

Lori Hendricks  
Wagoner County Clerk



307 E. Cherokee St.  
Wagoner, OK 74467  
918.485.7716  
Fax 918.485.7718

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Invitation to Bid

The Board of County Commissioners, Wagoner County, Oklahoma is seeking sealed bids for one or more Used Ditching Machines for District 2. This equipment will be a 1995 or newer with a maximum of 1,500 hours.

**Bid # 20**

**Date Published:** June 6, 2013 (Wagoner Tribune)

**Bidding Period Closing Date and Hour:** June 21, 2013 @ 4:00 PM

**Sealed Bid Opening Date and Hour:** June 24, 2013 @ 9:00 AM

**Requesting Authority:** Wagoner County District 2

Bid submissions are to be: Addressed to:

Wagoner County Purchasing Agent  
P O Box 156  
Wagoner, OK 74477

Delivered to:

Wagoner County Purchasing Agent  
307 E Cherokee  
Wagoner, OK 74467

Please review the attached Terms and Conditions pertaining to the submission of this bid.

Please pay particular attention to Item 1 of the Terms and Conditions. This item specifies how the bid envelopes are to be identified to prevent inadvertent or premature opening of sealed bids. Your compliance will ensure consideration of your bid by the awarding body. Late bids will not be considered.

Included in this packet is an Affidavit for Filing with Competitive Bid which must be signed and submitted as part of the bid.

This packet contains:

1. Invitation to Bid
2. Terms and Conditions for Bidding
3. Affidavit for Filing with Competitive Bid
4. Specifications
5. Bid Form
6. Lease Purchase Agreement with Letter
7. List of Wagoner County Institutions

A handwritten signature in cursive script that reads "Lori Hendricks".

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## TERMS AND CONDITIONS

THESE ITEMS APPLY TO AND BECOME A PART OF THE BID  
NO EXCEPTIONS TO THESE TERMS AND CONDITIONS WILL BE CONSIDERED

1. Bids must be submitted on the included form only. Each bid shall be placed in a separate envelope. Be sure the envelope is completely and properly identified and sealed, showing the bid name and number in the lower left hand corner.
2. All bids shall be entered on the Bid Form enclosed or a copy thereof. Bids are to be typewritten or in ink. No bidder may withdraw his proposal for a period of thirty (30) days after the date and hour set for the opening of bids.
3. The bidder shall attach the manufacturer's name of the equipment or material to be furnished, type, model numbers, manufacturer's descriptive bulletins and specifications. All guarantees and warranties should be clearly stated. This data shall be in sufficient detail to describe accurately the equipment or material to be furnished. Manufacturer's specifications, in respect to the successful bidder, shall be considered as part of the contract with Wagoner County.
4. Any exceptions or deviations from written specifications shall be identified in writing and attached to the bid form.
5. The enclosed Affidavit for Filing with Competitive Bid MUST be returned with the bid.
6. Wagoner County reserves the right to reject any and all bids and to waive any technicalities in the bidding.
7. Direct purchase of certain items of equipment or material by Wagoner County is exempt from Federal Excise Tax and Oklahoma Sales Tax. In such cases, the bidder shall quote prices which do not include Federal Excise Tax and Oklahoma Sales Tax.
8. Bid must show number of days required for delivery under normal conditions. Contractor must keep the County advised at all times of the status of the order. For any exception to the delivery date as specified on this order, vendor shall give prior notification and obtain written approval from the Purchasing Agent. Default in promised delivery date, or failure to meet specifications, authorizes the County to purchase supplies elsewhere and charge the full increase of cost and handling to defaulting contractor.
9. Bidder agrees to defend and save Wagoner County from and against all demands, claims, costs expense, damage and judgments based upon infringement of any patent to goods specified in this order or the ordinary use or operation of such goods

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by the County or use or operation of such goods in accordance with the bidders' direction.

10. If financing through a Lease/Purchase Agreement is necessary, Bidder is required to provide the arrangements with a financial institution as part of the bid package. See letter included in bid package.

