

**ORDINANCE NO. 1585**

**AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO ENTER INTO A PURCHASE AGREEMENT WITH PETERSON CAT TO BUY A NEW EXCAVATOR.**

**WHEREAS**, the City of Canby Department of Public Works (Public Works) requires excavation of material as part of its mission to perform maintenance on City of Canby (City) streets, the City's sanitary sewer system, and the City's storm system;

**WHEREAS**, the City of Canby Public Works Department uses one excavator;

**WHEREAS**, the excavator in the possession of the City of Canby is a piece of equipment used daily by the Public Works Department; and


**WHEREAS**, a new excavator with different bucket attachments would provide for a more efficient and safe operations for excavating material which is part of the City of Canby Public Works functions.

**NOW THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:**

**Section 1.** The City Administrator is hereby authorized on behalf of the City to enter into a purchase agreement with Peterson CAT to purchase a Caterpillar 306 Cr Excavator. A copy of the Purchase Agreement is attached hereto as Exhibit "A."

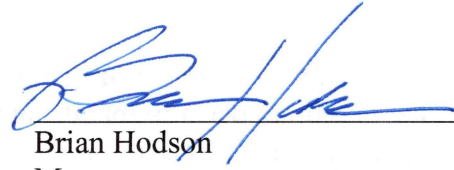
**Section 2.** The effective date of this Ordinance shall be October 21, 2022.

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, September 7, 2022; ordered posted as required by the Canby City Charter; and scheduled for second reading on September 21, 2022 commencing at the hour of 7:00 PM in the Council Chambers located at 222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor Canby, Oregon.

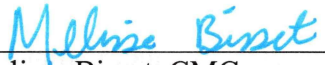
  
\_\_\_\_\_  
Melissa Bisset, CMC  
City Recorder

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the September 21, 2022 by the following vote:

YEAS 5 NAYS 0

  
\_\_\_\_\_  
Brian Hodson  
Mayor

ATTEST:

  
\_\_\_\_\_  
Melissa Bisset, CMC  
City Recorder

PETERSON TRACTOR CO. 955 Marina Boulevard San Leandro, California 94577 Tel: (510) 357-6200 Fax: (510) 352-4570

PURCHASER	CITY OF CANBY	
STREET ADDRESS	PO BOX 930	<SAME>
CITY/STATE	CANBY, OR	COUNTY CLACKAMAS
POSTAL CODE	97013	PHONE NO. 503 266 4021
CUSTOMER CONTACT:	EQUIPMENT CHRIS GOETZ - PHONE NO. 503 849 2226	
	PRODUCT SUPPORT CHRIS GOETZ - PHONE NO. 503 849 2226	
INDUSTRY CODE:	GOVERNMENT LOCAL GOVERNMENT (844 )	PRINCIPAL WORK CODE
		F.O.B. AT: Portland
CUSTOMER NUMBER	7307040	Sales Tax Exemption # (if applicable) N/A
		CUSTOMER PO NUMBER
PAYMENT TERMS: (All terms and payments are subject to Finance Company - OAC approval)		
NET PAYMENT ON RECEIPT OF INVOICE	<input checked="" type="checkbox"/>	NET ON CAT CARD <input type="checkbox"/>
CASH WITH ORDER	\$0.00	BALANCE TO FINANCE 0.00
PAYMENT PERIOD		INTEREST RATE 0.00
		FINANCIAL SERVICES <input type="checkbox"/> Cat Fi ISC <input type="checkbox"/> LEASE
		NUMBER OF PAYMENTS 0
		OPTIONAL BUY-OUT

