

**AGREEMENT WITH PANTROPIC POWER INC.
(Repair and Maintenance of the Lime Plant Generator)**

THIS AGREEMENT ("Agreement") is made _____, 2022, between the **City of Lake Worth Beach**, Florida, a municipal corporation ("CITY"), with its office located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460, and **Pantropic Power, Inc.**, a corporation authorized to do business in the State of Florida ("CONTRACTOR") with its office located at 8205 NW 58th Street, Miami, FL 33166

RECITALS

WHEREAS, the CITY is a municipal corporation organized and existing pursuant to the Charter and the Constitution of the State of Florida; and

WHEREAS, the CITY is in need of a CONTRACTOR to perform repair and maintenance services on the water treatment lime plant generator; and

WHEREAS, CONTRACTOR has been maintaining the City's lime plant generator successfully for the past five years:

WHEREAS, CONTRACTOR submitted a proposal to continue servicing the lime plant generator as a sole source provider; and

WHEREAS, the CITY desires to accept the CONTRACTOR's proposal for the CONTRACTOR to render the services as provided herein;

WHEREAS, the CONTRACTOR further warrants that it is experienced and capable of performing the tasks hereunder in a professional and competent manner; and

WHEREAS, the CITY finds entering this Agreement with the CONTRACTOR as described herein serves a valid public purpose.

NOW THEREFORE, the CITY hereby engages the services of the CONTRACTOR, and in consideration of the mutual promises herein contained, the sufficiency of which is hereby acknowledged by both parties, the parties agree as follows:

1. TERM

1.1 The term of this Agreement shall be for three (3) years with the option to renew for two (2) additional one (1) year renewal periods upon the mutual agreement of both parties and dependent on the annual appropriation of funds by the City Commission. The renewal terms may be approved by the City Manager. Notwithstanding the foregoing, this Agreement may be earlier terminated as set forth in this Agreement.

2. SCOPE OF WORK

2.1 The scope of work under this Agreement includes all services, machinery, equipment, transportation, tools, materials, supplies, labor and other things necessary for the CONTRACTOR to repair and maintain the water treatment lime plant generator, CAT Generator 3508 Serial Number CNB01540 (hereinafter, "Generator"). The complete Scope of Work including the

maintenance of the Generator is reflected in Exhibit "A" attached hereto and incorporated herein ("Scope of Work").

2.2 The CONTRACTOR represents to the CITY that the materials and services provided under this Agreement shall be in accordance with accepted and established trade practices and procedures recognized in the CONTRACTOR's trade in general and that the CONTRACTOR's work shall conform to the highest standards and in accordance with this Agreement.

2.3 The CONTRACTOR represents that it is licensed to do business in the State of Florida and holds and will maintain all applicable licenses required for the work to be completed under this Agreement. The CONTRACTOR further warrants its capability and experience to perform the work provided for herein in a professional and competent manner.

2.4 The Scope of Work shall be performed by the CONTRACTOR or under its supervision and all personnel engaged in performing the Scope of Work shall be fully qualified and, if required, authorized or permitted under the state and local law to perform such Scope of Work. All of the CONTRACTOR's personnel (and all subcontractors), while on CITY premises, shall comply with all CITY requirements governing safety, conduct and security.

2.5 The Scope of Work shall be completed in accordance with the CITY issued Purchase Order, the terms and conditions set forth in the Scope of Work and this Agreement.

3. INDEPENDENT CONTRACTOR; USE OF AGENTS OR ASSISTANTS

3.1 The CONTRACTOR is and shall be, in the performance of the Scope of Work under this Agreement, an independent contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the Scope of Work performed pursuant to this Agreement shall at all times, and in all places, be subject to the CONTRACTOR's sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the Scope of Work.

3.2 To the extent reasonably necessary to enable the CONTRACTOR to perform the Scope of Work hereunder, the CONTRACTOR shall be authorized to engage the services of any agents or assistants which it may deem proper, and may further employ, engage, or retain the services of such other persons or corporations to aid or assist in the proper performance of its duties. All costs of the services of, or expenses incurred by, such agents or assistants shall be paid by the CONTRACTOR.

