

Jennie Duncan

From: Whitfield McDonald <Whitfield.McDonald@cat.com>
Sent: Thursday, May 30, 2019 12:14 PM
To: jennie.duncan@evart.org
Subject: CITY OF EVART
Attachments: Payment Schedule CITY OF EVART.pdf; Rental Agreement CITY OF EVART.pdf; Payment Schedule CITY OF EVART 001-0711738-000 .pdf; Rental Agreement CITY OF EVART 001-0711738-000 .pdf

Jennie,

Apparently these are Governmental Buy Back contracts (GBB). The agreement states that the Dealer must purchase the machines at the term date, then re-lease them to the customer under a new Lease Agreement. I have began communication with the Dealer and will keep you updated. Having the new lease quotes today is highly unlikely. Note the Payment Schedules attached for your reference.

In your meeting you can explain that we will be able to create new Governmental Lease Purchase Agreements for the machines once the current agreements are fulfilled by the Dealer.

Best,

Whitfield McDonald

Lease Consultant
North America Business Center
Caterpillar Financial Services Corporation
Direct Line 615-341-1630
Whitfield.McDonald@cat.com

Caterpillar Confidential: **Green**

Please consider the environment before printing this e-mail

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Caterpillar: Confidential Green

CUSTOMER INVOICE



CITY OF EVART

INVOICE NUMBER: 19900910
CUSTOMER NUMBER: 340202

DUE DATE: 01-Jul-2019
AMOUNT DUE: \$176,730.78



Taking care of your needs is our top priority. We truly appreciate the opportunity to serve you and look forward to our continued relationship.

R4C000



CONTRACT NO.	DESCRIPTION	DUE DATE	PRINCIPAL	INTEREST	AMOUNT
001-0711738-000	938K-SWL03111 PAYMENT	01-Jul-2019			\$115,562.28
OUTSTANDING CONTRACT BALANCE: \$115,143.25*					
* BALANCE DOES NOT EQUAL PAYOFF AMOUNT. PLEASE LOG IN TO WWW.CATFINANCIAL.COM OR CALL 1-800-651-0567 TO OBTAIN PAYOFF.					
AMOUNT DUE ON CONTRACT 001-0711738-000					\$115,562.28
001-0711739-000	420F-SKR03723 PAYMENT	01-Jul-2019			\$61,168.50
OUTSTANDING CONTRACT BALANCE: \$60,947.49*					
* BALANCE DOES NOT EQUAL PAYOFF AMOUNT. PLEASE LOG IN TO WWW.CATFINANCIAL.COM OR CALL 1-800-651-0567 TO OBTAIN PAYOFF.					
AMOUNT DUE ON CONTRACT 001-0711739-000					\$61,168.50
Last Payment Received Date 11-Jun-2018					
TOTAL AMOUNT DUE					\$176,730.78

661-907-950-991
JD

MAKE A PAYMENT & MANAGE YOUR ACCOUNT

CONTACT US



ONLINE
www.CatFinancial.com
Make a payment
View statements and pay history
Obtain buyout quote
View interest letters



CHECK
CATERPILLAR FINANCIAL SERVICES CORPORATION
P.O. BOX 730669
DALLAS, TX 753730669



OVERNIGHT MAIL
JP Morgan Chase
Attn: Dallas Lockbox TX1-0029
Caterpillar - Lockbox #730669
14800 Frye Drive
Ft. Worth, TX 76155



PHONE
1-800-651-0567
(Select Option 2)



CUSTOMER SERVICE
1-800-651-0567



NABC.CustomerService@Cat.com



Caterpillar Financial Customer Relations
2120 West End Ave.
P.O. Box 340001
Nashville, TN 37203
PLEASE DO NOT SEND PAYMENTS TO THIS ADDRESS



facebook.com/CatFinancial



@CatFinancial



youtube.com/CatFinancial



linkedin.com/company/Caterpillar-Financial

PLEASE RETURN BOTTOM PORTION WITH YOUR PAYMENT



INVOICE NUMBER: 19900910
CUSTOMER NUMBER: 340202



DUE DATE: 01-Jul-2019
AMOUNT DUE: \$176,730.78

SEND PAYMENT ONLY TO:

