

COUNTY OF SPARTANBURG )  
 )  
 STATE OF SOUTH CAROLINA )



CAL~FLO<sup>®</sup> SYSTEM  
 LEASE AGREEMENT

THIS AGREEMENT ("Agreement") made as of the 16 day of September 2020,  
 ("the Effective Date") between Burnett Lime Company, Inc. ("Burnett Lime"), a company  
 authorized to do business in the State of Florida, and the City of Pembroke Pines, Florida -  
 Pembroke Pines WTP ("City of Pembroke Pines"), a municipal corporation of the State of  
 Florida. Burnett Lime and the City of Pembroke Pines may hereinafter be collectively referred to  
 as the "parties".

**WITNESSETH:**

**WHEREAS**, Burnett Lime is in the business of selling CAL~FLO<sup>®</sup> lime slurry  
 ("Product") to commercial customers;

**WHEREAS**, Burnett Lime is willing to lease a patented CAL~FLO<sup>®</sup> Lime Slurry System  
 ("System") for use in water treatment to the City of Pembroke Pines;

**WHEREAS**, City of Pembroke Pines is in the water treatment business and has a facility  
 located at or near Pembroke Pines, Florida;

**WHEREAS**, the parties entered into an agreement on February 12, 2019 for the purchase  
 of Product and the lease of System for an initial term of one (1) year, pursuant to City of Pembroke  
 Pines Code Section 35.18(C)(1) (herein "Original Agreement");

**WHEREAS**, the parties entered into the First Amendment to Agreement to provide for the  
 one (1) year renewal option set forth in Original Agreement, which commenced on February 12,  
 2020, and expires on February 11, 2021;

**WHEREAS**, City of Pembroke Pines desires to continue purchasing Product from Burnett  
 Lime and to continue utilizing System installed at City's Water Treatment Plant, for one (1)  
 additional year, pursuant to the terms and conditions contained herein, commencing on February  
 12, 2021, and expiring on February 11, 2022;

**WHEREAS**, City of Pembroke Pines desires to procure Product and System pursuant to  
 City of Pembroke Pines Code Section 35.18(C)(8), which provides purchases of and contracts for  
 commodities or services are exempt from competitive bidding when the City Commission declares  
 by a simple majority affirmative vote that the competitive procurement process is not in the best  
 interest of City.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained  
 herein, the parties hereto agree as follows:

**1. Term.**

**a.** The term of this Agreement shall be February 12, 2021 through February 11,

2022.

**2. Specifications.**

City of Pembroke Pines will pay a lease payment of **\$3,000.00** per month. A Purchase Order for the Year Lease is required to initiate the project. All payments shall be governed by the Florida Prompt Payment Act, as set forth in Part VII, Chapter 218, Florida Statutes.

- a. The installation and removal fee of **\$38,000.00** has already been paid by the City of Pembroke Pines and therefore the City will not be responsible for any further System removal costs.
- b. **Product.** The Product will meet the specifications set forth in Appendix A to this Agreement.
- c. **System.** The System will consist generally of the equipment and components set forth in Appendix B to this Agreement.

**3. Product.** Burnett Lime will sell and City of Pembroke Pines will purchase Product as follows:

- a. City of Pembroke Pines will purchase CAL~FLO<sup>®</sup> slurry continuing throughout the term of this Agreement.
- b. Each load will contain approximately 46,000 pounds of Product.
- c. The purchase price for the Product will be **\$0.085** per liquid pound of CAL~FLO<sup>®</sup> slurry delivered to City of Pembroke Pines if paid within 30 days of Invoicing.
- d. City of Pembroke Pines will submit a purchase order to Burnett Lime (by facsimile-to-facsimile number 864-592-1690 or by email to [acannon@burnett-inc.com](mailto:acannon@burnett-inc.com)). City of Pembroke Pines may provide Burnett Lime a blanket purchase order providing a pre-set schedule for delivery of Product to the City Of Pembroke Pines' water treatment plant.
- e. Burnett Lime will deliver or cause the Product to be delivered to the City of Pembroke Pines' water treatment plant on or before the specified delivery date.
- f. Burnett Lime will submit its invoice for the Product to City of Pembroke Pines (by email [accountspayable@ppines.com](mailto:accountspayable@ppines.com)) within two (2) business days of delivery of the Product to the City of Pembroke Pines' water treatment plant.
- g. City of Pembroke Pines will make payment to Burnett Lime within thirty (30) calendar day's receipt of an invoice from Burnett Lime.

