




PURCHASING DEPARTMENT

Madison County Board of Supervisors
146 West Center Street / Post Office Box 608
Canton, MS 39046
Office (601)-855-5534 ~ Fax (601) 859-5875

July 1, 2024

To: Board of Supervisors
From: Kesha Jackson, Purchasing Clerk 
Subject: Consideration of Declaration of Sole Source

The Madison County Road Department has requisitioned for Progress Rail-Kershaw to provide a 55 TH Mini Sky Trim, which is a rubber tired mechanical tree trimmer with 55 feet of reach. As attached letter indicates that Progress Rail-Kershaw is the sole source provider for the 55 TH Mini Sky Trim product.

I recommend that the board declare this as a Sole Source, authorize the issuance of a purchase order to Progress Rail-Kershaw for \$199,000.00 per attached quote.

Thank you in advance for your consideration of the above recommendations.

Progress Rail

A Caterpillar Company

Post Office Box 244100
Montgomery, AL 36124

Phone: (334) 387-9100
Fax: (334) 387-9375

To Whom it may concern,

Please be advised that Progress Rail-Kershaw is the Sole Source Provider for the 55 TH Mini Sky Trim which is a rubber tired mechanical tree trimmer with 55 feet of reach.

The trimming equipment features a telescopic composite boom dielectric tested to 40 KV utilizing a size 50 chain/sprocket system to extend and retract, a 24" diameter carbide circular saw blade powered by a hydraulic motor at the boom tip with up to 15 degree rotation right and left.

It is mounted on a CAT TH 255C Telehandler Carrier with standard controls and cab certified to ROPS/FOPS safety standards with added Falling Object Guard Structure (FOGS). It has a 74 HP tier 4 diesel engine that does not require DEF and is equipped with 4-wheel drive featuring Crab and Crawl steering functions in addition to standard drive. It is also equipped with an air conditioned cab, safety cone holder, strobe light, and is designed to be legally transported by a class 3-4 truck.

Currently, there is no other manufacturer that produces a mechanical tree trimmer on a commercially available telehandler carrier.

