



PURCHASE AGREEMENT

THIS AGREEMENT is made and entered into this 28th day of October, 2019, by and between the **CITY OF BILLINGS, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, P.O. Box 1178, Billings, Montana 59103, hereinafter referred to as “City,” and, Tractor & Equipment Co.; 5200 Southgate Drive, Billings, MT 59101; hereinafter referred to as “Seller.”

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **PRODUCT PURCHASED:** Seller agrees to sell and City agrees to purchase the goods (“Product”) as described below and, if applicable, per written City’s specifications and Seller’s proposal attached hereto as Exhibit “A,” which are incorporated into this agreement by this reference. The Product being purchased consists of:

| <u>Item</u> | <u>Price</u> |
|--------------------------------|---------------------|
| One New Current Model Forklift | \$ 98,662.00 |

2. **Price:** The City agrees to pay Ninety-Eight Thousand Six Hundred Sixty-Two Dollars (\$98,662.00) as the purchase price. All prices are inclusive of any applicable local, state or federal taxes that may be applied to the product to be purchased. The purchase price is free on board at the place of delivery and Seller may not impose any additional, shipping, delivery or storage charges.

3. **Delivery and Payment:** Seller agrees to deliver the above-described goods or product to City within 270 days of receipt of City’s order unless otherwise provided in this Agreement. Delivery will occur at 725 Highway 87E, Billings, MT, or at a place otherwise selected by City. Upon delivery, City may inspect the goods or product to ensure that it meets City specifications, and Seller may obtain specifications from City upon request. If the Product meets City specifications, City shall tender the purchase price stated above to Seller through the City’s normal claim process.

4. **Specifications:** Seller agrees that this Product complies with the City’s specifications provided to Seller and with the Seller’s proposal thereto as accepted by the City. Unless otherwise agreed to by the City, the City’s specifications govern and control in the event of inconsistencies with the Seller’s response to the same.

5. **Nondiscrimination:** Seller agrees that all hiring by Seller of persons performing this Agreement will be on the basis of merit and qualification and will not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

The Contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which prohibit discrimination against qualified protected veterans and/or qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.



6. **Default and Termination:** If Seller fails to deliver the goods or product as set forth in Paragraphs 2 and 3 above, or violates any provision of this Agreement, or if the goods or product fails to meet City’s specifications, City may, at its option, declare the Seller in default and immediately cancel and rescind this Agreement. Thereafter, City may procure substitute goods or product to replace the goods or product described herein. In such event, Seller is liable to City for the difference between the price set forth herein and the price paid by City for replacement goods or product. Additionally, the City may pursue any other remedy it has at law or in equity.

7. **Warranty:** Unless superseded or supplemented by an express warranty, Seller represents and warrants that the Product are covered by implied warranties for merchantability and fitness for the particular purpose for which they have been purchased.

8. **Assignment:** Seller may not assign this Agreement or any of its rights hereunder without the express written consent of City.

9. **Entire Agreement:** This Agreement, including its appendices, if any, is the entire understanding between the parties relating to the subject matter contained herein. No agent or representative of either party has authority to make any representations, statements, warranties or agreements not herein expressed and all modifications or amendments of this agreement, including the appendices, must be in writing and signed by an authorized representative of each of the parties hereto.

10. **Governing Law and Venue:** This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suit between the parties arising out of this Agreement shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF BILLINGS, MONTANA

By _____
WILLIAM A. COLE, Mayor

SELLER (Print Business Name Above)

By _____

Print Name _____

Print Title _____

(Write Phone Number for Orders Above)

APPROVED AS TO FORM

By _____
BRENT BROOKS, City Attorney



EXHIBIT "A"

CONTRACT REQUIREMENTS AND SPECIFICATIONS

ONE NEW CURRENT MODEL FORKLIFT

| <u>MINIMUM REQUIREMENTS</u> | <u>COMPLIANT</u> |
|--|--------------------------|
| <i>BASIC SPECIFICATIONS</i> | |
| Backup alarm | Y <u>X</u> N <u> </u> |
| Back tilt 6" | Y <u>X</u> N <u> </u> |
| Mast - FSV | Y <u>X</u> N <u> </u> |
| <i>ENGINE</i> | |
| Six cylinder diesel, 120 HP overhead valves, pressure lubricated | Y <u> </u> N <u>X</u> |
| 24 volt with high output alternator | Y <u>X</u> N <u> </u> |
| High air intake with overhead muffler | Y <u> </u> N <u>X</u> |
| Thermostat control w/ anti-freeze to -40° F | Y <u>X</u> N <u> </u> |
| Cold weather package – engine block heater | Y <u>X</u> N <u> </u> |
| Single stage dual element air cleaner with replaceable dry-type cartridge | Y <u>X</u> N <u> </u> |
| <i>POWERTRAIN / TRANSMISSION</i> | |
| Power shift with a minimum of two speeds forward and reverse | Y <u>X</u> N <u> </u> |
| Modulated inching in both speed ranges | Y <u>X</u> N <u> </u> |
| Constant mesh transmission | Y <u>X</u> N <u> </u> |
| Oil cooled | Y <u>X</u> N <u> </u> |
| Pressure lubricated | Y <u>X</u> N <u> </u> |
| Self-adjusting multiple disc clutches | Y <u>X</u> N <u> </u> |
| <i>DRIVE AXLE</i> | |
| Double reduction, 4 pinion with hypoid gears and heavy-duty tapered roller bearings, positive oil flow to all gears and bearings | Y <u>X</u> N <u> </u> |
| <i>STEERING AXLE</i> | |
| Manufacturer's standard axle with hydraulic power steering that permits manual steering if hydraulic source becomes inoperative | Y <u> </u> N <u>X</u> |
| <i>TURNING RADIUS</i> | |
| Less than 150" | Y <u>X</u> N <u> </u> |



