

**PURCHASE AGREEMENT BETWEEN
LARAMIE COUNTY, WYOMING & CATERPILLAR INTERNATIONAL, INC.**

THIS AGREEMENT is made and entered into by and between Laramie County, Wyoming, P.O. Box 608, Cheyenne, Wyoming 82003-0608, ("COUNTY") and Wyoming Machinery Company ("CATERPILLAR"). The parties agree as follows:

I. PURPOSE

The purpose of this Agreement is to provide for the purchase of three (3) new caterpillar 12M3 AWD BR motor graders by the Laramie County Public Works from CATERPILLAR as described in the attached Quote 212863-01 dated August 20, 2018. The Agreement of the parties includes this Agreement and the following documents, which are attached and incorporated herein by reference:

- Quote 212863-01 dated August 20, 2018 (Attachment A) (6 pages)
- Exhibit 1: Insurance Requirements for Vendors

In the event of a conflict in these documents, the terms of this Agreement shall control.

II. TERM

This Agreement shall commence on the date of the last signature affixed hereto and remain in full force and effect until terminated as provided herein.

III. PAYMENT

COUNTY shall pay CATERPILLAR upon receipt of an invoice to the COUNTY, or submission of other documentation certifying delivery of materials or other items, as indicated in Quote 212863-01 (Attachment A). No payment shall be made before the last signature is affixed to this Agreement. Payments shall be in accordance with Wyo. Stat. § 16-6-602 (as amended).

V. RESPONSIBILITIES OF CATERPILLAR

A. CATERPILLAR shall provide the goods and services described in the attached documents (described in ¶ I. above), as modified by this Agreement.

B. CATERPILLAR bears all responsibility for loss or damage to the products during shipment, and all responsibilities cease when the products are delivered to, and accepted by County.

VI. GENERAL PROVISIONS

- A. Independent CONTRACTOR: Reserved

B. Acceptance Not Waiver: COUNTY's acceptance or approval of the products furnished hereunder shall not in any way relieve CATERPILLAR of responsibility for its obligations hereunder. COUNTY's payment for any of the products shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

C. Termination: This Agreement may be terminated (a) by either party at any time for failure of the other party to comply with the terms and conditions of this agreement; (b) by COUNTY upon notice to CATERPILLAR, (c), by CATERPILLAR, with thirty (30) days' prior written notice to the other party; or (d) upon mutual written agreement by both parties.

D. Entire Agreement: This Agreement (5 pages) and the documents listed in ¶ I. above, as modified by the Agreement, represent the entire and integrated agreement and understanding between the parties and supersede all prior negotiations, statements, representations and agreements, written or oral.

E. Assignment: Neither this Agreement, nor any rights or obligations hereunder shall be assigned or delegated by a party without the prior written consent of the other party.

F. Modification: This Agreement shall be modified only by a written agreement, duly executed by all parties hereto.

G. Invalidity: If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, or if the COUNTY is advised of any such actual or potential invalidity or unenforceability, such holding or advice shall not invalidate or render unenforceable any other provision hereof. It is the express intent of the parties that the provisions of this Agreement are fully severable.

H. Applicable Law and Venue: The parties mutually understand and agree this Agreement shall be governed by and interpreted pursuant to the laws of the State of Wyoming. If any dispute arises between the parties from or concerning this Agreement or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in the District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming or the Federal District Court, District of Wyoming. The foregoing provisions of this paragraph are agreed by the parties to be a material inducement to CATERPILLAR and to COUNTY in executing this Agreement. This provision is not intended nor shall it be construed to waive COUNTY's governmental immunity as provided in this Agreement.

I. Contingencies: CATERPILLAR certifies and warrants no gratuities, kick-backs or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts or other considerations made contingent upon the award of this Agreement.

J. Discrimination: All parties agree they will not discriminate against any person who performs work under the terms and conditions of this Agreement because of race, color, gender, creed, handicapping condition, or national origin.

