

9923

**AGREEMENT
UTILIZING STATE OF FLORIDA CONTRACT # 760-000-10-1
BETWEEN
THE CITY OF JACKSONVILLE
AND
CLARK EQUIPMENT COMPANY
d/b/a BOBCAT COMPANY, government sales
FOR PURCHASE OF
CONSTRUCTION, INDUSTRIAL, AGRICULTURAL & LAWN EQUIPMENT**

THIS AGREEMENT is made and entered into in duplicate this 31 day of Oct, 2013 (hereinafter the "Effective Date"), by and between the CITY OF JACKSONVILLE (hereinafter the "CITY"), a municipal corporation existing under the Constitution and the laws of the State of Florida, and CLARK EQUIPMENT COMPANY d/b/a BOBCAT COMPANY, GOVERNMENT SALES (hereinafter the "Contractor"), a foreign profit company authorized to do business in Florida with principal office at 250 East Beaton Drive, Fargo, North Dakota 58078, for the purchase of construction, industrial, agricultural, and lawn equipment (hereinafter the "Equipment").

RECITALS:

WHEREAS, effective April 28, 2010, the State of Florida ("State"), by and through its Department of Management Services, entered into State of Florida Contract # 760-000-10-1 and all amendments (hereinafter the "State Contract") with various vendors of the Equipment, including Contractor; and

WHEREAS, said State Contract is in full force and effect until December 31, 2013, and has been competitively procured and awarded by the State of Florida according to Florida law; and

WHEREAS, the Jacksonville Procurement Code, more particularly Section 126.211, *Ordinance Code*, authorizes and allows CITY to use *inter alia* contracts of the state and other local governmental entities which have been competitively procured and awarded; and

WHEREAS, the State Contract is broad enough to include the Equipment and Contractor has agreed to allow CITY to use its State Contract; and

WHEREAS, it is in the best interests of the parties to use the State Contract for the Equipment and to add those contractual provisions CITY is required to use by ordinance or policy; now therefore

IN CONSIDERATION of the premises and of the mutual covenants and agreements hereinafter contained, and for other good and valuable consideration the parties agree as follows:

ARTICLE 1: Incorporation of Recitals:

The above-stated recitals are accurate, true, and correct and, by this reference, are made a part hereof and are incorporated herein.

ARTICLE 2: Engagement of Contractor:

CITY hereby engages Contractor and Contractor hereby accepts said engagement for the purpose of selling to CITY the Equipment as described in and according to the provisions of the State Contract and its exhibits, amendments, equipment descriptions, and quotations made thereunder, all of which are identified as **Composite Exhibit 1**, attached hereto and, by this reference, made a part hereof and incorporated herein; and in accordance with the other provisions, required by law, ordinance, or policy for the CITY, contained in this Agreement. With respect to the Equipment, the provisions, terms, and condition of the State Contract shall apply unless specifically preempted herein. Therefore, any conflict between the provisions of this Agreement and those in the State Contract shall be resolved in favor of this Agreement, but only to the extent of any such conflict.

ARTICLE 3: Coordination and Services Provided by CITY:

CITY shall designate for the Equipment a Project Coordinator who will, on behalf of CITY, coordinate with Contractor and administer this Agreement according to the terms and conditions contained herein and in the exhibit(s) mentioned herein and made a part hereof. It shall be the responsibility of Contractor to coordinate all Equipment-related activities with the designated Project Coordinator. CITY's Project Coordinator shall be: Diane Farmer (Telephone: 904-255-7465, Fax 904-381-4607; Email: DFARMER@coj.net).

ARTICLE 4: Duration of Agreement/Pricing Available to Other Entities:

The term of this Agreement shall commence on the Effective Date and shall continue and remain in full force and effect as to all its terms, conditions, and provisions as set forth herein until the expiration of the State Contract, unless sooner terminated as provided in **Composite Exhibit 1**. During said period of time, the Equipment provided hereunder shall be available to all using agencies and other political subdivisions, boards, agencies, or authorities existing in Duval County that may desire to purchase the same at the contract price provided herein.

