

RONNY LOTT
MADISON COUNTY CHANCERY CLERK

MEMORANDUM

TO: Madison County Board of Supervisors
FROM: Ronny Lott, Chancery Clerk
DATE: December 21, 2020
RE: *Nunc Pro Tunc* Minutes of November 16, 2020

Due to a clerical error, in the Order within the minutes of **November 16, 2020**, the Minutes should reflect approval of Auction Agreement submitted by Jeff Martin Auctioneers, Inc.

Therefore, I am requesting that you authorize me to *nunc pro tunc* this certain item of said minutes as follows:

In re: Approval of Consent Agenda Items

WHEREAS, the Board President did explain that any Supervisor could, in advance of the call of the question, request that any item be removed from the Consent Agenda, and

Mr. Steen did request that item 31 be pulled for discussion, and

Thereafter, Mr. Banks did offer and Mr. Griffin did second a motion to approve that certain Auction Agreement submitted by Jeff Martin Auctioneers, Inc. to auction county equipment, attached as Exhibit N, (attached as Exhibit ?? to these Minutes of December 21, 2020) and authorize the Board President to execute same. The vote on the matter being as follows:

Supervisor Sheila Jones	Aye
Supervisor Trey Baxter	Aye
Supervisor Gerald Steen	Aye
Supervisor Karl Banks	Aye
Supervisor Paul Griffin	Aye

the matter carried unanimously and said Auction Agreement was and is hereby approved and the Board President was and is hereby authorized.

SO ORDERED this the 16th day of November, 2020.

AUCTION AGREEMENT
JEFF MARTIN AUCTIONEERS, INC.
2236 Hwy 49 Brooklyn, MS 39425
601-450-6200 | 601-450-4980 (fax)

SELLER (To appear on check): Madison County Board of Supervisors (referred to as "Seller" herein)
Contact Person: Cornelius Bacon Fed. ID# or Resale Certificate # _____
Address: 146 W Center Street
City, State, Zip: Canton, MS 39046
Annual Contract: YES/NO - Year Effective _____ Expires: _____ +1day
Auction Date: December 2020 Auction Location: Brooklyn, MS

Seller hereby retains, authorizes, and directs Jeff Martin Auctioneers, Inc. (hereinafter referred to as Auctioneer) to arrange for and to conduct a public auction of property listed on Schedule A attached hereto or items brought to auction location by seller and consigned with auction staff . It is expressly agreed and understood that the items listed therein will be and are subject to the Terms and Conditions as noted hereon (including the Terms and Conditions on page 2 of this form.)

TERMS OF SALE AND AUCTION COMMISSION

- a. Seller agrees that each and every piece of Property listed on Schedule A will be offered for sale without reserve at the above prescribed Auction Date and Auction Location **in accordance with the Auctioneer's usual practices and procedures.** The lotting and grouping of the Property sold and the order in which it is to be sold shall be in the absolute and sole discretion of the Auctioneer.
- b. Auctioneer will collect a buyer's premium on each item from the buyer. Amount to be charged for buyer's premium is auctioneers decision. It is agreed that the buyer's premium shall be additional compensation to the Auctioneer and Seller shall have no right to payment of any portion thereof and the buyer's premium shall have no effect on the commission to be paid to Auctioneer pursuant to subpart c. below.
- c. **Seller agrees to pay Auctioneer for its services commission(s) as follows:** ____ Initial
8 % of the aggregate gross sales for all equipment listed on the accompanying Schedule "A".
- d. Seller agrees to give Auctioneer power of attorney to sign Seller's name on the title to the Property should a sale of the Property occur.
- e. **Auctioneer will pay Seller net proceeds** on or before **21 banking days after the auction proceeds are collected and liens are released.** Net proceeds are the gross sales price less commissions and fees due pursuant to section 3(c), liens, and other charges incurred in accordance with this agreement. Auctioneer will only pay net proceeds on Property where proceeds have been collected, and Auctioneer will owe nothing in excess of the guaranteed proceeds to Seller should Auctioneer for any reason not be able to collect proceeds from a sale. If applicable, Auctioneer reserves the right to withhold the payment of the net proceeds of the Property sold by Seller until Seller pays in full any amount due to Auctioneer on items purchased by Seller.
- f. Seller **shall deliver & offer for sale each & every piece of Property in sale-ready condition** to the Auction Location on or before **TBD, along with all documentation** including titles and bills of sale, evidencing Seller's title and ownership in the Property. Failure to deliver all documentation as provided for above does not prevent Auctioneer at his sole discretion from removing or including the Property in the Auction.

