

Website: _____ FEIN: _____

VENDOR AWARD

Vendor Name: _____
Vendor Address: _____
Contact: _____
Phone: _____ Fax: _____
Cell/Pager: _____ Email Address: _____
Website: _____ FEIN: _____

VENDOR AWARD

Vendor Name: _____
Vendor Address: _____
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VENDOR AWARD

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Vendor Address: _____
Contact: _____
Phone: _____ Fax: _____
Cell/Pager: _____ Email Address: _____
Website: _____ FEIN: _____

SECTION #2

AWARD/BACKGROUND INFORMATION

Award Date: _____ Resolution/Agenda Item No.: _____
Insurance Required: Yes _____ No _____
Performance Bond Required: Yes _____ No _____

SECTION #3

LEAD AGENCY

Agency Name: _____
Agency Address: _____
Agency Contact: _____ Email _____
Telephone: _____ Fax: _____

City of Tamarac
Interoffice Memorandum
Financial Services Department
PURCHASING DIVISION

To: Levent Sucuoglu, City Manager

From: Keith K. Glatz, Purchasing & Contracts Manager

Thru: Christine J. Cajuste, Director of Financial Services

Date: September 25, 2023

Re: Temp Reso #14019 – Award of Agreement – Bid #23-36B, “Furnish, Deliver and Discharge of Quicklime”

Recommendation:

The Director of Public Services and Purchasing and Contracts Manager recommend placement of the above referenced item on the consent agenda of the October 11, 2023 Commission meeting, authorizing the award of an Agreement for an initial three (3) year term effective November 1, 2023 through October 31, 2026, with one (1) additional three (3) year renewal option for Quicklime purchased from Lhoist North America of Alabama, LLC, (Lhoist) for the City of Tamarac, and twenty-three (23) additional member agencies of the Southeast Florida Governmental Purchasing Cooperative (Co-op); and Carmeuse Lime and Stone Inc. for high calcium granular quicklime on behalf of one entity in the Co-op.

Issue:

The existing agreement with Lhoist for the City and the SE Florida Governmental Purchasing Co-op; as well as an existing agreement with Carmeuse Lime and Stone is set to expire on October 31, 2023. New bid #23-36B was recently solicited, and an award needs to be approved so that the City will have a vendor to furnish, deliver and discharge quicklime at the City's Water Treatment Plant.

Background:

The City utilizes quicklime in the Public Services Water Treatment Plant. The current agreement with Lhoist will expire on October 31, 2023, and due to some requested industry-wide market structural changes, we were unable to exercise any of the original contract renewal options. The current Agreement has been based on various federal and industry indices, providing for quarterly price adjustments. As a result of significant supply chain issues which occurred during the pandemic and since that time, the indices were not able to compensate for radical changes that were occurring in the industry, as well in the transportation industry as a result of volatility particularly in cost of fuel. After much discussion with firms in the industry, it was determined that the use of a fixed annual price could be more easily accommodated by industry based on our discussions with the primary vendors who normally bid on this Agreement.

Accordingly, the City issued Bid number 23-36B “Furnish, Deliver and Discharge of Quicklime” on August 16, 2023, which was advertised in the South Florida Sun Sentinel on August 19, 2023, and was posted on the City's e-procurement platform as well as on DemandStar.com. There were three (3) planholders that downloaded the bid, however, only two bids were submitted from Lhoist and Carmeuse Lime and Stone. The bid response submitted by Lhoist provided the lowest pricing for all but one item on the bid. As a result, it is being recommended that the bid from Lhoist be awarded, and an Agreement executed on behalf of the City of Tamarac and on behalf of an additional twenty-three (23) participating governmental agencies Co-op.

The bid response from Carmeuse Lime and Stone Inc. provided the lowest pricing for high calcium granular lime used by the City of Hollywood Wastewater treatment plant. The cost savings for the City of Hollywood by awarding one item to Carmeuse Lime and Stone will be approximately \$8,310,736.50 for

the full three (3) year period, justifying the split award. The bid response from Lhoist provided the lowest pricing for the City of Tamarac and the other twenty-three agencies in the SE Florida Governmental Purchasing Co-op, for an estimated three (3) year total Co-op cost of \$91,613,247.97.

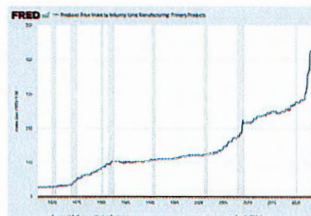
The initial term of the Agreement will be for three (3) years, beginning on November 1, 2023, with one (1) additional three (3) year renewal options that may be exercised based on satisfactory performance in accordance with an economic adjustment provision provided as a part of the Agreement.