**4. System.**

**a. Installation, Personnel, and Training.**

- i. City of Pembroke Pines will provide a pad, service water for flushing, and power (480V, 3-phase power, 60amp service) for operation of the

leased System.

- ii. City of Pembroke Pines will, at its expense, provide two (2) qualified and capable personnel who will be trained to operate and maintain the System.
- iii. Burnett Lime will, at its expense, train the City of Pembroke Pines' water treatment plant personnel how to operate and maintain the System during a one (1) day training session to be held on \_\_\_\_\_, at the City of Pembroke Pines' water treatment plant.

**b. Repair and Maintenance.**

- i. Burnett Lime will perform major maintenance on the System as set forth in Appendix C to the Agreement one (1) time per year. City of Pembroke Pines will pay Burnett Lime for such maintenance services at the rates shown in Appendix C.
- ii. On request from City of Pembroke Pines, Burnett Lime will make necessary repairs to the System. City of Pembroke Pines will pay Burnett Lime for such maintenance services at the rates shown in Appendix C.
- iii. The City of Pembroke Pines' water treatment plant personnel trained by Burnett Lime as provided in paragraph 4(a) above will, at City of Pembroke Pines' expense, be responsible for performing daily maintenance on the System in accord with instructions and/or manuals provided by Burnett Lime.

**c. Ownership.** Burnett Lime shall at all times be and remain the true and lawful owner of the System. Ownership of the System shall not accrue to City of Pembroke Pines by virtue of this Agreement or operation of law.

**d. Payment for Use of System.**

- i. City of Pembroke Pines shall not be obligated to make any additional payment to Burnett Lime for use of the System other than described in paragraphs 2 and 3 above.
- ii. Should this Agreement be terminated by Burnett Lime under paragraph 7(a) below at any time before February 11, 2022: Burnett Lime shall be permitted access to the City of Pembroke Pines' water treatment plant so that Burnett Lime can remove the System therefrom.
- iii. Should the Agreement be terminated by City of Pembroke Pines under paragraph 7 (b) below at any time before February 11, 2020: Burnett Lime shall be permitted prompt access to City of Pembroke Pines' water treatment plant ten (10) business days prior to the termination date so that Burnett Lime can remove the System from the City of Pembroke Pines' water treatment plant.

**5. Total Compensation.**

- a. Pursuant to the terms and conditions contained herein the total compensation

amount shall not exceed \$95,360.00 as set forth below:

- i. Purchase of Product \$0.085 per liquid pound - \$56,430.00
- ii. 12 Month Lease of System - \$36,000.00
- iii. Annual Maintenance - \$930.00
- iv. Repair Costs and Parts (\$45/hr) - \$2,000.00

**6. Exclusivity and Non-Compete.**

- a. **Exclusivity.** City of Pembroke Pines will *not* purchase Product, directly or indirectly, other than through Burnett Lime or cause others to do so during the term of this Agreement unless Burnett Lime cannot supply sufficient Product to meet City of Pembroke Pines' requirements.
- b. **Remedy.** City of Pembroke Pines acknowledges that the covenant contained in subparagraph "a" above is an essential part of this Agreement, without which Burnett Lime would not have entered into this Agreement. Further, both parties expressly acknowledge that the restrictions imposed hereunder are valid and reasonable in light of the business of Burnett Lime and City of Pembroke Pines.