These **Terms of Sale and Auction Commission** are in addition to and to be read as part of the **Terms and Conditions found on page two of this agreement.**

Seller acknowledges that it has read, understood, and agrees to abide by all Terms and Conditions in this agreement.

By Jeff Martin Auctioneers, Inc.
Date: _____

By Seller
Date: _____

TERMS AND CONDITIONS

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Except as noted in the Terms and Conditions

THIS AGREEMENT IS SUBJECT TO ARBITRATION IN ACCORDANCE WITH THE MISSISSIPPI UNIFORM ARBITRATION ACT.

1. **GENERAL**

- a. This Agreement is entered into by and between Seller, as set forth on page 1 of this agreement, and Jeff Martin Auctioneers, Inc. ("Auctioneer").
- b. Seller hereby retains, authorizes, and directs Auctioneer to arrange for and to conduct a public auction of the items of property described in Schedule A or items delivered to auction location not listed in Schedule A (herein referred to as the "Property").

2. **SELLER'S WARRANTIES AND REPRESENTATIONS**

Seller hereby represents and warrants as follows:

- a. The Property is **accurately and completely described**.
- b. Unless otherwise specified, the odometer and hour meter readings (if applicable) on all of the Property is correct.
- c. Seller is the legal owner of the Property with full right and authority to sell such Property.
- d. A complete and accurate list of all parties having any claim or lien on or against the Property consigned by seller is disclosed to Auctioneer prior to sale. Except as specified in Schedule A or disclosed, the Property is **free and clear of all liens, encumbrances, or claims** by any other person or entity. Seller authorizes Auctioneer to contact any creditor or lien holder on the Property and Seller further authorizes the creditor or lien holder to release any information regarding a lien or encumbrance on the Property to Auctioneer. Auctioneer may deduct from the sale proceeds amounts necessary to release liens, claims, or other encumbrances on or against the equipment. If proceeds are insufficient to obtain releases, seller will immediately pay the additional amount necessary. Any liens, encumbrances, or claims not disclosed by seller to auctioneer will be considered an intentional act of fraud and auctioneer reserves the right to pursue legal prosecution for fraud.
- e. **Auctioneer is acting as agent for Seller only.**

3. **ADDITIONAL DUTIES OF SELLER**

Failure on the part of the Seller to abide by any of the Seller's Duties including but not limited to the duties listed in Item 2. Above, will be considered a breach of this agreement and will give the Auctioneer, at its sole discretion the right to remove some or all Property from the auction and collect from Seller any and all applicable fees. The inclusion or removal of any Property by Auctioneer shall not abridge, modify or waive any rights Auctioneer has under this agreement.

- a. Seller or seller representative may **be present** at the Auction Location on the Auction Date to represent the Property. Auctioneer assumes no responsibility for ensuring Seller is present at the auction and has no responsibility for the price the Property may sell for at the Auction.
- b. **Seller shall maintain insurance against loss and/or damage to the Property.** Seller acknowledges and agrees that all risk of loss or damage to the Property will remain with the Seller until proceeds from its sale are received by Seller.
- c. **Seller assumes responsibility for all repairs, improvements, cleaning and/or painting** of the Property until Property is sold at auction. Auctioneer assumes no responsibility for the condition of the Property after delivery or at anytime thereafter. Seller acknowledges that the condition of an item may affect the selling price of the Property at auction. Seller agrees that Auctioneer has the right to service the vehicle prior to the auction to assist in the sell of the property. Such services include but are not limited to adding fuel, replacing a battery, or pressure washing the Property. Auctioneer may charge its costs on parts or fuel plus 30% and labor charges at \$50/hour. Seller agrees to be responsible for such charges and the payment thereof as provided for in Item 6.d. below.

4. **AUCTIONEER'S DUTIES**

- a. Auctioneer shall arrange for, advertise, and conduct a public auction sale of the Property at the Auction Location and Auction Date indicated on the reverse side.
- b. Unless otherwise specified herein, Auctioneer shall pay all cost and expenses of advertising, auctioning, clerking, and cashing in connection with conducting the auction sale.

