



**FIRST AMENDMENT TO AGREEMENT
BETWEEN THE CITY OF PEMBROKE PINES AND
BURNETT LIME COMPANY, INC.**

THIS IS AN AGREEMENT ("Agreement"), dated this _____ day of _____, 2019, by and between:

THE CITY OF PEMBROKE PINES, a municipal corporation organized and operating under the laws of the State of Florida, with an address of 601 City Center Way, Pembroke Pines, FL 33025, hereinafter referred to as "CITY",

and

BURNETT LIME COMPANY, INC., a for profit corporation registered in South Carolina, and with a business address of **RT 1 Campobello, SC 29322**, hereinafter referred to as "Burnett Lime". "City of Pembroke Pines" and "Burnett Lime" may hereafter be collectively referred to as the "Parties".

WHEREAS, on **February 12, 2019**, the City of Pembroke Pines and Burnett Lime entered into the Original Agreement ("Original Agreement") for an initial **one (1) year period**, commencing on **February 12, 2019** and expiring on **February 11, 2020**; and,

WHEREAS, the Original Agreement authorized the renewal of the Agreement at the expiration of the initial term for **one (1) additional year** evidenced by a written amendment to the Original Agreement; and,

WHEREAS, to date the Parties have been satisfied with the performance and execution of the Agreement and desire to renew the terms of their contractual relationship as set forth herein; and,

WHEREAS, the Parties desire to execute the **one (1) year renewal** option, in accordance with the terms and conditions set forth herein.

W I T N E S S E T H

NOW, THEREFORE, for and in consideration of the sum of the mutual covenants and other good and valuable consideration, the receipt of which are hereby acknowledged, the Parties hereto agree as set forth below:

SECTION 1. The recitations set forth in the above "WHEREAS" clauses are true and correct and incorporated herein by this reference.

SECTION 2. The Original Agreement, is hereby renewed for **one (1) additional year** commencing on **February 12, 2020** and terminating on **February 11, 2021**.



SECTION 3. In the event of any conflict or ambiguity by and between the terms and provisions of this First Amendment, and the Original Agreement, the terms and provisions of this First Amendment shall control to the extent of any such conflict or ambiguity.

SECTION 4. The Parties agree that in all other respects the Original Agreement, as amended by this First Amendment, shall remain in full force and effect, except as specifically modified herein.

SECTION 5. Each exhibit referred to in the Original Agreement, except as repealed herein, forms an essential part of this Agreement. The exhibits, if not physically attached, should be treated as part of this Agreement and are incorporated herein by reference.

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HAS BEEN INTENTIONALLY LEFT BLANK**



IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

ATTEST:

City of Pembroke Pines:

CITY OF PEMBROKE PINES

BY: _____

MARLENE D. GRAHAM,
CITY CLERK

CHARLES F. DODGE
CITY MANAGER

APPROVED AS TO FORM

Print Name: _____
OFFICE OF THE CITY ATTORNEY

Burnett Lime:

BURNETT LIME COMPANY, INC.

BY: Tom Burnett

Print Name: Tom Burnett

Title: President

WITNESSES

[Signature]

Karen H. Justice
Print Name

Print Name

STATE OF SC)

COUNTY OF Spartanburg) SS:

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Tom Burnett as President of **BURNETT LIME COMPANY, INC.**, an organization authorized to conduct business in the State of Florida, and acknowledged execution of the foregoing Agreement as the proper official of **BURNETT LIME COMPANY, INC.**, for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 21st day of November, 2019.

Renee J. Cothran
NOTARY PUBLIC

Renee J. Cothran
(Name of Notary Typed, Printed or Stamped)

Commission Expires 12-22-2019

COUNTY OF SPARTANBURG)
STATE OF SOUTH CAROLINA)



CAL~FLO® SYSTEM
LEASE AGREEMENT

THIS AGREEMENT ("Agreement") made as of the 12th day of February, 2019
("the Effective Date") between Burnett Lime Company, Inc. ("Burnett Lime") and City of
Pembroke Pines, Florida - Pembroke Pines WTP ("City of Pembroke Pines").

WITNESSETH:

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

WHEREAS, Burnett Lime is willing to lease a patented CAL~FLO® Lime Slurry System
("System") for use in water treatment.