**S.A.&I. 425 (2000)**

AFFIDAVIT FOR FILING WITH COMPETITIVE BID

STATE OF OKLAHOMA            )  
COUNTY OF \_\_\_\_\_        ) SS

\_\_\_\_\_, of lawful age, being first duly sworn, on oath says, that (s)he is the agent authorized by the bidder to submit the attached bid. Affiant further states that the bidder has not been a party to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding; or with any county official or employee as to quantity, quality or price in the prospective contract, or any other terms of said prospective contract; or in any discussions between bidders and any county official concerning exchange of money or other thing of value for special consideration in the letting of a contract.

BIDDER:

\_\_\_\_\_

Signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_

20 \_\_\_\_.

\_\_\_\_\_  
Notary Public (or Clerk or Judge)

My commission expires: \_\_\_\_\_

Note:

Each competitive bid submitted to a county, school district or municipality must be accompanied with the above Affidavit as required by 61 Okl.St.Ann. § 138

## SPECIFICATIONS FOR DITCHING MACHINE

Ditch Cleaning Unit is to be chassis mounted behind the cab of the truck and forward of the dump box.

Used - 1995 or newer

Maximum 1,500 hours

Powered by hydraulics with in-cab controls for a one-man operation

P.T.O. driven hydraulic pump with air controls for all hydraulics

### Ditcher:

- Chain-driven horizontal rotating auger bit cutter mounted on extendible arm
- Auger to be 27" in diameter with replaceable cutting ring. Auger to be reversible
- 3-stage conveyor mechanism
- Cutting and conveying mechanism are to be hydraulically powered
- Horizontal and vertical positioning of auger to be controlled from operator's position
- Hydraulic system capacity to be 75 gallons
- To be furnished with a triple hydraulic pump
- To have 3' lateral travel; 8.5' lateral reach from truck wheel; 8' travel width; 12'8" travel height
- Maximum cleaning depth to be 36" below grade
- Approximate weight to be 4,850 lbs.

○ Hydraulic Capacity	70 Gallons
○ Power -PTO	Triple Hydraulic Pump
○ Operating Speed	0 - 1 MPH
○ Lateral Travel	3 Feet
○ Lateral Reach	8.5 Feet
○ Cleaning Depth	36 inches below grade
○ Auger	27" w/replaceable cutting ring
○ Travel Width	8 feet
○ Travel Height	12.8 feet
○ Weight with Hydraulic Oil	Approx. 4,850 lbs

### DUMP BOX:

○ Box Capacity	8-10 yards
○ Dimensions	12 feet x 95 inches wide
○ Gauge Steel	10 gauge hi tensile, dash, floor and tailgate
○ Air Gate Switch	
○ Back Up Alarm	

## **DUMP BODY:**

- 12' 0" long by 7' 0" wide inside dimensions
- 12 gauge high tensile steel sides - corrugated
- 12 gauge high tensile steel dash
- 3/16" high tensile steel floor - formed radius corners
- 10 gauge high tensile steel tailgate - air operated with over center lock, heavy-duty hardware, and spreader chains with storage hooks
- 4 x 10 inch 3/16" wall, rectangular tube long - members ( 4 x 8 long-members if compatible with scissors hoist)
- Vulcanized neoprene lining on long members for buffer on truck frame
- Two steps and two assist handles left and right front corners of body
- Recessed legal lights, all seal beam type with sealed wire harness system and sealed junction box back-up lights installed in the vertical real posts of dump body
- Mud flaps and brackets with anti-sail brackets ahead of drivers and shorter style at rear
- Body safety prop
- Greaseless body hinges
- One drain door left hand front side of dump body
- Scissors hoist
- Air gate switch mounted in dash
- Back up alarm

## **CHASSIS:**

GVWR 58,000 / Wheel Base: 230" CA / 163' usable CA / 161" / Axle to Frame: 75". Chassis to be a two speed rear tandem axle with a gear ratio of 6.17/8.40, 46,000 cap. Right and left side of frame rails from back of cab aft to be free of any obstructions.

