOR LEASE-PURCHASE EQUIPMENT LEASE

FILE: EquipQuote
LESSEE: Montague County
P.O. Box 186, Montague, TX
Tax ID # 75-6001078

Date: 08/26/2021
LEASE NO: 30021128
ACCEPTANCE DATE: 09/27/2021
FUND DATE: 09/28/2021

FIRST NATIONAL LEASING
QUOTED BY: Gordon McCain - AVP
Phone: 940-757-2253

CONTACT: Comm. Mike Mayfield Pct. 2
BUSINESS PHONE: 940-531-8905

SOURCE: James McDonnell - Kirby-Smith Machinery, Inc.
(5) Five Yr. Lease/Purchase to \$1.00.

EQUIPMENT:
KOMATSU GD655-6 MOTOR GRADER
Serial # 60875

\$264,330.00
\$0.00
\$0.00
\$0.00
\$0.00
\$0.00

Trade In:
Serial #

FREIGHT/HANDLING:

\$0.00

TOTAL PURCHASE PRICE

\$264,330.00

Down Payment

-\$170,000.00

UCC-1 Filing Fee

\$300.00

Trade Allowance

\$0.00

Net Capitalized Cost

\$94,630.00

<u>Date</u>	<u>Lease Payment</u>	<u>Days Accrual</u>	<u>Accr. Interest</u>	<u>Principal</u>	<u>Note Balance</u>
09/28/21	0.00	0	0.00	0.00	94,630.00
09/15/22	20,350.93	352	2,281.49	18,069.44	76,560.56
09/15/23	20,350.93	365	1,914.01	18,436.92	58,123.64
09/15/24	20,350.93	365	1,453.09	18,897.84	39,225.81
09/15/25	20,350.93	365	980.65	19,370.28	19,855.52
09/15/26	20,350.93	365	496.39	19,854.54	0.98

Net Capitalized Cost 94,630.00
Interest Rate 2.5000%
Residual Value \$0.98
Rounding Residual 0.02
Adjusted Res. Value \$1.00

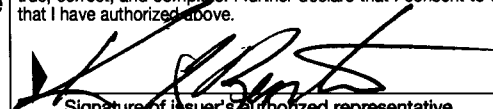
**Information Return for Small Tax-Exempt
Governmental Bond Issues, Leases, and Installment Sales**

► Under Internal Revenue Code section 149(e)

Caution: If the issue price of the issue is \$100,000 or more, use Form 8038-G.

Part I Reporting Authority		Check box if Amended Return <input type="checkbox"/>
1 Issuer's name MONTAGUE COUNTY, TX		2 Issuer's employer identification number (EIN) 7 5 6 0 0 1 0 7 8
3 Number and street (or P.O. box if mail is not delivered to street address) P.O. BOX 186		Room/suite
4 City, town, or post office, state, and ZIP code MONTAGUE, TX 76251		5 Report number (For IRS Use Only) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
6 Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information KEVIN BENTON - COUNTY JUDGE		7 Telephone number of officer or legal representative 940-894-2401

Part II Description of Obligations Check one: a single issue <input checked="" type="checkbox"/> or a consolidated return <input type="checkbox"/>	
8a Issue price of obligation(s) (see instructions)	8a 94,630 00
b Issue date (single issue) or calendar date (consolidated). Enter date in mm/dd/yyyy format (for example, 01/01/2009) (see instructions) ► 09/28/2021	
9 Amount of the reported obligation(s) on line 8a that is:	
a For leases for vehicles	9a 94,630 00
b For leases for office equipment	9b
c For leases for real property	9c
d For leases for other (see instructions)	9d
e For bank loans for vehicles	9e
f For bank loans for office equipment	9f
g For bank loans for real property	9g
h For bank loans for other (see instructions)	9h
i Used to refund prior issue(s)	9i
j Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)	9j
k Other	9k
10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box <input checked="" type="checkbox"/>	
11 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions) <input type="checkbox"/>	
12 Vendor's or bank's name: FIRST NATIONAL BANK	
13 Vendor's or bank's employer identification number: 7 5 2 0 4 4 9 4 8	

Signature and Consent	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.			
		09/27/2021	KEVIN BENTON - COUNTY JUDGE Type or print name and title	
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed
	Firm's name ►	Firm's EIN ►		PTIN
	Firm's address ►	Phone no.		

General Instructions
Section references are to the Internal Revenue Code unless otherwise noted.

What's New
The IRS has created a page on IRS.gov for information about the Form 8038 series and its instructions, at www.irs.gov/form8038. Information about any future developments affecting the Form 8038 series (such as legislation enacted after we release it) will be posted on that page.

Purpose of Form
Form 8038-GC is used by the issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

Who Must File
Issuers of tax-exempt governmental obligations with issue prices of less than \$100,000 must file Form 8038-GC.
Issuers of a tax-exempt governmental obligation with an issue price of \$100,000 or more must file Form 8038-G, Information Return for Tax-Exempt Governmental Obligations.
Filing a separate return for a single issue. Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than \$100,000.
An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to

pay a penalty in lieu of arbitrage rebate (see the line 11 instructions).
Filing a consolidated return for multiple issues. For all tax-exempt governmental obligations with issue prices of less than \$100,000 that are not reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.
Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, if the issue is a construction issue, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.