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

WHEREAS, City of Pembroke Pines desires to purchase Product from Burnett Lime and
to have the use of Burnett Lime's System for process water at City of Pembroke Pines Water
Treatment Plant subject to the terms and conditions of this Agreement;

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

1. **Term.**

- a. **Initial Term.** The initial term of this Agreement shall be February 12, 2019
through February 11, 2020.
- b. **Additional Term.** Beginning February 12, 2020, this Agreement will be renewed
for an additional year period at the request of City of Pembroke Pines and
approval of Burnett Lime as the case may be.

2. **Specifications.**

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

- a. City of Pembroke Pines will pay installation and removal fee of \$38,000.00 due
upon delivery of the system.
- 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® slurry continuing throughout
the remaining 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[®] 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). **City of Pembroke Pines** may provide **Burnett Lime** a blanket purchase order providing a pre-set schedule for delivery of Product to **City of Pembroke Pines Water Treatment Plant**.
- e. **Burnett Lime** will deliver or cause the Product to be delivered to **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 facsimile-to-facsimile number _____ or to email: _____) within two (2) business days of delivery of the Product to **City of Pembroke Pines Water Treatment Plant**.
- g. **City of Pembroke Pines** will make payment to **Burnett Lime** within thirty (30) calendar days 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 lease 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 **City of Pembroke Pines Water Treatment Plant's** personnel how to operate and maintain the System during a one (1) day training session to be held on TBD, 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. **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' Water Treatment Plant** 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)~~ ^{6(a)} below at any time before 2/11/2020 :

1. 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)~~ ^{6(b)} below at any time before 2/11/2020 or should the Agreement be terminated on or after 2/12/2020 :

1. 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. **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.

6. **Termination.**

a. **By Burnett Lime for Cause.** Should 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, 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.

7. **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.
8. **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
Campobello, SC 29322
Fax: 864-592-1690]
Email: acannon@burnett-inc.com

If to **City of Pembroke Pines**, to:
601 City Center Way
Pembroke Pines, FL 33026
Phone: (954) 450-1050
Email: mgraham@ppines.com

Coy to:
Samuel S. Goren, City Attorney
Goren, Cherof, Doody & Ezrol, P.A.
3099 E. Commercial Blvd., Ste 200
Fort Lauderdale, FL 33308

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.

9. **Indemnity by Parties:** **City of Pembroke Pines** shall indemnify and hold **Burnett Lime** harmless from and against any and all claims, suits, demands, liabilities, losses, damages, costs, and expenses **Burnett Lime** may suffer or pay out as a consequence of the negligent acts, errors, or omissions of **City of Pembroke Pines**, its agents, or employees in the performance of this Agreement. **Burnett Lime** 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 Lime**, its agents, or employees. The foregoing indemnities shall include damages sustained by either party for losses.
10. **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 Lime** 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.
11. **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.

- 12. Entire Agreement.** This Agreement sets forth the entire understanding of the parties with respect to the subject of this Agreement.
- 13. 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.
- 14. Situs.** This Agreement shall be governed by the laws of the State of Florida.
- 15. Independent Contractor.** This Agreement does not create an employee / employer relationship between the parties. It is the intent of the parties that Burnett Lime 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 Lime 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 Lime, which policies of Burnett Lime shall not conflict with the City of Pembroke Pines, State, H.U.D., or United States policies, rules or regulations relating to the use of Burnett Lime's funds provided for herein. Burnett Lime 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 Lime and the City of Pembroke Pines and the City of Pembroke Pines will not be liable for any obligation incurred by Burnett Lime, including but not limited to unpaid minimum wages and/or overtime premiums.
- 16. Public Records.** The City of Pembroke Pines is a public agency subject to Chapter 119, Florida Statutes. Burnett Lime shall comply with Florida's Public Records Law. Specifically, Burnett Lime shall:
- Keep and maintain public records required by the City of Pembroke Pines to perform the service;
 - 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;
 - 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 Lime shall destroy all copies of such confidential and exempt records remaining in its possession after Burnett Lime transfers the records in its possession to the City of Pembroke Pines; and
 - Upon completion of the Agreement, Burnett Lime shall transfer to the City of Pembroke Pines, at no cost to the City of Pembroke Pines, all public records in

Burnett Lime's possession. All records stored electronically by Burnett Lime 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 Lime 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, 4TH FLOOR
PEMBROKE PINES, FL 33026
(954) 450-1050
mgraham@ppines.com

- 17. 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 which they are made is completed. The City of Pembroke Pines hereby agrees to use Burnett Lime's work product for its intended purposes.
- 18. 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.
- 19. Headings.** Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.
- 20. 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.
- 21. 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.
- 22. 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 or 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.