CATERPILLAR FINANCIAL SERVICES CORPORATION
P.O. BOX 730669
DALLAS, TX 753730669

PA2ZTP00202200 I004399 -588574943 - S3



CITY OF EVART
5814 100TH AVE
EVART MI 49631-8421

0019900910 9999 190516 20017673078



1. PARTIES

LESSOR (we): CATERPILLAR FINANCIAL SERVICES CORPORATION
 LESSEE (you): CITY OF EVART

2. PAYMENT SCHEDULE

Payment Dates	Payment Numbers	Payment Amounts Due
<u>7-1-15</u>	1 - 10	\$0.00
<u>8-1-16</u>	11	\$6,168.50
<u>7-1-17</u>	12 - 22	\$0.00
<u>7-1-18</u>	23	\$6,168.50
<u>7-1-19</u>	24 - 34	\$0.00
	35	\$6,168.50
	36 - 46	\$0.00
	47	\$6,168.50
	48 - 58	\$0.00
	59	\$6,168.50
	60	\$0.00
	FINAL PAYMENT OF	\$55,000.00

SIGNATURES

LESSOR CATERPILLAR FINANCIAL SERVICES CORPORATION
 Signature [Signature]
 Name (print) L. Lynann Freshour
 Title Documentation Manager
 Date 8/25/14

LESSEE CITY OF EVART
 Signature [Signature]
 Name (print) Buck Valley
 Title Director of Public Works
 Date 8-25-14





1. PARTIES

LESSOR (we): CATERPILLAR FINANCIAL SERVICES CORPORATION
LESSEE (you): CITY OF EVART

2. PAYMENT SCHEDULE

Payment Dates	Payment Numbers	Payment Amounts Due
<u>8-1-14 - 6-1-15</u>	1 - 10	\$0.00
<u>7-1-15</u>	11	\$5,562.28
<u>8-1-15 - 6-1-16</u>	12 - 22	\$0.00
<u>7-1-16</u>	23	\$5,562.28
<u>8-1-16 - 6-1-17</u>	24 - 34	\$0.00
<u>7-1-17</u>	35	\$5,562.28
<u>8-1-17 - 6-1-18</u>	36 - 46	\$0.00
<u>7-1-18</u>	47	\$5,562.28
<u>8-1-18 - 6-1-19</u>	48 - 58	\$0.00
<u>7-1-19</u>	59	\$5,562.28
<u>8-1-19</u>	60	\$0.00
	FINAL PAYMENT OF	\$110,000.00

SIGNATURES

LESSOR CATERPILLAR FINANCIAL SERVICES CORPORATION
Signature [Signature]
Name (print) L. Lynn Freshour
Title Documentation Manager
Date 9/2/14

LESSEE CITY OF EVART
Signature [Signature]
Name (print) Bruce Walker
Title Director of Public Works
Date 8-25-14





Governmental Equipment Lease-Purchase Agreement
Transaction Number 2353221

1. PARTIES

LESSOR ("we", "us", or "our"):

CATERPILLAR FINANCIAL SERVICES CORPORATION
 2120 West End Avenue
 Nashville, TN 37203

LESSEE ("you" or "your"):

CITY OF EVART
 200 S. MAIN
 EVART, MI 49631

In reliance on your selection of the equipment described below (each a "Unit"), we have agreed to acquire and lease the Units to you, subject to the terms of this Lease. Until this Lease has been signed by our duly authorized representative, it will constitute an offer by you to enter into this Lease with us on the terms stated herein.