4. SERVICES

4.1 The CONTRACTOR shall provide all services as more specifically set forth in the Scope of Work and this Agreement.

5. FEE AND ORDERING MECHANISM

5.1 The CONTRACTOR shall be entitled to a monthly maintenance fee of \$2,150.00 (Premium Plus Service) for the Generator. In the event a generator is needed as a back-up, the CONTRACTOR shall be entitled to a rental fee of \$6,250.00, (excluding fuel charges). In the event the Generator is not functioning and a backup generator has been provided, subject to availability; an amount, not to exceed \$15,000.00 shall be allowed on an annual basis for miscellaneous repairs of a non- functioning Generator.

The rates set forth in this Agreement shall remain fixed for the first three (3) years of this Agreement. If due to applicable price escalations and/or reductions which impact the CONTRACTOR's rates, the CITY and CONTRACTOR may execute a written amendment to this Agreement to establish new rates for the renewal term(s). The City Manager may approve renewal terms.

5.2 Should the CITY require additional materials or services, not included in this Agreement, rates and payment for such work will be set forth in a separate amendment, as authorized in accordance with the CITY's procurement code and policy prior to any such additional services being provided by the CONTRACTOR.

5.3 The CITY's ordering mechanism for the Scope of Work (including each order of specific services) under this Agreement will be by a CITY issued Purchase Order(s); however, the terms and conditions stated in a CITY issued Purchase Order(s) shall not apply. CONTRACTOR shall not provide services under this Agreement without a CITY issued Purchase Order specifically for the stated services requested. Each Purchase Order shall be approved in accordance to the CITY's procurement code and policy. CONTRACTOR shall provide the amount of requested goods and services listed in each CITY issued Purchase Order and not exceed amounts expressed on any Purchase Order. CONTRACTOR shall be liable for any excess goods, services or costs not specifically stated in the Purchase Order(s), if ordered without the prior written authorization of the City. The City's Fiscal Year ends on September 30th of each calendar year. The CITY cannot authorize the purchase of goods or services beyond September 30th of each calendar year, prior to the annual budget being approved by the CITY's City Commission. Additionally, the CITY must have budgeted appropriate funds for the goods and services in any subsequent Fiscal Year. If the budget is approved for said goods and services, the CITY will issue a new Purchase Order(s) each Fiscal Year for required and approved goods and services.

6. MAXIMUM COSTS

6.1 The CONTRACTOR expressly acknowledges and agrees that the total cost to complete the Scope of Work in accordance with the Scope of Work provided in Exhibit "A" to this Agreement shall not exceed the amounts set forth in Section 5.1, and no additional costs shall be authorized without prior written approval from the CITY.

7. INVOICE

7.1 The CONTRACTOR shall submit an itemized invoice to the CITY for approval prior to receiving compensation. The CONTRACTOR shall be paid within thirty (30) days of receipt of an approved invoice for the provided goods and services.

7.2 If the CITY disputes any invoice or part of an invoice, CITY shall notify the CONTRACTOR within a reasonable time after receipt of the invoice. CITY reserves the right to off-set, reduce or withhold any payment to the CONTRACTOR until the dispute is resolved.

8. AUDIT BY CITY

8.1 The CONTRACTOR shall permit the CITY, or any authorized representatives of the CITY, at all reasonable times, access to and the right to examine all records, books, papers or documents related to the CONTRACTOR's performance under this Agreement including, but not limited to, expenses for sub-contractors, agents or assistants, direct and indirect charges for work

performed and detailed documentation for all such work performed or to be performed under this Agreement.

9. COPIES OF DATA/DOCUMENTS

9.1 Copies or original documents prepared by the CONTRACTOR in relation to work associated with this Agreement shall be provided to the CITY. Data collected, stored, and/or provided shall be in a form acceptable to the CITY and agreed upon by the CITY.

10. OWNERSHIP

10.1 Excepting intellectual proprietary information, each and every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the CONTRACTOR pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

11. WRITTEN AUTHORIZATION REQUIRED

11.1 The CONTRACTOR shall not make changes in the Scope of Work or perform any additional services or provide any additional material under this Agreement without first obtaining written authorization from the CITY for such additional services or materials. Additional services or materials provided without written authorization shall be done at the CONTRACTOR's sole risk and without payment from the CITY.