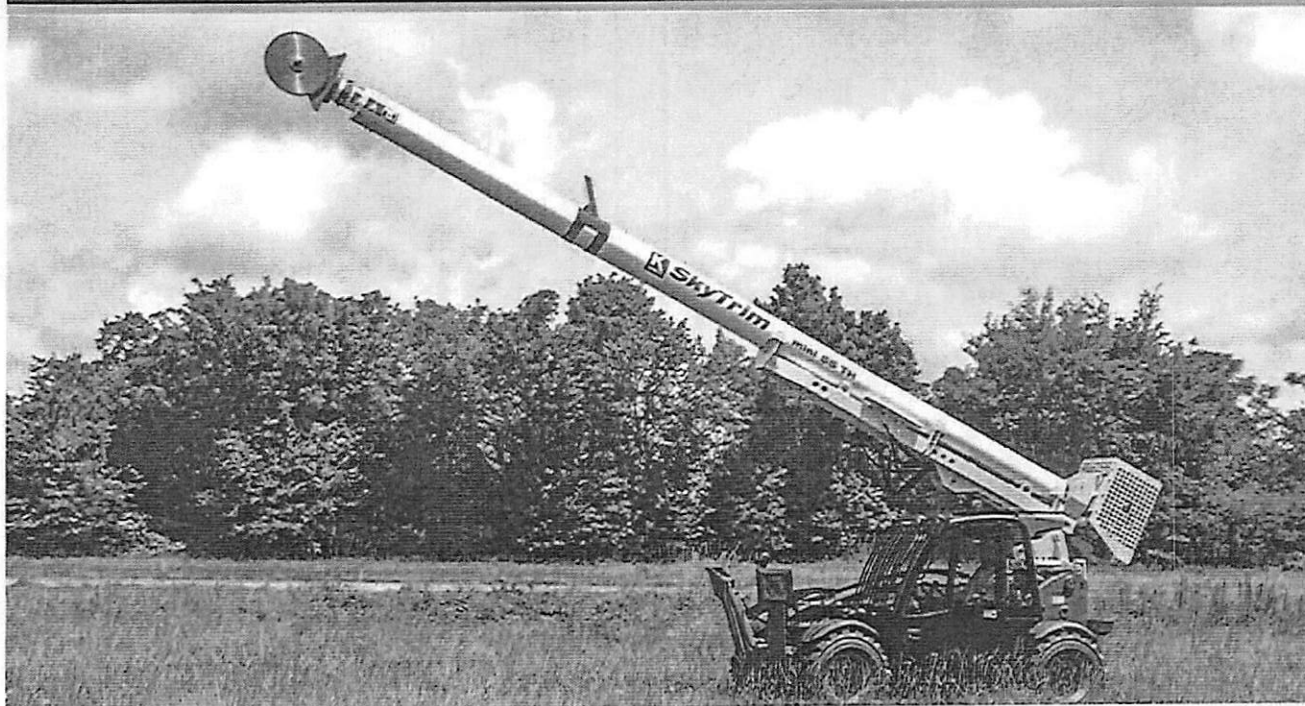


Hal Acree
National Sales Manager, Utility and Vegetation
Progress Rail-Kershaw

10/8/19 KER441

KERSHAW® SKYTRIM MINI 55 TH

MAINTENANCE-OF-WAY



Progress Rail's Maintenance-of-Way (MOW) division was born out of the movement toward mechanization in the railroad industry and introduced the first Kershaw® Ballast Regulator in 1945.

Today, Progress Rail supplies Kershaw® MOW equipment, providing machines to all Class I railroads, transit and short lines and contractors around the world.

The SkyTrim mini 55 TH is a compact, mobile, self-powered tree trimmer based on a telehandler platform.


The SkyTrim mini 55 TH is ideal for utility line clearance, residential applications, golf courses, rental properties and municipalities.




Progress Rail
A Caterpillar Company

+1 800-476-6789

progressrail.com

 @progressrail

 @Progress_Rail

Progress Rail

A Caterpillar Company

Kershaw Manufacturing
10650 Highway 80 E
Montgomery, AL 36117-6038

Quote Information

Quote Number	00078079	Prepared By	Carlton Hardman
Created Date	6/13/2024	Email	chardman@progressrail.com
Account	Madison County Board of Supervisors		
Contact Name	Cornelius Bacon		
Phone	(601) 832-3103		
Email	cbacon@madison-co.com		

Quote Line Items

QTY	U/M	Line Description	Sales Price	Total Price
1.00	EA	<p>SkyTrim Model 55TH is a rubber-tired, rotating head telescopic boom trimmer designed for trimming tree limbs and vegetation from utility distribution right-of-ways, roadways, etc. in moderate terrain.</p> <p>Engine - Deutz 2.9 liter Tier 4 final 74 hp. (55 kw.) @ 2200 rpm.</p> <p>Drivetrain - Hydrostatic transmission with variable speed forward and reverse shuttle shift on the steering column. Axles are planetary drive with hi bias limited slip differential front axle. Inboard hydraulic wet disc service brakes, fail-safe spring-applied/hydraulic-released wet disc parking brake.</p> <p>Tires - 14.00 X 17.5.</p> <p>Electrical - 12 volt dc negative ground, engine driven alternator one 12-volt 900cca batteries.</p> <p>Safety - Strobe light, auxiliary lights for loading / unloading machine and backup alarm.</p> <p>Cab - ROPS, FOPS, OPS structure equipped exterior guarding, light touch hydraulic pilot pressure joystick for boom controls, secondary exit, standard wiper and A/C & heater console.</p> <p>Boom - composite construction with 55 ft. reach from ground. Each unit is electrically insulated and tested to 100 Kv. per ANSI A92.2-2001 Category C standards.</p> <p>Other - 24 inch diameter carbide tipped blade turning @ 2800 rpm. 3 steer modes</p>	USD 212,000.00	USD 212,000.00
1.00	EA	<p>MAS Show Discount. Note: Show Discount good for 30 Days following end of show. Signed Quote and PO to follow by 7/15/2024.</p>	USD -13,000.00	USD -13,000.00

Grand Total USD 199,000.00

Shipping Information and Notes

Shipping Info. Quote Does not include Shipping.

* Pricing does not include for any increases due to tariffs on steel and aluminum imports imposed by the US Government. These will be assessed if tariffs are applied and prices adjusted accordingly.