**7. Termination.**

- a. **By Burnett Lime for Cause.** Should the City of Pembroke Pines fail to perform any material obligation under this Agreement, Burnett Lime shall be entitled, after five (5) days' notice during which City of Pembroke Pines fails to cure such breach, to terminate this Agreement for cause.
  - b. **By City of Pembroke Pines for Cause.** Should Burnett Lime fail to perform any material obligation under this Agreement, City of Pembroke Pines shall be entitled, after five (5) days' notice during which Burnett Lime fails to cure such breach, terminate this Agreement for cause.
  - c. **By City of Pembroke Pines for Convenience.** This Agreement may be terminated by the City of Pembroke Pines for convenience upon five (5) days' written notice by the City of Pembroke Pines to Burnett Lime in which event Burnett Lime shall be paid its compensation for services performed to termination date.
- 8. Waiver.** The failure of any party to enforce any of the provisions of this Agreement at any time, or from time to time, shall not operate as a waiver with respect to future actions.
- 9. Notices.** All notices, requests, demands, and other communications under this Agreement shall be deemed to have been duly given if delivered in person, if sent by facsimile or Email with a copy sent in the United States mail, or if mailed in the United States mail, certified mail, return receipt requested, and properly addressed as follows:

If to Burnett Lime, to:  
7095 Highway 11

If to City of Pembroke Pines, to:  
601 City Center Way

Campobello, SC 29322  
 Fax: 864-592-1690]  
 Email: acannon@burnett-inc.com

Pembroke Pines, FL 33026  
Phone: (954) 450-1050  
 Email: mgraham@ppines.com

City Attorney  
 Doody & Ezrol, P.A.  
 Blvd., Ste. 200  
 33308

Copy to:  
 Samuel S. Goren,  
 Goren, Cherof,  
 3099 E. Commercial  
 Fort Lauderdale, FL

Notice is effective on the date of hand-delivery, the date of the confirmed facsimile transmission, or on the date on the signed return receipt. From time to time any party may designate another person or address for all purposes of the Agreement by giving to the other party not less than fifteen (15) days' advance written notice of such change of person or address in accord with the provisions hereof.

- 10. Indemnity by Parties:** Burnett shall indemnify and hold City of Pembroke Pines harmless from and against any and all claims, suits, demands, liabilities, losses, damages, costs, and expense City of Pembroke Pines may suffer or pay out as a consequence of the negligent acts, errors or omissions of Burnett, its agents, or employees. The foregoing indemnities shall include damages sustained by either party for losses.
- 11. Assignment.** No party to this Agreement shall assign, sublet or delegate the performance of any duties hereunder without the prior written approval of the other parties. For purposes of this Agreement, any change in ownership of Burnett shall constitute an assignment which requires approval by the City of Pembroke Pines. However, this Agreement shall run to the benefit of the City of Pembroke Pines and its successors and assigns.
- 12. Binding Effect.** The terms and provisions of this Agreement shall be binding upon the parties hereto and their respective executors, administrators, legal representatives, heirs, successors and assigns.
- 13. Entire Agreement.** This Agreement sets forth the entire understanding of the parties with respect to the subject of this Agreement.
- 14. Changes.** No change, modification, or amendment of this Agreement or any provisions hereof shall be of any effect unless in writing and duly signed by the parties.
- 15. Situs.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any action or claim arising from or related to this Agreement shall be in Broward County, Florida.

**16. Independent Contractor.** This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that Burnett is an independent contractor under this Agreement and not an employee of the City of Pembroke Pines for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers' Compensation Act, and the State unemployment insurance law. Burnett shall retain sole and absolute discretion in the judgment of the manner and means of carrying out its activities and responsibilities hereunder provided, further that administrative procedures, applicable to services rendered under this Agreement shall be those of Burnett, which policies of Burnett shall not conflict with the City of Pembroke Pines, State, Federal, or United States policies, rules or regulations relating to the use of Burnett's funds provided for herein. Burnett agrees that it is a separate and independent enterprise from the City of Pembroke Pines, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work hereunder. This Agreement shall not be construed as creating any joint employment relationship between Burnett and the City of Pembroke Pines and the City of Pembroke Pines will not be liable for any obligation incurred by Burnett, including but not limited to unpaid minimum wages and/or overtime premiums.