The pricing bid by both Lhoist and Carmeuse Lime and Stone reflects an approximate increase of 12.5% for Lhoist and by a similar amount for Carmeuse for granular lime which is used only by the City of Hollywood Wastewater Treatment Plant. We had originally anticipated an increase of 25% from the current Agreement, so we were pleased to see only a 12.5% increase. The Agreements also provide for quarterly adjustments for fuel surcharges for trucking, which will be based on a surcharge chart that the City has utilized for several years, and for rail fuel surcharges that will be provided through documentation to be provided each quarter by the railroad line transporting the lime from kilns in Alabama to South Florida.

Please note below, however, that our bid price for the upcoming year is still lower than similar entities around the State which have recently opened bids. The Chart below shows pricing for other local entities for bids which have recently opened:

Current Delivered Per Ton Pricing For Surrounding Entities For Recently Opened Bids:

City of Lakeland Utilities		\$460.00
Florida Keys Utilities		\$494.13
City of Ormand Beach		\$603.82
City of Tamarac – SE FL Co-op	(as of July 1, 2023)	\$388.65
City of Tamarac – SE FL Co-op	(effective Nov. 1, 2023)	\$446.95



Overall, the PPI for lime shows a 35% increase from November 2020 to August 2023 when we issued our bid. (See graph above). The index value for November 2020, when we awarded the last Agreement, was 277.50 for material without freight. The August 2023 index value was at 430.77 for material without freight. The fairly steep incline is very evident in the PPI graph for lime shown above. The rapid escalation is due to increased costs for coal used to fuel the kilns that cure the lime; as well as quickly escalating demand for quicklime by the steel industry which is adding significant new capacity for the first time in many years.

Accordingly, it is recommended that an award be made, and agreements executed with Lhoist for the City of Tamarac, and on behalf of twenty-three (23) additional entities in the Southeast Florida Governmental Purchasing Co-op; and with Carmeuse Lime & Stone, Inc., for high calcium granular quicklime for the City of Hollywood for a period of three (3) years, and that the City Manager be authorized to approve any renewal option.

Fiscal Impact:

Based on our estimated use of approximately 1500 tons of quicklime annually, the City will be able to account for projected budget costs for the next three (3) years. The annual estimated cost to the City of Tamarac for each of the three (3) years will be as follows for a total three (3) year cost of \$2,224,375 :

FY 24: \$670,525.00
FY 25: \$737,475.00
FY 26: \$816,375.00

The percentage increase between FY 24 and FY 25 will be approximately 10%, and the percentage increase between FY 25 and FY 26 will also be approximately 10%, which provides for budget predictability for each of the three years. The Agreement provides for an economic adjustment provision for the renewal term, which only allows for the pass-through of costs, and no increase to the profit margin.

It should be noted, however, that any unanticipated change in fuel, raw material market prices or water usage patterns may significantly impact our cost and quantity assumptions.

cc: John Doherty
Troy Gies
Earl Henry
Anthony Licata

CITY OF TAMARAC, FLORIDA

RESOLUTION NO. R-2023-122

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA, AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO AWARD BID #23-36, "FURNISH, DELIVER AND DISCHARGE OF QUICKLIME" TO, AND EXECUTE AGREEMENTS WITH, LHOIST NORTH AMERICA OF ALABAMA, LLC FOR THE CITY OF TAMARAC AND AN ADDITIONAL TWENTY-THREE MEMBERS OF THE SOUTHEAST FLORIDA GOVERNMENTAL PURCHASING COOPERATIVE (CO-OP); AND WITH CARMEUSE LIME AND STONE ON BEHALF OF ONE CO-OP MEMBER, THE CITY OF HOLLYWOOD, FOR A PERIOD OF THREE (3) YEARS WITH ONE ADDITIONAL THREE-YEAR RENEWAL OPTION, PROVIDING FOR THE EXTENSION AND RENEWAL OF THE AGREEMENTS OR APPROVAL OF ASSIGNMENTS AND OTHER AMENDMENTS TO THE AGREEMENTS IN ACCORDANCE WITH THE PROVISIONS OF THE AWARDED AGREEMENTS, AND EXPENDITURE OF APPROPRIATED FUNDS BY THE CITY MANAGER OR APPROPRIATE CITY OFFICIALS FOR A TOTAL CONTRACT COST TO THE CITY OF TAMARAC OF APPROXIMATELY \$2,224,375 FOR THE THREE (3) YEAR TERM OF THE AGREEMENT OR AS DETERMINED BY THE ACTUAL USAGE OF THE PRODUCT UP TO THE BUDGETED AMOUNT, PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly

I HEREBY CERTIFY THAT THIS DOCUMENT IS A TRUE

AND CORRECT COPY OF

R-2023-122,
Agmt. Lhoist North America of Alabama, LLC

THE ORIGINAL OF WHICH IS ON FILE IN CITY HALL

WITNESS MY HAND AND OFFICIAL SEAL

OF THE CITY OF TAMARAC, FLORIDA.