ARTICLE 5: Payments for Services of Contractor:

5.1. Except as provided in Section 5.2 hereof, CITY will compensate Contractor for the Equipment purchased hereunder in accordance with purchase orders issued and used by the CITY of Jacksonville Procurement Division; *provided however*, payment invoices shall be sent to the authorized CITY representative as specified in said purchase order or other subsequent written instrument signed by CITY's Project Coordinator. These provisions shall be in addition to the State Contract, as provided in **Composite Exhibit 1**.

5.2. Notwithstanding any contrary provision in **Composite Exhibit 1**, the maximum indebtedness of CITY for all fees, reimbursable items, or other costs for the Equipment sold by Contractor pursuant to this Agreement shall not exceed the sum of FORTY-SEVEN THOUSAND FOUR HUNDRED THIRTY-TWO AND 00/100 USD (\$47,432.00). In the event that purchase orders are used for encumbrance purposes, the above specified maximum indebtedness need not be encumbered herein, but will be encumbered by subsequent purchase orders for which all funding checks and examinations will be made by CITY.

ARTICLE 6: Notice:

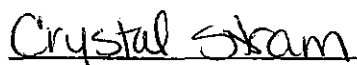
In addition to the notice requirement in **Composite Exhibit 1**, notice to the parties under this Agreement shall be delivered by certified mail, return receipt requested, or by other delivery with receipt to the following:

As to the CITY:

Diane Farmer
Fleet Management Coordinator
2581 Commonwealth Avenue
Jacksonville FL 32254

Gregory Pease, Chief
Procurement Division
214 North Hogan Street
Jacksonville, FL 32202

As to the Contractor:


Clark Equipment Company
250 East Benton Drive
Fargo, ND 58078

ARTICLE 7: Laws, Ordinances, Rules and Regulations:

As required by Section 126.108(b), *Ordinance Code*, in the sale of the Equipment, the Contractor must comply with any and all applicable federal, state, and local laws, rules, regulations, and ordinances as the same exist and may be amended from time to time. Such laws, rules,

regulations, and ordinances shall include, but are not limited to, Chapter 119, Florida Statutes, (the Florida Public Records Law) and Section 286.011, Florida Statutes, (the Florida Sunshine Law), as they apply to the purchase contemplated in this Agreement. If any of the obligations of this Agreement are to be performed by a subcontractor, the provisions of this Article 7 shall be incorporated into and become a part of the subcontract.

ARTICLE 8: Conflict of Interest:

The parties will follow the provisions of Section 126.112, *Ordinance Code*, with respect to required disclosures by public officials who have or acquire a financial interest in a bid or contract with CITY, to the extent the parties are aware of the same.

ARTICLE 9: Non Discrimination:

As required by Section 126.404, *Ordinance Code*, Contractor represents that it has adopted and will maintain a policy of non discrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age, or handicap in all areas of employment relations throughout the term of this Agreement. Contractor agrees that on written request, it will permit reasonable access to its records of employment, employment advertisement, application forms, and other pertinent data and records by the Executive Director of the Community Relations Commission or successor agency or commission for the purpose of investigation to ascertain compliance with the non discrimination provisions of this Agreement; *provided however*, that the Contractor shall not be required to produce for inspection records covering periods of time more than one (1) year prior to the day and year first above written. Contractor agrees that if any of the services to be provided pursuant to this Agreement are to be performed by a subcontractor, the provisions of this Article 9 shall be incorporated into and become a part of the subcontract.

ARTICLE 10: Counterparts:

The parties agree that for the execution of this Agreement, time is of the essence. Therefore, this Agreement and all amendments thereto may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument. The parties further agree that facsimile ("fax") transmission of all signatures with originals to follow shall constitute and be evidence of an executed Agreement.

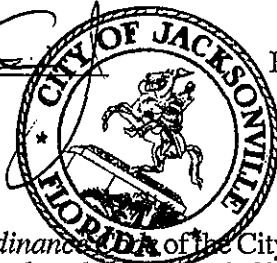
[Remainder of page is left blank intentionally. Signature page follows immediately.]