**17. Public Records.** The City of Pembroke Pines is a public agency subject to Chapter 119, Florida Statutes. Burnett shall comply with Florida's Public Records Law. Specifically, Burnett shall:

- a. Keep and maintain public records required by the City of Pembroke Pines to perform the service;
- b. Upon request from the City of Pembroke Pines' custodian of public records, provide the City of Pembroke Pines with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- c. Ensure that public records that are exempt or that are confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and, following completion of the Agreement, Burnett shall destroy all copies of such confidential and exempt records remaining in its possession after Burnett transfers the records in its possession to the City of Pembroke Pines; and
- d. Upon completion of the Agreement, Burnett shall transfer to the City of Pembroke Pines, at not cost to the City of Pembroke Pines, all public records in Burnett's possession. All records stored electronically by Burnett must be provided to the City of Pembroke Pines, upon request from the City of Pembroke Pines' custodian of public records in a format that is compatible

with the information technology systems of the City of Pembroke Pines.

- e. The failure of Burnett to comply with the provisions set forth in this Article shall constitute a Default and Breach of this Agreement, for which, the City may terminate the Agreement.

**IF BURNETT HAS QUESTIONS  
REGARDING THE  
APPLICATION OF CHAPTER  
119, FLORIDA STATUTES, TO  
ITS DUTY TO PROVIDE  
PUBLIC RECORDS RELATING  
TO THIS AGREEMENT  
CONTACT THE CUSTODIAN  
OF PUBLIC RECORDS AT:**

**CITY CLERK  
601 CITY CENTER WAY, 4<sup>TH</sup>  
FLOOR  
PEMBROKE PINES, FL 33026  
(954) 450-1050  
mgraham@ppines.com**

- 18. Ownership of Documents.** Reports, surveys, plans, studies and other data provided in connection with this Agreement are and shall remain the property of the City of Pembroke Pines whether or not the project for they are made is completed. The City of Pembroke Pines hereby agrees to use Burnett's work product for its intended purposes.
- 19. No Waiver of Sovereign Immunity.** Nothing contained herein is intended to service as a waiver of sovereign immunity by the City of Pembroke Pines or as a waiver of limits to liability or rights existing under section 768.28, Florida Statutes, as amended.
- 20. Headings.** Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.
- 21. Severability.** If any provision of this Agreement or application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.
- 22. No Construction Against Drafting Parties.** Each party to this Agreement expressly recognizes that this Agreement results from the negotiation process in which each party was represented by counsel and contributed to the drafting

of this Agreement. Given this fact, no legal or other presumptions against the party drafting this Agreement concerning its construction, interpretation or otherwise accrue to the benefit of any party to the Agreement, and each party expressly waives the right to assert such a presumption in any proceedings or disputes connected with, arising out of, or involving this Agreement.

**23. Force Majeure.** If either party shall be delayed or prevented from the performance of any act required under this Agreement by reason of acts of God, pandemic, or epidemic, or any other cause beyond the control and without fault of the party (financial inability excepted), performance of that act shall be excused, but only for the period of the delay. The time for performance of the act shall be extended for a period equivalent to the period of delay.

**24. Counterparts and Execution.** This Agreement may be executed in multiple originals or counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement. Execution and delivery of this Agreement by the parties shall be legally binding, valid and effective upon delivery of the executed documents to the other party through facsimile transmission, email or other electronic delivery.

**25. Third Parties.** The services to be performed by Burnett are intended solely for the benefit of the City of Pembroke Pines. No person or entity not a signatory to this Agreement shall be entitled to rely on Burnett's performance of its services hereunder, and no right to assert a claim against Burnett by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Agreement or the performance of Burnett's services hereunder.