Terms and Conditions

FOB Customer Pick Up CPU

Payment Terms CIA - Cash In Advance

New Remarks

- Sales tax is not included.
- Pricing and Deliveries are subject to change at the time of order placement.
- Quote is based upon the above quantity and specifications. Any changes may affect pricing.
- Freight rates are based time of quotation and are subject to change at time of order placement and at time of shipment.
- Acceptance of an order is governed by the Progress Rail Services Sales Order Terms And Conditions which are attached to this quote.

Quote Acceptance Information

Signature: _____

Title: _____

Name: _____

Date: _____

Terms & Conditions

LIMITED WARRANTY FOR NEW KERSHAW UTILITY EQUIPMENT

LIMITED WARRANTY FOR NEW KERSHAW UTILITY EQUIPMENT

A. LIMITED WARRANTY- The warranties described in this Section A are provided by Progress Rail Corporation, to the original purchasers of new Utility Equipment from Progress Rail - Kershaw ("Equipment"). Progress Rail - Kershaw will repair or replace, at its option, any Equipment or part thereof, except those parts or Equipment listed below in Section B, which are found to be defective in material or workmanship during the applicable warranty term as described in this Section A. Notwithstanding any terms in this limited warranty, the purchaser will be responsible for any service call and/or transportation of Equipment to and from the dealer's or service center's place of business, for any premium charged for overtime labor requested by the purchaser, and for any service and/or maintenance not directly related to any defect covered under this warranty. This warranty is effective for the period specified below:

- a. Labor: 90 days from date of delivery to purchaser;
- b. Parts: 12 months or 1000 operating hours, whichever occurs first, from the date of delivery to purchaser.
- c. Engine – 2 years or 3000 operating hours, whichever occurs first, from the date of delivery to original purchaser. Subject to engine manufacturer changes without notice (Reference Section B, note e).

B. WHAT IS NOT WARRANTED- KERSHAW EXPRESSLY EXCLUDES THE FOLLOWING FROM THE LIMITED WARRANTY PROVIDED IN SECTION A, ABOVE:

- a. Equipment that has been altered or modified in ways not approved by Kershaw;
- b. Depreciation or damage caused by normal wear or lack of reasonable and proper maintenance;
- c. Failure to follow operating instructions, misuse, lack of proper protection during storage, or accident;
- d. Normal wear/maintenance parts and service including but not limited to: batteries, tires, fluids, belts, hoses, blades, bushings, brake pads, filters, chains, latches, fasteners, skirting, sprockets and bulbs; and,
- e. Defects, failures, or other problems associated with the Equipment engine (any warranty associated with the engine will be provided solely by the engine manufacturer).

C. SECURING WARRANTY SERVICE- To secure warranty service, the purchaser must (1) report the Equipment defect to Progress Rail-Kershaw and request repair within the applicable warranty term as described in Section A, (2) present evidence of the warranty start date, and (3) make the Equipment available to service representative, dealer or service center within a reasonable period of time. Contact the Progress Rail-Kershaw Service Department toll free at (833)537-7782 to initiate a claim for warranty service.

D. LIMITATION OF IMPLIED WARRANTIES AND OTHER REMEDIES- Except as set forth in Section A, above, Progress Rail-Kershaw, its affiliates, subsidiaries, and parent companies, make no warranties, representations or promises as to the quality, performance, or freedom from defect of the Equipment. THIS LIMITED WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. THE PURCHASER'S ONLY REMEDIES IN CONNECTION WITH THE BREACH OR PERFORMANCE OF ANY WARRANTY ON THE EQUIPMENT ARE THOSE SET FORTH IN SECTION A, ABOVE. TO THE FULLEST EXTENT ALLOWABLE BY LAW, IN NO EVENT SHALL KERSHAW OR ITS AFFILIATES, SUBSIDIARIES, PARENT COMPANY, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR SUBCONTRACTORS BE LIABLE FOR CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF LIFE, PERSONAL INJURY, ECONOMIC LOSS, LOSS OF PROFITS, DOWNTIME COST OR ANY OTHER LOSS ARISING FROM THE SALE OF EQUIPMENT, PROVISION OR OMISSIONS OF SERVICES, BREACH OF THIS AGREEMENT, OR ANY OTHER REASON WHATSOEVER, WHETHER UNDER A CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY.

