

**Muskogee County, Oklahoma
Lease Purchase Agreement**

This agreement is made this day of December 20, 2021, by and between the Board of County Commissioners of Muskogee County, designated as the Lessee and Armstrong Bank, designated throughout this agreement as the Lessor.

I. Equipment

Subject to the terms and conditions as set forth in this agreement, the Lessor leases to the Lessee the following described Equipment, all of which shall be designated throughout this instrument as the "Equipment":

<u>MAKE</u>	<u>MODEL DESCRIPTION</u>	<u>QUANTITY</u>	<u>UNIT PRICE</u>	<u>LEASE PURCHASE PRICE</u>
2022 John Deere	670G Motor Grader #72714	1	\$273,087.86	\$273,337.86
Serial Number 1DW670GPVMF712936				

II. Payment of Lease Purchase Installments

In consideration of the agreement by the Lessor to lease purchase the Equipment, the Lessee promises to pay the Lessor, for the Equipment, the sum of \$2,614.17 per month, (see enclosed payment schedule), during the term of this agreement or any renewal of the agreement.

III. Lease Term

This lease shall commence on the date the Equipment is accepted by the Lessee and shall automatically terminate, unless renewed in accordance with the terms set forth below, at the end of the fiscal year of the State of Oklahoma during which the lease is commenced.

IV. Option to Renew

The Lessee is hereby granted four (4) successive options to renew this lease for additional terms not to exceed one fiscal year, plus one final option to renew this lease for a period of seven (7) months, all upon the same terms and conditions, provided that such options may be exercised, as a matter of right, solely and exclusively by the Lessee the exercise of any such option shall be accomplished by the issuance of a purchase order upon or within thirty (30) days after the expiration of the terms of the lease or any renewal then in effect.

V. Title to Equipment

The Equipment is and shall at all times during the term of this lease and any renewal term remain the sole property of the Lessor and the Lessee shall have or acquire no right, or title to the Equipment until the final payment is made.

VI. Option to Purchase

In the event the lessee shall have exercised all of its options for renewal of this lease as provided in paragraph IV, above, upon tender of the last lease payment due under the last renewal term, the Lessee shall acquire title to and ownership of the Equipment. In the alternative, the Lessee, at its sole and exclusive option, may purchase the Equipment at any time during the term of this lease or during any renewal term as provided by paragraph IV, above, giving written notice to the Lessor or Lessee's intent to purchase accompanied by a single, final payment of \$137,559.21. (If purchase price is to be reduced by a percentage of the lease payments made prior to the exercise of the purchase option, describe fully, the manner in which such reduction shall be computed. Attach a written schedule of purchase option prices which shall be incorporated in the terms of this agreement by reference). In the event the Lessee shall exercise any option to purchase the Equipment, the Lessor assigns to the Lessee all rights and claims which the Lessor may have or acquire arising under the antitrust laws of the United States or of any State regarding the Equipment purchased under the terms of this agreement.

VII. Delivery and Return of Equipment

The Lessor shall bear all costs of shipping and delivering the Equipment to the Lessee. Installation costs, if any, shall be borne by the Lessor. The Equipment shall be delivered to or installed at the location designated by the Lessee.

VIII. Repairs and Maintenance

The Lessee shall maintain the Equipment in good working order and shall make all necessary routine adjustments and repairs, as a result of fair wear and tear, all at the expense of the Lessee. The Lessor and the Lessee may provide for the maintenance and repair of the Equipment by separate written agreement, and, in the event they make such agreement, its terms shall supersede and replace the provisions of this paragraph of this lease.

IX. Taxes

The Lessor shall forthwith pay all taxes which may be imposed upon it with the respect to the Equipment.

X. Insurance

The Lessee shall obtain and maintain fire and extended coverage casualty insurance covering the Equipment from the time the Equipment is delivered until this lease is terminated. This insurance shall be in a form acceptable to the Lessor and shall insure the full value of the Equipment against the risk of loss or damage. The Lessee shall provide the Lessor with written notice at least ten days prior to any change in the insurance required under the terms of this paragraph.