THIS

16th

DAY OF

October

20

23

CITY CLERK



three (23) other members of the Co-op, with a copy of the bid submitted on file with the City Clerk; and

WHEREAS, Carmeuse Lime and Stone was deemed the lowest responsive and responsible bidder for high calcium granular quicklime for the City of Hollywood, a member of the Co-op, with a copy of the bid submitted on file with the City Clerk; and

WHEREAS, the City of Tamarac, acting as lead agency for the Co-op acts on behalf of the Co-op when awarding contracts for quicklime; and

WHEREAS, sufficient funds are available from the Public Services Department Operating funds; and

WHEREAS, it is the recommendation of the Director of Public Services and the Purchasing and Contracts Manager that Bid 23-36B be awarded to and an agreement executed with Lhoist North America of Alabama, LLC for furnishing, delivering and discharging quicklime, for a period of three years with one additional three (3) year renewal option on behalf of the City of Tamarac for a total contract cost to the City of Tamarac of approximately \$2,224,375 for the three (3) year term of the Agreement or as determined by the actual usage of the product up to the budgeted amount, and on behalf of twenty-three (23) other agencies in the Co-op based on pricing provided in the Agreement; and

WHEREAS, it is the recommendation of the Director of Public Services and the Purchasing and Contracts Manager that Bid 23-36B be awarded to and an agreement executed with Carmeuse Lime and Stone for furnishing, delivering and discharging high calcium granular quicklime, for a period of three (3) years

findings of the City Commission and made a specific part of this Resolution; all exhibits referenced and attached hereto are incorporated herein and made a specific part of this Resolution.

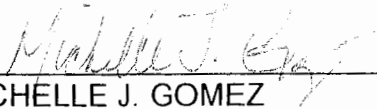
SECTION 2: The award of Bid 23-36B, "Furnish, Deliver and Discharge of Quicklime", to Lhoist North America of Alabama, LLC, on behalf of the City of Tamarac for a total contract cost to the City of Tamarac of approximately \$2,224,375 for the three (3) year term of the Agreement or as determined by the actual usage of the product up to the budgeted amount, and on behalf of twenty-three (23) other agencies in the Co-op based on pricing provided in the Agreement, is HEREBY AUTHORIZED.

SECTION 3: The appropriate City officials are hereby authorized to execute an agreement with Lhoist North America of Alabama, LLC as part of said award, a copy of which is attached hereto as Exhibit "2" for prices as shown in Exhibit "1" on behalf of the City of Tamarac and twenty-three (23) other agencies within the Co-op.

SECTION 4: The award of Bid 23-36B, "Furnish, Deliver and Discharge of Quicklime", to Carmeuse Lime and Stone, for the provision of high calcium granular lime for the City of Hollywood, an agency in the Co-op, is HEREBY AUTHORIZED.

SECTION 5: The appropriate City officials are hereby authorized to execute an agreement with Carmeuse Lime and Stone as part of said award for high calcium quicklime, a copy of which is attached hereto as Exhibit "3" for

PASSED, ADOPTED AND APPROVED this 11th day of October 2023.


MICHELLE J. GOMEZ
MAYOR

ATTEST:


KIMBERLY DILLON, CMC
CITY CLERK

RECORD OF COMMISSION VOTE:
MAYOR GOMEZ Yes
DIST 1: VICE MAYOR BOLTON Yes
DIST 2: COMM. WRIGHT Yes
DIST 3: COMM. VILLALOBOS Yes
DIST 4: COMM. DANIEL Yes

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND
RELIANCE OF THE CITY OF TAMARAC ONLY.