DESCRIPTION OF EQUIPMENT ORDERED / PURCHASED				
MAKE	MODEL	YEAR		
MAKE: TBA	MODEL: 306	YEAR: TBA		
STOCK NUMBER: TBA	SERIAL NUMBER: TBA			
306 07A CR MHE CFG14B	614-2570	557-1711 SOFTWARE, 2 WAY CONTROL	LINES, QC, STD STK, 3 LINE	532-8632
LANE 3 - AVAILABLE FROM ATHENS FACTORY		557-1713 SOFTWARE, CODED START	THUMB, HYD + COUPLER, PG, HYD, 5T	575-0492
		NOTE: NOTE: 306CR "A la Carte" cab Unit	PINS, BUCKET, 45MM	282-2785
INCLUDES:		LINES, BOOM	BUCKET-HD, 16", 2.7 FT3, 5T	464-9908
523-7568 306 07A CR MINI EXCAVATOR		LINES, STICK	BUCKET-HD, 24", 4.6 FT3, 5T	535-8405
523-7593 ENGINE, EPA TIER 4 FINAL		LINKAGE BUCKET W/ LIFTING EYE	BUCKET-GRADING, 59", 11.6FT3, 5T	388-9665
523-8003 ELECTRICAL ARR, C2.4 HRC		TRACK, 16", RUBBER BELT	STICK, LONG, ANGLE BLADE	579-2627
382-8757 DRAIN, ECOLOGY		BELT, SEAT, 3" RETRACTABLE	SEAT, AIR SUSP, FABRIC, HEATED	569-7626
511-6170 ALARM, TRAVEL		INTEGRATED RADIO	MONITOR NEXT GEN, ADVANCED, CR	557-5082
522-6499 LIGHTS, LED		PRODUCT LINK, CELLULAR PL243		
523-7583 BOOM, SWING		CAMERA, REAR VIEW		
541-4573 TRAVEL PEDALS		CAT KEY, WITH PASSCODE OPTION		
555-8731 FILM, COUPLER, ISO		COUNTERWEIGHT, EXTRA		
557-1709 SOFTWARE, PROPORTIONAL CONTROL		BLADE, ANGLE, BOCE		
557-1710 SOFTWARE, STICK STEER CONTROL		CONTROL, QC, 3 LINE		

TRADE-IN EQUIPMENT		SELL PRICE	
MODEL: _____	YEAR: _____ SN: _____		\$132,475.62
PAYOUT TO: _____	AMOUNT: _____ PAID BY: _____	SOURCEWELL MEMBER DISCOUNT AT 20% OF CAT	(\$27,642.11)
MODEL: _____	YEAR: _____ SN: _____	CONTENT	
PAYOUT TO: _____	AMOUNT: _____ PAID BY: _____	ADDITIONAL DEALER DISCOUNT	(\$3,000.00)
MODEL: _____	YEAR: _____ SN: _____	NET BALANCE DUE	\$101,833.51
PAYOUT TO: _____	AMOUNT: _____ PAID BY: _____	SALES TAX (0.57%)	\$580.45
MODEL: _____	YEAR: _____ SN: _____	AFTER TAX BALANCE	\$102,413.96
PAYOUT TO: _____	AMOUNT: _____ PAID BY: _____		

ALL TRADE-INS ARE SUBJECT TO EQUIPMENT BEING IN "AS INSPECTED CONDITION" BY VENDOR AT TIME OF DELIVERY OF REPLACEMENT MACHINE PURCHASE ABOVE.

PURCHASER HEREBY SELLS THE TRADE-IN EQUIPMENT DESCRIBED ABOVE TO THE VENDOR AND WARRANTS IT TO BE FREE AND CLEAR OF ALL CLAIMS, LIENS, MORTGAGES AND SECURITY INTEREST EXCEPT AS SHOWN ABOVE.