2. DESCRIPTION OF THE UNITS

DESCRIPTION OF UNITS Whether the Unit is new or used, the model number, the manufacturer, and the model name.	SERIAL/VIN Unique ID number for this Unit.	MONTHLY LEASE PAYMENT This is due per period, as stated below in section 3.	FINAL LEASE PAYMENT	DELIVERY DATE Enter date machine was delivered to you
(1) New 420F Caterpillar Backhoe Loader	SKR03723	See Attached	\$61,168.50	8/12/19

TERMS AND CONDITIONS

- Lease Payments; Current Expense** You will pay us the lease payments, including the final lease payment set forth above (collectively, the "Lease Payments"). Lease Payments shall be paid by Lessee to Lessor according to the attached payment schedule; provided that all accounts owing hereunder shall be due by the final lease payment date. A portion of each Lease Payment constitutes interest and the balance of each Lease Payment is payment of principal. The Lease Payments will be due without demand. You will pay the Lease Payments to us at Caterpillar Financial Services Corporation; PO Box 730669; Dallas, TX 75373-0669 or such other location that we designate in writing. Your obligations, including your obligation to pay the Lease Payments due in any fiscal year, will constitute a current expense of yours for such fiscal year and will not constitute an indebtedness of yours within the meaning of the constitution and laws of the State in which you are located (the "State"). Nothing in this Agreement will constitute a pledge by you of any taxes or other moneys, other than moneys lawfully appropriated from time to time for the payment of the "Payments" (as defined in the last sentence of this Paragraph) owing under this Agreement. You agree that, except as provided in paragraph 7, your duties and liabilities under this Agreement and any associated documents are absolute and unconditional. Your payment and performance obligations are not subject to cancellation, reduction, or setoff for any reason. You agree to settle all claims, defenses, setoffs, counterclaims and other disputes you may have with the Supplier, the manufacturer of the Unit, or any other third party directly with the Supplier, the manufacturer or the third party, as the case may be. You will not assert, allege or make any such claim, defense, setoff, counterclaim or other dispute against us or with respect to the payments due us under this Agreement. As used in this Agreement, "Payments" will mean the Lease Payments and any other amounts required to be paid by you.

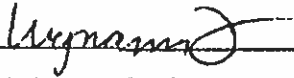
The portion of the Lease Payments constituting principal will bear interest (computed on the basis of actual days elapsed in a 360 day year) at the rate of 2.19% per annum.
- Late Charges** If we do not receive a Payment on the date it is due, you will pay to us, on demand, a late payment charge equal to the lesser of five percent (5%) of such Payment or the highest charge allowed by law.
- Security Interest** To secure your obligations under this Agreement, you grant us a continuing first priority security interest in each Unit (including any Additional Collateral), including all attachments, accessories and optional features (whether or not installed on such Units) and all substitutions, replacements, additions, and accessions, and the proceeds of all the foregoing, including, but not limited to, proceeds in the form of chattel paper. You authorize the filing of such financing statements and will, at your expense, do any act and execute, acknowledge, deliver, file, register and record any document, which we deem desirable to protect our security interest in each Unit and our rights and benefits under this Agreement. You, at your expense, will protect and defend our security interest in the Units and will keep the Units free and clear of any and all claims, liens, encumbrances and legal processes however and whenever arising.
- Disclaimer of Warranties** WE HAVE NOT MADE AND DO NOT MAKE ANY WARRANTY, REPRESENTATION OR COVENANT OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE UNITS. AS TO US, YOUR LEASE AND PURCHASE OF THE UNITS WILL BE ON AN "AS IS" AND "WHERE IS" BASIS AND "WITH ALL FAULTS". Nothing in this Agreement is intended to limit, waive, abridge or otherwise modify any rights, claims, or causes of action that you may have against any person or entity other than us.
- Non-Appropriation** You have an immediate need for, and expect to make immediate use of, the Units. This need is not temporary or expected to diminish during the term of this Agreement. To that end, you agree, to the extent permitted by law, to include in your budget for the current and each successive fiscal year during the term of this Agreement, a sufficient amount to permit you to discharge your obligations under this Agreement. Notwithstanding any provision of this Agreement to the contrary, we and you agree that, in the event that prior to the commencement of any of your fiscal years you do not have sufficient funds appropriated to make the Payments