**26. Scrutinized Company Certification.** As the person authorized to sign on behalf of Burnett, by signing below on behalf of Burnett, Burnett certifies that neither Burnett nor any of its affiliates participates in any boycott of Israel and is not listed on the Scrutinized Companies that Boycott Israel list. Burnett understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Burnett to civil penalties, attorney's fees, and/or costs. Burnett further understand that any contract with the City of Pembroke Pines for goods or services may be terminated at the option of the City of Pembroke Pines, if Burnett, is found to have submitted a false certification or has been placed on the Scrutinized Companies that Boycott Israel list. Submitting a false certification shall be deemed a material breach of contract. The City of Pembroke Pines shall provide notice, in writing, to Burnett, of the City of Pembroke Pines' determination concerning the false certification. Burnett shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If Burnett does not demonstrate that the City of Pembroke Pines' determination of false certification was made in error then the City of Pembroke Pines shall have the right to terminate the Agreement and seek civil remedies pursuant to section 287.135, Florida Statutes.

**27. Insurance.** Burnett shall indemnify and hold harmless the City of Pembroke Pines and its officers, employees, agents and instrumentalities from any and all



liability, losses or damages, including attorneys' fees and costs of defense, which the City of Pembroke Pines or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by Burnett or its employees, agents, servants, partners principals or subcontractors. Burnett shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the City of Pembroke Pines, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Burnett expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Burnett shall in no way limit the responsibility to indemnify, keep and save harmless and defend the City of Pembroke Pines or its officers, employees, agents and instrumentalities as herein provided.

- a. Burnett shall not commence work under this Agreement until it has obtained all insurance required under this paragraph and such insurance has been approved by the Risk Manager of the City of Pembroke Pines nor shall Burnett allow any subcontractor to commence work on his subcontract until all similar such insurance required of the subcontractor has been obtained and similarly approved.
- b. Certificates of Insurance, reflecting evidence of the required insurance, shall be filed with the City of Pembroke Pines' Risk Manager prior to the commencement of this Agreement. Policies shall be issued by companies authorized to do business under the laws of the State of Florida. The insurance company shall be rated no less than "A" as to management, and no less than "Class VI" as to financial strength according to the latest edition of Best's Insurance Guide published by A.M. Best Company.
- c. Policies shall be endorsed to provide the City of Pembroke Pines thirty (30) days' notice of cancellation or Burnett shall obtain written agreement from its Agent to provide the City of Pembroke Pines thirty (30) days' notice of cancellation.
- d. Insurance shall be in force until all obligations required to be fulfilled under the terms of the Agreement are satisfactorily completed as evidenced by the formal acceptance by the City of Pembroke Pines. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then in that event, Burnett shall furnish, at least forty-five (45) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. Burnett shall not commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. Burnett shall be liable to the City of Pembroke Pines for any lapses in service resulting from a gap in insurance coverage.

e. **REQUIRED INSURANCE**

- i. Comprehensive General Liability Insurance written on an occurrence basis including, but not limited to: coverage for bodily injury and property damage, personal & advertising injury, products & completed operations, and contractual liability. Coverage must be written on an occurrence basis, with limits of liability no less than:

1. Each Occurrence Limit - \$1,000,000
2. Fire Damage Limit (Damage to rented premises) - \$100,000
3. Personal & Advertising Injury Limit - \$1,000,000
4. General Aggregate Limit - \$2,000,000
5. Products & Completed Operations Aggregate Limit - \$2,000,000

Products & Completed Operations Coverage shall be maintained for two (2) years after the final payment under this contract. **The City of Pembroke Pines must be shown as an additional insured with respect to this coverage.**

- ii. Worker's Compensation and Employers Liability Insurance covering all employees, and/or volunteers of the Burnett engaged in the performance of the scope of work associated with this Agreement. In the case any work is sublet, Burnett shall require the subcontractors similarly to provide Workers Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by Burnett. Coverage for Burnett and its subcontractors shall be in accordance with applicable state and/or federal laws that may apply to Workers' Compensation Insurance with limits of liability no less than:

1. Workers' Compensation: Coverage A – Statutory
2. Employers Liability: Coverage B – \$500,000 Each Accident
  - \$500,000 Disease – Policy Limit
  - \$500,000 Disease – Each Employee

If Burnett claims to be exempt from this requirement, Burnett shall provide the City of Pembroke Pines proof of such exemption along with a written request for the City of Pembroke Pines to exempt Burnett, written on Burnett's letterhead.