5. **INDEMNIFICATION OF AUCTIONEER**

Seller hereby agrees to indemnify and hold harmless Auctioneer against all suits, actions, costs, or charges, including but not limited to attorney's fees, arising from or relating to the sale, storage or servicing of the Property including, but not limited to, any false or incorrect representations or warranties contained herein or for any breach of the Seller's obligations herein, including inaccuracies in the description of Property or the condition of Property. Auctioneer may join Seller in any suit brought by a third party against Auctioneer arising out of claims relating to the Property in lieu of arbitration

6. **MISCELLANEOUS**

- a. This agreement, which may be amended in writing only signed by the parties, represents the entire agreement between Auctioneer and Seller, and takes the place of all prior agreements.
- b. **GOVERNING LAW** - This agreement shall be interpreted in accordance with and governed by the laws of the state of Mississippi, to include, but not limited to, the Uniform Commercial Code, as adopted in Mississippi.
- c. **ARBITRATION AND VENUE** - **Except as noted in Item 6. Above, any controversy or claim arising out of or relating to this agreement or any breach thereof shall be settled by binding arbitration** in accordance with the Mississippi Uniform Arbitration Laws and shall be instituted and maintained in Forrest County, Mississippi. It is also the expressed intention of the parties that any and all suits for any and every claim arising out of or connected to a breach of this agreement or challenge to the arbitration proceedings or award shall be instituted and maintained in Forrest County, Mississippi or any other place to which Auctioneer expressly consents in writing.
- d. Seller agrees to pay all costs, including, but not limited to, attorney fees, incurred by Auctioneer should any action need be taken by Auctioneer to enforce the terms of this agreement.

7. **ADDITIONAL TERMS:**

JEFF MARTIN AUCTIONEERS, INC. WILL GUARANTEE A GROSS PROCEEDS AMOUNT OF \$165,000 FOR THE ITEMS LISTED ON THE ACCOMPANYING SCHEDULE "A" SUBJECT TO THE TERMS STATED IN EXHIBIT "B."
(All Additional Terms must be initialed by seller and auctioneer to be valid.)

____ Initial

Date: _____
Terms agreed to
By Jeff Martin Auctioneers, Inc.

Date: _____
Terms agreed to By Seller



2236 HWY 49 BROOKLYN MS 39425
601-450-6200 | FAX: 601-450-4980

Except as noted in the Terms and Conditions

THIS AGREEMENT IS SUBJECT TO ARBITRATION IN ACCORDANCE WITH THE MISSISSIPPI UNIFORM ARBITRATION ACT.

EXHIBIT "B"

GUARANTEE PROVISION

Jeff Martin Auctioneers, Inc. will guarantee a gross proceeds amount of One Hundred Sixty Five Thousand Dollars (\$165,000.00) for the items listed on the accompanying Schedule "A." This guarantee is based up on the Seller providing each and every piece of equipment listed in Schedule "A" in materially comparable condition to the condition on the date of original inspection. For and in consideration of this guarantee, the undersigned Seller hereby employs and grants the Auction Company the EXCLUSIVE RIGHT TO SELL the property described on Schedule "A". All items will be sold to the highest bidder. No item will be allowed to be sold prior to the auction date either by Seller or Auction Company.

TERMINATION

Either party may terminate this Agreement upon written notice if the other party materially breaches this Agreement and fails to correct the breach within ten (10) days following written notice specifying the breach; provided that the cure period for any default with respect to payment will be ten (10) business days. Either party may also terminate this Agreement upon thirty (30) days written notice with or without cause. Should seller terminate this Agreement for any reason, Auction Company shall be entitled to its actual out of pocket costs and labor costs incurred prior to the sale. This money will be due upon receipt of invoice from auctioneer to Seller with list of cost incurred. This money will be paid to auctioneer by Seller in certified funds. If money is not received by auctioneer from Seller within 10 business days from date of invoice legal and collections action will begin immediately as allowed by the laws of the State of Mississippi. If the Auction Company terminates this Agreement for any reason, the Auction Company shall be entitled to its actual out of pocket costs and labor costs incurred prior to sale. This money will be due upon receipt of invoice from auctioneer to Seller with list of costs incurred. This money will be paid to auctioneer by Seller in certified funds. If money is not received by auctioneer from Seller within 10 business days from date of invoice, legal and collections action will begin immediately as allowed by the laws of the State of Mississippi.