- due under this Agreement for such fiscal year, you will have the option of terminating this Agreement as of the date of the commencement of such fiscal year by giving us sixty (60) days prior written notice of your intent to terminate. No later than the last day of the last fiscal year for which appropriations were made for the Payments (the "Return Date"), you will return to us all of the Units, at your sole expense, in accordance with Paragraph 14, and this Agreement will terminate on the Return Date without penalty or expense to you and you will not be obligated to pay the Lease Payments beyond such fiscal year; provided, that you will pay all Payments for which moneys have been appropriated or are otherwise available; and provided further, that you will pay month-to-month rent at the rate set by us for each month or part of any month that you fail to return the Units.
8. **Tax Warranty** You will, at all times, do and perform all acts and things necessary and within your control to ensure that the interest component of the Lease Payments will, for the purposes of Federal income taxation, be excluded from our gross income. You will not permit or cause your obligations under this Agreement to be guaranteed by the Federal Government or any branch or instrumentality of the Federal Government. You will use the Units for the purpose of performing one or more of your governmental functions consistent with the scope of your authority and not in any trade or business carried on by a person other than you. You will report this Agreement to the Internal Revenue Service by filing Form 8038G, 8038GC or 8038, as applicable. Failure to do so will cause this Agreement to lose its tax exempt status. You agree that if the appropriate form is not filed, the interest rate payable under this Agreement will be raised to the equivalent taxable interest rate. If the use, possession or acquisition of the Units is determined to be subject to taxation, you will pay when due all taxes and governmental charges assessed or levied against or with respect to the Units.
9. **Assignment** You may not, without our prior written consent, by operation of law or otherwise, assign, transfer, pledge, hypothecate or otherwise dispose of your right, title and interest in and to this Agreement and/or the Units and/or grant or assign a security interest in this Agreement and/or the Units, in whole or in part. We may not transfer, sell, assign, pledge, hypothecate, or otherwise dispose of our right, title and interest in and to this Agreement and/or the Units and/or grant or assign a security interest in this Agreement and/or the Units, in whole or in part.
10. **Indemnity** To the extent permitted by law, you assume liability for, agree to and do indemnify, protect and hold harmless us and our employees, officers, directors and agents from and against any and all liabilities, obligations, losses, damages, injuries, claims, demands, penalties, actions, costs and expenses (including reasonable attorney's fees), of whatsoever kind and nature, arising out of the use, condition (including, but not limited to, latent and other defects and whether or not discoverable by you or us), operation, ownership, selection, delivery, storage, leasing or return of any item of Units, regardless of where, how and by whom operated, or any failure on your part to accept the Units or otherwise to perform or comply with any conditions of this Agreement.
11. **Insurance; Loss and Damage** You bear the entire risk of loss, theft, destruction or damage to the Units from any cause whatsoever. No loss, theft, destruction or damage of the Units will relieve you of the obligation to make Lease Payments or to perform any obligation owing under this Agreement. You agree to keep the Units insured to protect all of our interests, at your expense, for such risks, in such amounts, in such forms and with such companies as we may require, including but not limited to fire and extended coverage insurance, explosion and collision coverage, and personal liability and property damage liability insurance. Any insurance policies relating to loss or damage to the Units will name us as loss payee as our interests may appear and the proceeds may be applied toward the replacement or repair of the Units or the satisfaction of the Payments due under this Agreement. You agree to use, operate and maintain the Units in accordance with all laws, regulations and ordinances and in accordance with the provision of any policies of insurance covering the Units, and will not rent the Units or permit the Units to be used by anyone other than you. You agree to keep the Units in good repair, working order and condition and house the Units in suitable shelter, and to permit us or our assigns to inspect the Units at any time and to otherwise protect our interests in the Units. If any Unit is customarily covered by a maintenance agreement, you will furnish us with a maintenance agreement by a party acceptable to us.