<input checked="" type="checkbox"/> CATERPILLAR EQUIPMENT WARRANTY <div style="border: 1px solid black; width: 100px; height: 20px; margin: 5px 0;"></div> <p>CATERPILLAR EQUIPMENT WARRANTY It is understood that no other warranties of any kind, whether expressed or implied, including any warranty of merchantability or fitness for a particular purpose, are or have been made or authorized by PETERSON with respect to any machinery, EQUIPMENT or other products described herein unless endorsed herein and signed by the parties hereto. No adjustments, repairs or replacements of any items sold hereunder, or assistance given by seller to buyer in connection with same, shall be deemed to be a waiver of any of the provisions of the aforesaid warranty. Below lists Warranty applicable for Sold EQUIPMENT including expiration date. Warranty applicable including expiration date where necessary: 24 Months, 2000 Hours</p>	<input type="checkbox"/> USED EQUIPMENT WARRANTY <div style="border: 1px solid black; width: 100px; height: 20px; margin: 5px 0;"></div> <p>All used equipment is sold as is where is and no warranty is offered or implied except as specified here: Warranty applicable: _____ _____ _____</p>
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CSA: \_\_\_\_\_  
NOTES: \_\_\_\_\_

**ADDITIONAL TERMS:** THE UNDERSIGNED PURCHASER (IF MORE THAN ONE JOINTLY AND SEVERALLY) HAVING BEEN QUOTED ABOVE A TIME AND A CASH PRICE HEREBY PURCHASES AND UNDERSIGNED SELLER HEREBY SELLS, SUBJECT TO THE TERMS AND CONDITIONS SET FORTH ON BOTH SIDES HEREOF, THE ABOVE DESCRIBED EQUIPMENT, HEREIN FURTHER CALLED THE COLLATERAL. THE TERMS AND CONDITIONS HEREIN SET FORTH INCLUDING ALL TERMS AND CONDITIONS SET FORTH ON THE BACK HEREOF WHICH ARE HEREBY INCORPORATED HEREIN, ARE AGREED TO BY PURCHASER AND SELLER AND PURCHASER ACKNOWLEDGES THAT HE HAS FULLY READ THIS AGREEMENT, BOTH FRONT AND BACK PAGES, AND ASSENTS TO ALL OF ITS TERMS AND CONDITIONS.

ORDER RECEIVED BY Lindberg, Joe Peterson REPRESENTATIVE

APPROVED AND ACCEPTED ON CITY OF CANBY PURCHASER

BY [Signature] PURCHASER

BY [Signature] SIGNATURE



### DIGITAL AUTHORIZATION

CATERPILLAR TELEMATICS DATA AND CAT REMOTE SERVICES-SOFTWARE UPDATES PROCESS FOR SELECT PRODUCT LINK TELEMATICS AND CAT EQUIPMENT CONTROL MODULE SOFTWARE.

Customer equipment has installed devices that transmit data to Caterpillar Inc. ("Caterpillar").

Data transmitted to Caterpillar is used in accordance with Caterpillar's Data Governance Statement ( "DGS" ), which describes Caterpillar's practices for collecting, sharing and using data and information related to customer's machines, products, Devices or other Assets and their associated worksites. The DGS can be reviewed at <https://www.caterpillar.com/en/legal-notices/data-governance-statement.html>

Caterpillar's process for performing remote diagnostics and making available remote software and firmware updates and upgrades, such as configuration, patches, bug fixes, new or enhanced features, etc., for Assets and Devices is described in the Cat® Remote Services – Software Update Process for select Product Link™ Telematics and Cat Equipment Control Module Software document (the "RSP Document" ) The RSP Document can be reviewed at [https://www.cat.com/remoteservicesprocess?\\_ga=2.245276421.1412167159.1561985855-475983137.1559312215](https://www.cat.com/remoteservicesprocess?_ga=2.245276421.1412167159.1561985855-475983137.1559312215).

Company acknowledges and agrees to data transmission to Caterpillar via devices installed on Company equipment or by other means as outlined and described in the DGS, and grants to Caterpillar the right to collect, use, and share such information, including to its Distribution Networks or other affiliates, in accordance with the Caterpillar Data Governance Statement . Company's authorization also applies to any data and information previously collected by Caterpillar.

AGREE

DECLINE

Company acknowledges and agrees to participate in Remote Services (including, remote diagnostics and remote updates and upgrades) and authorizes Caterpillar to remotely access, program, and install updates and upgrades for Company's Assets and Devices in accordance with the Remote Services Process Document.