Effective as of July 1, 2014

PROGRESS RAIL SERVICES

SALES ORDER TERMS AND CONDITIONS

1. **ACCEPTANCE.** These terms and conditions apply to all sales by Progress Rail Services Corporation or one of its affiliates stated in any related sales order or invoice ("Seller") issued or approved by such Seller. This is

an offer to sell to Buyer by Seller. Seller may revoke this offer at any point up to, an including, acceptance of the goods or services by Buyer. BUYER'S RIGHT TO ACCEPT THIS OFFER IS LIMITED TO THESE TERMS AND CONDITIONS AND ANY PRINTED ON SELLER'S SALES ORDER OR INVOICE. NO TERMS OR CONDITIONS ISSUED BY BUYER ARE BINDING ON SELLER AND SELLER REJECTS ANY SUCH TERMS OR CONDITIONS, UNLESS SPECIFICALLY AGREED TO IN WRITING AND SIGNED BY SELLER. THERE ARE NO

UNDERSTANDINGS, TERMS, CONDITIONS OR WARRANTIES NOT FULLY EXPRESSED HEREIN. ACCEPTANCE OF THESE TERMS SHALL BE EVIDENCED BY BUYER'S ACCEPTANCE OF GOODS OR SERVICES OR UPON BEGINNING OF PERFORMANCE BY SELLER.

2. **PURCHASE PRICE.** The purchase price of the goods or services shall be as stated on Seller's sales order or invoice (together with these terms and conditions, the "Agreement"); provided however, that if Seller announces a general price increase, the purchase price shall be revised to include the price increase unless the goods are scheduled for shipment or services are to be performed within thirty days of the price increase.

3. **LIMITED WARRANTIES.** Per limited warranty terms, above.

4. **LIMITATION OF BUYER'S REMEDIES AND SELLER'S LIABILITY.** Seller's total cumulative liability in any way arising from or pertaining to any goods sold or required to be sold, or services performed or required to be performed shall NOT in any case exceed the purchase price paid by Buyer for such goods or services. TO THE FULLEST EXTENT ALLOWED BY LAW, IN NO EVENT SHALL SELLER HAVE ANY LIABILITY FOR COMMERCIAL LOSS, LOST PROFITS, CLAIMS FOR LABOR, OR FOR EXEMPLARY, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY TYPE, WHETHER THE CLAIM BE BASED IN CONTRACT, TORT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, OR OTHERWISE, AND IRRESPECTIVE IF SELLER WAS ADVISED OR AWARE THAT SUCH DAMAGES WERE POSSIBLE OR LIKELY. IT IS EXPRESSLY AGREED THAT BUYER'S REMEDIES EXPRESSED IN THIS PARAGRAPH ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES. NO DELIVERY DATES ARE GUARANTEED. BUYER'S SOLE AND EXCLUSIVE REMEDIES AND SELLER'S ONLY LIABILITY FOR ANY DELAY IN DELIVERY OF GOODS OR SERVICES SHALL BE LIMITED AS SET FORTH HEREIN. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE ACCEPTANCE OF THE GOODS OR SERVICES SOLD HEREBY OR THE TERMINATION OF THIS AGREEMENT FOR ANY REASON.

5. **FORCE MAJEURE.** In addition to all other limitations stated herein, Seller shall be excused for any failure or delay in the performance of any of its obligations under this Agreement if such failure or delay is due to a strike, lockout, work stoppage, labor dispute, material shortage, utility outage, delay in transportation, fire, flood, earthquake, severe weather, act of God, accident, trade sanction, embargo, act of war, terrorism or threats of same; condition caused by national emergency, new or changed law; failure of suppliers to deliver or meet requirements; casualties or breakdown of or damage to plants, equipment, or facilities of Seller, any component manufacturer, repair facility, or their respective suppliers; breakdown in transportation services; any other act or cause which is unpredictable and cannot be reasonably avoided; and any act or cause which is beyond the reasonable control of Seller, whether similar to or different from the causes above enumerated, and whether affecting Seller or its agents, subcontractors, or suppliers, for as long as such circumstances prevail. Seller will undertake, as soon as practicable, to notify Buyer of any actual or anticipated failure or delay, and Buyer will use its commercially reasonable efforts to mitigate any force majeure event and its consequences on performance hereunder. The parties shall remain liable for those obligations under this Agreement not affected by the force majeure event; provided however, that in the case of a U.S. sanction, embargo, or other trade order or rule that would prohibit or otherwise render Seller's performance under this Agreement impracticable, Seller shall be excused from the performance of any remaining obligations under this Agreement and this Agreement terminated, without cost or liability, upon written notice by Seller.