12. **Default; Remedies** An "Event of Default" will occur if (a) you fail to pay any Payment when due and such failure continues for ten (10) days after the due date for such Payment or (b) you fail to perform or observe any other covenant, condition, or agreement to be performed or observed by you under this Agreement and such failure is not cured within twenty (20) days after written notice of such failure from us. Upon an Event of Default, we will have all rights and remedies available under applicable law. In addition, we may declare all Lease Payments due or to become due during the fiscal year in which the Event of Default occurs to be immediately due and payable by you and/or we may repossess the Units by giving you written notice to deliver the Units to us in the manner provided in Paragraph 14, or in the event you fail to do so within ten (10) days after receipt of such notice, and subject to all applicable laws, we may enter upon your premises and take possession of the Units. Further, if we financed your obligations under any extended warranty agreement such as an Equipment Protection Plan, Extended Service Contract, Extended Warranty, Customer Service Agreement, Total Maintenance and Repair Agreement or similar agreement, we may cancel such extended warranty agreement on your behalf and receive the refund of the extended warranty agreement fees that we financed but had not received from you as of the date of the Event of Default.
13. **Miscellaneous** This Agreement may not be modified, amended, altered or changed except by a written agreement signed by you and us. In the event any provision of this Agreement is found invalid or unenforceable, the remaining provisions will remain in full force and effect. This Agreement, together with exhibits, constitutes the entire agreement between you and us and supersedes all prior and contemporaneous writings, understandings, agreements, solicitations, documents and representations, expressed or implied. Any terms and conditions of any purchase order or other documents submitted by you in connection with this Agreement which are in addition to or inconsistent with the terms and conditions of this Agreement will not be binding on us and will not apply to this Agreement. You agree that we may correct patent errors in this Agreement and fill in blanks including, for example, correcting or filling in serial numbers, VIN numbers, and dates. Any notices required to be given under this Agreement will be given to the parties in writing and by certified mail at the address provided in this Agreement, or to such other addresses as each party may substitute by notice to the other, which notice will be effective upon its receipt.
14. **Title; Return of Units** Notwithstanding our designation as "Lessor", we do not own the Units. Legal title to the Units will be in you so long as an Event of Default has not occurred and you have not exercised your right of non-appropriation. If an Event of Default occurs or if you non-appropriate, full and unencumbered title to the Units will pass to us without the necessity of further action by the parties, and you will have no further interest in the Units. If we are entitled to obtain possession of any Units or if you are obligated at any time to return any Units, then (a) title to the Units will vest in us immediately, and (b) you will, at your expense, promptly deliver the Unit to us properly protected and in the condition required by Section 11. You will deliver the Unit, at our option, (i) to the nearest Caterpillar dealer selling equipment of the same type as the Unit; or (ii) on board a carrier named by us and shipping the Unit, freight collect, to a destination designated by us. If the Unit is not in the condition required by Section 11, you must pay us, on demand, all costs and expenses incurred by us to bring the Unit into the required condition. Until the Units are returned as required above, all terms of this Agreement will remain in full force and effect including, without limitation, your obligation to pay Lease Payments and to insure the Units.
15. **Other Documents** In connection with the execution of this Agreement, you will cause to be delivered to us (i) a Delivery Certification substantially in the form attached as Attachment A; (ii) either (A) a certified copy of your authorizing resolution substantially in the form attached as Attachment B and a copy of the minutes of the relevant meeting or (B) an opinion of your counsel substantially in the form attached as Attachment C; (iii) a Verification of Insurance substantially in the form attached to this Agreement; (iv) a copy of the signed Form filed with the Internal Revenue Service required in Section 8 above as Attachment D; and (v) any other documents or items required by us.
16. **Applicable Law** This Agreement will be governed by the laws, excluding the laws relating to the choice of law, of the State in which you are located.