- iii. Comprehensive Auto Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the performance of work under this Agreement, with a combined single limit of liability for bodily injury and property damage no less than:

1. Any Auto (Symbol 1); Combined Single Limit (Each Accident) - \$1,000,000
2. Hired Autos (Symbol 8); Combined Single Limit (Each

Accident) - \$1,000,000

3. Non-Owned Autos (Symbol 9); Combined Single Limit  
(Each Accident) - \$1,000,000

- iv. Professional Liability/Errors & Omissions Insurance, when applicable, with a limit of liability no less than \$1,000,000 per wrongful act. This coverage shall be maintained for a period of no less than two (2) years after final payment of the contract.

**f. REQUIRED ENDORSEMENTS**

- i. The City of Pembroke Pines shall be named as an Additional Insured on each of the General Liability policies required herein.
- ii. Waiver of all Rights of Subrogation against the City of Pembroke Pines.
- iii. 30 Day Notice of Cancellation or Non-Renewal to the City of Pembroke Pines.
- iv. Burnett's policies shall be Primary & Non-Contributor.
- v. All policies shall contain a "severability of interest" or "cross liability" liability clause without obligation for premium payment of the City of Pembroke Pines.
- vi. The City of Pembroke Pines shall be named as a Loss Payee on all Property and/or Inland Marine Policies as their interest may appear.
- vii. Burnett shall name the City of Pembroke Pines, as an additional insured on each of the General Liability policies required herein and shall hold the City of Pembroke Pines, its agents, officers and employees harmless on account of claims for damages to persons, property or premises arising out of the services provided hereunder.
- viii. Any insurance required of Burnett pursuant to this Agreement must also be required by any subcontractor in the same limits and with all requirements as provided herein, including naming the City of Pembroke Pines as an additional insured, in any work that is subcontracted unless such subcontractor is covered by the protection afforded by Burnett and provided proof of such coverage is provided to the City of Pembroke Pines. Burnett and any subcontractors shall maintain such policies during the term of this Agreement.
- g. The City of Pembroke Pines reserves the right to require any other additional types of insurance coverage and/or higher limits of liability it deems necessary based on the nature of work being performed under this Agreement.


IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

ATTEST:

  
MARLENE D. GRAHAM,  
CITY CLERK



APPROVED AS TO FORM

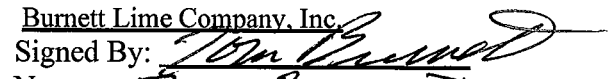
  
OFFICE OF THE CITY ATTORNEY

**CITY:**

CITY OF PEMBROKE PINES

BY:

  
CHARLES F. DODGE  
CITY MANANGER

Burnett Lime Company, Inc.  
Signed By:   
Name: Tom Burnett  
Title: President



# City of Pembroke Pines, FL

601 City Center Way  
Pembroke Pines, FL  
33025  
www.ppines.com

## Agenda Request Form

### Agenda Number: 3.

File ID: 20-0654

Type: Agreements/Contracts

Status: Passed

Version: 1

Agenda  
Section:

In Control: City Commission

File Created: 08/27/2020

Short Title: Temporary Lime Feed System & Lime Slurry  
Purchase for WTP

Final Action: 09/16/2020

**Title:** MOTION TO APPROVE THE LEASE AGREEMENT, IN THE BEST INTEREST OF THE CITY, WITH BURNETT LIME COMPANY, INC. FOR A TEMPORARY LIME FEED SYSTEM BY CAL~FLO SYSTEMS, PROVIDING FOR THE LEASE OF THE SYSTEM AND THE PURCHASE OF CAL-FLO LIME SLURRY IN AN AMOUNT NOT TO EXCEED \$95,360, PURSUANT TO SECTION 35.18(C)(8) OF THE CITY'S CODE OF ORDINANCES.

