

# **City of Seward, NE**

**Tuesday, June 16, 2015**

**Regular Session**

## **Item G9**

### **CONSIDERATION OF A LEASE AGREEMENT WITH HAMILTON EQUIPMENT FOR EXCAVATOR - John Hughes**

*Consideration of a Resolution authorizing the Mayor to execute all documents related to the lease agreement.*

**Administrative Report:** The agreement is for the lease of a Bobcat Compact Excavator and attachments to be used in the Public Properties department. This is a 36-month lease with monthly payments of \$841.61.

**Following review and discussion, a motion to approve the lease agreement and attached resolution would be in order.**

**Staff Contact:**

**EQUIPMENT SCHEDULE - POWER LEASE**

No. 9800865-002, Dated JUNE 4, 2015

To Master Lease Agreement No. 9800865

Dated October MARCH 9, 2015

Lessor:  
Address:  
City/State/Zip:HAMILTON EQUIPMENT COMPANY  
8801 HIGHWAY 6  
LINCOLN, NE 68507Lessee:  
Street Address:  
City/State/Zip:  
Contact:  
Federal Tax ID Number:CITY OF SEWARD  
537 MAIN STREET  
SEWARD, NE 68434

XX-XXX-6355

"Master Agreement" means the above referenced Master Lease Agreement. "Schedule" means this Equipment Schedule. "Lessee" means the above referenced entity or sole proprietorship and any other entity or sole proprietorship listed as a Lessee in the signature blocks below, and is also referred to as "you" and "your." Each entity that signs below as Lessee agrees that its liability in connection with this Schedule is joint and several. The terms and conditions of the Master Agreement are incorporated into this Schedule, and together, this Schedule and the Master Agreement as it relates to this Schedule, constitute a lease ("Lease") between us and you for the Equipment described in this Schedule. Capitalized terms used but not defined herein shall have the meanings given to them in the Master Agreement.

**A. EQUIPMENT.** Pursuant to the terms of the Lease, we agree to acquire and lease to you the Equipment listed below:

Qty	Make	Model	Year	Equipment Type	Serial Number	Annual Operating Hours
1	BOBCAT	E42 T4	2015	MINI EXCAVATOR - COMPACT	B2VW11869	UNLIMITED HOURS
1	BOBCAT	HYDRA-TILT	2015	HYDRA-TILT	857801452	UNLIMITED HOURS
1	BOBCAT	15C	2015	AUGER	944249830	UNLIMITED HOURS

Supplier of Equipment (Name): HAMILTON EQUIPMENT COMPANY, 8801 HIGHWAY 6, LINCOLN, NE 68507

Equipment Location: 537 MAIN STREET, SEWARD, NE 68434

YOU HAVE SELECTED THE EQUIPMENT. THE SUPPLIER AND ITS REPRESENTATIVES ARE NOT OUR AGENTS AND ARE NOT AUTHORIZED TO MODIFY THE TERMS OF THIS LEASE. YOU ARE AWARE OF THE NAME OF THE MANUFACTURER OF EACH ITEM OF EQUIPMENT AND YOU WILL CONTACT EACH MANUFACTURER FOR A DESCRIPTION OF YOUR WARRANTY RIGHTS. WE MAKE NO WARRANTIES TO YOU, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, OR OTHERWISE. WE PROVIDE THE EQUIPMENT TO YOU AS-IS. WE SHALL NOT BE LIABLE FOR CONSEQUENTIAL OR SPECIAL DAMAGES. YOUR PAYMENT OBLIGATIONS ARE ABSOLUTE AND UNCONDITIONAL AND ARE NOT SUBJECT TO CANCELLATION, REDUCTION OR SET-OFF FOR ANY REASON WHATSOEVER. THE PARTIES INTEND THIS LEASE TO BE A "FINANCE LEASE" UNDER ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE ("UCC"). YOU WAIVE ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A OF THE UCC.

**B. FINANCIAL TERMS**

1. Term (No. of Months): 36	6. Purchase Option Price at end of Term: \$21,585.50
2. Lease Payment: \$10,711.61 (plus applicable taxes)*	7. Last Funding Date: July 15, 2015
3. Frequency of Lease Payment: Annual (In Advance)	8. Total Cost: \$46,925.00
4. Administrative Fee: \$175.00 (included in the financed amount)	
5. Lessee Purchase Order #: **	

\* With respect to the Lease Payment, in states assessing upfront sales tax and use tax, your Lease Payment, starting with the first invoice, will be adjusted to include the applicable sales tax and use tax amortized over the Term of the Lease using a rate that preserves Lessor's economic yield for the transaction described in the Schedule. In other states, the applicable sales tax and use tax will be included on your invoice.

\*\* Any Lessee Purchase Order shown above is provided for invoicing purposes only.

**C. PROPERTY TAX ADMINISTRATION.** As compensation for our internal and external costs in the administration of taxes related to each unit of Equipment, you agree to pay us a tax administrative fee equal to \$12 per unit of Equipment (not to exceed 10 units of Equipment) per year during the Term, not to exceed the maximum permitted by applicable law.