12. DEFAULTS, TERMINATION OF AGREEMENT

12.1 If the CONTRACTOR fails to timely perform the Scope of Work or has failed in any other respect to satisfactorily perform in accordance with this Agreement; or, is in material breach of a term or condition of this Agreement, the City Manager or designee may give written notice to the CONTRACTOR specifying defaults to be remedied. Such notice shall set forth the basis for any dissatisfaction and suggest corrective measures. If after three (3) days the CONTRACTOR has not remedied defaults or commenced good faith steps to remedy defaults to the satisfaction of the City Manager or designee, the CITY may elect to terminate this Agreement. No compensation shall be paid for de-mobilization, take-down, disengagement wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph.

12.2 Notwithstanding paragraph 12.1, the CITY reserves the right and may elect to terminate this Agreement at any time, with or without cause. At such time, the CONTRACTOR would be compensated only for that work which has been satisfactorily completed to the date of termination and any non-inventoried parts ordered prior to the termination, which non-inventoried parts shall be provided to the CITY upon payment. No compensation shall be paid for de-mobilization, take-down, disengagement wind-down, lost profits or other costs incurred due to termination of this Agreement under this paragraph.

12.3 CONTRACTOR, reserves the right and may elect to terminate this Agreement at any time, with or without cause, after giving sixty (60) days written notice.

13. INSURANCE

13.1. Prior to commencing the Scope of Work, the CONTRACTOR shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the CONTRACTOR has obtained insurance of the type, amount, and classification as required for strict compliance with this Section and that no material change or cancellation of the insurance shall be effective without thirty (30) days' prior written notice to the CITY. Failure to comply with the foregoing requirements shall not relieve the CONTRACTOR of its liability and obligations under this Contract. All insurance, other than Workers' Compensation, required hereunder shall specifically include the "City of Lake Worth Beach" as an "Additional Insured", on a primary, non-contributing basis and the CONTRACTOR shall provide additional insured endorsements section of Certificates of Insurance.

13.2. The CONTRACTOR shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of \$1,000,000 per occurrence (\$2,000,000 aggregate) to protect the CONTRACTOR from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the CONTRACTOR or by anyone directly employed by or contracting with the CONTRACTOR.

13.3. The CONTRACTOR shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damages liability to protect the CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

13.4. The CONTRACTOR shall maintain, during the life of this Contract, Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes.

14. WAIVER OF BREACH

14.1 The waiver by either party of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that same or any other provision.

15. INDEMNITY

15.1 The CONTRACTOR shall indemnify, defend and hold harmless, to the maximum extent permitted by law, the CITY and its officers, agents, employees and representatives, from and against any and all liability, suit, actions, proceedings, judgments, claims, losses, liens, damages, injuries (whether in contract or in tort, including personal injury, accidental death, patent infringement or property damage, costs and expenses (including reasonable attorney's fees, litigation, arbitration, mediation, appeal expenses) to the extent arising out of or alleged to have arisen out of the acts, omissions or neglect of the CONTRACTOR or any of its agents, employees, subcontractors or by anyone the CONTRACTOR directly or indirectly employed or utilized in the performance of this Agreement. The CONTRACTOR shall not be required to indemnify, defend or hold harmless the CITY for the CITY's own negligence.

15.2 The CONTRACTOR's obligation to indemnify, defend and hold harmless shall remain in effect and shall be binding upon the CONTRACTOR whether such injury or damage shall accrue, or may be discovered, before or after termination of this Agreement.

15.3 Compliance with any insurance requirements required elsewhere in this Agreement shall not relieve CONTRACTOR of its liability and obligation to defend, hold harmless and indemnify the CITY as set forth in this section.

15.4 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CITY or CONTRACTOR. Further, nothing contained in this Agreement shall be construed or interpreted as consent by the CITY to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in section 768.28, Florida Statutes, as amended from time to time.

15.5 The CONTRACTOR's failure to comply with this section's provisions shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

16. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

16.1 This Agreement consists of the terms and conditions provided herein; **Exhibit "A"** (Scope of Work); any CITY issued Purchase Orders; and any amendments executed by both of the parties. To the extent that there exists a conflict between this Agreement and the remaining documents, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail with any CITY issued Purchase Order(s) next taking precedence. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

16.2 This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other Agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

17. ASSIGNMENT

17.1 Nothing under this Agreement shall be construed to give any rights or benefits to any party other than the CITY and the CONTRACTOR. All duties and responsibilities under this Agreement shall be for the sole and exclusive benefit of the CITY and the CONTRACTOR and not for the benefit or any other party. The CONTRACTOR shall not assign any right or interest in this Agreement, and shall not delegate any duty owned, without the CITY's prior written consent. Any attempted assignment or delegation shall be void and totally ineffective for all purposes, and shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

17.2 In the event the CITY consents to an assignment or delegation, the assignee, delegate, or its legal representative shall agree in writing to personally assume, perform, and be bound by this Agreement's covenants, conditions, obligations and provisions.