HANS OTTINOT
CITY ATTORNEY

EXHIBIT A: UNIT PRICING PROVIDED IN BID AS OF SEPTEMBER 12, 2023 FOR AWARDED AGENCIES					
VENDOR	AGENCY	ANNUAL USAGE	DELIVERED PRICE PER TON YEAR 1	DELIVERED PRICE PER TON YEAR 2	DELIVERED PRICE PER TON YEAR 3
TABLE 1 -- Type 1 – Pebble Lime					
Lhoist	City of Boynton Beach	1685	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	Broward County Dist. 1	2100	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	Broward County Dist. 2	4000	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	City of Coral Springs (1)	1550	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	Town of Davie	750	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	City of Dania Beach	350	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	City of Deerfield Beach	1352	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	City of Fort Lauderdale (2)	14000	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	City of Hallandale Beach (3)	1000	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	City of Lake Worth Beach	525	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	City of Lauderhill	1825	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	City of North Lauderdale	670	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	City of North Miami	1150	\$ 448.38	\$ 493.22	\$ 542.54
Lhoist	Village of Palm Springs	600	\$ 451.23	\$ 496.36	\$ 545.99
Lhoist	Village of Palm Springs	600	\$ 451.23	\$ 496.36	\$ 545.99
Lhoist	City of Pompano Beach	2200	\$ 446.95	\$ 491.65	\$ 540.00
Lhoist	City of Riviera Beach	1200	\$ 451.23	\$ 496.36	\$ 545.99
Lhoist	City of Sunrise	2500	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	City of Sunrise	500	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	Village of Wellington	1330	\$ 449.79	\$ 494.77	\$ 544.25

TABLE 2 -- TYPE 1A – Foundry/ Rice Lime					
Lhoist	City of Delray Beach	3650	\$ 446.95	\$ 491.65	\$ 540.81

Lhoist	City of Hollywood	2400	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	City of Margate	2000	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	City of North Miami Beach	3000	\$ 448.38	\$ 493.22	\$ 542.54
Lhoist	City of Pembroke Pines	4200	\$ 446.95	\$ 491.65	\$ 540.81
Lhoist	City of Tamarac	1500	\$ 446.95	\$ 491.65	\$ 544.25
Lhoist	City of West Palm Beach	5200	\$ 449.79	\$ 494.77	\$ 544.25

TABLE 3 -- TYPE 2 -- Hi CAL Granular					
Lhoist	City of Hollywood	5550	\$ 540.55	\$ 594.61	\$ 654.07
Carmeuse Lime & Stone	City of Hollywood	5550	\$ 475.00	\$ 498.75	\$ 523.68

Carmeuse Lime & Stone declined to bid on any items other than Table 3 - Type 2 - Hi Cal Granular

AGREEMENT

BETWEEN THE CITY OF TAMARAC

AND

LHOIST NORTH AMERICA OF ALABAMA, LLC.

THIS AGREEMENT is made and entered into this 11th day of OCTOBER, 2023 by and between the City of Tamarac, a municipal corporation with principal offices located at 7525 N.W. 88th Ave., Tamarac, FL 33321 (the "CITY") and Lhoist North America of Alabama, LLC., an Alabama corporation with principal offices located at 5600 Clearfork Main Street, Suite 300, Fort Worth, Texas 76109 (the "Contractor") to provide for Furnishing, Delivery and Discharge of Quicklime.

Now therefore, in consideration of the mutual covenants hereinafter set forth, the City and Contractor agree as follows:

1. The Contract Documents

The contract documents consist of this Agreement, Bid Document No. 23-36B, "Furnish, Deliver and Discharge Quicklime", including all conditions therein, (General Terms and Conditions, Special Conditions and/or Special Provisions), drawings, Technical Specifications, all addenda, the Contractor's bid/proposal included herein, and all modifications issued after execution of this Agreement; and Contract Exhibit A, which is a schedule of delivered pricing for individual delivery locations. These contract documents form the Agreement, and all are as fully a part of the Agreement as if attached to this Agreement or repeated therein. In the event that there is a conflict between Bid Document No. 23-36B, "Furnish Deliver and Discharge Quicklime", as issued by the City, and the Contractor's Proposal, Bid Document No. 23-36B, as issued by the City shall take precedence over the Contractor's Proposal. Furthermore, in the event of a conflict between this document and any other contract documents, this Agreement shall prevail.

2. The Work

2.1. The Contractor shall perform all work for the City required by the contract documents as set forth below:

2.1.1 Contractor shall furnish all labor, materials, and equipment necessary to Furnish, Deliver and Discharge Quicklime in accordance with the Technical Specifications, terms and conditions contained in Bid Document 23-36B, "Furnish, Deliver and Discharge Quicklime".

2.1.2 Contractor shall supervise the work force to ensure that all workers conduct themselves and perform their work in a safe and professional manner. Contractor shall comply with all OSHA safety rules and regulations in the operation of equipment and in the performance of the work. Contractor shall at all times have a competent field supervisor on the job site to enforce these policies and procedures at the Contractor's expense.