XI. Patents

In the event any suit is instituted against the Lessee which is based upon any claim that any of the equipment is implicated in an infringement of any provision of United States Patent Law, the Lessor shall, at its own expense, defend such suit against the Lessee; provided, Lessee provides the Lessor with prompt notice of the institution of such suit and permits the Lessor to fully participate in the defense.

The Lessee shall also retain the right to participate in such defense and shall, in any event, provide the Lessor with all available information, assistance and authority to enable the Lessor to conduct the defense. No compromise or settlement of such suit resulting in a judgment against the Lessee shall obligate or bind the Lessor unless the Lessor shall have accepted such compromise or settlement, the Lessor shall have the right to enter into negotiations for and effect a compromise or settlement of such patent action, but no such compromise or settlement shall be binding upon Lessee unless approved by Lessee. Subject only to the terms of this paragraph, the Lessor shall hold the Lessee harmless from any liability arising from any patent suit such as is described above. In the event any of the equipment shall be held, in any suit, to constitute an infringement of patent law, and its use shall be enjoined, then the Lessor shall, at its sole option and the Lessor's expense:

1. Obtain for the Lessee the right to continue to use the Equipment;
2. Replace or modify the Equipment in a manner acceptable to the Lessee so that the Equipment no longer infringes any provision of patent law.

XII. Funding

Notwithstanding any other provision of this agreement, the parties acknowledge and agree that funds to be paid by the Lessee under the terms of this lease will be available only as appropriated on a fiscal year-to-fiscal year basis by properly constituted legal authority. In the event that the Lessee determines that sufficient funds have not been appropriated to make the payments required under the terms of the agreement, the obligations of the Lessee under this agreement shall terminate. In such event, the Lessee shall give prompt written notice of termination to the Lessor.

XIII. Assignment

The Lessor may, with the prior written approval of the Lessee, assign its right to receive payment of lease due under the terms of this agreement. However, any such assignment shall not relieve the Lessor of its responsibilities to perform the duties and obligations imposed upon it by this agreement.

XIV. Road Machinery and Equipment

If the terms of this agreement are in regards to road machinery or equipment, the Lessee assumes all risk and liability for and shall hold the Lessor harmless from all damages to property and injuries and death to persons arising out of the use, possession, or transportation of said road machinery or equipment.

XV. Entire Agreement of the Parties and Severability

Except as otherwise provided in the above terms and conditions, this lease, together with applicable purchase orders and the invitation to bid, constitute the entire agreement of the parties. This agreement may not be modified or terminated except as provided in the above terms and conditions or by written agreement of the Lessor and the Lessee. If any provision of this agreement shall be determined to be invalid, it shall be considered as deleted from this agreement and no remaining provision of the agreement shall be deemed invalid.

XVI. Choice of Law

This lease shall be governed in all respects by the laws of the State of Oklahoma. In the event any litigation shall occur concerning the terms and conditions of this lease or the rights and duties of the parties, the parties agree that any such suit shall be maintained in the District Court in and for the Board of County Commissioners of Muskogee County, State of Oklahoma.

LESSOR: Armstrong Bank

BY: _____
Bobby McAlpine, Market President

LESSEE: Board of County Commissioners of Muskogee County

BY: _____
Ken Doke, County Commissioner

BY: _____
Keith Hyslop, County Commissioner

BY: _____
Kenny Payne, County Commissioner



Attest: _____
Penny Dunge

CERTIFICATE OF ACCEPTANCE

I, the undersigned, hereby certify that I am the duly qualified and acting County Commissioners of the Board of County Commissioners of Muskogee County, ("Lessee") with respect to the Lease Purchase Agreement dated December 20, 2021(the "Lease"), by and between Armstrong Bank, ("Lessor") and Lessee, and that:

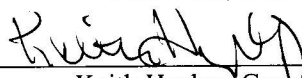
1. The equipment described in the Lease (the "Equipment") has been delivered and installed in accordance with the Specifications (as that term is defined in the Lease) and has been irrevocably accepted by Lessee.
2. The rental payments provided for in the Lease (the "Rental Payments") shall commence and be due and payable on January 20, 2022 in accordance with the Lease.
3. Lessee has appropriated and/or taken all other lawful actions necessary to provide monies sufficient to pay all Rental Payments required to be paid under the Lease during the fiscal year of Lessee for which monies have been appropriated and such monies will be applied in payment of all Rental Payments due and payable during each current fiscal year.
4. Lessee is exempt from all personal property taxes, and is exempt from sales and/or use taxes with respect to the Equipment and the Rental Payments.

Equipment Description: 2022 John Deere 670G Motor Grader #72714 S/N 1DW670GPVMF712936

DATED: **December 20, 2021**

Board of County Commissioners of Muskogee County

BY: 
Ken Doke, County Commissioner

BY: 
Keith Hyslop, County Commissioner

BY: 
Kenny Payne, County Commissioner

(To be executed and delivered at the time of delivery of the Equipment)

OPINION OF COUNSEL

With respect to that certain Lease Purchase Agreement (“Lease”) dated December 20, 2021 by and between Lessor and Lessee. I am of the opinion that:

(i) Lessee is a tax exempt entity under section 103 of the Internal Revenue Code of 1986, as amended; (ii) the execution, delivery and performance by Lessee of the Lease have been duly authorized by all necessary action on the part of Lessee; (iii) the Lease constitutes a legal, valid and binding obligation of Lessee enforceable in accordance with its terms and all statements contained in the Lease and all related instruments are true; (iv) there are no suits, proceedings or investigations pending or, to my knowledge, threatened against or affecting Lessee, at law or in equity, or before or by any governmental or administrative agency or instrumentality which, if adversely determined, would have a material adverse effect on the transaction contemplated in the Lease or the ability of Lessee to perform its obligations under the Lease and Lessee is not in default under any material obligation for the payment of borrowed money, for the deferred purchase price of property or for the payment of any rent under any lease agreement which either individually or in the aggregate would have the same such effect, and (v) all required public bidding procedures regarding the award of the Lease have been followed by Lessee and no governmental orders, permissions, consents, approvals or authorizations are required to be obtained and no registrations or declarations are required to be filed in connection with the execution and delivery of the Lease.

Counsel for Lessee: Larry Edwards
Printed Name

By: [Signature]

Title: District Attorney

Date: 12/20/21

**SECTION 265(b)(3)(B) ELECTION UNDER THE PROVISIONS OF THE
INTERNAL REVENUE CODE OF 1986, AS AMENDED, AND RELATED TAX
COVENANTS OF THE LESSEE**

The undersigned, the Board of County Commissioners of Muskogee County is the Lessee (herein "Lessee and obligor") under a certain Lease/Purchase Agreement (herein "Lease") dated as December 20, 2021, made and entered into with Armstrong Bank, as Lessor (herein "Lessor"). This Lease represents that the Lessee is acquiring the Leased Facilities and Equipment for use in the operations of Lessee, a governmentally owned facility (herein "Leased Facilities and Equipment"), and therefore the Lessee is the issuer of the lease-purchase obligations (herein "Leased Facilities and Rental Payment Obligations") called for under the terms of such Lease.

WHEREAS, the Lessee has on or about July 29, 2021, authorized the financing of the lease/purchase of such Leased Facilities and Equipment and the financing thereof, and, now, desires to designate all Leased Facilities and Equipment Rental Payment Obligations authorized by the official actions of the Lessee relating to the Lease for purposes of Paragraph (3) of Section 265(b) of the Code as "Qualified Tax-Exempt Obligations", and further desires to certify that not more than \$10,000,000 aggregate principal amount of obligations, the interest on which is excludable (under Section 103(a) of the Code) from gross income for Federal income taxes (excluding, however, private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code), including the Rental Payment Obligations, have been or shall be issued by the Lessee, including all subordinate entities of the Lessee, during the calendar year 2021-2022.