18. SUCCESSORS AND ASSIGNS

18.1 Subject to the provision regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the respective parties.

19. WAIVER OF TRIAL BY JURY

19.1 TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

20. GOVERNING LAW AND REMEDIES

20.1 The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Florida and venue shall be in Palm Beach County, Florida.

20.2 No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

21. TIME IS OF THE ESSENCE

21.1 Time is of the essence in all respects under this Agreement.

22. NOTICES

22.1 All notices hereunder must be in writing and, unless otherwise provided herein, shall be deemed validly given on the date when personally delivered to the address indicated below; or on the third (3rd) business day following deposit, postage prepaid, using certified mail, return receipt requested, in any U.S. postal mailbox or at any U.S. Post Office; or when sent via nationally recognized overnight courier to the address indicated below. Should the CITY or the CONTRACTOR have a change of address, the other party shall immediately be notified in writing of such change, provided, however, that each address for notice must include a street address and not merely a post office box. All notices, demands or requests from the CONTRACTOR to the CITY shall be given to the CITY address as follows:

City Manager
City of Lake Worth Beach
7 North Dixie Highway
Lake Worth Beach, Florida 33460

All notices, demands or requests from the CITY to the CONTRACTOR shall be given to the CONTRACTOR address as follows:

Pantropic Power, Inc.
8205 NW 58th Street
Miami, FL 33166

23. SEVERABILITY

23.1 Should any part, term or provision of this Agreement or any document required herein to be executed be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.

24. DELAYS AND FORCES OF NATURE

24.1 The CONTRACTOR shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Upon the CONTRACTOR's request, the CITY shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the CONTRACTOR and, if the CONTRACTOR'S delay and failure to timely perform was without it or its subcontractors' fault or negligence, , the time of completion shall be extended for any reasonable time that the Parties , may decide; subject to the CITY'S rights to change, terminate, or stop any or all of the work at any time. If the CONTRACTOR is delayed at any time in the progress of the work by any act or neglect of the CITY or its employees, or by any other contractor employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONTRACTOR'S control, or by delay authorized by the CITY pending negotiation or by any cause which the Parties , shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the Parties may mutually decide. No extension of time shall be made for any delay occurring more than fifteen (15) days before a claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary. The CONTRACTOR's sole remedy for a delay in completion of the work for any reason will be an extension of time to complete the work and CONTRACTOR specifically waives any right to seek any monetary damages or losses for a delay in completion of the work, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by CONTRACTOR due to a delay in completion of the work.

25. COUNTERPARTS

25.1 This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. This Agreement may be executed electronically.

26. LIMITATIONS OF LIABILITY

26.1 Under no circumstances shall either party be liable to the other for any consequential, incidental, special, punitive, or any other form of indirect or non-compensatory damages.

26.2 Except for the CONTRACTOR's duty to indemnify, defend and hold the CITY harmless as set forth in this Agreement, the liability of CONTRACTOR with respect to claims arising out of its performance under this Agreement, whether based on contract, tort or by operation of law, shall not exceed one hundred percent (100%) of the annual price set forth in 5.1 of this Agreement.

27. PUBLIC ENTITY CRIMES

27.1 CONTRACTOR acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in

excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. CONTRACTOR will advise the CITY immediately if it becomes aware of any violation of this statute.