**D. POWER LEASE PURCHASE OPTION.** For the purposes of this Schedule only, so long as no default exists hereunder and this Lease has not been earlier terminated, you may at Lease expiration, purchase some or all of our interest in the Equipment leased pursuant to this Schedule on an AS-IS, WHERE-IS BASIS, WITHOUT ANY RECOURSE TO OR WARRANTY FROM US, EXPRESS OR IMPLIED, for cash equal to the Purchase Option amount of \$21,585.50 or that part thereof attributable to the item or items of Equipment purchased (plus applicable sales and other taxes). This Lease WILL AUTOMATICALLY CONTINUE ON A MONTH-TO MONTH BASIS UNLESS CANCELLED BY EITHER PARTY UPON 30 DAYS PRIOR WRITTEN NOTICE TO THE OTHER PARTY and you will pay us the same Lease Payments and other Lease charges as applied during the Term until the Equipment is returned to us or you pay us the applicable purchase price (and taxes) and the Lease Payments shall be for the leasing of the Equipment and not be applied to the applicable purchase price (and taxes).

**E. RETURN OF EQUIPMENT.** (1) If (a) an Event of Default occurs, (b) you do not purchase the Equipment at the end of the Lease Term, or (c) you do not extend the Lease Term, at your cost and risk you will promptly (i) place the Equipment in good order and condition (except for ordinary wear and tear from normal use), (ii) cause the Equipment to be disassembled, deinstalled, inspected, tested and crated in accordance with the manufacturer's recommendations and any and all local, state and federal regulatory requirements then in effect, (iii) immediately return the Equipment, freight and insurance prepaid, at your risk to any location and aboard any carrier we may designate in the continental United States, and (iv) pay a

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return fee of \$100, not to exceed the maximum permitted by law, as reasonable compensation for our costs in processing returned Equipment. Any such Equipment will be accompanied by all accessories originally included with the Equipment, qualifies (if applicable) for continued maintenance under a manufacturer's service and maintenance contract, and includes the latest software release provided by the manufacturer or Supplier to you. You will continue to remit Lease Payments until the first day of the month which follows the date the Equipment is received by us in the condition required by this Lease. You will pay us for any loss in value resulting from the failure to maintain the Equipment in accordance with the Lease (and any Return Conditions described in paragraph 2 below) or for damages incurred in shipping and handling.

(2) In addition to the above provisions you shall, at your expense, return the Equipment as specified: (a) General Condition: With respect to each unit, no glass shall be broken, chipped or cracked, no upholstery shall have any cut, tear or burn, there shall be no unrepaired damage to exterior or interior materials that exceeds \$250 and all decals, numbers, customer identification, glue and adhesives shall have been removed from Equipment without damage to paint or Equipment. Frame and structural members including but not limited to loader arms, stick, booms, buckets, frame rails, all ground engaging tools and all attachments will be structurally sound, without breaks, bends, cracks or missing teeth. Cooling, heating and lubrication systems shall not be contaminated and there shall be no leaking between systems. No battery shall have any dead cells, cracked case or be inoperative. All units returned will be cleaned and cosmetically acceptable, with all rust and corrosion properly removed and/or treated. All material (i.e., dirt, refuse, asphalt, gravel, etc.) must be properly removed from the Equipment and disposed of in accordance with all applicable federal, state and local laws and regulations. All internal fluids such as lube oil and hydraulic fluids are to be filled at operating levels and all filler caps are to be secured. (b) Tires: All tires shall be of the same original size, type and manufacturer (or similar quality manufacturer if the original manufacturer no longer produces tires of that type) as upon delivery to Lessee. On each unit, the tires shall have no missing or damaged parts or gouges. Also, all tires shall have a minimum of fifty percent (50%) remaining wear. Tires will not be re-treads. (c) Mechanical Drive Train: If so equipped, the transmission/hydrostatic drive systems including but not limited to differentials, final drives, will be in good condition and operate quietly without vibrations or leaks. (d) Electric Drive Train: If so equipped, the electric drive system including, but not limited to alternators, generators, control systems, motorized wheels, shall have at least fifty (50%) time/wear remaining before the next overhaul or replacement as recommended by the manufacturer and published in standard maintenance manuals. (e) Undercarriage: If so equipped, the undercarriage (including sprockets, links, idlers, bogies, carrier and track rollers, pins and bushings, track shoes/pads) shall have at least fifty percent (50%) time/wear remaining before the next overhaul or replacement as recommended by the manufacturer and published in standard maintenance manuals. (f) Engine: The engine must have been maintained in accordance with manufacturer's recommendations, including overhauling the engine as required. At the time of redelivery, the engine must have at least fifty percent (50%) time remaining before the next overhaul or replacement as recommended by the manufacturer and/or published in standard maintenance manuals. Determination of satisfaction of these specifications shall be made by subjecting the Engine to standard industry testing to include (but not limited to) testing of the crankcase, manifold pressure, oil analysis and blowby tests. All tests shall be performed by a manufacturer authorized service center (but not by the lessee.) (g) Brakes: The brakes shall have at least fifty percent (50%) time remaining before the next overhaul or replacement as recommended by the manufacturer and/or published in standard maintenance manuals. No drums or other braking components shall be damaged or cracked. (h) Conveyors: If so equipped, all conveyors shall be straight with in original manufacturer's specifications and tolerances. All belts and or drag chain assemblies shall be operable and shall have a minimum 50% wear life remaining. (i) Screens: If so equipped, all screeds shall be fully operable including but not limited to heating systems, vibration systems and screed plates. Power assist systems shall be fully operational. Automatic grade and slope devices shall be operable. (j) Booms: If so equipped, all booms shall be straight and true within original manufacturer's specifications and tolerances. All standard rigging including sheaves, pendants, fairleads necessary for industry standard lift crane and boom trucks shall be returned with each machine. (k) Hydraulic Equipment: All hydraulic pumps, cylinders and hoses must be fully operational at rated capacity with no leaks. (l) Cutter Drums: If so equipped, cutter drums shall be fully operational with a minimum of 50% wear life remaining on the drum shell, end rings, flighting, tooth holders, and cutting teeth. The planetary drive shall be full operational and without leakage or vibration. (m) Cutter Chains: If so equipped, cutter drums shall be fully operational with a minimum of 50% wear life remaining on the chain, tooth holders, and cutting teeth. (n) Documents and Records: Each such unit shall meet and conform to all applicable federal, state, and local health and safety laws and requirements, and, if applicable, have appropriate ANSI inspection certificates, permits and other certification necessary to operate the Equipment. Without limiting the foregoing, Lessee shall maintain and provide to Lessor written records of preventative maintenance and repairs, indicating date, and (hobbs) hour meter readings to show when such maintenance or repair work was performed. (o) Redelivery: Provide for transportation of the Equipment in a manner consistent with the manufacturer's recommendations and practices to any locations within the continental United States as Lessor shall direct; and shall have the Equipment unloaded at such locations. (p) Storage: Provide safe, secure storage for the Equipment for a period of up to (180) one hundred eighty days after expiration or early termination of Lease at location(s) satisfactory to Lessor.