- **FRAME:**
  - Tow Hooks - (2) front frame mounted
  - Frame Rails - Heat treated alloy steel (110,000 PSI yield); 10.125 x 3.062 x 0.312
  - Frame Reinforcement - full outer "C" channel, heat treated alloy steel, (110,000 PSI yield) 10.720 x 3.310 x 0.250
  - Bumper - front, full width steel
- **FRONT AXLE:**
  - "I" beam type, 18,000 lb. Capacity
- **SPRINGS:**
  - Front Suspension - spring multi-leaf, shackle type, 18,000 lb. capacity

- Spring Pins - 1.25 diameter Smooth pin with lubrication groove
- Shock Absorbers - front
- **REAR AXLE/SUSPENSION:**
  - Rear Axle - tandem two speed, 46,000 lb. capacity
  - Rear Suspension - 54" axle spacing; 46,000 lb capacity with bronze center bushings
- **BRAKES:**
  - Dual air system for straight truck
  - Includes the following
    - Air compressor supply line thru air cleaner
    - Brake Chambers - spring (4) rear parking
    - Brake Lines- color coded nylon
    - Drain Valve - twist type
    - Dust Shields - front and rear
    - Inversion Valve and Double Check Valve
    - Slack Adjusters - Automatic front and rear
    - Brakes, Front - Air cam S - Cam, 16.5 x 6.0, 20 sq. in. brake chambers
    - Brakes, Rear - Air cam S - Cam, 16.5 x 7.0, 30 sq. in. MGM spring actuated parking brake chambers
    - Drain Valve - Automatic with heater for air tank
    - Air Dryer - heated, located under the cab
    - Air Compressor - 13.2 CFM with dual air gauge
- **STEERING:**
  - Steering Column - stationary
  - Steering Wheel - 2 spoke, black, 18 in. diameter
  - Steering Gear - (2) dual power
- **WHEELS:**
  - Wheel Seals, Front - Oil lubricated wheel bearings
  - Wheels, Front - Disc 22.5 painted steel, 10 stud (11.25 BC) 9.00 DC rims with steel hubs
  - Wheels, Rear - Disc 22.5 painted steel, 10-stud (11.25 BC) 8.25 DC rims with steel hubs
- **TIRES:**
  - Front - (2) 31580R22.5-L
  - Rear - (8) 11R22.5-H
- **ENGINE:**
  - 285 hp, 800 ft. lb. of torque @ 1400 RPM, RPM governed @ 2,400 electronic road speed - 62 MPH
  - Radiator - Heavy Duty
  - Air Cleaner Restriction Gauge - Mounted on Instrument Panel
  - Fan Drive - Viscous
  - Cruise Control
  - Fuel/Water Separator
- **TRANSMISSION:**

- Main Transmission - Allison automatic, wide ratio 5-speed 3500 RDSP with PTO gear and less retarder
- Shift Control - Push button type mounted on dash panel
- Alison WT Spare Input/Output - For dump/construction with 2 speed axle or auxiliary transmission
- Auxiliary Transmission - 2 speed with air shift controls
- PTO - Chelsea/ 117% ratio / PN 859XRFJPB5XV (driveline operated hydraulic pump)
- **EXHAUST SYSTEM:**
  - Single vertical muffler with tip out mounted on right side as close to cab as possible
- **FUEL TANK:**
  - 50 gallon rectangular steel tank with step, mounted on right side under cab. Fuel tank must be flush with back of cab if larger tank is used.
- **FRONT END:**
  - Tilting fiberglass
- **CAB, COWL @ BODY:**
  - Conventional Steel Cab
  - Glass - all tinted windows
  - Interior color - gray
  - Mirrors - (2) Rectangular west coast type, retractable, stainless steel 16" x 7" size with (2) stainless convex - 8" diameter mounted below primary mirrors
  - Gauge Cluster - speedometer, tachometer, water temperature, transmission oil temperature, volt meter, fuel gauge, dual air pressure gauge and hour meter
  - Driver Seat - Air Suspension, intermediate back, vinyl with printed insert, 2 position, front cushion adjustment, minus 2 degree to plus 15 degree seat back adjustment, mechanical lumbar support
- **ELECTRICAL:**
  - Electrical System - 12 volt standard
  - Horn - Air (2) chrome with single pedestal
  - Back up alarm
  - Alternator - 12 volt, 100 amp
  - Battery - (2) maintenance free, battery box mounted under driver's door
  - NOTE: If dual fuel tanks are used under cab doors, the battery box must be mounted on the outside of the frame.
  - Windshield Wiper Switch - electric/intermittent
  - Indicators - Low oil pressure, high coolant temperature, light and audible alarm
  - Headlights - Long life halogen
  - Circuit Breakers - Manual reset, SAE type III with trip indicators