28. PREPARATION

28.1 This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

29. PALM BEACH COUNTY INSPECTOR GENERAL

29.1 In accordance with Palm Beach County ordinance number 2011-009, the CONTRACTOR acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONTRACTOR has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

30. ENFORCEMENT COSTS

30.1 All parties shall be responsible for their own attorneys' fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

31. PUBLIC RECORDS

31.1 CONTRACTOR shall comply with Florida's Public Records Laws, Chapter 119, Florida Statutes, and, if it is acting on behalf of the CITY as provided under section 119.011(2), the CONTRACTOR specifically agrees to:

- (a) Keep and maintain public records required by the CITY to perform the services under this Agreement.
- (b) Upon request from the CITY's custodian of public records, provide the CITY 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 this Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that said public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement, if the CONTRACTOR does not transfer the records to the CITY.
- (d) Upon the completion of the Agreement, transfer, at no cost, to the CITY all public records in possession of the CONTRACTOR or keep and maintain public records required by the CITY to perform the services. If the CONTRACTOR transfers all public records to the CITY upon completion of the Agreement, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, CITYCLERK@LAKEWORTHBEACHFL.GOV, OR BY MAIL AT CITY OF LAKE WORTH BEACH, ATTN: City Clerk, 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.

32. COPYRIGHTS AND/OR PATENT RIGHTS

32.1 CONTRACTOR warrants that there has been no violation of copyrights and/or patent rights in the manufacturing, producing or selling of the goods, shipped or ordered, as a result of this Agreement and the CONTRACTOR agrees to hold the City harmless from any and all liability, loss, or expense occasioned by any such violation.

33. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH

33.1 CONTRACTOR certifies that all material, equipment, etc., contained in this proposal meets all OSHA requirements. CONTRACTOR further certifies that, if the material, equipment, etc., delivered is subsequently found to be deficient in any OSHA requirements in effect on date of delivery, all costs necessary to bring the material, equipment, etc. into compliance with the aforementioned requirements shall be borne by the CONTRACTOR.

34. FEDERAL AND STATE TAX

34.1 The CITY is exempt from Federal Tax and State Tax for Tangible Personal Property. The Procurement Official will sign an exemption certificate submitted by the successful Proposer. Vendors or contractors doing business with the CITY shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the CITY, nor shall any Vendor/Contractor be authorized to use the CITY's tax Exemption Number in securing such materials.

35. PROTECTION OF PROPERTY

35.1 The CONTRACTOR shall at all times guard against damage or loss to the property of the CITY or of other vendors or contractors and shall be held responsible for replacing or repairing any such loss or damage. The CITY may withhold payment or make such deductions as deemed necessary to insure reimbursement or replacement for loss or damage to property through negligence of the successful CONTRACTOR or its agents. The CONTRACTOR shall be responsible to safeguard all of their property such as tools and equipment while on site. The CITY will not be held responsible for any loss of CONTRACTOR property due to theft or vandalism.

36. DAMAGE TO PERSONS OR PROPERTY

36.1 The responsibility for all damage to person or property arising out of or on account of work done under this Contract shall rest upon the CONTRACTOR, and it shall save the CITY and political unit thereof harmless from all claims made on account of such damages, excepting any damages that arose as the result of the City's negligence, which negligence—if any—shall be apportioned between the parties.

37. SAFETY: ACCIDENT PREVENTION.

37.1 In the performance of this Agreement, the CONTRACTOR shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation including without limitation Chapter 23 CFR 635. The CONTRACTOR shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the CITY, may determine to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

37.2 It is a condition of this Agreement, and shall be made a condition of each subcontract, which the CONTRACTOR enters into pursuant to this Agreement (if authorized), that the CONTRACTOR and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

37.3 Pursuant to 29 CFR 1926.3, it is a condition of this Agreement that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

38. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (Applicable to all federally funded contracts and any subcontracts of \$100,000 or more).

38.1 By execution of this Agreement, CONTRACTOR, if applicable, will be deemed to have stipulated as follows:

- (a) Any CITY facility or property that is or will be utilized in the performance of this Agreement, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
- (b) CONTRACTOR agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.
- (c) CONTRACTOR shall promptly notify the CITY of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a CITY facility or property that is or will be utilized for the Agreement is under consideration to be listed on the EPA List of Violating Facilities.

39. SCRUTINIZED COMPANIES

39.1 CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

39.2 If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

39.3 The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

39.4 The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the CITY for the term of this Agreement, including any and all renewals.

39.5 The CONTRACTOR agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the CONTRACTOR shall immediately notify the CITY of the same.

39.6 As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

40. E-VERIFY

Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the CONTRACTOR shall:

40.1. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;

40.2. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

40.3. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;

40.4. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;

40.5. Be aware that a violation of section 448.09, Florida Statutes (Unauthorized Aliens; Employment Prohibited), shall be grounds for termination of this Agreement; and,

40.6. Be aware that if the CITY terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the CONTRACTOR may not be awarded a contract for at least one (1) year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the CITY as a result of the termination of the Agreement.