(3) Inspections: (a) At your expense, at least ninety (90) days prior to, and not more than one hundred twenty (120) days prior to lease expiration, each item of Equipment must be inspected by a manufacturers authorized maintenance representative or other qualified maintenance provider (acceptable to us) to ensure the Equipment conforms to the return provisions outlined herein. (b) From ninety (90) days prior to the return of the Equipment, you must make the Equipment available to our agent during regular working hours so walk-around appraisals/inspections can be conducted. (c) The results of the testing and appraisal, with necessary reconditioning, documenting that the Equipment meets the return conditions required herein are to be provided to us sixty (60) days prior to the return of the Equipment.

F. TAX BENEFIT AND TAX INDEMNIFICATION. You agree that this Lease has been entered into on the assumption that we will be entitled to certain tax benefits available to the owner of the Equipment. You agree to indemnify us for the loss of any income tax benefits caused by your acts or omissions inconsistent with such assumption or the Lease. This indemnity continues beyond the expiration or other cancellation or termination of this Master Agreement and any Lease and may be enforced by, and is for the benefit of us and our successors, assigns, affiliates, beneficiaries and all of our and such affiliates', beneficiaries', successors' and assigns' respective directors, shareholders, officers, employees, agents, predecessors, attorneys-in-fact and lawyers.

G. ANNUAL OPERATING HOURS. You acknowledge that the Lease Payment has been calculated on the assumption that each unit of Equipment will be operated annually during the Term for the number of Annual Operating Hours listed above and that the condition of the Equipment upon return to us shall comply with such assumption. In the event that you do not exercise the FMV Purchase Option described below, should it be determined that the actual number of operating hours for any unit of Equipment (the "Total Operating Hours") exceeds the applicable "Total Permitted Operating Hours" (to be computed by dividing the Annual Operating Hours for such unit of Equipment by twelve and then multiplying such quotient by the number of months in the Term), you may, at our option, be required to pay upon demand for each such unit of Equipment, in addition to any other amounts due under this Lease: (i) an excess usage charge which shall be calculated by us by subtracting the Total Permitted Operating Hours from the Total Operating Hours (rounded down to the nearest hour) and multiplying such difference by the corresponding Excess Usage Hourly Charge which is calculated by multiplying 0.000025 times that part of the Total Cost attributable to such unit of Equipment (plus calculating any applicable taxes); plus (ii) any and all repair costs which are deemed necessary by us, in our sole reasonable discretion, which are related to such excess usage. In addition to the notice requirements otherwise provided in the Lease, you agree to promptly notify us of any malfunction of (as the case may be) the hobbs or hour meter.

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ALL TERMS AND CONDITIONS ON THIS SCHEDULE ARE BINDING UPON THE PARTIES HERETO. To the extent of any conflict or inconsistency between this Schedule and the Master Agreement, this Schedule will prevail, but only with respect to the Lease created hereunder. This Schedule is not binding or effective with respect to the Master Agreement or, Equipment of Soft Costs until executed on behalf of us and you by authorized representatives.

IN WITNESS WHEREOF, Lessee and Lessor have caused this Schedule to be executed by their duly authorized representatives as of the date first above written.

LESSOR: HAMILTON EQUIPMENT COMPANY

LESSEE: CITY OF SEWARD

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: X \_\_\_\_\_  
Name: X \_\_\_\_\_  
Title: X \_\_\_\_\_

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**STATE AND LOCAL GOVERNMENT ADDENDUM - GENERAL**  
*(Commercial Pricing)*

**THIS ADDENDUM**, entered into by and between CITY OF SEWARD, as lessee and/or customer ("**Lessee**") and HAMILTON EQUIPMENT COMPANY, as the lessor, equipment owner, and/or the provider of financial services to Lessee ("**Lessor/Owner**"), amends and modifies Equipment Schedule No. 002 dated JUNE 4, 2015 to Master Lease Agreement No. 9800865 (the Agreement).

**BACKGROUND**

- A. By the above-referenced Agreement, Lessor/Owner has agreed to extend financing to Lessee upon and subject to the terms and conditions set forth in the Agreement.
- B. Lessor/Owner and Lessee desire to amend the terms and conditions of the Agreement, upon and subject to the terms and conditions of this Addendum.
- C. All capitalized terms not otherwise defined herein will have the meanings set forth in the Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound agree as follows with respect to the Agreement and the transaction evidenced thereby:

**1. EFFECT OF ADDENDUM.** To the extent of any conflict between the terms of this Addendum and the terms of the Agreement, the terms of this Addendum will prevail and control. All terms and conditions of the Agreement not modified by this Addendum shall remain in full force and effect and are hereby ratified by the parties.