K. ADA Compliance: All parties agree they will not discriminate against a qualified individual with disability, pursuant to a law as set forth in the Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. § 12101, *et seq.*, as amended and/or any properly promulgated rules and regulations relating thereto.

L. Governmental/Sovereign Immunity: COUNTY does not waive its Governmental/Sovereign Immunity, as provided by any applicable law including W.S. § 1-39-101 *et seq.*, by entering into this Agreement. Further, COUNTY fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Agreement.

M. Indemnification: To the fullest extent permitted by law, CATERPILLAR agrees to indemnify and hold harmless COUNTY, its elected and appointed officials, employees and volunteers from any and all liability for injuries, damages, claims, penalties, actions, demands or reasonable expenses arising from or in connection with negligent acts or omissions, willful misconduct, or defective products provided by CATERPILLAR pursuant to this Agreement except to the extent liability is caused by the sole negligence or willful misconduct of COUNTY or its employees. CATERPILLAR shall carry insurance and bonding sufficient to cover its obligations as indicated herein and is Exhibit 4 and provide COUNTY with proof of such insurance.

N. Third Parties: The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to the Agreement, and shall inure solely to the benefit of the parties to this Agreement.

O. Conflict of Interest: COUNTY and CATERPILLAR affirm, to their knowledge, no CATERPILLAR employee has any personal beneficial interest whatsoever in the agreement described herein. No staff member of CATERPILLAR, compensated either partially or wholly with funds from this Agreement, shall engage in any conduct or activity which would constitute a conflict of interest relative to this Agreement.

P. Force Majeure: Neither party shall be liable to perform under this Agreement if such failure arises out of causes beyond control, and without the fault or the negligence of said party. Such causes may include, but are not restricted to, Act of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. In every case, however, a failure to perform must be beyond the control and without the fault or the negligence of said party.

Q. Limitation on Payment: COUNTY's payment obligation is conditioned upon the availability of funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services and equipment provided by CATERPILLAR the Agreement may be terminated by COUNTY at the end of the period for which funds are available. COUNTY shall notify CATERPILLAR at the earliest possible time of the services which will or may be effected by a shortage of funds. At the earliest possible time means at least thirty (30) days before the shortage will affect payment of claims, if COUNTY knows of the shortage at least thirty (30) days in advance. No penalty shall accrue to COUNTY in

the event this provision is exercised, and COUNTY shall not be obligated or liable for any future payments due or for any damages as a result of termination under this provision.

R. Notices: All notices required and permitted under this Agreement shall be deemed to have been given, if and when deposited in the U.S. Mail, properly stamped and addressed to the party for whom intended at such parties' address listed herein, or when personally delivered personally to such party. A party may change its address for notice hereunder by giving written notice to the other party.

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**PURCHASE AGREEMENT BETWEEN
LARAMIE COUNTY, WYOMING & WYOMING MACHINERY COMPANY**

Signature Page

LARAMIE COUNTY, WYOMING

By: _____ Date _____
K.N. Buck Holmes, Chairman, Laramie County Commissioners

ATTEST:

By: _____ Date _____
Debra Lee, Laramie County Clerk

CATERPILLAR: CATERPILLER International, Inc.

By:  _____ Date 9-26-18
Title: Machine Sales

REVIEWED AND APPROVED AS TO FORM ONLY:

By:  _____ Date 9/26/2018
Gladys Ayokosok
Deputy Laramie County Attorney



212863-01

August 20, 2018

LARAMIE COUNTY PUBLIC WORKS

13797 PRAIRIE CENTER CIRCLE
CHEYENNE, Wyoming 82009

Attention: ROB GERINGER

Dear Rob Geringer,

Thank you for your interest in Wyoming Machinery Company and the opportunity to quote this Caterpillar product for your business needs. We are pleased to offer the following for your purchase consideration.