41. SURVIVABILITY

41.1 Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

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SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement with Pantropic Power, Inc. for Repair and Maintenance of the Lime Plant Generator on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Betty Resch, Mayor

ATTEST:

By: _____
Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL SUFFICIENCY:

By: _____
Glen J. Torcivia, City Attorney

By: _____
Bruce T. Miller, Financial Services Director



CONTRACTOR:

Pantropic Power, Inc

By: Ettore J. DeTorres

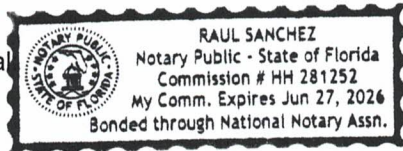
Print Name: Ettore J. DeTorres

Title: Vice President

STATE OF FLORIDA)
COUNTY OF MIAMI DADE)

THE FOREGOING instrument was acknowledged before me by means of physical presence or online notarization on this 21 day of SEPTEMBER 2022, by ETTORE DETORRES, as the VICE PRESIDENT [title] of Florida **Pantropic Power, Inc.** a corporation authorized to do business in the State of Florida, who is personally known to me or who has produced _____ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

Notary Seal



Notary Public Signature

Exhibit A

SCOPE OF WORK

The Contractor shall provide routine maintenance, service, repairs and emergency repairs and services on City of Lake Worth Beach's existing emergency generator equipment at the water treatment lime plant.

Under the scope of services outlined in this Agreement, the Contractor shall bear one-hundred percent (100%) financial responsibility for all maintenance, repair and/or replacement costs for said equipment. All services shall be provided in accordance with the requirements specified in the following sections of this Scope of Work and must meet or exceed the service levels described in these sections.

3.1 General Maintenance Services

3.1.2 Quarterly Maintenance and Inspections

The Contractor shall provide Quarterly inspections and preventive maintenance services of all equipment at all locations. Testing and adjusting of the equipment will be performed on-site. On a quarterly basis, the Contractor shall perform the following services on all equipment, systems or components:

3.1.2.1 Lubricating System

- a. check lube oil level and add oil as necessary;
- b. inspect for oil leaks. Check and re-torque connections to manufacturer's specifications;
- c. check governor oil level and add oil as necessary (where applicable);
- d. check condition of lube oil hoses and connections;
- e. check oil base heater and adjust if necessary;
- f. check injection pump oil level and add oil if necessary (where applicable);
- g. check engine breather. Clean and remove any oil residue, dust, dirt, or other restriction;
- h. start engine, check oil pressure and adjust if necessary to manufacturer's specifications;
- i. check engine oil stick for water or residue;
- j. check turbo-charger for oil leaks (where applicable);
- k. check front and rear crank shaft seals for oil leaks;

- l. check equipment hour meter for hours of operation. Refer to manufacturer's operation and service manual. If hours of operation are near or exceed manufacturer's stipulated time for oil service, change oil and filter with manufacturer's approved oil and filter. Start engine and check for oil leaks at the filter. Check oil stick for proper oil level;
- m. obtain lube oil sample for analysis; and
- n. have analysis run by a certified laboratory and a written report submitted to the respective Contract Manager.

3.1.2.2 Fuel System

- a. inspect fuel lines, hoses, connections, clamps, injectors/carburetors, injector pumps, and priming pump, etc. for leaks. Correct as needed;
- b. check operation of day tank (where applicable);
- c. drain water from fuel traps (where applicable);
- d. drain water from day strainer (where applicable);
- e. clean sediment bowl (where applicable);
- f. check for water in fuel;
- g. inspect fuel filter. Change filter as necessary; and
- li. check fuel pressure. Insure compliance with manufacturer's specifications.

3.1.2.3 Cooling System

- a. check for leaks;
 - b. check coolant level. Add if necessary;
- c. check coolant PH and add long-life anti-freeze, as necessary;
- d. check all belts for cracks or wear. Replace as necessary;
- e. check all belts for proper tension. Adjust as necessary;
- f. check condition of water hoses and clamps;
- g. check for leakage. Repair leaks;
- h. check water, filter, and replace water filter elements annually or as needed, whichever is sooner;
- i. pressure test radiator and cap;
- j. check water pump for leaks and bearing noise;

k. verify the temperature gauge is reading the correct temperature using infrared device;

1. check operation of engine heater and switch;

m. check fan & radiator for physical damage, obstruction & leaks; and n, drain and replace anti-freeze, when required.

