



RESOLUTION

BE IT RESOLVED, by the Governing Body of Jackson County as follows:

1. **Determination of Need.** The Governing Body has determined that a true and very real need exists for the acquisition of the Equipment Described on the Sales Contract and Security Agreement dated January 8, 2020;
2. **Approval and Authorization.** The Governing Body of Jackson County has determined that the Contract, substantially in the form presented to the meeting, is in the best interests of the Obligor for the acquisition of such Equipment, and the Governing Body hereby approves the entering into the Contract by the Obligor and hereby designates and authorizes the following person(s) to execute and deliver the Contract on Obligor's behalf with such changes thereto as such person(s) deem(s) appropriate, and any related documents including any Escrow Agreement, necessary to the consummation of the transaction contemplated by the Contract.

Authorized Individual(s): Don Adams, County Manager
Darlene Fox, Finance Director
3. **Adoption of Resolution.** The signatures below from the designated individuals from the Governing Body of the Obligor evidence the adoption of the Governing Body of this Resolution this the 21st day of January, 2020.

ATTEST:

Angela M. Winchester
Clerk to the Board

Brian Thomas McMahan
Chairman

Volvo Financial Services

January 08, 2020

FORMAL PROPOSAL

OBLIGOR: JACKSON COUNTY, NC

- ✓ This is a finance/ownership contract with vendor guaranteed buyback.
- ✓ Fixed interest rate for the five (5) year term.

EQUIPMENT: ONE (1) NEW VOLVO EC140E

OPTION 1

Acquisition Cost:	\$148,528.00	Term:	Five (5) years	First Payment Due:	At Closing
Sales Tax (7.00%):	\$ 10,396.96	Payment Mode:	Monthly in Adv	Payment Amount (1-60):	\$1,643.08
Document Fee:	\$ 395.00	Interest Rate:	3.370%	Final Pmt Due:	One Month after 36 th Pmt
Principal Balance:	\$159,319.96			Final Pmt Amount (61):	\$81,000.00

- **This is a proposal only and is not a commitment to finance. This proposal is subject to credit review and approval and proper execution of mutually acceptable documentation.**
- Failure to consummate this transaction once credit approval is granted and the documents are drafted and delivered to Obligor will result in a documentation fee being assessed to the Obligor.
- This transaction must be credit approved, all documents properly executed and returned to Volvo Financial Services and the transaction funded on ALL proposals on or before February 08, 2020. If funding does not occur within that time-frame, or there is a change of circumstance which adversely affects the expectations, rights, or security of Obligee or its assignees, then Obligee or its assignees reserve the right to adjust and determine a new interest rate factor and payment amount, or withdraw this proposal in its entirety.
- This transaction must be designated as tax-exempt under Section 103 of the Internal Revenue Code of 1986 as amended.
- **OBLIGOR'S TOTAL AMOUNT OF TAX-EXEMPT DEBT TO BE ISSUED IN THIS CALENDAR YEAR WILL NOT EXCEED THE \$10,000,000 LIMIT, OR THE INTEREST RATE IS SUBJECT TO CHANGE.**

VOLVO FINANCIAL SERVICES

JACKSON COUNTY, NC

Signature

Title

Signature

Title

Date

Date



SALES CONTRACT AND SECURITY AGREEMENT

Customer No. 100949	County Jackson	State NC	Date 1/8/2020	Customer P.O. No.	Salesman Steve Brown	No.
Destination Sylva			State NC	Via <input type="checkbox"/> Customer Pick-up <input type="checkbox"/> Other	<input checked="" type="checkbox"/> COMMON CARRIER NAME _____ TBD	DELIVERY DATE: January

S Jackson County Solid Waste

O _____

L 1172 Mineral Springs Road

D _____

T Sylva, NC 28779

O PHONE # _____

<input type="checkbox"/> Individual	<input type="checkbox"/> Partnership	<input type="checkbox"/> Corp
TERMS: <input type="checkbox"/> Cash on Delivery		<input checked="" type="checkbox"/> Finance
		No. Months 60
thru Kansas City Bank at approx. \$1,643.08 per month		
750 hours per year		

Quan.	Mfg.	Model	Serial No.	Equipment No.	Price	
1	Volvo	EC140E	new		\$148,528.00	
9'10" stick, 28" pads, joystick 3 swithes and proportional, 36 inch bucket and main pin hyd thumb						
(same specs as 311906) *that was on reserve for a while for them						
WITH WARRANTY OF: Std mfg						
			F.O.B. Sylva	Equipment Price	\$148,528.00	
Used Equipment sold on an "AS IS WHERE IS" basis unless specifically noted on the face of this contract.						
Trade-ins are F.O.B. our branch _____				Sub Total	\$148,528.00	
BILL OF SALE FOR TRADE IN: For value received, Customer sell and delivers unto Ascendum Machinery, Inc.					Freight	Inc
Mfg.	Model	Serial No.	Attachments	Sales Tax (7.00%)	\$10,386.96	
Customer warrants that there is no lien, debt, mortgage, or encumbrance of any kind, nature, or description against this property now existing, of record or otherwise, and that same is free and clear and is his sole and absolute property.					Unpaid Balance	\$159,319.96