23. 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.

24. Third Parties. The services to be performed by **Burnett Lime** 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 Lime's** performance of its services hereunder, and no right to assert a claim against **Burnett Lime** by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Agreement or the performance of **Burnett Lime's** services hereunder.

25. Insurance. **Burnett Lime** 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 Lime** or its employees, agents, servants, partners principals or subcontractors. **Burnett Lime** 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 Lime** expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by **Burnett Lime** 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 Lime** 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 Lime** 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 Lime** 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 Lime** 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 Lime** shall not commence nor continue to provide any services pursuant to this Agreement unless all required insurance remains in full force and effect. **Burnett Lime** 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
 - ii. Products & Completed Operations Coverage shall be maintained for two (2) years after the final payment under this contract.
 - iii. Worker' s Compensation and Employers Liability Insurance covering all employees, and/or volunteers of the **Burnett Lime** engaged in the performance of the scope of work associated with this Agreement. In the case any work is sublet, **Burnett Lime** 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 Lime**. Coverage for **Burnett Lime** 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 Lime** claims to be exempt from this requirement, **Burnett Lime** 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 Lime**, written on **Burnett Lime's** letterhead.

- iv. 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
- v. 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.
- vi. REQUIRED ENDORSEMENTS
 - 1. The **City of Pembroke Pines** shall be named as an Additional Insured on each of the General Liability policies required herein
 - 2. Waiver of all Rights of Subrogation against the **City of Pembroke Pines**
 - 3. 30 Day Notice of Cancellation or Non-Renewal to the **City of Pembroke Pines**
 - 4. **Burnett Lime's** policies shall be Primary & Non-Contributor
 - 5. All policies shall contain a "severability of interest" or "cross liability" liability clause without obligation for premium payment of the **City of Pembroke Pines**.
 - 6. 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.
 - 7. **Burnett Lime** 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.
 - 8. Any insurance required of **Burnett Lime** 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 Lime** and provided proof of such coverage is

provided to the City of Pembroke Pines. **Burnett Lime** and any subcontractors shall maintain such policies during the term of this Agreement.

9. 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.

26. Non-Discrimination & Equal Opportunity Employment. During the performance of the Agreement, neither **Burnett Lime** nor its subcontractors shall discriminate against any employee or applicant for employment because of race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. **Burnett Lime** will take affirmative action to ensure that employees are treated during employment, without regard to their race, religion, color, gender, national origin, sex, age, marital status, political affiliation, familial status, sexual orientation, or disability if qualified. Such actions must include, but not be limited to, the following: employment, promotion; demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. **Burnett Lime** shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. **Burnett Lime** further agrees that he/she/it will ensure that subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.

27. Scrutinized Company Certification. As the person authorized to sign on behalf of **Burnett Lime**, by signing below on behalf of **Burnett Lime**, I hereby certify that neither **Burnett Lime** nor any of its affiliates participates in any boycott of Israel and is not listed on the Scrutinized Companies that Boycott Israel list. I understand that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject **Burnett Lime** to civil penalties, attorney's fees, and/or costs. I 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 Lime** 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 Lime**, of the **City of Pembroke Pines**' determination concerning the false certification. **Burnett Lime** 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 Lime** 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.

**THE REMAINING OF THIS PAGE
HAS BEEN INTENTIONALLY LEFT BLANK**

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

ATTEST:

[Signature]
MARLENE D. GRAHAM,
CITY CLERK

CITY:

CITY OF PEMBROKE PINES

BY:

[Signature]
CHARLES F. DODGE
CITY MANAGER

APPROVED AS TO FORM

[Signature]
OFFICE OF THE CITY ATTORNEY

CONTRACTOR:

BURNETT LIME COMPANY, INC.