**2. GOVERNING LAW AND JURISDICTION. THE AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CUSTOMER'S LOCATION, AND THE PARTIES AGREE TO THE NON-EXCLUSIVE JURISDICTION AND VENUE OF THE STATE AND FEDERAL COURTS IN SUCH STATE.**

**3. NON-APPROPRIATION OF FUNDS.** Notwithstanding any provisions of the Agreement, Lessee's obligation to pay all amounts due under the Agreement, including but not limited to the Lease Payments, is contingent upon the approval of appropriation of funds by its governing body. Lessee intends to remit all Lease Payments and other sums when due and payable to Lessor/Owner for the full Term of the Agreement, if funds are legally available. In the event, despite Lessee's good faith efforts and exhaustion of all administrative appeals, (i) Lessee is not granted an appropriation of funds at any time during the Term of the Agreement for the Equipment or for other functionally similar equipment to the Equipment, and (ii) operating funds are not otherwise available to Lessee to pay its obligations under the Agreement, and (iii) there is no other legal procedure or available funds by or with which payment can be made to Lessor/Owner, and (iv) the non-appropriation did not result from an act or omission by Lessee, then Lessee shall have the right to terminate the Agreement as of the last day of the fiscal period for which appropriations were received ("**Termination Date**"). At least thirty (30) days prior to the Termination Date, Lessee's chief executive officer (or legal counsel) shall certify in writing that (a) funds have not been appropriated for the following fiscal period, (b) such non-appropriation did not result from any act or failure to act by Lessee, and (c) Lessee has exhausted all funds legally available for the payments due under the Agreement. Such termination shall be without penalty or expense to Lessee, except that Lessee shall remain obligated to pay any payments or sums due under the Agreement for which funds shall have been appropriated and budgeted, and Lessee shall return the Equipment to Lessor/Owner on or prior to the Termination Date in accordance with the Equipment return provisions of the Agreement. If Lessee terminates the Agreement because of non-appropriation of funds, Lessee may not purchase, lease, or rent equipment performing functions similar to those performed by the Equipment for a period of twelve (12) months from the Termination Date. This paragraph shall not permit Lessee to terminate the Agreement in order to acquire any other equipment or to allocate funds directly or indirectly to perform essentially the application for which the Equipment is intended.

**4. OWNERSHIP; TAXES.** Lessee hereby acknowledges and agrees that Lessor/Owner will be the legal owner of the Equipment throughout the term of the Agreement, and may be assessed personal property taxes, notwithstanding the fact that Lessee may be exempt from the payment of such taxes. Consequently, Lessee hereby agrees to either, at the option of Lessor/Owner: (a) reimburse Lessor/Owner annually for all personal property taxes which Lessor/Owner may be required to pay as the owner of the Equipment, or (b) remit to Lessor/Owner each month Lessor/Owner's estimate of the monthly equivalent of the annual personal property taxes to be assessed against the owner of the Equipment.

**5. SPECIAL REPRESENTATIONS AND WARRANTIES OF CUSTOMER.** Lessee hereby represents and warrants to Lessor/Owner that as of the date of this Agreement, and throughout the Term thereof: (a) Lessee is the entity indicated in the Agreement; (b) Lessee is duly organized and existing under the Constitution and laws of the State in which it is located; (c) Lessee is authorized to enter into and carry out its obligations under the Agreement, any documents relative to the acquisition of the Equipment and any other documents required to be delivered in connection with the Agreement (collectively, the "Documents"); (d) the Documents have been duly authorized, executed and delivered by Lessee in accordance with all applicable laws, rules, ordinances, and regulations, and person(s) signing the Documents have the authority to do so, are acting with the full authorization of Lessee's governing body, and hold the offices indicated below their signatures, each of which are genuine, and the Documents constitute the valid, legal, binding agreements of Lessee, enforceable in accordance with their terms, (e) the Equipment is essential to the immediate performance of a governmental or proprietary function by Lessee within the scope of its authority and shall be used during the Term of the Agreement only to perform such function; (f) Lessee intends to use the Equipment for the entire Term and shall take all necessary action to include in its annual budget any funds required to fulfill its obligations for each fiscal year during the Term; (g) Lessee has complied fully with all applicable law governing open meetings, public bidding and appropriations required in connection with the Agreement and the Equipment; (h) Lessee's obligation to remit all amounts due and payable under the Agreement constitutes a current expense and not a debt under applicable state law, no provision of the Agreement constitutes a pledge of Lessee's tax or general revenues, and any provision which is so construed by a court of competent jurisdiction is void from the inception of the Agreement; (i) all amounts due and to become due during Lessee's current fiscal year are within the fiscal budget of such year, and are included within an unrestricted and unencumbered appropriation currently available for the use of the Equipment; (j) all financial information Lessee has provided to Lessor/Owner is true and accurate and provides a good representation of Lessee's financial condition; (k) no event of non-appropriation, as described herein, has occurred and it is not presently known that any such event will occur under any lease or other contract by which Lessee is bound; and (l) if requested by Lessor/Owner, Lessee will execute and deliver to Lessor/Owner in connection with the Agreement, a certificate of resolution and incumbency and/or an opinion of counsel in form and substance satisfactory to Lessor/Owner.

**6. LIMITATIONS.** The parties intend that the collection of any damages, the exercise of any remedy, the enforceability of any indemnity, and any requirements of Lessee relative to non-appropriation set forth in the Agreement or in this Addendum are subject to any limitations imposed by applicable law.