**Vehicle is to be financed through a lease/purchase agreement for 3, 4, or 5 years.**

**Vendor is responsible for providing the arrangements for each of these scenarios with a financial institution.**

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BID FORM

INVITATION FOR SEALED BIDS FOR A USED  
1995 OR NEWER DITCHING MACHINE

DATE AND TIME OF OPENING: \_\_\_\_\_

Bidder agrees to furnish Wagoner County with A USED DITCHING MACHINE PER ATTACHED SPECIFICATIONS.

PRICE FOR DITCHING MACHINE:                   \$ \_\_\_\_\_

The undersigned acknowledges receipt of the following Addenda. (Give number and date of each):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Delivery will be available in not more than \_\_\_\_\_ days after receipt of order.

I have examined the terms and specifications and instructions to bidders herein, and agree, provided I am awarded a contract, to provide the above described items for the sum shown in accordance with the terms and specifications stated herein. All deviations are in writing and attached hereto.

**MUST BE SIGNED BY AUTHORIZED AGENT TO BE VALID**

SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_ FIRM NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE NO: \_\_\_\_\_ DATE: \_\_\_\_\_

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## BID FORM - FINANCING

Financial Institution: \_\_\_\_\_

Item: Used Ditching Machine

Amount Financed: \$ \_\_\_\_\_

Annual Rate for 36 Months: \_\_\_\_\_%

Monthly Payment for 36 Months: \$ \_\_\_\_\_

Annual Rate for 48 Months: \_\_\_\_\_%

Monthly Payment for 48 Months: \$ \_\_\_\_\_

Annual Rate for 60 Months: \_\_\_\_\_%

Monthly Payment for 60 Months: \$ \_\_\_\_\_

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### Lease–Purchase Requirements

Under the Constitution of the State of Oklahoma, County governments are not allowed to incur indebtedness except by a vote of the people. Under 62 O.S. 430.1, however, the County is allowed to rent, lease or purchase property under a lease purchase agreement effective for the fiscal year but which may contain provisions for mutual ratification of renewal each fiscal year pending funds being available.

If the County has specified that the item to be bid is to be financed through a lease–purchase agreement and has indicated the length of time the financing is to occur, then the vendor must provide the financing for the item bid as part of the bid package. The vendor may contact financial institutions to procure the financing. If more than one institution responds, the vendor is to select the most appropriate response and include it in the bid package when submitted. The financing arrangement may be considered by the County when selecting the successful vendor.

The State Auditor has provided a lease–purchase agreement that meets the requirements of the law for Counties which is included in this bid package. If another form is used, it must contain ALL the terms of the one approved by the State Auditor.

For vendors who wish to provide the financing through a financial institution, a list of Wagoner County financial institutions which are familiar with the lease–purchase requirements of the County is included in the bid package.

While the County is interested in competitive financing rates, it is recommended that the vendor utilize an institution that is familiar with the County lease–purchase agreement.

## LEASE PURCHASE AGREEMENT FOR EQUIPMENT

THIS AGREEMENT IS MADE ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ BY AND BETWEEN THE BOARD OF COUNTY COMMISSIONERS OF \_\_\_\_\_ COUNTY, OKLAHOMA, DESIGNATED THROUGHOUT THIS AGREEMENT AS THE LESSEE, AND \_\_\_\_\_ DESIGNATED THROUGHOUT THIS AGREEMENT AS THE LESSOR.