BY:

[Signature]
Print Name: Tom Burnett
Title: President

Witnesses:

[Signature]
Karen Justice
Print Name

[Signature]
Kathy H. Ramsey
Print Name

STATE OF South Carolina

SS:

COUNTY OF Spartanburg



BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Tom Burnett as President of **BURNETT LIME COMPANY, INC.**, a company authorized to conduct business in the State of Florida, and acknowledged execution of the foregoing Agreement as the proper official of **BURNETT LIME COMPANY, INC.** for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 23rd day of January, 2019.

[Signature]
NOTARY PUBLIC
Kenee J. Cothran
(Name of Notary Typed, Printed or Stamped)

APPENDIX A

Product Specifications

CAL~FLO[®] Lime Slurry

Produced at Campobello, South Carolina

Typical Chemical Analysis

Suspended Solids	30%
Ca(OH) ₂	>29%
Mg(OH) ₂	11%
SiO ₂ and insolubles	.38%
Fe ₂ O ₃	.04%
Al ₂ O ₃	.17%
Sulfur	.0045%
Manganese	.0015%
Chloride as NaCl	.0033%
Specific Gravity	1.19 - 1.22 g/ml or 10 – 10.1 lbs. /gal



APPENDIX B

System Specifications

CAL~FLO® Slurry System (U. S. Patented)

CAL~FLO® Slurry System for the **City of Pembroke Pines** includes the following:

- A. Slurry Tank 20,000-gallon capacity carbon steel, vertical tank 12' diameter x 24' high, dome top and flat bottom complete with internal baffles, agitator, ladder and guard rails, hatch lid, with proper openings and tie downs.
- B. One Top Entry Mixer complete with 10 HP Motor speed reducer, shaft and turbans complete with mounting plate.
- C. Two metering pumps with 4-20 mil amp stroke adjusters.
- D. Electrical panel, starters.
- E. Level Indicator.
- F. Enclosure over pump.
- G. Two pinch valves with limit switches.
- H. Pipes, valves, fitting and connections.
- I. Two CAL~FLO® Caters.

APPENDIX C

Repair and Maintenance Rates and Charges

1. **Burnett Lime Company** recommends changing oil in gearboxes once a year and annual check on system, changing Hydratube® in PULSA Series® pump and Cater.

The annual charge for this maintenance is \$930.00.

2. Charges for repair of the CAL~FLO® system is \$45.00 per hour, plus parts.

From: Harrel, Tyler
Sent: Tuesday, January 08, 2019 2:58 PM
To: Garcia, Oniel
Subject: FW: Request for Emergency Procurement of a temporary lime feed system.

From: Cooper, Jonathan
Sent: Thursday, January 03, 2019 8:41 PM
To: Dodge, Charles <cdodge@ppines.com>
Cc: Gayeski, Marty <mgayeski@ppines.com>; Buckland, Steven <sbuckland@ppines.com>; Kennedy, Karl <kkennedy@ppines.com>; Gomes, Mark <mgomes@ppines.com>; Bonilla, Jonathan <jbonilla@ppines.com>; Harrel, Tyler <tharrel@ppines.com>; Thompson, Paul <pthompson@ppines.com>; Wrrves, George <gwrves@ppines.com>
Subject: Re: Request for Emergency Procurement of a temporary lime feed system.

Thank you.

On Jan 3, 2019 8:15 PM, "Dodge, Charles" <cdodge@ppines.com> wrote:
Request approved

Sent from my iPhone

On Jan 3, 2019, at 6:09 PM, Cooper, Jonathan <jcooper@ppines.com> wrote:

Mr. Dodge,

Please let this email serve as a request for the emergency procurement of a temporary lime slurry feed system; rental, installation and chemicals by Cal-Flow Systems (a copy of the proposed lease is attached).

As you know, the water treatment plant operates three lime mixing and feed systems (slakers) for the treatment of water hardness, all of which have reached their useful life. The City has underway plans to replace one of them as well as the long-term study, design and construction of a complete replacement system in the next fiscal year. Meanwhile, we are currently faced with a situation where we are at risk of losing redundancy in the system due to the unreliability of one of the units. In an abundance of caution, we are recommending this temporary substitute system be put into place as a contingency. Should we have a complete failure without redundancy, the result would be a significant need for purchase of large quantities of wholesale water from our interconnects for a lengthy period of time.