2.1.3 Contractor shall comply with any and all Federal, State, and local laws and

regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to the Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

- 2.1.4 Contractor shall be required to complete and provide the "Contractor Pass Request Form" (See attached Appendix A to Bid Document No. 23-36B), with photo identification of all personnel authorized to be on premises at City delivery sites. This form will be sent to the awarded vendor(s) with the notification of award letter.
- 2.1.5 Personnel additions and/or deletions shall be reported to the City's designated representative in writing, via fax to a number to be provided by the using agency, within twenty four (24) hours of the personnel change, by modification of the names submitted on the original Contractor Pass Request Form.
- 2.1.6 All personnel shall check-in with the Security Guard or Operator on duty immediately upon arrival at any delivery location. Photo identification, purpose of visit, and name of City staff contact, shall be required for entry.
- 2.1.7 Contractor shall ensure that only authorized Contractor employees and/or authorized City personnel shall have access to Contractor/City vehicles, work site, equipment, work products, reports, electronic data and any/all other information pertaining to the City. Contractor shall not admit any unauthorized personnel onto any work site. Contractor will not release, discuss or share any information on systems, equipment and/or operations, to any non-City personnel.
- 2.1.8 Upon leaving premises, all personnel shall be required to check out with the Security Guard or Operator on duty.

3. Insurance

- 3.1. Contractor shall obtain at Contractor's expense all necessary insurance in such form and amount as specified in the original bid document or as required by the City's Risk and Safety Manager before beginning work under this Agreement including, but not limited to, Workers' Compensation, Commercial General Liability, Builder's Risk and all other insurance as required by the City, including Professional Liability when appropriate. Contractor shall maintain such insurance in full force and effect during the life of this Agreement. Contractor shall provide to the City's Risk and Safety Manager certificates of all insurances required under this section prior to beginning any work under this Agreement. The Contractor will ensure that all subcontractors comply with the above guidelines and will retain all necessary insurance in force throughout the term of this agreement.
- 3.2. Contractor shall indemnify and hold the City harmless for any damages resulting from failure of the Contractor to take out and maintain such insurance. Contractor's Liability Insurance policies shall be endorsed to add the City as an additional insured and shall list the City as the Certificate Holder. Contractor shall be responsible for payment of all deductibles and self-insurance retentions on Contractor's Liability Insurance policies. Insurance limits are outlined below:

- General Liability - \$1M per occ. / \$2M aggregate
- Automobile – \$1M per occ. / \$1M aggregate
- Workers Comp – Statutory

3.3 Contractor shall at a minimum, provide the level of coverage provided for in Section 3.2 of this Agreement to any other organization in the Southeast Florida Governmental Purchasing Cooperative, and shall provide those agencies with their own Certificate of Insurance to validate coverage for their entity.

4. Term

The contract term shall be for an initial period of three (3) years, beginning November 1, 2023. The City reserves the right to renew the contract for one additional three (3) year period or up to three (3) additional (1) year periods, whichever is in the best interest of the City and the Southeast Florida Governmental Purchasing Cooperative providing all parties agree to the extension and renewal terms. In the event that the agreement is set to expire, and no replacement agreement is in place, the Agreement shall continue on a month-to-month basis until a new Agreement is in place for a period of not to exceed six (6) months from the original date of scheduled expiration.

5. Contract Sum

The Contract Sum for the above work for entities listed in Contract Exhibit A (UNIT PRICING PROVIDED IN BID) shall be based on delivered cost per ton, F.O.B. Destination. The Contract sum includes all labor, materials and freight charges for the job also known as Bid No. 23-36B, "Furnish, Deliver, and Discharge Quicklime" for the Southeast Florida Government Purchasing Cooperative entities listed in Contract Exhibit A. All Terms and Conditions, except product price, freight, transfer, and rail and truck fuel surcharges shall remain firm through the term of the contract, Pricing shown in Contract Exhibit A for the initial year of the Agreement shall be firm for the period from November 1, 2023 through October 31, 2024; Pricing shown in Contract Exhibit A for the second year of the Agreement shall be firm for the period from November 1, 2024 through October 31, 2025 and Pricing shown in Contract Exhibit A for the third year of the Agreement shall be firm from November 1, 2025 through October 31, 2026.

5.1 Contract Pricing shall be based on delivered cost per ton. The Contract sum includes all labor, materials and freight charges pricing shall be firm for the as indicated in Exhibit A for each year of the contract for the periods from November 1, 2023 through October 31, 2024; November 1, 2024 through October 31, 2025 and November 1, 2025 through October 31, 2026.