"All shipments subject to unforeseen contingencies of the effect of priorities or other regulations of the United States government, or delays occasioned by strikes, weather, or any other occurrence beyond our control. Prices are F.O.B. Factory unless otherwise noted and are subject to any change in current list prices at the time of shipment from factory. On the purchase of new equipment, the warranties, including all limitations, of the manufacturer of that equipment are transferred by Ascendum Machinery, Inc. to the customer. These warranties are incorporated by reference. You are entitled to a copy of these warranties prior to signing this contract. There are no understandings, representations, or agreements outside the terms of this contract. This contract is not binding upon Ascendum Machinery, Inc. until approved and accepted by the Management of Ascendum Machinery, Inc. Order cancellation changes assessed to Ascendum Machinery, Inc. by the supplies or manufacturer, if any, will be paid by the customer"

*** Ascendum Machinery, Inc. ("Ascendum") notifies the buyer of the equipment described herein that Ascendum has assigned its rights (but not its obligations) to sell such equipment to ASC Exchange Co., a qualified intermediary, as part of a Section 1031 exchange program ***

SUBJECT TO TERMS AND CONDITIONS OF REVERSE SIDE INCLUDING WARRANTY LIMITATIONS

ACCEPTED Ascendum	Credit Approved By	Purchasing Company Jackson County Solid Waste		
Signature	Date	Signature of Customer	Title	Date 1/8/2020
Title	Date	Signature of Salesman	Date 1/8/2020	
		Steve Brown		

TERMS AND CONDITIONS

1. **NO WARRANTY.** Ascendum Machinery, Inc. is not the manufacturer or agent of the manufacturer of the Equipment. Ascendum Machinery, Inc. gives NO WARRANTY AGAINST EITHER LATENT OR PATENT DEFECTS in material, workmanship, capacity, or operating capacity of the Equipment; nor does Ascendum Machinery, Inc. warrant that the Equipment will meet the requirements of any law, rule, specification or contract. THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

In no event, including but not limited to situations involving allegations of breach of contract or warranty or of product defect or negligence, shall the Seller or Lessor be liable for special, incidental or consequential damages including but not limited to, loss of profits or revenue, of use, of the equipment, downtime cost, costs of capital, substitute equipment, facilities or services.

2. **CONDITION OF EQUIPMENT.** The failure of the Customer to object in writing to the condition of the Equipment within forty-eight (48) hours of its delivery to Customer will constitute an acknowledgment that the Equipment has been accepted and found in good, safe and serviceable condition and fit for Customer's intended use. If Customer notifies Ascendum Machinery, Inc. that the Equipment is not in good, safe and serviceable condition and fit for its normal use upon delivery, Ascendum Machinery, Inc. will have the right to put the Equipment in good, safe and serviceable condition and fit for normal use within a reasonable time, or to cancel this contract. Once purchased Equipment is accepted, Customer's exclusive remedy is provided by the manufacturer's or Ascendum Machinery, Inc.'s warranty, if any.

Seller is not bound by any representations or terms made by any agent relative to this transaction which are not embodied herein in writing. This Agreement may be amended only by which is signed by the parties hereto and which specifically refers to this Agreement and states that it is an amendment hereto.

Customer shall promptly pay Seller the expenses incurred, including reasonable attorney's fees, of Seller in exercising any of its rights or remedies upon undersigned's default.

3. **NONLIABILITY OF ASCENDUM MACHINERY, INC.** Regardless of whether a claim against Ascendum Machinery, Inc. sounds in contract, tort or otherwise, Ascendum Machinery, Inc. will not be liable to Customer, for any loss, delay or damage of any kind or character resulting from accidental breakage, defects in or inefficiency of the Equipment, or from any other cause whatsoever. Ascendum Machinery, Inc. WILL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES. ASCENDUM MACHINERY, INC. WILL NOT BE LIABLE FOR LOSS OF PROFITS OR FOR "DOWN TIME." The exclusive remedy for purchased Equipment is provided by the manufacturer pursuant to its warranty, if any.

4. **TAXES.** Customer will pay all sales and use taxes, all personal property taxes, and similar taxes in connection with this contract.

5. **RISK OF LOSS.** All risk of loss or damage to the Equipment, accidental or otherwise, will be borne by the Customer. In case of total loss and absence of a pre-established value, the Customer will pay Ascendum Machinery, Inc. the manufacturer's current list price if the Equipment was furnished new or ninety percent (90%) of that price if the equipment was furnished used.