#### Internal Notes:

**Attachments:** 1. 2019 - Commission Approval, 2. 2020 - Commission Approval, 3. Temporary Lime Feed System & Purchase of Lime Slurry Agreement - Vendor Executed

1 City Commission 09/16/2020 approve Pass  
Action Text: A motion was made to approve on the Consent Agenda  
Aye: - 5 Mayor Ortis, Vice Mayor Siple, Commissioner Good Jr., Commissioner Schwartz, and Commissioner Castillo  
Nay: - 0

MOTION TO APPROVE THE LEASE AGREEMENT, IN THE BEST INTEREST OF THE CITY, WITH BURNETT LIME COMPANY, INC. FOR A TEMPORARY LIME FEED SYSTEM BY CAL~FLO SYSTEMS, PROVIDING FOR THE LEASE OF THE SYSTEM AND THE PURCHASE OF CAL-FLO LIME SLURRY IN AN AMOUNT NOT TO EXCEED \$95,360, PURSUANT TO SECTION 35.18(C)(8) OF THE CITY'S CODE OF ORDINANCES.

**PROCUREMENT PROCESS TAKEN:**

- Chapter 35 of the City's Code of Ordinances is titled "PROCUREMENT PROCEDURES, PUBLIC FUNDS."
- Section 35.18 of the City's Code of Ordinances is titled "COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS REQUIRED; EXCEPTIONS."
- Section 35.18(C) states that "Only the following situations are exempt from the competitive bid and competitive proposal requirements of this section:"
- Section 35.18(C)(1) states that "In urgent cases of compelling emergency that require the immediate purchase of commodities or services, the City Manager is empowered to waive competitive bidding or competitive proposals and authorize the Chief Procurement Officer to secure by open market procedure any commodities or services, notwithstanding the estimated cost of the commodities or services."
- Section 35.18(C)(8) states that "Purchases of and contracts for commodities or services are exempt from this section when the City Commission declares by a simple majority affirmative vote that the process of competitive bidding and competitive proposals is not in the best interest of the City. The City Commission shall make specific factual findings that support its determination, and such contracts may be placed on the City Commission consent agenda."
- Section 35.21 of the City's Code of Ordinances is titled "AWARD OF CONTRACT."
- Section 35.21(A) of the City's Code of Ordinances is titled "City Commission approval."
- Section 35.21(A)(1) states, "An initial purchase of, or contract for, commodities or services, in excess of \$25,000, shall require the approval of the City Commission, regardless of whether the competitive bidding or competitive proposal procedures were followed."

**SUMMARY EXPLANATION AND BACKGROUND:**

1. The Water Treatment Plant operates three (3) lime mixing and feed systems (Slakers) for the treatment of water hardness, two (2) of which have reached their useful life.
2. The Utility Division has recently refurbished one (1) of the three (3) Slakers and is currently in the process of a long-term study, design, and construction of a replacement system that should be completed by Fiscal Year 2020-21.
3. The Utilities Division has been faced with a situation where it is at risk of losing redundancy in the system due to the current conditions of the units. In an abundance of caution, the Utilities Division is recommending this temporary substitute system be continued for utilization as a contingency.
4. The length of time necessary for the lease of the CAL~FLO lime feed system will depend on the amount of time it will take for the permanent Lime Feed System to be fully installed. However, the Utilities Division is estimating approximately a 12 month period.
5. Should the Water Treatment Plant have a complete failure without redundancy, the result would be a significant need for the purchase of large quantities of wholesale water from the City's interconnects for a lengthy period of time.
6. On February 6, 2019, the City Commission Ratified the City Manager's approval of the emergency lease agreement with Burnett Lime Company, Inc., for the lease of a temporary lime feed system, and the purchase of Cal-Flo Lime Slurry in an amount not to exceed \$95,360.
7. On December 4, 2019, the City Commission Approved the First Amendment with Burnett Lime Company, Inc. for a one (1) year renewal term commencing February 12, 2020 and ending February 11, 2021.
8. The Utilities Division has determined that it would be in the best interest of the City to continue the lease of the Lime Feed System with Burnett Lime Company, Inc. until completion of the construction of a replacement lime feed system.
9. Below are factual findings:
  - Burnett Lime Company, Inc. is still onsite with the current lease agreement that extends until February 11, 2021.
  - Burnett Lime Company, Inc. has presented a proposal that the Utilities Division feels is fair and reasonable.
  - The Utilities Division is recommending the continued utilization of the temporary lime feed system due to the risk of losing redundancy.
10. The new agreement will be for a one year period commencing on February 12, 2021 and expiring on February 11, 2022.