AGREE

DECLINE

The rights granted in this authorization survive the termination or expiration of the Company's subscriptions to any Digital Offerings. Except as set out in a written agreement between Company and Caterpillar expressly referencing the Data Governance Statement, this authorization supercedes and replaces any other authorizations with regard to the subject matter hereof.

Company  
*City of Lanby*  
 Company (Print)  
*Jerry Nelzen*  
 Company Representative (Print)  
*JMN*  
 Signature  
*11/1/2022*  
 Date

FOR DEALER USE ONLY
Company UCID
Company Representative CWS ID
Main Store Dealer Code
Dealer Representative Name
Dealer Representative CWS ID



## TERMS AND CONDITIONS

1. The seller reserves the right to accept or reject this order and shall not be required to give any reason for non-acceptance.
2. This order when accepted by seller shall become a binding contract but shall be subject to strikes, lockouts, accidents, fire, delays in manufacture or transportation, acts of God, embargoes or government action or any other causes beyond the control of the seller whether the same as or different from the matters and things hereinbefore specifically enumerated; and any of said causes shall absolutely absolve the seller from any liability to the purchaser under the terms hereof.  
  
This order when accepted by seller shall be further subject to such changes in price, terms, delivery date, delivery priorities, and other conditions varying from the terms hereof as may be current when the within ordered machinery, equipment, attachments, and parts are ready for delivery.
3. It is understood and agreed that title to and right of possession of said equipment shall remain vested in seller until obligations of purchaser hereunder and payment of all other sums which may be due or are to become due from purchase to seller, whether evidenced by notes, book account, judgment, or otherwise, shall have been fully paid at which time ownership shall pass to the purchaser.
4. The seller's responsibility for shipments ceases upon delivery to a transportation company; and any claims for shortages, delays, or damages occurring thereafter shall be made by the purchaser directly to the transportation company. Any claims against the seller for shortages in shipments shall be made within fifteen days after receipt of shipment.
5. The purchaser agrees that this order shall not be countermanded by him, that when it is accepted (and until the execution and delivery of the contract or contracts and note or notes required to consummate the sale as above specified), it will cover all agreements between the parties relative to this transaction, and that the seller is not bound by any representations or terms made by any agent relative to this transaction which are not embodied herein.
6. When the machines necessary to fill this order are available, the purchaser agrees on demand to execute and deliver to the seller such notes and contracts as may be required by the seller to evidence the transaction. In the event that the purchaser fails to execute and deliver said notes and contracts to the seller, the entire balance of the purchase price shall at the seller's option become immediately due and payable.
7. **EQUIPMENT MANAGEMENT ELECTRONIC DATA / PRIVACY NOTICE.** For EQUIPMENT equipped with Product Link™ and Vision Link™, CUSTOMER understands that data concerning this machine, its condition, and its operation is being transmitted by Product Link to Caterpillar Inc., its affiliates ("Caterpillar"), and or its dealers to better serve CUSTOMER and to improve upon Caterpillar products and services. The information transmitted may include: machine serial number, machine location, and operational data, including but not limited to: fault codes, emissions data, fuel usage, service meter hours, software and hardware version numbers, and installed attachments. Caterpillar will not sell or rent collected information to any other third party and will exercise reasonable efforts to keep the information secure as Caterpillar recognizes and respects CUSTOMER's privacy. Information regarding Caterpillar's data governance and the remote services that may be a part of the EQUIPMENT, can be found at <https://www.caterpillar.com/en/legal-notices/data-governance-statement.html> and [https://www.cat.com/en\\_US/support/technologysolutionsnew/remoteservicesprocess.html](https://www.cat.com/en_US/support/technologysolutionsnew/remoteservicesprocess.html) as applicable, or by contacting Caterpillar at [CatConnectSupport@cat.com](mailto:CatConnectSupport@cat.com). CUSTOMER acknowledges, understands and agrees that any questions or requests for information regarding ongoing collection of data and information by Caterpillar or its participation in Caterpillar Remote Services, including any questions or requests to opt out of such processes or programs should be directed to Caterpillar at the email listed above. By executing this Agreement, CUSTOMER understands these disclosures and agrees to allow this data to be accessed by Caterpillar and/or its dealers.
8. The seller shall not be held liable or responsible for any costs or expenses or for any damages on account of personal injuries or injuries to property or otherwise, suffered or sustained in the operation of any machinery or equipment, the subject of this order, nor for any damages alleged to result to purchaser by reason of any delays or alleged failure of said machinery or equipment to operate.
9. The purchaser agrees that damages arising from failure to consummate the sale contemplated by this agreement may be difficult to measure and that a reasonable measure of damages will be the difference between the price set forth herein and the amount for which the equipment can be sold to another party, plus any costs, charges, and related expenses that may be incurred by the seller to hold, store, and maintain the equipment until a sale can be made.
10. Purchaser and seller agree that in the event it becomes necessary to undertake legal action to enforce any of the terms of this agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs. "It is agreed by and between the customer and Peterson that all disputes and matters whatsoever arising under, in connection, or incident to this agreement shall be litigated, if at all, in or before a Court located in the State of incorporation of the seller to the exclusion of the Courts of any other state or country."
11. Should this order pertain to any used machinery or equipment, the following additional terms shall apply:
  - (a) Seller makes no representation as to the quality or functionality of such used machinery and equipment which is being sold "AS-IS".
  - (b) Seller makes no recommendations as to the use of equipment by Buyer.
  - (c) Buyer agrees that all equipment is purchased solely at risk of Buyer.
  - (d) Buyer hereby releases, discharges, and covenants not to sue Seller and will hold Seller free and harmless from all liability, claims, demands, losses, damages and costs ("claims") caused or alleged to be caused in whole or in part by the equipment purchased. Buyer further agrees that if any claim is made against Seller, Buyer will defend, indemnify, save, and hold harmless Seller from any and all loss, liability, damages, or costs which may be incurred as the result of such claim(s).