5.2 In consideration of fluctuations in fuel prices, the City will allow rail and trucking fuel surcharges during the term of the contract. Such surcharges shall be updated quarterly with notice being provided to the City as detailed in Section 5.2.3 herein.

5.2.1 Rail Surcharge – The rail fuel surcharge rate will be based on actual contracts, invoices or published rates of the contractor's rail carrier. Contractor shall provide documentation regarding the rail carrier's pricing as a part of the request for an adjustment to the rail surcharge. No surcharge will be applied on top of another one. The Bidder should provide a rail fuel surcharge schedule as part of their bid submittal in the area provided in Appendix B herein.

5.2.2 Trucking Surcharge - The truck fuel surcharge rate will be based on the Trucking Fuel Surcharge Scale contained in Appendix B herein, which shall be determined by referencing the Retail On-Highway Diesel Price – U.S. Average, as published by the U.S. Department of Energy, Energy Information Administration (DOE) for the third Monday of the final month of each quarter. The truck fuel surcharge will be applied to the base contract price per ton of quicklime transported effective with the start of the next quarter. No surcharge will be applied on top of another one. The bidder shall utilize the trucking fuel surcharge scale included in Appendix B as a basis for adjustment, and surcharge adjustments will be based on that scale. The DOE Retail On-Highway Diesel Price – US Average index may be found at: http://tonto.eia.doe.gov/oog/info/wohdp/diesel_detail_report_combined.asp.

5.2.3 The City acknowledges that Contractor's rail and truck carriers adjust fuel surcharges monthly. The Contractor will apply fuel surcharges for each quarter based on the amount of the rail and truck fuel surcharges in effect for the month preceding the quarterly price change as calculated in accordance with Section 5.2 of this Agreement, utilizing Appendix B to the original bid #23-36B. At the end of each quarter, the Contractor will process a "true up" by comparing the actual monthly rail and truck fuel surcharges for the quarter to the rail and truck fuel surcharges implemented at the time of the quarterly price change. Based on this comparison, the Contractor will issue the City a credit or debit that represents the variance.

5.2.4 Cost adjustments, in all cases, shall reflect only a direct pass-through of costs, and no changes to the Contractor's profit margin shall be permitted. The City and the Contractor may also utilize recognized government/industry indices or combination of indices to be mutually agreed upon by the City and Contractor, when determining price increases.

5.3 Adjustment of Price for the Effects of Government Action: Notwithstanding anything else contained herein to the contrary, the price shall be adjusted for all costs incurred by Supplier hereunder in order to comply with any Federal, State or local law, regulation or order enacted, changed or amended after the Effective Date including, without limitation, fuel and other taxes, laws, regulations or orders relating to health, safety, conservation, reclamation, environmental protection, pollution control and air, water and soil standards but specifically excluding any and all income taxes. Supplier warrants that, to its knowledge, it is currently in compliance with all applicable laws, regulations or orders (except where noncompliance would not have a material adverse effect on Supplier's performance under this Agreement), and the costs incurred hereunder for such compliance whether or not actually incurred have been included in the initial price. In the event that any Federal, State or local law, regulation or order is enacted, changed or amended after the date of this Agreement, Supplier shall determine prospectively the cost per ton to Supplier of complying with such laws, regulations or orders and advise Purchaser of such costs, verified by adequate supporting documentation. The amount so determined shall be added to the payment price as an adjustment to become effective as and when such costs are incurred by Supplier. When the actual costs are known, Supplier shall provide Purchaser with appropriate data showing net effect of change. This data shall be subject to

Purchaser's audit. For this audit Supplier shall produce evidence of actual costs within twelve months from institution of the additional charge and will either invoice or credit Purchaser as appropriate for the difference between Supplier's initial assessment and the results of the final determination of the audit.

5.4 Hardship: Notwithstanding anything else contained herein to the contrary, if extraordinary circumstances beyond a party's reasonable control significantly increase the cost of performance by such party of its obligations hereunder, upon the request of the adversely affected party, the parties shall seek to adjust the conditions of this Agreement in order to reasonably alleviate the effect of such extraordinary circumstances upon the affected party. If the parties do not reach an agreement with regard to adjusted conditions occasioned by such extraordinary circumstances within thirty (30) days following the notification of the request, the party adversely affected by the extraordinary circumstances shall have the right, at its sole discretion, to terminate this Agreement upon thirty (30) days' notice to the other party.