One (1) New Caterpillar Inc. Model: 12M3AWDBR Motor Graders with all standard equipment in addition to the additional specifications listed below:

STOCK NUMBER:	SERIAL NUMBER:	YEAR:	SMU:
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The following quotation reflects present prices and is valid for 30 days, but is subject to adjustment thereafter to manufactures prices that exist at the time of shipment. Whether or not specifically set forth, this quotation is subject to all federal or state tax that may be applicable. If there are any questions, please do not hesitate to contact me.

Sincerely,

Keith Cashman
Machine Sales Representative
Wyoming Machinery Company
KLCashman@WyomingCat.com
307-214-8226

One (1) New Caterpillar Inc. Model: 12M3AWDBR Motor Graders with all standard equipment in addition to the additional specifications listed below:

Standard Equipment

CONSIST NOTE

STANDARD EQUIPMENT:

The standard equipment list includes key

components necessary for an operable machine.

POWERTRAIN

Air cleaner, dual stage dry type radial seal with service indicator and automatic dust ejector
Air-to-air after cooler (ATAAC)
Belt, serpentine, automatic tensioner
Brakes, oil disc, four-wheel, hydraulic
Demand fan, hydraulic
Differential, lock/unlock, Automatic
Drain, engine oil, ecology
Electronic over-speed protection
Engine, C9 with ACERT technology, diesel

with automatic engine derate and idle control. EPA/ARB Tier 4 Final & EU stage IV certified Engine & Aftertreatment
Parking brake, multi-disc, sealed and oil cooled.
Sediment drain, fuel tank.
Tandem drive
Transmission, 8 speed forward and 6 speed reverse, power shift, direct drive
VHP Plus (Variable Horse Power Plus)

ELECTRICAL

Alarm, back-up
Alternator, 150 ampere, sealed
Batteries, maintenance free, heavy duty, 1125 CCA
Breaker panel, ground accessible
Electrical hydraulic valves
Electrical system, 24 volt

Grade Control Ready (Cab harness, software, electrical hydraulic valves, bosses and brackets)
Lights, reversing
Lights, roading, roof-mounted, stop and tail, LED
Starter, electric

OPERATOR ENVIRONMENT

Air Conditioning with heater
Articulation, automatic return to center
Centershift pin indicator
Display, digital speed and gear
Doors, left and right side with wiper
Gauge, machine level
Gauges (analog) inside the cab (includes fuel, articulation, engine coolant temp, engine RPM, and hydraulic oil temp, DEF/AdBlue)
Joystick, adjustable armrests
Joystick gear selection, hydraulic power steering hydraulic controls (right/left, blade lift w/ float position, blade sideshift and tip,

Messenger operator information system
Meter, hour, digital
Mirror, inside rearview, wide angle
Power Port, 12V
Radio Ready, Entertainment
ROPS cab, sound suppressed - 69dB(A) - ISO 6394
Seat, cloth-covered, comfort suspension
Storage area for cooler/lunchbox
Throttle control, electronic
Windows: laminated glass
- Fixed front with intermittent wiper
- Door with intermittent wipers (3)
Windows: Tempered
- Left and right side wipers

circle drive, centershift, front wheel
lean and articulation and steering)
Lights, night time cab

- Rear with intermittent wiper
Cab Storage

SAFETY AND SECURITY

Clutch, circle drive slip
Doors, 2 engine compartment, (two left
hand, two right hand) locking
Doors, 2 service, left and right locking
Ground level engine shutdown
Hammer (emergency exit)

Horn, electric
Lockout, hydraulic implement (for
roading and servicing)
Seat belt, retractable 3"
Secondary steering
Tandem walkway/guards

TIRES, RIMS, AND WHEELS

A partial allowance for tires on
10" x 24" multi-piece rims is included

in the base machine price and weight.