**7. EFFECTIVENESS OF ADDENDUM.** This Addendum is incorporated into and made a part of the Agreement, effective as of the same day as the Agreement. This Addendum and the Agreement together constitute the entire agreement of the parties with respect to the subject matter hereof and thereof. All terms and conditions of the Agreement not expressly modified hereby remain in full force and are hereby ratified by the parties.

**IN WITNESS WHEREOF,** the duly authorized representatives of the parties have executed this Addendum effective as of the effective date set forth above.

HAMILTON EQUIPMENT COMPANY

Lessor/Owner

CITY OF SEWARD

Lessee

BY: \_\_\_\_\_

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

TITLE: \_\_\_\_\_

BY: \_\_\_\_\_

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

TITLE: \_\_\_\_\_



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## DELIVERY & ACCEPTANCE CERTIFICATE

Master Lease Agreement No. 9800865  
Equipment Schedule No. 9800865-002

Lessor:  
Address:  
City/State/Zip:

HAMILTON EQUIPMENT COMPANY  
8801 HIGHWAY 6  
LINCOLN, NE 68507

Lessee:  
Street Address:  
City/State/Zip:

CITY OF SEWARD  
537 MAIN STREET  
SEWARD, NE 68434

"Master Agreement" means the above referenced Master Lease Agreement. "Schedule" means the above referenced Equipment Schedule. The terms and conditions of the Master Agreement are incorporated into each Schedule, and together, each Schedule and the Master Agreement as it relates to such Schedule, constitute a lease ("Lease"). "Equipment" means the equipment and other property described on the applicable Schedule, as well as any purchase orders, attachments, accessories, accessions, replacements, replacement parts, substitutions, additions, upgrades, exchanges and repairs to the equipment and other property. "Lessor" means GENERAL ELECTRIC CREDIT CORPORATION OF TENNESSEE and its successor and assigns, and is also referred to as "we", "us" and "our." "Lessee" means the above referenced entity or sole proprietorship and is also referred to as "you" and "your." Capitalized terms used but not defined herein shall have the meanings given to them in the Lease.

Pursuant to the provisions of the Schedule identified above, you hereby certify and warrant to us that: (a) all Equipment listed below has been delivered and installed (if applicable) on the date set forth below; (b) you have inspected the Equipment, and all such testing as you deem necessary has been performed by you or the Supplier or the Manufacturer of the Equipment; and (c) you irrevocably accept the Equipment for all purposes of the Lease.

You further certify that as of the date hereof: (i) you are not in default under the Lease; and (ii) the representations and warranties made by you pursuant to or under the Lease are true and correct.

### DESCRIPTION OF EQUIPMENT

All equipment, software and other property more fully described below or in Exhibit A attached hereto and made a part hereof:

Qty	Make	Model	Year	Equipment Type	Serial Number	Equipment Address
1	BOBCAT	E42 T4	2015	MINI EXCAVATOR - COMPACT	B2VW11869	537 MAIN STREET, SEWARD, NE 68434
1	BOBCAT	HYDRA-TILT	2015	HYDRA-TILT	857801452	537 MAIN STREET, SEWARD, NE 68434
1	BOBCAT	15C	2015	AUGER	944249830	537 MAIN STREET, SEWARD, NE 68434

Term (No. of Months): 36

LESSEE: CITY OF SEWARD

By: X \_\_\_\_\_

Name: X \_\_\_\_\_

Title: X \_\_\_\_\_

Date:\* X \_\_\_\_\_

\*Date upon which the Equipment was delivered, installed and accepted by Lessee.

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Manual 3-1440799140

## Certificate: Authorizing Resolutions, Incumbency, Appropriation and Essential Use

In connection with that Municipal Lease Agreement ("Lease") dated and effective as of \_\_\_\_\_ between HAMILTON EQUIPMENT COMPANY which, together with any successor or assignee (including General Electric Credit Corporation of Tennessee), is referred to as "Lessor" and CITY OF SEWARD a political subdivision organized and existing under the Constitution and laws of the State of NE which is referred to as "Lessee," the undersigned does hereby certify to Lessor as follows:

1. I am the duly appointed/elected (choose one) and acting Clerk/Secretary of the \_\_\_\_\_ (give name of agency, if any) ("Governing Body") of Lessee, and I have custody of the records of said Governing Body.

2. The resolutions attached hereto as Exhibit A and made a part hereof are a true and correct copy of the resolutions adopted and ratified by the Governing Body of Lessee according to its rules of procedure at its public meeting held on \_\_\_\_\_, and said resolutions have not been rescinded or modified and are still in full force and effect.

3. The individuals named below are the duly elected or appointed officers of Lessee holding the offices or positions set forth after their names, and that their signatures below are genuine:

Name	Title	Signature
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. Lessee has an immediate need for and expects to make immediate use of all of the Equipment described in the Lease in the performance of its governmental and proprietary functions and such need is not expected to diminish during the term of the Lease. Specifically, the Equipment will be used as follows: \_\_\_\_\_

5. All payments due by Lessee under the Lease for the current fiscal year are within the fiscal year budget for the fiscal year ending \_\_\_\_\_, and are included within an unrestricted and unencumbered appropriation currently available for the lease/purchase of the Equipment.

6. The Equipment is essential to the immediate performance of a governmental or proprietary function by Lessee within the scope of its authority.

7. There is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or government body that challenges the organization or existence of Lessee, the authority of its officers, the authorization, approval and/or execution of the Documents (as defined in the Lease), the appropriation of funds in connection therewith for the current fiscal year, or the ability of the Lessee to perform its obligations under the Lease and the transactions contemplated thereby.

