

**FRANKLIN COUNTY
COMMISSION AGENDA ITEM**

TO: BOARD OF FRANKLIN COUNTY COMMISSIONERS	Reviewed:
FROM: Jim Haag	Ext: 3552
DEPARTMENT: Public Works	
DATE: Monday, August 10, 2009	No:

ITEM: Discuss authorizing the Chairman to execute the Service and Repurchase Agreement amendments for the motor graders and loader.

Background: Martin Tractor Company is being sold to Foley Equipment. The amendment would allow Martin Tractor Company to assign its rights and delegate its duties to any Caterpillar authorized dealer which assumes all of the agreements in Martin Tractor Company geographical territory served by Martin Tractor Company.

Recommended Action: Discuss authorizing the Chairman to execute the Service and Repurchase Agreement amendments for the motor graders and loader.

Attachments: Existing Assignment Clause, Proposed Clause

In the event that the machine fails any of the above requirements, the owner has the following options:

- a) Repair failed items themselves at owner's expense
- b) The owner can have Martin Tractor Company, Inc. repair the failed items and be billed by Martin Tractor Company, Inc. for the repairs or have the repairs deducted from the repurchase amount.

5. **Contractual Relationship.**

MTC is an independent contractor; nothing herein shall create a partnership, joint venture or employment relationship between the parties.

6. **Amendment.**

This Agreement may be amended at any time by an agreement in writing, executed with the same formality as this Agreement.

7. **Waiver.**

Any failure of a party to comply with any obligation, agreement, or condition binding said party as set forth herein, may be expressly waived in writing by the other party; provided, however, no waiver of any breach of any provision hereof shall operate as a waiver of any other breach of the same or any other provision.

8. **Binding Effect and Assignment.**

All provisions of this Agreement shall be binding upon the parties hereto and their successors in interest. However, neither party shall have the right to assign any of the rights or obligations accruing to such party by reason of this Agreement without the prior written consent of the other party.

EXISTING

VIP
SERVICE AND REPURCHASE AGREEMENT
AMENDMENT PAGE

Customer: Franklin County
Serial Number: OCCA01305
Original Contract Date: 3/10/2005

Amendment To Assignment Clause

The Assignment Clause shall be amended to read as follows:

All provisions of this Agreement shall be binding upon the parties hereto and their successors in interest. However, neither party shall have the right to assign any of the rights or obligations accruing to such party by reason of this Agreement without the prior written consent of the other party, except that MTC may, without any required consent of Municipality, assign its rights and delegate its duties hereunder to any Caterpillar authorized Dealer which assumes all of MTC's Caterpillar-related Service and Repurchase Agreements within the geographical territory then served by MTC.

MARTIN TRACTOR COMPANY, INC.

County Commission of Franklin County

BY: 

BY: _____

TITLE: Sales Manager

TITLE: _____

DATE: 7/27/09

DATE: _____

PROPOSED