3.1.2.4 Air Systems

a. check air cleaner (dry type);

b. check turbocharger clearance (where applicable);

c. check and service oil bath air cleaner as needed (where applicable); and

d. check air hoses and connections (where applicable).

3.1.2.5 Electrical System

a. check battery fluid. Correct if necessary;

b. check battery specific gravity. Correct if necessary;

c. check battery trickle charger. Record rate;

d. check battery connections. Clean & tighten if necessary;

e. lubricate generator, starter/cranking;

f. check air compressor, if not electric start; and

g. check for loose load line connections and emergency supply line connections.

3.1.2.6 Exhaust System

a. inspect the entire exhaust system;

b. check rain cap for leaks; and

c. inspect the manifold connection for leaks. Re-torque as necessary.

3.1.2.7 Engine Safety Controls

a. check operations of all safety controls and emergency stops.

3.1.2.8 Engine Test - No Load

a. start engine and check operation. Adjust RPM if necessary; and

b. observe oil pressure and record.

3.1.2.9 Engine Test – With Load

- a. test run the generator with the connected load energized for at least one(1) hour; if customer approves it.
- b. observe and record volts, amps, cycles, engine water temperature, lube oil temperature, engine lube oil pressure, and battery charge rate; and
- c. shut down engine and return to normal automatic condition unless otherwise noted.

3.1.2.10 Ignition System

- a. inspect all wires;
- b. check ammeter for discharging while cranking; and
- c. check ammeter for full charge at start-up.

3.1.2.11 Generator Sets

- a. check slip rings;
- b. check Commutator;
- c. check brushes to assure they are free;
- d. inspect generator wiring for fraying;
- e. check and record each phase volts, amps, and frequency. Check operation of transfer switch;
- f. check automatic start-up;
- g. check generator grounding;
- h. adjust voltage regulator;
- i. check generator windings and armature for cleanliness;
- j. check excitor belts for fraying or cracking;
- k. check excitor and regulator for cleanliness;
- l. check generator-mounting bolts for tightness. Re-torque as required;
- in. lubricate generator bearings, drive and joints;
- n. inspect for potential hazards resulting from vibration and/or pressure;
- o. check for alternator vibration;

p. inspect and torque (if necessary) all main supply, emergency supply and load line connections; and

q. verify phase relay drop out and pickup points, adjust, if necessary.

3.1.2.12 Transfer Switch

a. check all wiring;

b. inspect to assure all supply and load lines are tight;

c. check for proper mechanical operation of the transfer mechanism;

d. note settings on timers and assure they are proper for the application;

e. verify phase relays drop out and pick up points, traditionally drop out at 70% and pick up at 90% of rated voltage. Adjust if necessary;

f. attach calibration tag with date and calibration of relays noted; and

g. advise the Contract Manager as to any options he might want to add or change.

3.1.2.13 Engine

a. test rim engine under actual connected load for at least one(1)hour;

b. check for engine noises;

c. check carburetor/injectors for proper adjustments. Correct as necessary;

d. check choke adjustment (where applicable);

e. check engine for excessive smoke;

f. check for air in the induction system;

g. check cylinder head and head gasket;

h. check for excessive blow by;

i. check turbocharger for noise;

j. check prelube pump for proper operation;

k. check engine high idle speed and correct if necessary;

l. check engine low idle speed and correct if necessary;

m. check emergency shutoff for proper operation;

n. check engine for proper operation at rated speed;

o. inspect engine mounting bolts. If bolts are loose, tighten. If bolts are broken, replace;
and

p. check engine-wiring harness for breaks or wear. If wiring harness is broken, repair. If wiring harness is worn, repair and reroute to prevent wear.

3.1.2.14 Testing

- a. while the engine is running under actual connected load, adjust voltage and frequency;
- b. adjust clock exerciser as necessary;
- c. test delay start;
- d. test delay pick-up;
- e. test delay retransfer;
- f. test delay cool down;
- g. test delay transition;
- h. test delay preheat;
- i. calibrate under voltage sensors;
- j. calibrate over voltage sensor;
- k. calibrate generator sensors;
- l. record load per leg;
- m. record voltage per leg;
- n. record frequency;
- o. record oil pressure;
- p. record water temperature;
- q. check battery charging system; and
- r. clean up work area.