[SEAL]

\_\_\_\_\_  
(Name of Secretary) L.S.



## RESOLUTION

WHEREAS, CITY OF SEWARD (the "Lessee") is a validly existing political subdivision of the State of NE (the "State"), existing as such under and by virtue of the Constitution, statutes and laws of the State;

WHEREAS, the \_\_\_\_\_ of the Lessee (the "Governing Body") has the power under the laws of the State to lease or purchase personal property for use by the Lessee; and the Governing Body has determined, and hereby determines, that it is in the best interests of the Lessee to enter into a Municipal Lease Agreement with HAMILTON EQUIPMENT COMPANY ("Lessor") which lease will be assigned to General Electric Credit Corporation of Tennessee ("Assignee") pursuant to an assignment by Lessor to Assignee (such Municipal Lease Agreement and Assignment are herein together referred to as the "Lease") for the purpose of financing the acquisition of the equipment (the "Equipment") described in Exhibit A to the Lease, and that the use of such Equipment is essential to the Lessee's proper, efficient and economic operation;

WHEREAS, the Governing Body has taken the necessary and appropriate steps under applicable law, including, without limitation, any public bidding requirements, to arrange for the acquisition and financing of the Equipment under the Lease;

WHEREAS, the Lease terminates, and the Lessee's obligations thereunder are extinguished, if the Governing Body fails to appropriate money for the ensuring fiscal year for the payment of the amounts due in such fiscal year;

WHEREAS, there has been presented to the Governing Body the form of the Lease, including Exhibit A thereto, which the Lessee proposes to approve, enter into and deliver, as applicable, to effectuate the proposed financing of the Equipment; and it appears that the Lease and its Exhibit A are in appropriate form and are appropriate instruments for the purposes intended.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY AS FOLLOWS:

Section 1. That all actions of the Lessee in effectuating the Lease are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Lease.

Section 2. That sums be and hereby are allocated from the budget of the Governing Body for the fiscal year ending on \_\_\_\_\_, sufficient to meet all obligations of the Lessee under the Lease, including without limitation ~~Monthly~~ Rent in the amount of \$ \_\_\_\_\_ ~~per month~~  
Annual \_\_\_\_\_ per year \_\_\_\_\_

Section 3. The Governing Body hereby approves the acquisition by the Lessee of the Equipment described in Exhibit A to the Lease, such acquisition to be financed by Lessor/Assignee pursuant to and in accordance with the terms of the Lease, which will be a valid, legal and binding obligation of the Lessee enforceable in accordance with its terms. The form and content of the Lease are in all respects authorized, approved and confirmed and the \_\_\_\_\_ of the Lessee, or his designee is authorized, empowered and directed to execute and deliver the Lease and the other Documents (as defined in the Lease) for and on behalf of the Lessee in substantially the form attached hereto, but with such changes, modifications, additions or deletions therein as shall to him seem necessary, desirable or appropriate.

BE IT FURTHER RESOLVED THAT this Resolution take effect from and after its passage.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attachment

DVF-FS-SLG-06.2004  
9800865002

**NOTICE OF ASSIGNMENT**

DATE: JUNE 4, 2015

TO: CITY OF SEWARD

RE: Assignment of Schedule No. 002 to Master Lease No. 9800865 (the Schedules and the Master Lease Agreement are hereinafter collectively referred to as the "Agreement")

Dear Customer,

Please be advised that we have sold and assigned to General Electric Credit Corporation of Tennessee ("GE") all of our right, title and interest in and to, but none of our obligations in and to: (1) the Agreement identified above; (2) all rights and remedies under the Agreement; (3) the equipment subject to the Agreement; and (4) all payments due and to become due under the Agreement.

We did not transfer any of our obligations under the Agreement to GE. All correspondence and questions regarding maintenance and performance of the equipment should be directed to us. Under the terms of the Agreement, you are required to remit Lease Payments and all other payments notwithstanding any complaint you may have against us for the maintenance, service, or supplies. Please remit all Lease Payments and all other payments due and to become due under the Agreement to GE at the address provided by GE. GE will invoice you each month for the Lease Payments due and payable under the Agreement.

Additionally, all notices required to be sent to the Lessor under the Agreement and any notices regarding your termination of the Agreement for non-appropriation or convenience should also be sent to GE at the address listed below.

Please acknowledge your receipt of this notification letter in the space provided below and return to GE at the following address:

General Electric Credit Corporation of Tennessee

300 E. John Carpenter Drive

Irving, TX 75062-2712

In the event you do not acknowledge and return this notification letter within ten (10) days of the date referenced above, GE will assume you have read and agree with the information contained herein and will remit to GE all payments due and to become due under the Agreement.