## I. EQUIPMENT

SUBJECT TO THE TERMS AND CONDITIONS AS SET FORTH IN THIS AGREEMENT, THE LESSOR LEASES TO THE LESSEE THE FOLLOWING DESCRIBED EQUIPMENT, ALL OF WHICH SHALL BE DESIGNATED THROUGHOUT THIS INSTRUMENT AS THE "EQUIPMENT":

MAKE	MODEL	DESCRIPTION	QUANTITY	UNIT PRICE	LEASE PURCHASE PRICE
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## II. PAYMENT OF LEASE PURCHASE INSTALLMENTS

IN CONSIDERATION OF THE AGREEMENT BY THE LESSOR TO LEASE PURCHASE THE EQUIPMENT, THE LESSEE PROMISES TO PAY THE LESSOR, FOR THE EQUIPMENT, THE SUM OF \$ \_\_\_\_\_ PER \_\_\_\_\_, DURING THE TERM OF THIS AGREEMENT OR ANY RENEWAL OF THE AGREEMENT. IN THE ALTERNATIVE, THE LESSEE PROMISES TO PAY TO THE LESSOR LEASE PAYMENTS AS SET FORTH IN THE LEASE SCHEDULE WHICH IS ATTACHED TO THIS INSTRUMENT AND WHICH IS INCORPORATED BY REFERENCE NO PAYMENT SHALL BE MADE BY THE LESSEE UNDER THE TERMS OF THIS AGREEMENT UNLESS THE EQUIPMENT SHALL HAVE BEEN DELIVERED TO THE REQUISITIONING AGENCY AND IS AT ALL TIMES, EXCEPT WHEN MADE NECESSARY BY AN EMERGENCY, RETAINED BY THE AGENCY.

## III. LEASE TERM

THIS LEASE SHALL COMMENCE ON THE DATE THE EQUIPMENT IS ACCEPTED BY THE LESSEE AND SHALL AUTOMATICALLY TERMINATE, UNLESS RENEWED IN ACCORDANCE WITH THE TERMS SET FORTH BELOW, AT THE END OF THE FISCAL YEAR OF THE STATE OF OKLAHOMA DURING WHICH THE LEASE IS COMMENCED.

## IV. OPTION TO RENEW

THE LESSEE IS HEREBY GRANTED \_\_\_\_\_ SUCCESSIVE OPTIONS TO RENEW THIS LEASE FOR ADDITIONAL TERMS NOT TO EXCEED ONE FISCAL YEAR EACH, PLUS ONE FINAL OPTION TO RENEW THIS LEASE FOR A PERIOD OF \_\_\_\_\_ MONTHS, ALL UPON THE SAME TERMS AND CONDITIONS, PROVIDED THAT SUCH OPTIONS MAY BE EXERCISED, AS A MATTER OF RIGHT, SOLELY AND EXCLUSIVELY BY THE LESSEE. THE EXERCISE OF ANY SUCH OPTION SHALL BE ACCOMPLISHED BY THE ISSUANCE OF A PURCHASE ORDER UPON OR WITHIN TEN (10) DAYS AFTER THE EXPIRATION OF THE TERMS OF THIS LEASE OR ANY RENEWAL THEN IN EFFECT.

## V. TITLE TO EQUIPMENT

THE EQUIPMENT IS AND SHALL AT ALL TIMES DURING THE TERM OF THIS LEASE AND ANY RENEWAL TERMS REMAIN THE SOLE PROPERTY OF THE LESSOR AND THE LESSEE SHALL HAVE OR ACQUIRE NO RIGHT, OR TITLE TO THE EQUIPMENT UNTIL THE FINAL PAYMENT IS MADE.