FLUIDS

Antifreeze

Extended Life Coolant -35C/-30F

OTHER STANDARD EQUIPMENT

Accumulators -brake -dual certified
Drawbar, 6 shoe w/replaceable wear strips
Fluid check, ground level
Fuel tank, 105 gallon (398 L)
Ground level fueling
DEF/AdBlue Tank, 5.5 gallon (21 L)
Hydraulic lines for base functions
Pump, hydraulic, high capacity

(98cc / 15 cu in)
Radiator, cleanout access
(both sides with swing doors)
SOS ports - engine -hydraulic
-transmission -coolant -fuel
Tandem walkway/guards
Tool box
Debris Guard

MACHINE SPECIFICATIONS

12M3 AWD MOTOR GRADER	384-9678	LANGUAGE, ENGLISH	386-1254
LANE 2 - AVAILABLE FROM PIRACICABA FACTORY		DECALS, ENGLISH (U.S.)	442-9940
LANE 3 - AVAILABLE FROM PIRACICABA FACTORY		SNOW ARRANGEMENT INCLUDES: 361-3137 MOUNTING, WARNING LIGHT 396-3515 TRANSMISSION, AUTOSHIFT 536-9969 LIGHTS, ARM, FOLD DOWN	396-1966
LANE 3 ORDER	0P-9003	LIGHT, LED WARNING STROBE	338-1132
GLOBAL ARRANGEMENT, LOW AMBIENT	385-9297	LIGHTS, SERVICE, INTERNAL	380-3070
MOLDBOARD, 14' PLUS Moldboard 14 x 27" x 1" (4267mm x 686mm x 25mm) - Curved Cutting Edge, 8" x 3/4" (203mm x 19mm) - End Bits, Standard, With Overlay	349-3048	CAMERA, REAR VISION	396-3921
RIPPER/SCARIFIER Hydraulic, rear mounted ripper with three straight ripper shanks. Can accommodate two additional ripper shanks and nine scarifier teeth	324-0889	MIRRORS, OUTSIDE HEATED 24V	344-0984
COLD WEATHER PLUS PACKAGE AWD Recommended for year around use when typical ambient temperature range is -40 degrees C (-40 degrees F) to 40 degrees C (104 degrees) or operating at altitude above 1220 m (4000 feet). INCLUDES: - Starting Aid, Ether - Cold Start; Transmission oil and fan brake bypass - Batteries, Extreme Duty -1400 CCA - Oil, Hydraulic, Cold, 0W.	394-4524	GUARD, TRANSMISSION	366-2459
ACCUMULATORS, BLADE LIFT Provides hydraulic lines for base functions and accumulators for the blade lift. Allows approximately 1-3" of vertical blade travel to reduce impact loads. Nitrogen/oil accumulators activated by electric switch.	358-9338	HEATER, ENGINE COOLANT, 120V	249-5516
PRECLEANER, SY-KLONE Recommended for environments with large debris (leaves, chips, large grass, etc.)	380-6775	LIFT GROUP, MANUAL, FRONT	312-2204
DRAIN, HIGH SPEED, ENGINE OIL High speed engine oil drain. Requires pump at service location to be attached to coupling receiver for high speed flow. HSO drain can also manual/gravity drain.	501-1163	SHANKS/TEETH, RIPPER/SCARIFIER	4K-3330
STARTER, ELEC, EXTREME DUTY Recommended for Cold weather applications Provides a 1000 Amp. starter	395-3547	ROLL ON-ROLL OFF	0P-2265
LIGHTS, ROADING, HALOGEN	421-7810	LIFT GROUP, FRONT MOUNTING	359-3925
CAB, PLUS (STANDARD GLASS) INCLUDES: - 150 amp alternator - Wiper/washer, rear - Standard Glass	385-9554	LIGHTS, WORKING, PLUS, HALOGEN	395-1967