SIGNATURES

LESSOR
CATERPILLAR FINANCIAL SERVICES CORPORATION

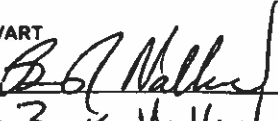
Signature 

Name (print) L. Lynann Freshour
Documentation Manager

Title _____

Date ~~8/22/14~~ 9/2/14

LESSEE
CITY OF EVART

Signature 

Name (print) Buck Vallae

Title Director of Public Works

Date 8-25-14



**Governmental Equipment Lease-Purchase Agreement
Transaction Number 2353223**

1. PARTIES

LESSOR ("we", "us", or "our"):
CATERPILLAR FINANCIAL SERVICES CORPORATION
2120 West End Avenue
Nashville, TN 37203

LESSEE ("you" or "your"):
CITY OF EVART
200 S. MAIN
EVART, MI 49631

In reliance on your selection of the equipment described below (each a "Unit"), we have agreed to acquire and lease the Units to you, subject to the terms of this Lease. Until this Lease has been signed by our duly authorized representative, it will constitute an offer by you to enter into this Lease with us on the terms stated herein.

2. DESCRIPTION OF THE UNITS

DESCRIPTION OF UNITS Whether the Unit is new or used, the model number, the manufacturer, and the model name.	SERIAL/VIN Unique ID number for this Unit.	MONTHLY LEASE PAYMENT This is due per period, as stated below in section 3.	FINAL LEASE PAYMENT	DELIVERY DATE Enter date machine was delivered to you
(1) New 938K Caterpillar Wheel Loader	SWL03111	See Attached	\$115,562.28	8/6/14

TERMS AND CONDITIONS

- Lease Payments; Current Expense** You will pay us the lease payments, including the final lease payment set forth above (collectively, the "Lease Payments"). Lease Payments shall be paid by Lessee to Lessor according to the attached payment schedule; provided that all accounts owing hereunder shall be due by the final lease payment date. A portion of each Lease Payment constitutes interest and the balance of each Lease Payment is payment of principal. The Lease Payments will be due without demand. You will pay the Lease Payments to us at Caterpillar Financial Services Corporation; PO Box 730669; Dallas, TX 75373-0669 or such other location that we designate in writing. Your obligations, including your obligation to pay the Lease Payments due in any fiscal year, will constitute a current expense of yours for such fiscal year and will not constitute an indebtedness of yours within the meaning of the constitution and laws of the State in which you are located (the "State"). Nothing in this Agreement will constitute a pledge by you of any taxes or other moneys, other than moneys lawfully appropriated from time to time for the payment of the "Payments" (as defined in the last sentence of this Paragraph) owing under this Agreement. You agree that, except as provided in paragraph 7, your duties and liabilities under this Agreement and any associated documents are absolute and unconditional. Your payment and performance obligations are not subject to cancellation, reduction, or setoff for any reason. You agree to settle all claims, defenses, setoffs, counterclaims and other disputes you may have with the Supplier, the manufacturer of the Unit, or any other third party directly with the Supplier, the manufacturer or the third party, as the case may be. You will not assert, allege or make any such claim, defense, setoff, counterclaim or other dispute against us or with respect to the payments due us under this Agreement. As used in this Agreement, "Payments" will mean the Lease Payments and any other amounts required to be paid by you.

The portion of the Lease Payments constituting principal will bear interest (computed on the basis of actual days elapsed in a 360 day year) at the rate of 2.19% per annum.
- Late Charges** If we do not receive a Payment on the date it is due, you will pay to us, on demand, a late payment charge equal to the lesser of five percent (5%) of such Payment or the highest charge allowed by law.
- Security Interest** To secure your obligations under this Agreement, you grant us a continuing first priority security interest in each Unit (including any Additional Collateral), including all attachments, accessories and optional features (whether or not installed on such Units) and all substitutions, replacements, additions, and accessions, and the proceeds of all the foregoing, including, but not limited to, proceeds in the form of chattel paper. You authorize the filing of such financing statements and will, at your expense, do any act and execute, acknowledge, deliver, file, register and record any document, which we deem desirable to protect our security interest in each Unit and our rights and benefits under this Agreement. You, at your expense, will protect and defend our security interest in the Units and will keep the Units free and clear of any and all claims, liens, encumbrances and legal processes however and whenever arising.
- Disclaimer of Warranties** WE HAVE NOT MADE AND DO NOT MAKE ANY WARRANTY, REPRESENTATION OR COVENANT OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE UNITS. AS TO US, YOUR LEASE AND PURCHASE OF THE UNITS WILL BE ON AN "AS IS" AND "WHERE IS" BASIS AND "WITH ALL FAULTS". Nothing in this Agreement is intended to limit, waive, abridge or otherwise modify any rights, claims, or causes of action that you may have against any person or entity other than us.
- Non-Appropriation** You have an immediate need for, and expect to make immediate use of, the Units. This need is not temporary or expected to diminish during the term of this Agreement. To that end, you agree, to the extent permitted by law, to include in your budget for the current and each successive fiscal year during the term of this Agreement, a sufficient amount to permit you to discharge your obligations under this Agreement. Notwithstanding any provision of this Agreement to the contrary, we and you agree that, in the event that prior to the commencement of any of your fiscal years you do not have sufficient funds appropriated to make the Payments