6. **BUYER'S OBLIGATION TO PASS ON LIMITATION OF WARRANTIES AND REMEDIES.** In order to protect Seller against claims by any purchaser from Buyer, if Buyer resells any of the goods or services purchased under this Agreement, Buyer shall include the language contained in paragraphs 3 and 4 of these Sales Order Terms and Conditions, dealing with Seller's warranties and limitations of warranties and remedies, in an enforceable agreement with Buyer's buyer. Buyer shall also include a provision in its agreement with its buyer applying Alabama law to any claims its buyer might assert against Seller with respect to goods or services provided by Seller, and requiring its buyer to bring any such action against Seller either in the state or federal courts serving Marshall County, in Alabama. Buyer shall defend, indemnify and hold Seller harmless from any and all claims, causes of action, damages, losses or expenses (including reasonable attorney's fees) that Seller incurs by reason of Buyer's failure to comply with this paragraph. The provisions of this paragraph shall survive the acceptance of the goods or services sold hereby or the termination of this Agreement for any reason.

7. **SHIPMENT/PASSAGE OF TITLE.** All goods shall be shipped FCA Seller's facility (Incoterms® 2010). Title to the goods sold hereunder shall pass to Buyer upon delivery to the carrier at the point of shipment. Without Seller's prior, written permission, neither Buyer nor Buyer's consignee shall have the right to divert or reassign such shipment to any destination other than specified in the bill of lading. Seller reserves the right to select the mode of transportation.

8. **PAYMENTS AND LATE CHARGES ON PAST DUE ACCOUNTS.** If Buyer fails to comply with any provision of the Agreement or fails to make payments pursuant to the Agreement or any other agreement between Buyer and Seller, Seller may at its option defer shipments or performance or, without waiving any other rights it may have, terminate this Agreement without liability. All offers shall be subject to the approval of Seller's credit department. Seller reserves the right before making any delivery, or providing any service, to require payment in cash or security for payment, and if Buyer fails to comply with such requirement, Seller may terminate this Agreement. A late charge of 1½% monthly (18% annual rate) or the maximum allowed by state law, if less, will be imposed on all past due accounts.

9. **CLAIMS BY BUYER.** Buyer shall thoroughly inspect goods and services sold under this Agreement immediately upon receipt to verify that the such goods and services conform to the specifications of the Agreement. Buyer must notify Seller of claims for failure or delay in delivery within ten (10) days after the scheduled delivery date. Buyer must notify Seller of any claims for nonconforming or defective goods or services within ten (10) days after receipt or any claim related to such goods or services shall be waived. In addition, Seller must be given an opportunity to investigate the claim before Buyer disposes of the goods or else Buyer's claim will be barred. Seller shall incur no liability for damage, shortages, or other cause alleged to have occurred or existed at or prior to delivery to the carrier unless Buyer shall have entered full details thereof on its receipt to the carrier.

10. **PERMISSIBLE VARIATIONS.** The goods sold hereunder shall be subject to standard manufacturing variations, tolerances and classifications of the Seller and in the industry.

11. **TECHNICAL ADVICE.** Buyer represents that it has made its own independent determination that the goods or services it is purchasing under this Agreement meet all design and specification requirements of Buyer's project and are suitable for Buyer's intended application. Buyer further represents that it has not relied in any respect on any written or oral statements or advice from Seller.

12. **TAXES.** No tax imposed in respect of the sale of the goods or services sold hereunder is included. Any such tax shall be added to, and paid by Buyer as part of, the purchase price.

13. **INDEMNITY.** To the fullest extent allowable by law, Buyer shall defend, indemnify and hold harmless the Seller and its officers, directors, employees, agents, representatives and affiliates from any and all loss, liability, claim, cause of action, cost, judgment, or damages, including reasonable attorney fees for any personal injury, death, property damage, or economic loss of any sort, related to any act or omission of the Buyer or use or abuse of the goods by the Buyer or any third party receiving, using or abusing the goods after Buyer's receipt, without regard to whether any loss is based upon breach of contract, breach of warranty, negligence, strict liability, or other tort or contract theory or cause of action.