5.5 Pricing for Subsequent Renewal Terms: Contractor shall propose pricing for renewal terms which shall be submitted to the City at least sixty (60) calendar days prior to the expiration of the initial contract term. Contractor shall include with the price proposal, justification and back-up materials which shall be used to validate any price increase. Contractor may utilize recognized government/industry indices or combination of indices to be mutually agreed upon by the City and Contractor, when determining price increases. Additionally, Contractor may include copies of correspondence and invoices from suppliers of material, services and transportation providers which may include, but not be limited to any additional documentation which will provide validation for such increases. Contractor shall also offer the City any decreases which may apply at the time of contract renewal. Under no circumstances will the City allow for any increase to Contractor's profit at the time of renewal. Increases shall reflect a direct pass-through of any applicable costs.

6 Payments

A monthly payment will be made for work that is completed, accepted and properly invoiced. The City shall pay the Contractor for work performed subject to the specifications of Bid 23-36B. All payments shall be governed by the Local Government Prompt Payment Act, F.S., Part VII; Chapter 218.

7 Conditions of Material & Warranties

7.1. All materials and products supplied by the Bidder in conjunction with this bid shall conform to the specifications of the bid. The City reserves the right to return the product to the Bidder and require the delivery of new product at no cost to the City.

7.2. Warranties. Supplier warrants that the Product shall conform to the specifications set forth herein and shall be free and clear of all liens and other encumbrances. SUPPLIER MAKES NO FURTHER WARRANTIES

OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY INTENDED USE OR PURPOSE.

8 Indemnification

- 8.1** The Contractor shall indemnify and hold harmless the City, its elected and appointed officials, employees, and agents from any and all claims, suits, actions, damages, liability, and expenses (including attorneys' fees) in connection with loss of life, bodily or personal injury, or property damage, including loss of use thereof, directly or indirectly caused by, resulting from, arising out of or occurring in connection with the operations of the Contractor or its officers, employees, agents, subcontractors, or independent Contractors, excepting only such loss of life, bodily or personal injury, or property damage solely attributable to the gross negligence or willful misconduct of the City or its elected or appointed officials and employees. The above provisions shall survive the termination of this Agreement and shall pertain to any occurrence during the term of this Agreement, even though the claim may be made after the termination hereof.
- 8.2** Upon completion of all Services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Article shall survive indefinitely.
- i. The Contractor shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees (including appellate attorney's fees) and costs.
 - ii. City reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of Contractor under the indemnification agreement.
- 8.3** The City and Contractor recognize that various provisions of this Agreement, including but not limited to this Section, provide for indemnification by the Contractor and requires a specific consideration be given there for. The Parties therefore agree that the sum of Ten Dollars and 00/100 (\$10.00), receipt of which is hereby acknowledged, is the specific consideration for such indemnities, and the providing of such indemnities is deemed to be part of the specifications with respect to the services to be provided by Contractor. Furthermore, the City and Contractor understand and agree that the covenants and representations relating to this indemnification provision shall serve the term of this Agreement and continue in full force and effect as to the City's and the Contractor's responsibility to indemnify.
- 8.4** Nothing contained herein is intended nor shall be construed to waive City's rights and immunities under the common law or Florida Statutes 768.28, as amended from time to time.

9 Non-Discrimination & Equal Opportunity Employment

During the performance of the Contract, the Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, color, sex including pregnancy, religion, age, national origin, marital status, political affiliation, familial status,

sexual orientation, gender identity and expression, or disability if qualified. The Contractor will take affirmative action to ensure that employees and those of its subcontractors are treated during employment, without regard to their race, color, sex including pregnancy, religion, age, national origin, marital status, political affiliation, familial status, sexual orientation, gender identity or expression, 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. The Contractor and its subcontractors shall agree to post in conspicuous places, available to its employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. The Contractor further agrees that he/she will ensure that all subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.

10 Independent Contractor

This Agreement does not create an employee/employer relationship between the Parties. It is the intent of the Parties that the Contractor is an independent contractor under this Agreement and not the City's employee for any 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 Worker's Compensation Act, and the State Unemployment Insurance law. The Contractor shall retain sole and absolute discretion in the judgment of the manner and means of carrying out Contractor's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of Contractor, which policies of Contractor shall not conflict with City, State, or United States policies, rules or regulations relating to the use of Contractor's funds provided for herein. The Contractor agrees that it is a separate and independent enterprise from the City, that it had 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. This Agreement shall not be construed as creating any joint employment relationship between the Contractor and the City and the City will not be liable for any obligation incurred by Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

11 Assignment and Subcontracting

Contractor shall not transfer or assign the performance required by this Agreement without the prior consent of the City. This Agreement, or any portion thereof, shall not be subcontracted without the prior written consent of the city.