## VI. OPTION TO PURCHASE

IN THE EVENT THE LESSEE SHALL HAVE EXERCISED ALL OF ITS OPTIONS FOR RENEWAL OF THIS LEASE AS PROVIDED IN PARAGRAPH IV, ABOVE, UPON TENDER OF THE LAST LEASE PAYMENT DUE UNDER THE LAST RENEWAL TERM, THE LESSEE SHALL ACQUIRE TITLE TO AND OWNERSHIP OF THE EQUIPMENT. IN THE ALTERNATIVE, THE LESSEE, AT ITS SOLE AND EXCLUSIVE OPTION, MAY PURCHASE THE EQUIPMENT AT ANY TIME DURING THE TERM OF THIS LEASE OR DURING ANY RENEWAL TERM AS PROVIDED BY PARAGRAPH IV, ABOVE, GIVING WRITTEN NOTICE TO THE LESSOR OF LESSEE'S INTENT TO PURCHASE ACCOMPANIED BY A SINGLE, FINAL PAYMENT OF \$ \_\_\_\_\_ (IF THE PURCHASE PRICE IS TO BE REDUCED BY A PERCENTAGE OF THE LEASE PAYMENTS MADE PRIOR TO THE EXERCISE OF THE PURCHASE OPTION, DESCRIBE FULLY, IN THE SPACE PROVIDED, THE MANNER IN WHICH SUCH REDUCTION SHALL BE COMPUTED. IF ADDITIONAL SPACE IS NECESSARY, ATTACH A WRITTEN SCHEDULE OF PURCHASE OPTION PRICES WHICH SHALL BE INCORPORATED IN THE TERMS OF THIS AGREEMENT BY REFERENCE). IN THE EVENT THE LESSEE SHALL EXERCISE ANY OPTION TO PURCHASE THE EQUIPMENT, THE LESSOR ASSIGNS TO THE LESSEE ALL RIGHTS AND CLAIMS WHICH THE LESSOR MAY HAVE OR ACQUIRE ARISING UNDER THE ANTI-TRUST LAWS OF THE UNITED STATES OR OF ANY STATE REGARDING THE EQUIPMENT PURCHASED UNDER THE TERMS OF THIS AGREEMENT.

## VII. DELIVERY AND RETURN OF EQUIPMENT

THE LESSOR SHALL BEAR ALL COSTS OF SHIPPING AND DELIVERING THE EQUIPMENT TO THE LESSEE. INSTALLATION COSTS, IF ANY, SHALL BE BORNE BY THE LESSOR. THE EQUIPMENT SHALL BE DELIVERED TO OR INSTALLED AT THE LOCATION DESIGNATED BY THE LESSEE.

## VIII. REPAIRS AND MAINTENANCE

THE LESSEE SHALL MAINTAIN THE EQUIPMENT IN GOOD WORKING ORDER AND SHALL MAKE ALL NECESSARY ROUTINE ADJUSTMENTS AND REPAIRS, AS A RESULT OF FAIR WEAR AND TEAR, ALL AT THE EXPENSE OF THE LESSEE. THE LESSOR AND THE LESSEE MAY PROVIDE FOR THE MAINTENANCE AND REPAIR OF THE EQUIPMENT BY SEPARATE WRITTEN AGREEMENT, AND, IN THE EVENT THEY MAKE SUCH AGREEMENT, ITS TERMS SHALL SUPERSEDE AND REPLACE THE PROVISIONS OF THIS PARAGRAPH OF THIS LEASE.

## IX. TAXES

THE LESSOR SHALL FORTHWITH PAY ALL TAXES WHICH MAY BE IMPOSED UPON IT WITH RESPECT TO THE EQUIPMENT.