To cover the anticipated cost, I am requesting your approval to create the Budget Adjustment below:

Entity	Acct	Div.	Proj.	Object	Object Description	Increase	Decrease
471	533	6031	-	44200	Equipment Rental	\$95,360	
471	533	6031		46150	R&M Land Buildings and Improvements		\$95,360

Please reply with your approval. If there are any questions, please advise.

Thank you,
Jon Cooper



City of Pembroke Pines, FL

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

Agenda Request Form

Agenda Number: 4.

File ID: 19-0105

Type: Purchase

Status: Passed

Version: 1

**Agenda
Section:**

In Control: City Commission

File Created: 01/17/2019

Short Title: Emergency Purchase from Burnett Lime Co-Lime
Feed System

Final Action: 02/06/2019

Title: MOTION TO RATIFY THE CITY MANAGER'S APPROVAL OF THE EMERGENCY LEASE AGREEMENT WITH BURNETT LIME COMPANY, INC. FOR A TEMPORARY LIME FEED SYSTEM BY CAL~FLO SYSTEMS, PROVIDING FOR THE LEASE AND INSTALLATION OF THE SYSTEM, AND THE PURCHASE OF CAL-FLO LIME SLURRY IN AN AMOUNT NOT TO EXCEED \$95,360.

***Agenda Date:** 02/06/2019

Agenda Number: 4.

Internal Notes:

Attachments: 1. Burnett Lime Company, Inc. - CAL~FLO Lime Slurry Lease System for Pembroke Pines WTP

1 City Commission 02/06/2019 approve Pass
Action Text: A motion was made to approve on the Consent Agenda
Aye: - 5 Mayor Ortis, Commissioner Castillo, Commissioner Schwartz,
Commissioner Siple, and Vice Mayor Good Jr.
Nay: - 0

MOTION TO RATIFY THE CITY MANAGER'S APPROVAL OF THE EMERGENCY LEASE AGREEMENT WITH BURNETT LIME COMPANY, INC. FOR A TEMPORARY LIME FEED SYSTEM BY CAL~FLO SYSTEMS, PROVIDING FOR THE LEASE AND INSTALLATION OF THE SYSTEM, AND THE PURCHASE OF CAL-FLO LIME SLURRY IN AN AMOUNT NOT TO EXCEED \$95,360.

SUMMARY EXPLANATION AND BACKGROUND:

1. On January 3, 2019, the City Manager approved the emergency lease of a temporary Lime Feed System at the Water Treatment Plant in the amount of \$95,360.
2. The water treatment plant operates three lime mixing and feed systems (Slakers) for the treatment of water hardness, all of which have reached their useful life.
3. The City has plans underway to replace one of them as well as the long-term study, design and construction of a complete replacement system in the next fiscal year. The Utilities Division has been faced with a situation where it is at risk of losing redundancy in the system due to the unreliability of one of the units. In an abundance of caution, the Utilities Division is recommending this temporary substitute system be put into place as a contingency.
4. 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.
5. Per Section 35.18(C)(1) of the City's Procurement Code; "In urgent cases of compelling emergency that require the immediate purchase of commodities or services, the City Manager is empowered to waive the 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."
6. 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.
7. Pursuant to Section 2 of the lease agreement, the City of Pembroke Pines will pay a lease payment of \$3,000 per month, and an installation and removal fee of \$38,000.
8. In addition, pursuant to Section 2C of the lease agreement, the City of Pembroke Pines will pay a purchase price of \$0.085 per liquid pound of CAL~FLO lime slurry delivered.
9. Pursuant to Appendix C of the lease agreement, there is an annual charge of \$930 for maintenance, which includes changing the oil in the gearboxes once a year and annual check on system, changing Hydratube in PULSA Series pump and Cater. In addition, charges for repair of CAL~FLO system are \$45 per hour, plus parts. The Utilities Division is budgeting \$2,000 for the possible repair costs.