14. **WAIVER.** Failure or inability of either party to enforce any right hereunder shall not waive any right in respect to any other or future rights or occurrences.

15. **PERIOD OF LIMITATIONS.** Buyer and Seller agree that any action by Buyer against Seller for breach of this Agreement, including any action for breach of warranty, or otherwise in connection with the goods or services sold under this Agreement, must be commenced by Buyer against Seller within one year after the cause of action accrues.

16. **SEVERABILITY.** In case any provision of this Agreement shall be declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

17. **APPLICABLE LAW.** The United Nations Convention on Contracts for the International Sale of Goods (1980) shall not apply to this Agreement. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Alabama. Buyer and Seller, each as part of the consideration hereof, agree to the exclusive venue and jurisdiction of, and specifically agree that any legal action brought relating to this Agreement or goods or services provided will be brought and tried exclusively in the state or federal courts serving Marshall County, Alabama.

18. **COMPLIANCE WITH LAWS.** Buyer understands and agrees that goods and services sold by Seller, and any software, parts and components contained therein, along with any related manuals, materials, information or data, including but not limited to any parts, support or services provided by Seller (collectively, the "Product and Services"), as well as performance by the parties under this Agreement, are subject to laws, rules, regulations, directives, ordinances, orders, or statutes (the "Laws") of the United States and may be subject to the Laws of other, applicable countries (including, without limitation, Russia). Buyer agrees to comply with such Laws, as applicable, which may include but are not limited to, the U.S. Foreign Corrupt Practices Act, UK Bribery Act, anti-bribery Laws of other countries, U.S. Export Administration Regulations, U.S. International Traffic in Arms Regulations, and Laws administered by the U.S. Treasury Department Office of Foreign Assets Control and U.S. Department of State. Buyer agrees to cooperate with Seller to ensure compliance with the Laws when engaging in activities related to Buyer's performance of obligations under this Agreement and further agrees to indemnify, defend, and hold harmless Buyer, Buyer's direct and indirect parent entities and affiliates, and its and their respective directors, officers, employees, agents, successors, and assigns, against demands, liabilities, fines, penalties, losses, and damages (including costs, investigation and litigation expenses and counsel fees incurred in connection therewith) arising out of or related to Buyer's obligations under this paragraph. In the event of an enforcement action against Buyer relating to Buyer's non-compliance with the Laws that reasonably relate to Buyer's performance under this Agreement, Buyer shall provide to Seller written notice of such enforcement action prior to publication or disclosure of such enforcement action, and in no event later than ten (10) business days following such enforcement action. Notwithstanding the foregoing, Buyer agrees not to export, reexport, transmit or otherwise transfer the goods or services, whether directly or indirectly: (i) to any person or entity listed or otherwise designated as a blocked, prohibited or trade restricted person or party by the U.S. Commerce Department, U.S. Treasury Department, or U.S. Department of State; (ii) for any purpose or use prohibited by the U.S. government, such as for nuclear, chemical, or biological weapons production or proliferation, or (iii) to any destination or transit point subject to trade prohibitions by the U.S. government, as may be amended from time to time, such as the prohibition against transactions or trade with Iran or the Government of Iran.

Shipping Quote

Carlton Hardman <chardman@PROGRESSRAIL.com>

Thu 6/13/2024 8:05 AM

To: Cornelius Bacon <cornelius.bacon@madison-co.com>

CAUTION! External Content. Please use caution when opening attachments and links. Do not provide your username and password if requested.

Hello Cornelius,

Shipping quote from VC Trucking, Montgomery, AL to Canton, MS is \$1350.00. Your welcome to contract with a local provider of your choosing or come pick it up yourself, whatever makes the most sense for you. We are not in the shipping biz and its not a profit center for us.

On another note, I'm gonna be in Jackson tonight. Will you be in the office? I'd love to come see your operation and maybe look at some of the ROW that your looking to tackle with the Skytrim. Just LMK

Sincerely,

Carlton S. Hardman

Account Executive, Vegetation/Utility

chardman@progressrail.com

251-583-3704 Cell

800-476-8769 Office

Corporate - Albertville, AL

<https://www.progressrail.com/en/Segments/Infrastructure/MaintenanceOfWay/VegetationEquipment.html>



Caterpillar - Confidential Green