**AFFIDAVIT OF POSTING**

**STATE OF OREGON**       )  
  )  
**County of Clackamas**    )       ss:  
  )  
**CITY OF CANBY**            )

I, Melissa Bisset, being first duly sworn, depose and say that I am the City Recorder for the City of Canby, Clackamas County, Oregon, a City duly incorporated under and by virtue of the laws of the State of Oregon.

That on the 7<sup>th</sup> day of September, 2022 the Council for said City of Canby held a Regular City Council Meeting, at which meeting Ordinance No. 1585 was read for the first time and passed by the vote of said Council and was then and there ordered posted in at least three (3) public and conspicuous places in said City for a period of five (5) days prior to the second reading and final vote on said Ordinance, as provided in Section 2 of Chapter 8 of the Charter of the City of Canby, and

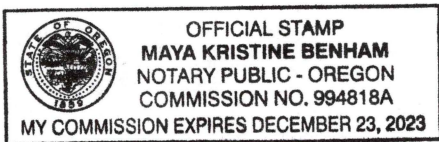
Thereafter, on the 9<sup>th</sup> day of September, 2022, I personally posted said Ordinance in the following three (3) conspicuous places, all within the said City of Canby, to wit:

- 1.     Canby Civic Building
- 2.     Canby Post Office
- 3.     City of Canby Web Page

That since said posting on the date aforesaid, the said Ordinance will remain posted in the said three (3) public and conspicuous places continuously for the period of more than five (5) days and until the very 21<sup>st</sup> day of September, 2022.

Melissa Bisset  
Melissa Bisset, City Recorder

Subscribed and sworn to before me this 9<sup>th</sup> day of September, 2022.



Maya Kristine Benham  
Notary Public for Oregon  
My Commission Expires: 12/23/2023