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

ATTEST:

CITY OF JACKSONVILLE:

By James R. McCain, Jr.
James R. McCain, Jr.
Corporation Secretary



By Alvin Brown
Alvin Brown, Mayor

In compliance with the Ordinance of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing Agreement, and provision has been made for the payment of the monies provided therein to be paid from the following account:

C. Ronald Belton
Director of Finance
9923

Form Approved:

James R. McCain, Jr.
Office of General Counsel

Karen Bowling
Chief Administrative Officer
For: Mayor Alvin Brown
Under Authority of:
Executive Order No. 2013-04

WITNESS:

CLARK EQUIPMENT COMPANY
d/b/a BOBCAT COMPANY,
GOVERNMENT SALES

By Terri Zastrow
Signature
Terri Zastrow
Type/Print Name
Gov. Sales Coordinator
Title

By Crystal Stram
Signature
Crystal Stram
Type/Print Name
Govt Support Mgr.
Title



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/18/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh USA Inc. 100 North Tryon Street, Suite 3600 Charlotte, NC 28202	CONTACT NAME: _____	
	PHONE (A/C, No, Ext): _____	FAX (A/C, No): _____
E-MAIL ADDRESS: _____		
B22536-DIII-CAS.-12-13		INSURER(S) AFFORDING COVERAGE
INSURED Bobcat Company (ND) Doosan Infracore International Inc 250 East Beaton Drive West Fargo, ND 58078		NAIC # INSURER A: ACE American Insurance Company 22667 INSURER B: N/A N/A INSURER C: Indemnity Ins Co Of North America 43575 INSURER D: _____ INSURER E: _____ INSURER F: _____

COVERAGES **CERTIFICATE NUMBER:** ATL-003215261-03 **REVISION NUMBER:** 13

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> SIR \$5,000,000 GENL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC		XSLG27015451	11/30/2012	11/30/2013	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ _____ PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMPOP AGG \$ 4,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$ _____		ISAH08712761	11/30/2012	11/30/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ _____ BODILY INJURY (Per accident) \$ _____ PROPERTY DAMAGE (Per accident) \$ _____ EACH OCCURRENCE \$ _____ AGGREGATE \$ _____
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	WLRC47128821 SCFC47128845 (WI) WLRC47128833 (CA, MA, NJ)	11/30/2012 11/30/2012 11/30/2012	11/30/2013 11/30/2013 11/30/2013	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 City of Jacksonville and its members, officials, employees and agents are additional insured under General Liability as their interest may appear, if required by written contract with the named insured, subject to the terms and conditions of the policy. Waiver of subrogation is applicable where required by written contract.

CERTIFICATE HOLDER City of Jacksonville 231 East Forsyth St, Ste 470 Jacksonville, FL 32202	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Lisa F. Beam <i>Lisa F. Beam</i>
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**ADMINISTRATIVE AWARD
BID No.: PXF-0360-14**

DESCRIPTION OF GOODS/SERVICES: Recommend approval to piggyback off the State of Florida contract No. 760-000-10-1 for the purchase of two (2) 7184381-MY13-PKG1 3650 Utility Vehicles with Attachments from Clark Equipment Company dba Bobcat Company for a one-time-purchase in the amount not-to-exceed \$47,432.40. The contract effective service period is from 4/27/2010 through 12/30/2013. Funding to be encumbered by account 13/ OPFM512-06401.

FOR AGENCY/DEPARTMENT: Intra-Governmental Services/Fleet Management Division

REQUISITION NUMBERS: 142175

NUMBER FIRMS SOLICITED: - **NUMBER FIRMS BIDDING:** -

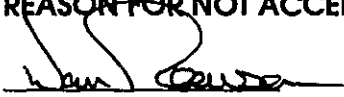
REASON FOR LESS THAN REQUIRED MINIMUM SOLICITATION/QUOTATION: Piggyback

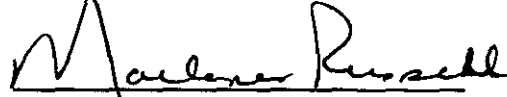
RECOMMEND AWARD TO: Clark Equipment Company dba Bobcat Company

CONCURRENCE BY: Karim Kurji, Chief of Fleet Management Division

PRICE: \$ 47,432.40 **TERMS:** N/A

REASON FOR NOT ACCEPTING LOW BID:


Buyer
10/14/2013
Date


Manager of Purchasing Services
10/14/2013
Date

APPROVAL/DISAPPROVAL:


Gregory Pease, Chief, Procurement Division 10/24/13
Date