- due under this Agreement for such fiscal year, you will have the option of terminating this Agreement as of the date of the commencement of such fiscal year by giving us sixty (60) days prior written notice of your intent to terminate. No later than the last day of the last fiscal year for which appropriations were made for the Payments (the "Return Date"), you will return to us all of the Units, at your sole expense, in accordance with Paragraph 14, and this Agreement will terminate on the Return Date without penalty or expense to you and you will not be obligated to pay the Lease Payments beyond such fiscal year; provided, that you will pay all Payments for which moneys have been appropriated or are otherwise available; and provided further, that you will pay month-to-month rent at the rate set by us for each month or part of any month that you fail to return the Units.
8. **Tax Warranty** You will, at all times, do and perform all acts and things necessary and within your control to ensure that the interest component of the Lease Payments will, for the purposes of Federal income taxation, be excluded from our gross income. You will not permit or cause your obligations under this Agreement to be guaranteed by the Federal Government or any branch or instrumentality of the Federal Government. You will use the Units for the purpose of performing one or more of your governmental functions consistent with the scope of your authority and not in any trade or business carried on by a person other than you. You will report this Agreement to the Internal Revenue Service by filing Form 8038G, 8038GC or 8038, as applicable. Failure to do so will cause this Agreement to lose its tax exempt status. You agree that if the appropriate form is not filed, the interest rate payable under this Agreement will be raised to the equivalent taxable interest rate. If the use, possession or acquisition of the Units is determined to be subject to taxation, you will pay when due all taxes and governmental charges assessed or levied against or with respect to the Units.
9. **Assignment** You may not, without our prior written consent, by operation of law or otherwise, assign, transfer, pledge, hypothecate or otherwise dispose of your right, title and interest in and to this Agreement and/or the Units and/or grant or assign a security interest in this Agreement and/or the Units, in whole or in part. We may not transfer, sell, assign, pledge, hypothecate, or otherwise dispose of our right, title and interest in and to this Agreement and/or the Units and/or grant or assign a security interest in this Agreement and/or the Units, in whole or in part.
10. **Indemnity** To the extent permitted by law, you assume liability for, agree to and do indemnify, protect and hold harmless us and our employees, officers, directors and agents from and against any and all liabilities, obligations, losses, damages, injuries, claims, demands, penalties, actions, costs and expenses (including reasonable attorney's fees), of whatsoever kind and nature, arising out of the use, condition (including, but not limited to, latent and other defects and whether or not discoverable by you or us), operation, ownership, selection, delivery, storage, leasing or return of any item of Units, regardless of where, how and by whom operated, or any failure on your part to accept the Units or otherwise to perform or comply with any conditions of this Agreement.
11. **Insurance; Loss and Damage** You bear the entire risk of loss, theft, destruction or damage to the Units from any cause whatsoever. No loss, theft, destruction or damage of the Units will relieve you of the obligation to make Lease Payments or to perform any obligation owing under this Agreement. You agree to keep the Units insured to protect all of our interests, at your expense, for such risks, in such amounts, in such forms and with such companies as we may require, including but not limited to fire and extended coverage insurance, explosion and collision coverage, and personal liability and property damage liability insurance. Any insurance policies relating to loss or damage to the Units will name us as loss payee as our interests may appear and the proceeds may be applied toward the replacement or repair of the Units or the satisfaction of the Payments due under this Agreement. You agree to use, operate and maintain the Units in accordance with all laws, regulations and ordinances and in accordance with the provision of any policies of insurance covering the Units, and will not rent the Units or permit the Units to be used by anyone other than you. You agree to keep the Units in good repair, working order and condition and house the Units in suitable shelter, and to permit us or our assigns to inspect the Units at any time and to otherwise protect our interests in the Units. If any Unit is customarily covered by a maintenance agreement, you will furnish us with a maintenance agreement by a party acceptable to us.