Sincerely,

HAMILTON EQUIPMENT COMPANY (Lessor)

By: \_\_\_\_\_

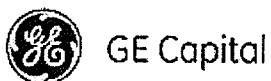
Name and Title: \_\_\_\_\_

ACKNOWLEDGED THIS DAY,

CITY OF SEWARD (Lessee)

By: \_\_\_\_\_

Name and Title: \_\_\_\_\_



**BILLING INFORMATION**  
Master Lease Agreement or Master Loan and Security Agreement No. 9800865  
Equipment Schedule No. 9800865-002

Lessor/Lendor: GENERAL ELECTRIC CREDIT CORPORATION OF TENNESSEE  
Address: 300 E. JOHN CARPENTER FREEWAY  
City/State/Zip: IRVING, TX 75062-2712  
Lessee/Borrower: CITY OF SEWARD  
Street Address: 537 MAIN STREET  
City/State/Zip: SEWARD, NE 68434

**ALTHOUGH THIS FORM IS NOT REQUIRED, FAILURE TO COMPLETE THIS FORM IN FULL MAY LEAD TO A DELAY IN PROCESSING YOUR ACCOUNT AND MAY LEAD TO BILLING COMPLICATIONS**

DIRECTIONS: Complete the following information and return it with your signed Agreement. Please be sure to fill in all items; mark "N/A" as appropriate.  
FAILURE TO COMPLETE THIS FORM IN FULL MAY LEAD TO A DELAY IN PROCESSING YOUR ACCOUNT AND MAY LEAD TO BILLING COMPLICATIONS.

1. BILLING INFORMATION.

Customer Name: CITY OF SEWARD  
Contact Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Contact Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Federal Tax ID # XX-XXX6355

2. WHERE WOULD YOU LIKE YOUR INVOICE SENT?

Street/Post Office Box Address: 537 MAIN STREET  
City, State, and Zip Code: SEWARD, NE 68434  
Attention: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
Department: \_\_\_\_\_

3. WHAT INFORMATION WOULD YOU LIKE ON YOUR INVOICE?

Equipment Serial Number, Model Number and Description on all assets ( ) on first asset only ( )  
Equipment Location on all assets ( ) on first asset only ( )

4. REQUIRED "COMPANY PURCHASE ORDER NUMBER"? IF "YES", PLEASE SUPPLY THE FOLLOWING INFORMATION:

Purchase Order Number: \_\_\_\_\_ Expiration Date: \_\_\_\_\_  
Contact: \_\_\_\_\_ Phone Number: \_\_\_\_\_

5. Please provide us with a copy of your Tax Exempt Certificate (if applicable).

6. MyAccounts provides you with 24/7 online access to certain account information including invoices, contract copy, and electronic payment options. For your convenience, we will take care of the pre-registration process. Please watch for an e-mail with registration instructions. Existing customers can call 1-800-937-1408 for us to complete pre-registration on the phone.

PLEASE MAKE YOUR PURCHASE ORDERS OUT TO GENERAL ELECTRIC CREDIT CORPORATION OF TENNESSEE for your lease payment to ensure timely processing of your invoices.

Your invoice will be mailed approximately 30 days in advance of your payment due date.

Please return documents and this form to:

GENERAL ELECTRIC CREDIT CORPORATION OF TENNESSEE  
300 E. JOHN CARPENTER FREEWAY  
IRVING, TX 75062-2712  
FAX: 888-810-4101  
EMAIL: capitalbobcatdocuments@ge.com

GECC C&I MLA  
2.0T 8/2014  
9800865-002  
Manual 3-1440799140



GE Capital

## INSURANCE INFORMATION

Master Lease Agreement or Master Loan and Security Agreement No. 9800865  
Equipment Schedule No. 9800865-002

Date: March 9, 2015

Lessor/Lendor: GENERAL ELECTRIC CREDIT CORPORATION OF  
TENNESSEE  
Address: 300 E. JOHN CARPENTER FREEWAY  
City/State/Zip: IRVING, TX 75062-2712

Lessee/Borrower: CITY OF SEWARD  
Street Address: 537 MAIN STREET  
City/State/Zip: SEWARD, NE 68434

### THIS FORM MUST BE COMPLETED BY THE LESSEE/BORROWER

DIRECTIONS: PLEASE COMPLETE THE FOLLOWING AND RETURN WITH SIGNED AGREEMENT. Send a copy of this to your Insurance Provider.

#### 1. PROPERTY INSURANCE CARRIER INFORMATION.

Agency Name: \_\_\_\_\_  
Agent: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_

#### 2. LIABILITY INSURANCE CARRIER INFORMATION.

Agency Name: \_\_\_\_\_  
Agent: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_

**IMPORTANT:** Under the terms and conditions of your Agreement, you are required to carry adequate insurance coverage on the leased/financed equipment. Make sure that your agent understands that you are financing or leasing the equipment and that your policy conforms with the following:

- ☐ Property or physical damage coverage for the replacement cost value of the equipment or the stipulated casualty value, whichever is higher. Maximum Deductible: \$10,000
- ☐ General Liability Coverage: Amounts of - \$500,000 per Individual Occurrence/Combined Single Liability Limit for Property Damage
- ☐ Additional Insured/Loss Payee Endorsement naming "GENERAL ELECTRIC CREDIT CORPORATION OF TENNESSEE, AND ITS SUCCESSORS OR ASSIGNS". "Claims-Made Policies" are NOT acceptable.
- ☐ All Equipment leased or financed under the above referenced Master Lease Agreement and Equipment Schedules entered into thereunder including all accessories, accessions, replacements, additions, substitutions, add-ons and upgrades thereto, and any proceeds therefrom.

