

ORIGINAL

RESOLUTION 2009-29

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SUNNYSIDE, WASHINGTON, AUTHORIZING
PARTICIPATION IN ANNUAL MUNICIPALITY TRADE-IN
PROGRAM WITH BOBCAT WEST, A PAPE COMPANY;
AND FURTHER DECLARING EXISTING BOBCAT
MODEL S205 SURPLUS AND AUTHORIZING DISPOSITION
AS TRADE-IN FOR ACQUISITION OF NEW BOBCAT MODEL S205;
DECLARING SURPLUS ANY FUTURE EQUIPMENT TRADED IN
PARTICIPATION IN SUCH PROGRAM**

WHEREAS, the City of Sunnyside currently owns one Bobcat Model S205, provided by Bobcat West, a Pape Company; and

WHEREAS, Bobcat West has offices situated at 909 South 18th Street, Yakima, Washington 98901, and offers municipalities the opportunity to participate in its "Annual Municipality Trade In Program," whereby the municipality is enabled each year to trade in its current Bobcat equipment for a new replacement Bobcat with new warranty, and with the option to acquire appropriate upgrades; and

WHEREAS, the City Council of the City of Sunnyside finds and determines that participation in such Program will promote the efficiency of services offered and performed by the City of Sunnyside Public Works Department and other City departments, and will promote the general health, safety and welfare; and

WHEREAS, the City Council finds and determines that a condition precedent to participation in such Program is the declaration that the current Bobcat Model S205 is surplus to the current uses and needs of the City of Sunnyside, and the authorization of the City Manager to enter into an Annual Municipality Trade In Program Agreement with Bobcat West which includes disposition of the City's current Bobcat Model S205 and acquisition of a new Bobcat Model S205; and

WHEREAS, the special market conditions supporting participation in such Program require the declaration as surplus of equipment to be used as trade-in for new replacement equipment, and the City Council finds and determines that, for subsequent participation in such Program in ensuing years, the City equipment to be used as trade-in shall be deemed surplus to the uses and needs of the City of Sunnyside without further action; and

WHEREAS, the City Council finds and determines that upgrade of such new Bobcat Model S205 and related items for the total cost of \$727.25, including applicable taxes, is in the best interests of residents of the City of Sunnyside and will promote the general health, safety and welfare; and

WHEREAS, the City Council finds and determines that participation in the Annual Municipality Trade In Agreement and Program, together with acquisition of replacement equipment through such program, constitutes a special market condition exempt from competitive bidding procedures.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE COTY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:

Section 1. The “Agreement to Participate in Annual Municipality Trade In Program” offered through Bobcat West, a Pape Company, 909 South 18th Street, Yakima, Washington 98901, a copy of which Agreement is attached hereto as Exhibit “A” and incorporated herein by this reference, is hereby approved for participation by the City of Sunnyside, being exempt from competitive bidding procedures as a special market condition; and the City Manager is hereby authorized to execute and administer such agreement for and on behalf of the City of Sunnyside.

Section 2. The “Annual Municipal Trade In Program Agreement,” a copy of which is attached here to as Exhibit “B” and incorporated herein by this reference, by and between the City of Sunnyside and Bobcat West, a Pape Company, is hereby approved; and the City Manager is hereby

authorized to execute and administer such agreement and purchase order for and on behalf of the City of Sunnyside.

Section 3. The City Council hereby finds and declares that the existing Bobcat Model S205 owned by the City of Sunnyside is surplus to the uses and needs of the City of Sunnyside, and hereby authorizes disposition of such equipment, including but not limited to use as trade-in for acquisition of a new Bobcat Model S205 and related equipment and Agreement for a cost of \$727.25, including applicable taxes; and hereby directs the City Manager to prepare and present any necessary or appropriate budget amendment to accomplish the purposes of this Resolution.

Section 4. The special market conditions supporting participation in such Program requires the declaration as surplus of equipment to be used as trade-in for new replacement equipment, and the City Council finds and determines that, for subsequent participation in such Program in ensuing years, the City equipment to be used as trade-in shall be deemed surplus to the uses and needs of the City of Sunnyside without further action.

Section 5. This Resolution shall be effective upon passage, approval and signatures hereon in accordance with law.

PASSED this 23rd day of March, 2009.


PABLO GARCIA, MAYOR

ATTEST:


DEBORAH A. ESTRADA, CITY CLERK

APPROVED AS TO FORM:


MARK A. KUNKLER, CITY ATTORNEY

AGREEMENT TO PARTICIPATE
ANNUAL MUNICIPALITY TRADE IN PROGRAM

By and Between
CITY OF SUNNYSIDE
And
BOBCAT WEST,

THIS AGREEMENT is made and entered into by and between the CITY OF SUNNYSIDE, a municipal corporation, and BOBCAT WEST, a Pape Company, to authorize the City of Sunnyside to participate in the Annual Municipality Trade In Program of Bobcat West.

I. Recitals

A. CITY OF SUNNYSIDE, hereafter called "City," is a municipal corporation of the State of Washington, with City Hall located at 818 East Edison Avenue, Sunnyside, Washington 98944.