Description	Cost	Estimated Qty.	Annual Amount
Monthly Lease Payment	\$3,000	12	\$ 36,000

Annual Maintenance	\$930	1	\$	930
Repair Cost, and Parts (\$45/hr)			\$	2,000
Lime Slurry	\$0.085/liquid lb.	663,882.36	\$	56,430
<b>Total:</b>			\$	<b>95,360</b>

10. Request City Commission to approve the Lease Agreement, in the Best Interest of the City, with Burnett Lime Company, Inc., for a temporary Lime Feed System by CAL~FLO Systems, providing for the lease of the system and the purchase of CAL~FLOW Lime Slurry in an amount not to exceed \$95,360, pursuant to Section 35.18(C)(8) of the City's Code of Ordinances.

**FINANCIAL IMPACT DETAIL:**

- a) **Initial Cost:** \$95,360
- b) **Amount budgeted for this item in Account No:** \$95,360 in Account No. 471-533-6031-44200 (Rents - Machinery & Equipment) in FY2020-2021
- c) **Source of funding for difference, if not fully budgeted:** Not Applicable
- d) **5 year projection of the operational cost of the project:** Not Applicable
- e) **Detail of additional staff requirements:** Not Applicable





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
09/11/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> CWS Insurance P.O.Box 1988  Spartanburg SC 29304		<b>CONTACT NAME:</b> Julie Mitchem <b>PHONE (A/C, No, Ext):</b> (864) 583-1451 <b>FAX (A/C, No):</b> (864) 585-6450 <b>E-MAIL ADDRESS:</b> julie@cwsinsurance.com																						
<b>INSURED</b>  Burnett Lime Co., Inc & Cal Transport, Inc. Cal Flo, LLC, DBA: Burnett 7095 Hwy 11  Campobello SC 29322		<table border="1"><thead><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A:</td><td>Charter Oak Fire</td><td>25615</td></tr><tr><td>INSURER B:</td><td>Travelers Indemnity</td><td>25658</td></tr><tr><td>INSURER C:</td><td>Travelers Indemnity of America</td><td>25666</td></tr><tr><td>INSURER D:</td><td>Standard Fire Insurance Co.</td><td>19070</td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></tbody></table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Charter Oak Fire	25615	INSURER B:	Travelers Indemnity	25658	INSURER C:	Travelers Indemnity of America	25666	INSURER D:	Standard Fire Insurance Co.	19070	INSURER E:			INSURER F:		
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## COVERAGES

CERTIFICATE NUMBER: 19/20 Master

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	Y-630-3C77676A-COF-19	10/01/2019	10/01/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	840-3C864377-19	10/01/2019	10/01/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured motorist \$ 1,000,000
	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			CUP-0L837646-18-15	10/01/2019	10/01/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ \$
	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	N/A	Y	UB-6J854640-19	10/01/2019	10/01/2020
A	Motor Truck Cargo			Y-630-3C77676A-COF-19	10/01/2019	10/01/2020	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Pembroke Pines is included as additional insured, waiver of subrogation, 30 day notice of cancellation, primary non-contributor per written contract.

## CERTIFICATE HOLDER

## CANCELLATION

City of Pembroke Pines 601 City Center Way  Pembroke Pines FL 33025	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  

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