10. The following is the cost breakdown for the year:

Description	Yearly Amount
Installation and Removal Fee	\$ 38,000
12 Month Lease	\$ 36,000
Annual Maintenance	\$ 930
\$45 per hour repair cost, and parts	\$ 2,000
.085 per liquid poundLime Slurry	\$ 18,430
Total:	\$ 95,360

11. Request Commission to ratify the City Managers' approval of the emergency lease agreement with Burnett Lime Company, Inc. for a temporary Lime Feed System by CAL~FLO Systems, providing for the lease and installation of the system, and the purchase of CAL-FLO lime slurry in an amount not to exceed \$95,360.

FINANCIAL IMPACT DETAIL:

- a) **Initial Cost:** \$95,360.
- b) **Amount budgeted for this item in Account No:** Funds will be expensed from account # 471-533-6031-44200 (Equipment)
- 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)

01/11/2019

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).

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

COVERAGES

CERTIFICATE NUMBER: 18/19 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-18	10/01/2018	10/01/2019	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
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	840-3C864377-18	10/01/2018	10/01/2019	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
C	<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-4C120337-18	10/01/2018	10/01/2019	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
D	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	UB-6J854640-18	10/01/2018	10/01/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 Per Conveyance/\$50,000 Deduct/5,000
A	Motor Truck Cargo			Y-630-3C77676A-COF-18	10/01/2018	10/01/2019	

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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Additional Named Insureds

Other Named Insureds

Burnett Athletics, CAL-FLO Florida, LLC, Burnett Li	Doing Business As
Burnett Athletics, CAL-FLO Florida, LLC, Burnett Li	Doing Business As
Burnett Athletics, CAL-FLO Florida, LLC, Burnett Li	Doing Business As
Burnett Athletics, Inc. CAL-FLO FL, LLC, Burnett Li	Doing Business As
Cal Transport Inc	

ADDITIONAL COVERAGES							
Ref #	Description Underinsured motorist combined single limit				Coverage Code UNCSL	Form No.	Edition Date
Limit 1 1,000,000	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium		
Ref #	Description Premium discount				Coverage Code PDIS	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium -\$1,294.00		
Ref #	Description Increased employer's liability				Coverage Code INEL	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium \$326.00		
Ref #	Description Increased employer's liability				Coverage Code INEL	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium \$437.00		
Ref #	Description Expense constant				Coverage Code EXCNT	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium \$230.00		
Ref #	Description Schedule Rating Credit/Debit				Coverage Code SCHD	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium -\$7,473.00		
Ref #	Description Experience Mod Factor 1				Coverage Code EXP01	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium -\$7,161.00		
Ref #	Description Blanket Waiver of Subrogation				Coverage Code BWWSB	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium \$250.00		
Ref #	Description Waiver of Subrogation				Coverage Code WVSUB	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium \$957.00		
Ref #	Description				Coverage Code	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium		
Ref #	Description				Coverage Code	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type	Premium		

OFADTLCV

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Rojas, Dominique

From: Rotstein, Daniel
Sent: Tuesday, February 05, 2019 6:31 AM
To: Rojas, Dominique
Cc: Contracts
Subject: FW: Burnett Lime Company, Inc. - CAL ~ FLO Lime Slurry Lease System for Pembroke Pines WTP - Insurance
Attachments: 20190111 Certificate of Insurance.pdf; 20190123 Lease Agreement signed by Burnett for Pembroke Pines Lease of C....pdf

Approved

From: Rojas, Dominique
Sent: Monday, February 04, 2019 5:46 PM
To: Rotstein, Daniel <drotstein@ppines.com>
Cc: Contracts <contracts@ppines.com>
Subject: Burnett Lime Company, Inc. - CAL ~ FLO Lime Slurry Lease System for Pembroke Pines WTP - Insurance

Dear Dan,

Good afternoon. Please find attached the certificate of insurance from the vendor for the attached agreement. Please could you review these and advise accordingly?

Kindest regards,

Dominique Rojas • Contracts Specialist
Finance Department
City of Pembroke Pines
601 City Center Way, Pembroke Pines, FL 33025
Direct: 954-392-9436
Main: 954-392-9435
Email: drojas@ppines.com
www.ppines.com