12. **Default; Remedies** An "Event of Default" will occur if (a) you fail to pay any Payment when due and such failure continues for ten (10) days after the due date for such Payment or (b) you fail to perform or observe any other covenant, condition, or agreement to be performed or observed by you under this Agreement and such failure is not cured within twenty (20) days after written notice of such failure from us. Upon an Event of Default, we will have all rights and remedies available under applicable law. In addition, we may declare all Lease Payments due or to become due during the fiscal year in which the Event of Default occurs to be immediately due and payable by you and/or we may repossess the Units by giving you written notice to deliver the Units to us in the manner provided in Paragraph 14, or in the event you fail to do so within ten (10) days after receipt of such notice, and subject to all applicable laws, we may enter upon your premises and take possession of the Units. Further, if we financed your obligations under any extended warranty agreement such as an Equipment Protection Plan, Extended Service Contract, Extended Warranty, Customer Service Agreement, Total Maintenance and Repair Agreement or similar agreement, we may cancel such extended warranty agreement on your behalf and receive the refund of the extended warranty agreement fees that we financed but had not received from you as of the date of the Event of Default.
13. **Miscellaneous** This Agreement may not be modified, amended, altered or changed except by a written agreement signed by you and us. In the event any provision of this Agreement is found invalid or unenforceable, the remaining provisions will remain in full force and effect. This Agreement, together with exhibits, constitutes the entire agreement between you and us and supersedes all prior and contemporaneous writings, understandings, agreements, solicitations, documents and representations, expressed or implied. Any terms and conditions of any purchase order or other documents submitted by you in connection with this Agreement which are in addition to or inconsistent with the terms and conditions of this Agreement will not be binding on us and will not apply to this Agreement. You agree that we may correct patent errors in this Agreement and fill in blanks including, for example, correcting or filling in serial numbers, VIN numbers, and dates. Any notices required to be given under this Agreement will be given to the parties in writing and by certified mail at the address provided in this Agreement, or to such other addresses as each party may substitute by notice to the other, which notice will be effective upon its receipt.
14. **Title; Return of Units** Notwithstanding our designation as "Lessor", we do not own the Units. Legal title to the Units will be in you so long as an Event of Default has not occurred and you have not exercised your right of non-appropriation. If an Event of Default occurs or if you non-appropriately, full and unencumbered title to the Units will pass to us without the necessity of further action by the parties, and you will have no further interest in the Units. If we are entitled to obtain possession of any Units or if you are obligated at any time to return any Units, then (a) title to the Units will vest in us immediately, and (b) you will, at your expense, promptly deliver the Unit to us properly protected and in the condition required by Section 11. You will deliver the Unit, at our option, (i) to the nearest Caterpillar dealer selling equipment of the same type as the Unit; or (ii) on board a carrier named by us and shipping the Unit, freight collect, to a destination designated by us. If the Unit is not in the condition required by Section 11, you must pay us, on demand, all costs and expenses incurred by us to bring the Unit into the required condition. Until the Units are returned as required above, all terms of this Agreement will remain in full force and effect including, without limitation, your obligation to pay Lease Payments and to insure the Units.
15. **Other Documents** In connection with the execution of this Agreement, you will cause to be delivered to us (i) a Delivery Certification substantially in the form attached as Attachment A; (ii) either (A) a certified copy of your authorizing resolution substantially in the form attached as Attachment B and a copy of the minutes of the relevant meeting or (B) an opinion of your counsel substantially in the form attached as Attachment C; (iii) a Verification of Insurance substantially in the form attached to this Agreement; (iv) a copy of the signed Form filed with the Internal Revenue Service required in Section 8 above as Attachment D; and (v) any other documents or items required by us.
16. **Applicable Law** This Agreement will be governed by the laws, excluding the laws relating to the choice of law, of the State in which you are located.

SIGNATURES

LESSOR
CATERPILLAR FINANCIAL SERVICES CORPORATION

Signature *Lynann*

Name (print) L. Lynann Freshour
Documentation Manager

Title _____

Date 9/2/14

LESSEE
CITY OF EVART

Signature *B. A. Walker*

Name (print) Buck Vallad

Title Director of Public Works ✓

Date 8-25-14