6. **INDEMNIFICATION.** Customer will indemnify and hold Ascendum Machinery, Inc. harmless from any liability including reasonable attorneys' fees; of any kind, including the NEGLIGENCE OF Ascendum Machinery, Inc., its agents and employees, arising out of the possession, maintenance, use, operation and, or in the alternative, failure of the Equipment, whether defective or not.

Seller shall not be liable nor responsible for any loss, damage, expense, or penalty arising from any action or account of any injury to person or property of any character whatsoever, including employees or property of Buyer or any Lessee, occasioned by the operation, handling or transportation of any equipment subject to this Order subsequent to the delivery thereof to Buyer or any Lessee, nor by any reason of delays or any alleged failure of said equipment to operate.

7. **TITLE/SECURITY INTEREST.** If Equipment is sold or being purchased, the Customer grants a security interest in the Equipment and in all accessories, replacements or substitutions until all sums now or later due to Ascendum Machinery, Inc. are paid in full. Customer agrees to execute a UCC financing statement if requested by Ascendum Machinery, Inc. The Equipment will not become a fixture.

8. **NOTICE.** When requested by Ascendum Machinery, Inc., customer agrees to provide Ascendum Machinery, Inc. with the exact location of all Equipment covered by this contract. Customer agrees to give Ascendum Machinery, Inc. immediate notice of any levy attempted upon or liability to seizure of the Equipment and Customer agrees to indemnify Ascendum Machinery, Inc. against all loss and damage, including reasonable attorney's fees, caused by any such action.

9. **ATTORNEYS' FEES.** If Ascendum Machinery, Inc. employs an attorney to enforce any provision of this contract, or defend any action brought by Customer, its agents or employees, against Ascendum Machinery, Inc. whether the action sounds in contract, in tort, or otherwise, or to collect any payment due under this contract, whether or not suit is instituted, Ascendum Machinery, Inc. will be entitled to recover from Customer all costs and expenses incurred including a reasonable attorney's fee of not less than ten (10%) percent of the amount due if suit is for the collection of monies. A reasonable attorney's fee includes but is not limited to fees incurred for trial, appellate proceedings, and post-judgment proceedings. Any judgement rendered against Customer will include a provision allowing for the subsequent assessment and award of attorneys' fees and costs incurred after judgement by Ascendum Machinery, Inc. for the enforcement or collection of the judgement and reserving jurisdiction to the trial court for the purpose of making such award.

10. **VENUE/JURY TRIAL/INTEREST.** Customer will pay interest on all monies due to Ascendum Machinery, Inc. at the highest lawful contract rate. Customer WAIVES ANY RIGHT TO JURY TRIAL in any action brought by or against Customer involving Ascendum Machinery, Inc. regardless of whether the claim sounds in contract, in tort or otherwise, or is in an proceeding related, ancillary or supplementary to this contract. Customer waives any right to venue, including rights to venue non conveniens and agrees that any legal or arbitration action between Customer and Ascendum Machinery, Inc. (whether in relation to this contract or in any proceeding related, ancillary or supplementary to this contract regardless of whether it sounds in contract, in tort or otherwise) will be brought in a state court of competent jurisdiction located in Mecklenburg County as well as any other court having jurisdiction, at the option of Ascendum Machinery, Inc. and each Customer consents to the jurisdiction and venue of the courts located in Mecklenburg County, and each such other court.

11. **NON-WAIVER.** The failure by Ascendum Machinery, Inc. at any time to enforce any default or right reserved to it or to require strict performance of any of the terms of this contract by Customer at the time designated will not be a waiver of any such default or right, nor will it in any way affect the right of Ascendum Machinery, Inc. to later enforce such provisions. The remedies of Ascendum Machinery, Inc. are cumulative and not alternative.

12. **ASSEMBLY.** Unless otherwise specified on the face of this contract, Customer will be responsible for all load-out, unloading assembly and disassembly of the Equipment.

13. **PERSONAL GUARANTY.** The person signing this contract on behalf of the Customer, personally and individually, guarantees the full and prompt performance of the Customer, and the payment of all sums due to Ascendum Machinery, Inc. As used in this contract, the term "Customer" will also include the guarantor, and any other party to this contract, and all waivers are equally applicable to those persons.

14. **CAPTIONS.** The captions are solely for convenience and will neither add nor detract from this contract.

15. **INSURANCE.** The Customer further agrees that from the date of delivery and until the entire purchase price is paid in full, he will maintain fire, theft and collision insurance for the benefit of the Seller to the amount of the unpaid purchase price and deliver said policy to Seller. Failure to provide Seller with said policy does not constitute a waiver of this provision.