EXHIBIT "A"

| <u>MINIMUM REQUIREMENTS</u> | <u>COMPLIANT</u> |
|---|----------------------|
| BRAKES | |
| Vacuum boosted | Y X N ___ |
| Hydraulic actuated | Y X N ___ |
| Self-adjusting | Y X N ___ |
| Self-energizing | Y X N ___ |
| Lever actuated parking brake independent of service brakes | Y ___ N X |
| INSTRUMENTATION | |
| Fuel gauge | Y X N ___ |
| Engine hour meter | Y X N ___ |
| Gauges for alternator | Y X N ___ |
| Oil pressure | Y X N ___ |
| Coolant temperature | Y X N ___ |
| Transmission oil temperature | Y X N ___ |
| TIRES | |
| Drive axle duals, 9.00 x 20 14 PR | Y ___ N X |
| Steer axle 9.00 x 20 14 PR | Y ___ N X |
| Pneumatic tires | Y X N ___ |
| HYDRAULICS | |
| 4-way hydraulic supply group with constant flow pump | Y X N ___ |
| Full flow replaceable filter | Y X N ___ |
| Anti-cavitation and pressure relief valve | Y X N ___ |
| Flow control valve to control carriage lowering speed | Y X N ___ |
| Fork height to reach 185" | Y X N ___ |
| Maximum height with mast fully collapsed at 123.5" | Y X N ___ |
| Minimum of 8" free lift | Y X N ___ |
| CARRIAGE | |
| Fork positioner - hydraulic type with inclined top bar to 66" fork spread | Y X N ___ |
| FORKS | |
| 2.5' x 6' x 48" | Y X N ___ |
| Two (2) 6° F - 6° B | Y X N ___ |
| WEIGHT CAPACITY | |
| 15,880 or greater at 24" load center | Y ___ N ___ |



EXHIBIT "A"

| <u>MINIMUM REQUIREMENTS</u> | <u>COMPLIANT</u> |
|---|--|
| OPERATOR'S COMPARTMENT | |
| Full cab with removable doors | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| Full width windshield | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| Front and rear wipers | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| Dome light | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| Sliding side and rear windows | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| 12,500 BTU heater and defroster fan | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| Skid resistant floor plates, steps and runner boards | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| Shatter resistant safety glass | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| Rubber seals around windows & between cab & frame to seal out weather | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| Flood lights - 2 forward and 1 reverse | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| Torsion bar suspension seat | Y <input type="checkbox"/> N <input checked="" type="checkbox"/> |
| COLOR | |
| Blue shade to be determined by owner | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| MANUALS | |
| Two sets of repair, parts and service manuals | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| PARTS | |
| Next day parts availability | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| SERVICE/REPAIR | |
| Emergency local service of forklift within 4 hours by a certified forklift mechanic | Y <input checked="" type="checkbox"/> N <input type="checkbox"/> |
| TRADE IN | |
| Unit #7870 – 1999 Toyota 52-6FGU30 forklift | Y <input type="checkbox"/> N <input checked="" type="checkbox"/> |

WARRANTY State Warranty provided: 12 month / 2000 hr Full coverage
24 month / 4000 hr PowerTrain
 In addition to the warranty specified, bidder shall show prices to purchase extended parts and labor warranties on the engine and transmission as follows:

| | <u>Transmission</u> | <u>Main Engine</u> |
|-------------|---------------------|--------------------|
| Full 3 Year | \$ <u>755</u> | \$ <u>755</u> |
| Full 4 Year | \$ <u>900</u> | \$ <u>900</u> |
| Full 5 Year | \$ <u>1100</u> | \$ <u>1100</u> |

All warranty work shall be done by a company located in Billings. Bidder shall state name and location of warranty dealer: Tractor & Equipment Co

5000 Southgate Dr. Billings MT 59101



EXHIBIT "A"

| | | |
|----------|--|---------------------|
| DELIVERY | 120 days FOB of City's order to 725 Highway 87E; Billings, MT | <u>NO</u> |
| | State delivery date | <u>270 Days ARO</u> |
| TRADE | Unit #7870 – 1999 Toyota 52-6FGU30 Forklift | \$ <u>Ø</u> |

Unit #7870 can be seen at 725 Highway 87E in Billings, MT, between the hours of 7:30 a.m. and 4:00 p.m. Please contact Shaun Emerick, Plant Mechanic Supervisor, at (406) 657-8357 for an appointment time.

The unit must meet all DOT and OSHA standards.

ADDITIONS:

In the event of errors and omissions of this specification, it is the responsibility of the bidder to supply an operational unit which conforms to the intent of this invitation for bids.

END: CONTRACT REQUIREMENTS AND SPECIFICATIONS



EXHIBIT "A"



Tractor & Equipment Co.

5200 Southgate Drive
Billings, MT 59101
(406) 245-4426
Fax: (406) 245-8387

10/15/2019

City of Billings
One new current model forklift
Exemptions.

Engine: 100 horse power, 4 cylinder

Brakes: Electronic parking brake independent of service brake

Tires: Drive axle duals, 8.25 x 15-12PR
Steer axle, 8.25 x 15-12PR

Weight capacity: 15,500 at 24" load center

Operator's compartment: Spring suspension seat

Kameron Kershaw
Tractor and Equipment Co
Billings MT