## X. INSURANCE

THE LESSEE SHALL OBTAIN AND MAINTAIN FIRE AND EXTENDED COVERAGE CASUALTY INSURANCE COVERING THE EQUIPMENT FROM THE TIME THE EQUIPMENT IS DELIVERED UNTIL THIS LEASE IS TERMINATED. THIS INSURANCE SHALL BE IN A FORM ACCEPTABLE TO THE LESSOR AND SHALL INSURE THE FULL VALUE OF THE EQUIPMENT AGAINST THE RISK OF LOSS OR DAMAGE. THE LESSEE SHALL PROVIDE THE LESSOR WITH WRITTEN NOTICE AT LEAST TEN (10) DAYS PRIOR TO ANY CHANGE IN THE INSURANCE REQUIRED UNDER THE TERMS OF THIS PARAGRAPH.

## XI. PATENTS

IN THE EVENT ANY SUIT IS INSTITUTED AGAINST THE LESSEE WHICH IS BASED UPON ANY CLAIM THAT ANY OF THE EQUIPMENT IS IMPLICATED IN AN INFRINGEMENT OF ANY PROVISION OF UNITED STATES PATENT LAW, THE LESSOR SHALL, AT ITS OWN EXPENSE, DEFEND SUCH SUIT AGAINST THE LESSEE; PROVIDED, LESSEE PROVIDES THE LESSOR WITH PROMPT NOTICE OF THE INSTITUTION OF SUCH SUIT AND PERMITS THE LESSOR TO FULLY PARTICIPATE IN THE DEFENSE. THE LESSEE SHALL ALSO RETAIN THE RIGHT TO PARTICIPATE IN SUCH DEFENSE AND SHALL, IN ANY EVENT, PROVIDE THE LESSOR WITH ALL AVAILABLE INFORMATION, ASSISTANCE AND AUTHORITY TO ENABLE THE LESSOR TO CONDUCT THE DEFENSE. NO COMPROMISE OR SETTLEMENT OF SUCH SUIT RESULTING IN A JUDGMENT AGAINST THE LESSEE SHALL OBLIGATE OR BIND THE

LESSOR UNLESS THE LESSOR SHALL HAVE ACCEPTED SUCH COMPROMISE OR SETTLEMENT THE LESSOR SHALL HAVE THE RIGHT TO ENTER INTO NEGOTIATIONS FOR AND EFFECT A COMPROMISE OR SETTLEMENT OF SUCH PATENT ACTION, BUT NO SUCH COMPROMISE OR SETTLEMENT SHALL BE BINDING UPON LESSEE UNLESS APPROVED BY LESSEE. SUBJECT ONLY TO THE TERMS OF THIS PARAGRAPH, THE LESSOR SHALL HOLD THE LESSEE HARMLESS FROM ANY LIABILITY ARISING FROM ANY PATENT SUIT SUCH AS IS DESCRIBED ABOVE. IN THE EVENT ANY OF THE EQUIPMENT SHALL BE HELD, IN ANY SUIT, TO CONSTITUTE AN INFRINGEMENT OF PATENT LAW, AND ITS USE SHALL BE ENJOINED, THEN THE LESSOR SHALL, AT ITS SOLE OPTION AND AT THE LESSOR'S EXPENSE:

1. OBTAIN FOR THE LESSEE THE RIGHT TO CONTINUE TO USE THE EQUIPMENT.
2. REPLACE OR MODIFY THE EQUIPMENT IN A MANNER ACCEPTABLE TO THE LESSEE SO THAT THE EQUIPMENT NO LONGER INFRINGES ANY PROVISION OF PATENT LAW.

XII. FUNDING

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES ACKNOWLEDGE AND AGREE THAT FUNDS TO BE PAID BY THE LESSEE UNDER THE TERMS OF THIS LEASE WILL BE AVAILABLE ONLY AS APPROPRIATED ON A FISCAL YEAR-TO-FISCAL YEAR BASIS BY PROPERLY CONSTITUTED LEGAL AUTHORITY. IN THE EVENT THAT THE LESSEE DETERMINES THAT SUFFICIENT FUNDS HAVE NOT BEEN APPROPRIATED TO MAKE THE PAYMENTS REQUIRED UNDER THE TERMS OF THIS AGREEMENT, THE OBLIGATIONS OF THE LESSEE UNDER THIS AGREEMENT SHALL TERMINATE. IN SUCH EVENT, THE LESSEE SHALL GIVE PROMPT WRITTEN NOTICE OF TERMINATION TO THE LESSOR.