Insurance Inquires should be made to Customer Service at 866-940-3303. Please send an ACORD FORM 25, an ACORD FORM 27 or ACORD FORM 28 (as applicable) evidencing adequate insurance coverage to:

GENERAL ELECTRIC CREDIT CORPORATION OF TENNESSEE  
Attention: Contracts Department  
PO Box 35702  
Billings, MT 59107

GECC C&I MLA  
2.0T 8/2014  
9800865-002  
Manual 3-1440799140



GE Capital

**INVOICE**

Dated: June 5, 2015

Master Lease Agreement or Master Loan and Security Agreement No. 9800865  
Equipment Schedule No. 9800865-002

Lessor/Lender: GENERAL ELECTRIC CREDIT CORPORATION OF  
TENNESSEE  
Address: 300 E JOHN CARPENTER FREEWAY  
City/State/Zip: IRVING, TX 75062-2712

Lessee/Borrower: CITY OF SEWARD  
Street Address: 537 MAIN STREET  
City/State/Zip: SEWARD, NE 68434

Attention: Accounts Payable  
Purchase Order #:

ADVANCE PAYMENT AMOUNT:	\$10,711.61
TOTAL:	\$10,711.61

**EQUIPMENT DESCRIPTION:**

Qty	Make	Model	Year	Equipment Type	Serial Number	Equipment Address
1	BOBCAT	E42 T4	2015	MINI EXCAVATOR - COMPACT	B2VW11869	537 MAIN STREET, SEWARD, NE 68434
1	BOBCAT	HYDRA-TILT	2015	HYDRA-TILT	857801452	537 MAIN STREET, SEWARD, NE 68434
1	BOBCAT	15C	2015	AUGER	944249830	537 MAIN STREET, SEWARD, NE 68434

Term (No. of Months): 36

PAYMENT OF THIS INVOICE MUST ACCOMPANY  
THE EXECUTED LEASE DOCUMENTS

PLEASE MAKE CHECK PAYABLE TO:

GENERAL ELECTRIC CREDIT CORPORATION OF TENNESSEE

**ELECTRONIC CHECK PROCESSING:**

If you would like us to process the check electronically, please mail/fax a copy of the completed and signed check with signor's name and title printed below the signature and confirm your authorization by signing below.

For the purpose of expediting the commencement of the transaction contemplated by the enclosed documents, you hereby grant us and our agent the right to, at our option, process any check received from you electronically by transmitting the amount of the check, the routing number, account number, check serial number and other information appearing on the check to our bank. If we choose to utilize this option, by submitting a check (in original or copy form) for payment, you authorize us and our agent to process such payment through Automated Clearing House ("ACH") Network electronic fund transfer transactions and initiate an ACH debit from your bank account. If you have sent us a copy of the check for electronic processing, you should retain the original check for your records. If you have sent us an original check that we or our agent have/has processed electronically, we will stamp the original check "paid" and will, at your request, return or destroy the stamped check.

For electronic check processing, please sign here: \_\_\_\_\_

GECC C&I MLA  
2.0T 8/2014  
9800865-002  
Manual 3-1440799140

RESOLUTION NO.

WHEREAS, CITY OF SEWARD ("Lessee") is a validly existing political subdivision of the State of NE (the "State"), existing as such under and by virtue of the Constitution, statutes and laws of the State;

WHEREAS, the Mayor of the Lessee (the "Governing Body") has the power under the laws of the State to lease or purchase personal property for use by the Lessee; and the Governing Body has determined, and hereby determines, that it is in the best interests of the Lessee to enter into a Municipal Lease Agreement with HAMILTON EQUIPMENT COMPANY ("Lessor") which lease will be assigned to General Electric Credit Corporation of Tennessee ("Assignee") pursuant to an assignment by Lessor to Assignee (such Municipal Lease Agreement and Assignment are herein together referred to as the "Lease") for the purpose of financing the acquisition of the equipment (the "Equipment") described in Exhibit A to the Lease, and that the use of such Equipment is essential to the Lessee's proper, efficient and economic operation;

WHEREAS, the governing body has taken the necessary and appropriate steps under the applicable law, including, without limitation, and any public bidding requirements, to arrange for the acquisition and financing of the Equipment under the Lease;

WHEREAS, the Lease terminates, and the Lessee's obligations thereunder are extinguished, if the Governing Body fails to appropriate money for the ensuring fiscal year for the payment of the amounts due in such fiscal year;

WHEREAS, there has been presented to the Governing Body the form of the Lease, including Exhibit A thereto, which the Lessee proposes to approve, enter into and deliver, as applicable, to effectuate the proposed financing of the Equipment; and it appears that the Lease and its Exhibit A are in appropriate form and are appropriate instruments for the purposes intended.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY AS FOLLOWS:

Section 1. That all actions of the Lessee in effectuating the Lease are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Lease.

Section 2. That sums be and hereby are allocated from the budget of the Governing Body for the fiscal year ending on September 30, 2015, sufficient to meet all obligations of the Lessee under the Lease, including without limitation Monthly Rent in the amount of \$841.61 (plus applicable taxes) per month.

Section 3. The Governing Body hereby approves the acquisition by the Lessee of the Equipment described in Exhibit A to the Lease, such acquisition to be financed by Lessor/Assignee pursuant to and in accordance with the terms of the Lease, which will be a valid, legal and binding obligation of the Lessee enforceable in accordance with its terms. The form and content of the Lease are in all respects authorized approved and confirmed and the Mayor of the Lessee, or his designee is authorized, empowered and directed to execute and deliver the Lease and the other Documents (as defined in the Lease) for and on behalf of the Lessee in substantially the form attached

hereto, but with such changes, modifications, additions or deletions therein as shall to him seem necessary, desirable or appropriate.

BE IT FURTHER RESOLVED THAT this Resolution take effect from and after its passage.

The Mayor declared this resolution adopted.

Approved this 16<sup>th</sup> day of June, 2015.

THE CITY OF SEWARD, NEBRASKA

ATTEST:

\_\_\_\_\_  
Joshua Eickmeier, Mayor

\_\_\_\_\_  
Bonnie Otte  
Assistant Administrator/  
Clerk-Treasurer/  
Budget & Human Resource Director

(SEAL)