TERMS AGREED TO

TERMS AGREED TO BY SELLER

BY JEFF MARTIN AUCTIONEERS, INC.

JEFF MARTIN AUCTIONEERS, INC.

2236 Hwy 49 Brooklyn, MS 39425

601-450-6200 | 601-450-4980 (fax)

SCHEDULE A

This is an addendum to the Auction Agreement and subject to all Terms and Conditions therein.

SELLER: Madison County Board of Supervisors (referred to as "Seller" herein)

AUCTION DATE: December 2020

AUCTION LOCATION: Brooklyn, MS

Seller hereby retains, authorizes, and directs Jeff Martin Auctioneers, Inc. to arrange for and to conduct a public auction of the following items of property on the date and at the location noted above and pursuant to the Terms and Conditions of the Auction Agreement:

UNIT #	YEAR	MAKE	MODEL	SN	HOURS	DESCRIPTION
M33	1998	FERGUSON	46A	4377	2,558	DOUBLE DRUM COMPACTOR, JOHN DEERE ENGINE, OPEN ROPS, 42" SMOOTH DRUMS, WATER SYSTEM
M59	1999	INGERSOLL RAND	DD-90	157825	4,054	84" SMOOTH DOUBLE DRUM COMPACTOR, CANOPY, CUMMINS ENG, 66" DRUMS, WATER SYSTEM
M62		LEEBOY	L9000P	53686		PAVER, DUAL STATION, LEGEND SCREED
5008	2008	DURACO	125DTJT	14524		POTHOLE PATCHER
57	1998	FORD	F-SERIES	1FDWF80C3WVA24544	121,812	SINGLE AXLE DUMP TRUCK
T18	2014	KUBOTA	M108S	76640	3,089	AG TRACTOR, 4X4, CAB/AIR, 3-POINT HITCH, PTO, REAR SCREEN, 13.6R24 FRONT TIRES, 18.4-34 REAR TIRES
T20	2014	KUBOTA	M108S	77152	2,361	AG TRACTOR, 4X4, CAB/AIR, 3-POINT HITCH, PTO, REAR SCREEN, 13.6R24 FRONT TIRES, 18.4-34 REAR TIRES
T19	2014	KUBOTA	M108S	77512	2,914	AG TRACTOR, 4X4, CAB/AIR, 3-POINT HITCH, PTO, REAR SCREEN, 13.6R24 FRONT TIRES, 18.4-34 REAR TIRES
T17	2014	KUBOTA	M108S	76633	2,294	AG TRACTOR, 4X4, CAB/AIR, 3-POINT HITCH, PTO, REAR SCREEN, 13.6R24 FRONT TIRES, 18.4-34 REAR TIRES
T16	2014	KUBOTA	M108S	75752	3,119	AG TRACTOR, 4X4, CAB/AIR, 3-POINT HITCH, PTO, REAR SCREEN, 13.6R24 FRONT TIRES, 18.4-34 REAR TIRES
T23	2014	KUBOTA	M108S	76714	2,442	AG TRACTOR, 4X4, CAB/AIR, 3-POINT HITCH, PTO, REAR SCREEN, 13.6R24 FRONT TIRES, 18.4-34 REAR TIRES
T21	2014	KUBOTA	M108S	77051	2,876	AG TRACTOR, 4X4, CAB/AIR, 3-POINT HITCH, PTO, REAR SCREEN, 13.6R24 FRONT TIRES, 18.4-34 REAR TIRES
18A		BUSHHOG	2715 LEGEND	12-04420		15' BATWING BUSHHOG
20A		BUSHHOG	2715 LEGEND	12-04421		15' BATWING BUSHHOG
19A		BUSHHOG	2715 LEGEND	12-04422		15' BATWING BUSHHOG
17A		BUSHHOG	2715 LEGEND	12-04424		15' BATWING BUSHHOG
16A		BUSHHOG	2715 LEGEND	12-04419		15' BATWING BUSHHOG
23A		BUSHHOG	2715 LEGEND	12-04073		15' BATWING BUSHHOG
21A		BUSHHOG	2715 LEGEND	12-04072		15' BATWING BUSHHOG

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Jeff Martin Auctioneers

Date

Seller

Date