XIII. ASSIGNMENT

THE LESSOR MAY, WITH THE PRIOR WRITTEN APPROVAL OF THE LESSEE, ASSIGN ITS RIGHT TO RECEIVE PAYMENT OF LEASE DUE UNDER THE TERMS OF THIS AGREEMENT. HOWEVER, ANY SUCH ASSIGNMENT SHALL NOT RELIEVE THE LESSOR OF ITS RESPONSIBILITIES TO PERFORM THE DUTIES AND OBLIGATIONS IMPOSED UPON IT BY THIS AGREEMENT.

XIV. ROAD MACHINERY AND EQUIPMENT

IF THE TERMS OF THIS AGREEMENT ARE IN REGARDS TO ROAD MACHINERY OR EQUIPMENT, THE LESSEE ASSUMES ALL RISK AND LIABILITY FOR AND SHALL HOLD THE LESSOR HARMLESS FROM ALL DAMAGES TO PROPERTY AND INJURIES AND DEATH TO PERSONS ARISING OUT OF THE USE, POSSESSION OR TRANSPORTATION OF SAID ROAD MACHINERY OR EQUIPMENT.

XV. ENTIRE AGREEMENT OF THE PARTIES AND SEVERABILITY

EXCEPT AS OTHERWISE PROVIDED IN THE ABOVE TERMS AND CONDITIONS, THIS LEASE, TOGETHER WITH APPLICABLE PURCHASE ORDERS AND THE INVITATION TO BID, CONSTITUTE THE ENTIRE AGREEMENT OF THE PARTIES. THIS AGREEMENT MAY NOT BE MODIFIED OR TERMINATED EXCEPT AS PROVIDED IN THE ABOVE TERMS AND CONDITIONS OR BY WRITTEN AGREEMENT OF THE LESSOR AND THE LESSEE. IF ANY PROVISION OF THIS AGREEMENT SHALL BE DETERMINED TO BE INVALID, IT SHALL BE CONSIDERED AS DELETED FROM THIS AGREEMENT AND NO REMAINING PROVISION OF THE AGREEMENT SHALL BE DEEMED INVALID.

XVI. CHOICE OF LAW

THIS LEASE SHALL BE GOVERNED IN ALL RESPECTS BY THE LAWS OF THE STATE OF OKLAHOMA. IN THE EVENT ANY LITIGATION SHALL OCCUR CONCERNING THE TERMS AND CONDITIONS OF THIS LEASE OR THE RIGHTS AND DUTIES OF THE PARTIES, THE PARTIES AGREE THAT ANY SUCH SUIT SHALL BE MAINTAINED IN THE DISTRICT COURT IN AND FOR \_\_\_\_\_ COUNTY (LEASING COUNTY), STATE OF OKLAHOMA.

BOARD OF COUNTY COMMISSIONERS AT

\_\_\_\_\_, OKLAHOMA  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOR THE LESSOR:

\_\_\_\_\_  
TITLE

ATTEST: \_\_\_\_\_  
COUNTY CLERK

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Wagoner County Clerk



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The selected vendor is responsible for arranging financing on lease purchase items. Please consider using a Wagoner County financial institution to secure financing.

### **Wagoner County Financial Institutions:**

First Bank & Trust Co.  
Attn: Charles Adams  
111 S Casaver Ave.  
Wagoner, OK 74467  
Ph: (918)485-2173

American Bank  
Attn: Jimmy Hall  
201 E Cherokee  
Wagoner, OK 74467  
Ph: (918)485-5555

Armstrong Bank  
1500 W Hwy 51  
Wagoner, OK 74467  
Ph: (918)485-4104

First State Bank  
P O Box 89  
Porter, OK 74454  
Ph: (918)483-2241

Wagoner County Purchasing Agent:  
Ph: (918) 485-7712 or 485-2216  
Fax: (918) 485-8635