CAB, PLUS (INTERIOR) INCLUDES: - Seat, Air Suspension, Cloth, Heated - Radio, 12V, AM/FM, Weatherband, Bluetooth, USB, Aux Input - Fan, defroster, rear window - Converter, Communication (CB) - Shade, Sun	397-7457	HEADLIGHTS, FRONT, HIGH, HALOGEN	308-9371
SEAT BELT	394-1492	TIRES, 14.0R24 BS VSW * G2 MP Bridgestone VSW 1* on 10" x 24" multi-piece rims.	252-0710
PRODUCT LINK, CELLULAR PLE641	464-6442	CONTROLS, PERFORMANCE BUNDLE The Auto Articulation in this bundle is an unrestricted version, not limited to 500 hours. INCLUDES: 435-2072 CONTROL, AUTO ARTICULATION-FULL 458-2072 STABLE BLADE 458-8701 JOYSTICK CONTROLS, ADVANCED 462-7931 GRADE CONTROL X SLOPE	492-3595
TANK, FUEL, STANDARD	540-2373	FENDERS, FRONT, AWD	262-0412
FAN, STANDARD	542-4660	FENDERS, REAR	262-0413
ARTICULATION GUARD	368-6239	COOLANT, 50/50, -35C (-31F)	469-8157
ANTIFREEZE WINDSHIELD WASHER	0P-1939	BASE + 6(WM, WT, DA1, DA2, FL, RIP) Ripper, Dozer Angle 1, Dozer Angle 2, Front Lift, Snow Wing Mast and Snow Wing Tilt (41/30 - No Float) functions. Includes the Front Lift Lines, Dozer Angle 2 Lines and Ripper Lines.	385-8103
FUEL ANTIFREEZE, -25C (-13F)	0P-3978		

SELL PRICE EACH	\$280,455.49
EXT WARRANTY	Included
LESS GROSS TRADE ALLOWANCE	(\$449,000.00)
NET TRADE ALLOWANCE	(\$449,000.00)
AFTER TAX BALANCE	(\$168,544.51)

TRADE-INS

Model	Make	Serial Number	Year	Trade Allowance
140M 2	CATERPILLAR INC. (AA)	0R9G00116	2011	\$96,500.00
140M 2	CATERPILLAR INC. (AA)	0R9G00247	2013	\$125,000.00
140M 2	CATERPILLAR INC. (AA)	0R9G00248	2013	\$135,000.00
772GP	JOHN DEERE (JD)	650616	2013	\$92,500.00

WARRANTY & COVERAGE

Standard Warranty: Caterpillar Limited Warranty: New Machines Only Earthmoving, Construction, Material Handling, Forestry Products, and Paving Product Machines for selected models designated by Caterpillar with 12 month / unlimited hour warranty.

Warranty: **Total Machine Warranty 7 years/10,500 Hours Whichever comes first from original in-service date.**

Warranty includes travel time, per diem, deductibles, and mileage to perform any warranty work. Coverage machine will be provided if the unit is down for 48 hours or more (at the request of the customer). All failures (other than operational damage) related to the emissions module (including DPF) and downstream failures caused by or related to the Emissions Module will be covered under the Total Machine Warranty. Vendor will cover all freight costs associated with warranty repairs

Buyback: **7 YR/10,500 HR Guaranteed Buy-Back: \$110,000.00 per unit**

- **Guaranteed buyback Option:** Machine must be in good operating condition, no broken glass, straight sheet metal, and tires at 70%. This buyback is for the machine only. The unit must be operated and maintained according to the Caterpillar Operation and Maintenance Manual.

Delivery: **120 to 160 Days from official award date.**

F.O.B/TERMS:
Cheyenne



Laramie County Public Works

13797 Prairie Center Circle Cheyenne, WY 82009

Phone: 307.633.4302 / Fax: 307.633.4219

TO: Board of County Commissioners

FROM: Rob Geringer, Public Works Director

DATE: 8/27/18

RE: New Motor Graders

The Public Works Department recently solicited bid quotes for new AWD motor graders. We have reviewed the proposals against required specifications as well as new machine price, trade-in allowances and guaranteed buy-back values. It is our recommendation that Laramie County purchase (3) new Caterpillar 12M3 AWD BR motor graders from Wyoming Machinery for a total of \$841,366.47, minus a trade-in allowance of \$314,000 for (3) used motor graders for a grand total of **\$527,366.47**.