NOW THEREFORE, the Lessee hereby delegates the Rental Payment Obligations related to the Lease for the purposes of Paragraph (3) of Section 265(b) of the Code "Qualified tax-exempt Obligations" and covenants that not more than \$10,000,000 aggregate principal amount of the obligations, the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income taxes (excluding, however, private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code), including the Rental Payment Obligations, have been or shall be issued by the Lessee, including all subordinate entities of the Lessee, during the calendar year 2021-2022.

This instrument to be binding on the undersigned and may be relied upon by Special Tax Counsel in rendering its Opinion related to this financing and the actions herein expressed shall be effective as of the 20 day of December, 2021, immediately prior to the issuance and delivery of the Rental Payment Obligations.

Board of County Commissioners of Muskogee County

BY: _____



Ken Doke, County Commissioner

BY: Keith Hyslop
Keith Hyslop, County Commissioner

BY: Kenny Payne
Kenny Payne, County Commissioner

ASSIGNMENT OF LEASE

THIS ASSIGNMENT OF LEASE entered into the 20 day of December, 2021 by and between Yellowhouse Machinery Co (herein "Assignor") and Armstrong Bank (herein "Assignee").

IN CONSIDERATION of the mutual agreements and understandings herein contained, in consideration of One Dollar (\$1.00) and other good valuable consideration, the parties hereto agree as follows:

1. Assignor hereby assigns to Assignee its entire right, title and interest in and to that certain Lease Purchase Agreement dated December 20, 2021 and entered into by and between Assignor and the Board of County Commissioners of Muskogee County, Oklahoma (herein "Lease"), together with Assignor's right to receive all rent and other monies thereunder, and all of Assignor's right title and interest in and to any guaranties or other rights and interest granted to Assignor to secure the payment due under the terms of the Lease.
2. Assignor represents, warrants and covenants to Assignee as follows:
 - (A) The Lease has been duly and validly executed by all parties thereto.
 - (B) No act of default in the Lease has occurred to date since the execution of this Assignment.
3. The rights and privileges of Assignee under this agreement shall inure to the benefits of its successors and assigns, all covenants, representations, warranties, and agreements of Assignor contained in this agreement shall bind Assignor's successors and assigns.
4. If any provision of this Agreement shall for any reasons be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, and this Assignment shall be construed as if such invalid or unenforceable provision had never been contained herein.
5. It is the intention of the parties that this Agreement be governed by the laws of the State of Oklahoma.

IN WITNESS WHEREOF, the parties hereto have herunto set their hands the day and year first about written.

ASSIGNOR: Yellowhouse Machinery Co

ASSIGNEE: Armstrong Bank

By: _____

By: _____
Bobby McAlpine, Market President

Printed Name: _____

Printed Title: _____

December 20, 2021

Muskogee County
PO Box 1008
Muskogee, OK 74402

Re: Lease Purchase Agreement for dated December 20, 2021, between Armstrong Bank, Lessor, and The Board of County Commissioners of Muskogee County, Oklahoma, Lessee.

Dear Board of County Commissioners:

Please be advised that **2022 John Deere 670G Motor Grader S/N 1DW670GPV MF712936** has assigned and transferred to **Armstrong Bank**, all of its right, title and interest in and to the above-described Lease Purchase Agreement, including title to the property leased thereunder and the right to receive lease payments. A copy of the assignment is enclosed for your file. Please note the fact of this assignment in your records (as required by Section 149(a) of the Internal Revenue Code of 1986) and make all further payments to:

Armstrong Bank
PO Box 188
Muskogee OK 74402

Please acknowledge your receipt of this notice by returning a copy, signed by a duly authorized officer in the space provided below.

Sincerely,


Armstrong Bank, an Oklahoma Banking Institution

By: _____
Bobby McAlpine, Market President

Board of County Commissioners of Muskogee County, Oklahoma

BY: _____
Ken Doke, County Commissioner

BY: _____
Keith Hyslop, County Commissioner

BY: 
Kenny Payne, County Commissioner