3.1.3 Annual Maintenance and Inspections

The Contractor shall provide the following services annually, during the last quarterly maintenance and inspection. This annual inspection shall include all of the requirements of the monthly inspections along with the following additional services.

3.1.3.1. Lubricating System

- a. change engine oil;
- b. change governor oil (where applicable);
- c. change injection pump oil (where applicable);
- d. change oil filter and gaskets;
- e. change oil in crankcase breather (where applicable); and
- f. take oil sample, send to laboratory for analysis. Provide a copy of the report to PTS Data Center Solutions, Inc.

3.1.3.2 Fuel System

- a. lubricate the day tank float switch and manual pump (where applicable);
- b. replace fuel filters;
- c. lubricate carburetor and linkage (where applicable); and
- d. lubricate governor linkage and service air filters.

3.1.3.4 Battery

- a. check specific gravity and load test.

3.1.3.5 Exhaust System

- a. drain condensation where possible; and
- b. check and lubricate heat riser plate.

3.1.3.6 Ignition System

- a. replace plugs (where applicable);
- b. replace points (where applicable);
- c. replace condenser (where applicable);
- d. replace rotor (where applicable);
- e. inspect cap, replace as necessary (where applicable);
- f. lube point cam (where applicable);
- g. lube advance wick (where applicable);
- h. lube upper and lower bearing;
- i. set timing;

- j. inspect and lube mechanical advance (where applicable); and
- k. inspect wires

3.1.3.7 Generator

- a. clean rings and commutator;
- b. lubricate over speed switch;
- c. check diode heat sinks; and
- d. inspect rear bearing.
- e. Megohm test of generator end-Will be done during one of the quarterly visits.

3.1.3.8. Engine running

- a. test Low Oil Pressure safety switch – Record seconds to shutdown;
- b. test High Engine Temperature safety switch – Record seconds to shutdown;
- c. test Over speed safety switch – Record seconds to shutdown;
- d. check prealarms (where applicable);
- e. check overcrank system – Record seconds to shutdown; and
- f. check cycle crankier time – Record seconds of cranking; seconds of rest

3.1.3.9. Accessories

- a. lubricate all hinges, door locks, and snap covers, etc.

3.1.3.10. Load bank Test- Test to be done during a quarterly visit

- a. a two (2) hour resistive Load bank test at full rated KVA of the unit;
- b. a record of all operating systems of the alternator and the engine during the load bank test; and
- c. provide a complete written report of the Load bank test to the respective Contract Manager and City of Lake Worth Beach for each Generator Set

3.1.5 The Contractor shall be responsible for removal of all oil and filters and shall comply with all Federal, State, and local regulations for disposal of hazardous materials.

3.1.6 A weekly inspection will be performed by City of Lake Worth Beach personnel. This inspection will be to check oil, coolant, fuel, batteries, gauges, belts, oil pressure, engine

temperature etc. Liquids will be topped off with Contractor provided supplies. All major problems will be promptly reported to the Contractor.

3.2 Repair and Response Time

3.2.1 Repair of all specified equipment, generator package additional equipment, and any replacement equipment, is the responsibility of the Contractor.

3.2.2 Response time for emergency repairs shall be within four (4) hours from time of notification to the contractor by City of Lake Worth .

3.2.2 Response time for non-emergency repairs shall be within twenty-four (24) hours from time of notification to the Contractor by City of Lake Worth Beach

3.2.3 If an emergency repair cannot be completed within eight (48) hours of response by the Contractor, a portable unit shall be delivered at no additional cost and Customer will be responsible for electrical connections of equipment, should customer elect the rental option or the PREMIUM COMPLETE PROGRAM. All temporary, portable units shall be fully operational and of equitable service capability. All temporary portable units shall be provided to City of Lake worth up until the equipment is repaired and returned to service. If it is determined that repair of customer's unit will not be possible, a portable unit will be dispatched immediately. The PREMIUM PLUS program will only guarantee availability of a temporary generator within six hours for any repairs that would take more than the (48) hours as noted above. Fueling for the rental will be included in the cost of the rental.