B. BOBCAT WEST, hereafter called "Bobcat," is a division of Pape Company, with business offices located at 909 South 18th Street, Yakima, Washington 98901.

C. City and Bobcat desire to enter into an agreement whereby City is authorized to participate in the "Annual Municipality Trade In Program" offered by Bobcat.

II. Agreement

WHEREFORE, in consideration of the mutual covenants, conditions and promises herein, the parties agree as follows:

1. **Participation in Program.** City agrees to participate in the Annual Municipality Trade In Program (hereafter "Program") offered and administered by Bobcat.

2. **Terms and Conditions.** The Program generally consists of the ability of a participating municipality to trade-in certain existing municipally-owned Bobcat equipment, and to receive new replacement Bobcat equipment at minimal cost to the municipality. The new equipment carries a new one-year warranty and service for maintenance. Bobcat has established terms and conditions for such participation, which includes the opportunity to acquire enhanced equipment. City agrees that Bobcat has the right to establish terms and conditions from time to time governing such Program.

3. **Option to Participate.** City and Bobcat agree that City shall have the option to participate in such Program, and may invoke the trade-in in accordance with

terms and conditions set forth in writing by Bobcat in conjunction with any annual participation by City. Nothing in this Agreement shall obligate either the City or Bobcat to enter into any future purchase order agreement as set forth in Section 4 below.

4. Execution of Separate Purchase Orders. In the event the City elects to participate in the program in any year, the City and Bobcat will enter into an Annual Municipality Trade In Program Agreement, which annual purchase order agreement shall be appended and attached to this Agreement. For the purposes of this Agreement and the special market conditions pertaining to participation in the trade-in Program, the equipment used as trade in shall be deemed to have been declared surplus to the uses and needs of the City pursuant to this Agreement and resolution authorizing participation in such Program.

5. Term of Agreement – Termination. This Agreement shall carry an open term, effective as and from date of execution of the last party to sign, until terminated. This Agreement may be terminated by either party at any time by delivering a written notice of termination to the other party; provided, however, that such termination shall not affect any obligation of either party previously agreed pursuant to any annual purchase agreement for which performance is still owing, including but not limited to any unexpired term of warranty or maintenance. In addition, this Agreement shall be deemed terminated without further action if the City elects not to participate within the time necessary in any subsequent year.

6. Separate Contractual Identity Preserved. Nothing in this Agreement or any separate purchase order agreement executed pursuant to this agreement shall create any relationship between the parties other than vendor and vendee.

7. Entire Agreement. This Agreement, together with any appended annual purchase order agreement(s) constitutes the entire agreement of the parties, and shall not be amended except in writing signed by both parties.

8. Governing Law and Venue. This Agreement and any appended annual purchase order agreement shall be construed in accordance with the laws of the State of Washington, and venue for any action or enforcement arising hereunder shall lie in Yakima, Washington.

WHEREFORE, this Agreement is executed and effective the date executed by the last party to sign:

CITY OF SUNNYSIDE

BOBCAT WEST

By: _____
Eric C. Swansen, City Manager

By: _____
General Manager

Date: _____

Date: _____

EXHIBIT "A"

ATTEST:

By: _____
Territory Manager

By: _____
Deborah A. Estrada, City Clerk

Date: _____

APPROVED AS TO FORM:


By: 
Mark A. Kunkler, City Attorney

EXHIBIT "B"



ANNUAL MUNICIPALITY TRADE IN PROGRAM AGREEMENT

This program is good only on Bobcat Ingersoll-Rand Skid Steers and Mini-Excavators.

Attachments not included.

This program is Subject to change or cancellation at any time.

This agreement expires 12 months from equipment date of purchase.

Terms and Condition: The machine cannot be any older than one year from the purchase date. The exchange is to take place after the 11th month, but no later than 1 year from the date of purchase and before the standard one year warranty expires. The exchange may take place only once in a 12-month period. The unit must be in good running condition with all instruments and lights in working order. The customer is responsible for all services and lubrications required under warranty and for repair to any damages incurred.

Customer is to retain the tire and wheel assemblies and the bucket of the trade machine. Bobcat West is to retain in tire and wheel assemblies of the new machine. If the trade-in is returned with 400 hours or less, there is no charge for the exchange. A rate of \$12.00 per hour will apply to all machine hours above 400.

Customer is responsible for any increase in cost due to 1. General Price Increase (inflation, materials, etc.,) 2. Upgrade in machine size. 3. Addition of any options and accessories.

If a decrease in machine size occurs, any difference in price may be used toward the purchase of options, attachments or training materials. No cash credit will be given.

All machines must be returned in salable condition.

Bobcat West reserves the right to inspect and examine the Bobcat West's service department, any trade-in machine in question.

I, _____ a _____ acting as a
Agent for
(Name) (Title)

_____ hereby agree to all the terms and
conditions
(Company or Business)

stated above as a guideline for the trade-in of any Bobcat Skid Steer or Mini-Excavator.

(Print Name)

(Print Name)

(Bobcat West General Manager) (Date)

(Agents Name) (Date)