12 Notice

Whenever either party desires or is required under this Agreement to give notice to any other party, it must be given by written notice either delivered in person, sent by U.S. Certified Mail, U.S. Express Mail, air or ground courier services, or by messenger service, as follows:

CITY

City Manager
City of Tamarac
7525 N.W. 88th Avenue

Tamarac, FL 33321

With a copy to the City Attorney at the same address:

CONTRACTOR

Lhoist North America of Alabama, LLC.
Dr. Phillip Niemann, President / CEO
5600 Clearfork Main Street, Suite 300
Fort Worth, Texas, 76109

13 Termination

- 13.1 Termination for Convenience:** This Agreement may be terminated by the City for convenience, upon seven (7) days of written notice by the terminating party to the other party for such termination in which event the Contractor shall be paid its compensation for services performed to termination date, including services reasonably related to termination. In the event that the Contractor abandons this Agreement or causes it to be terminated, Contractor shall indemnify the city against loss pertaining to this termination.
- 13.2 Default by Contractor:** In addition to all other remedies available to the City, this Agreement shall be subject to cancellation by the City for cause, should the Contractor neglect or fail to perform or observe any of the material terms, provisions, conditions, or requirements herein contained, if such neglect or failure shall continue for a period of thirty (30) days after receipt by Contractor of written notice of such neglect or failure.

14 Uncontrollable Forces

- 14.1** Neither the City nor Contractor shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.
- 14.2** Neither party shall, however, be excused from performance if nonperformance is due to forces, which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.
- 14.3** Hardship. Notwithstanding anything else contained herein to the contrary, if extraordinary circumstances beyond a party's reasonable control significantly increase the cost of performance by such party of its obligations hereunder, upon

the request of the adversely affected party, the parties shall seek to adjust the conditions of this Agreement in order to reasonably alleviate the effect of such extraordinary circumstances upon the affected party. If the parties do not reach an agreement with regard to adjusted conditions occasioned by such extraordinary circumstances within thirty (30) days following the notification of the request, the party adversely affected by the extraordinary circumstances shall have the right, at its sole discretion, to terminate this Agreement upon thirty (30) days' notice to the other party.

15 Limitation of Liability

NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT, OR DEFAULT IN THE PERFORMANCE HEREOF, WHETHER BASED UPON CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), WARRANTY OR ANY OTHER LEGAL THEORY. SUPPLIER'S LIABILITY FOR DAMAGES SHALL BE LIMITED TO REPLACEMENT OF NON-CONFORMING PRODUCT OR REIMBURSEMENT OF THE PURCHASE PRICE FOR SUCH NON-CONFORMING PRODUCT

16 Agreement Subject to Funding

This agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the City Commission of the City of Tamarac in the annual budget for each fiscal year of this Agreement and is subject to termination based on lack of funding.

17 Venue

This Agreement shall be governed by the laws of the State of Florida as now and hereafter in force. The venue for actions arising out of this agreement is fixed in Broward County, Florida.

18 Signatory Authority

The Contractor shall provide the City with copies of requisite documentation evidencing that the signatory for Contractor has the authority to enter into this Agreement.

19 Severability; Waiver of Provisions

Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

20 Merger; Amendment

This Agreement constitutes the entire Agreement between the Contractor and the City, and negotiations and oral understandings between the parties are merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the Contractor and the City.

21 No Construction Against Drafting Party

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 Scrutinized Companies -- 287.135 AND 215.473

22.1 By execution of this Agreement, Contractor certifies that Contractor is not participating in a boycott of Israel. Contractor further certifies that Contractor is not on the Scrutinized Companies that Boycott Israel list, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has Contractor been engaged in business operations in Syria. Subject to limited exceptions provided in state law, the City will not contract for the provision of goods or services with any scrutinized company referred to above.

22.2 Submitting a false certification shall be deemed a material breach of contract. The City shall provide notice, in writing, to Contractor of the City's determination concerning the false certification. Contractor shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active contract term, Contractor 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 Contractor does not demonstrate that the City's determination of false certification was made in error then the City shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes, as amended from time to time.

23 Public Records

23.1 The City of Tamarac is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:

23.1.1 Keep and maintain public records required by the City in order to perform the service;

23.1.2 Upon request from the City's custodian of public records, provide the public agency 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 or as otherwise provided by law.

23.1.3 Ensure that 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 contract term and following completion of the contract if the contractor does not transfer the records to the City.

23.1.4 Upon completion of the contract, 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 service. If the Contractor transfers all public records to the City upon completion of the contract, 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 contract, 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.

23.2 During the term of the contract, the Contractor shall maintain all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the City's Auditor. The Contractor agrees to make available to the City's Auditor, during normal business hours and in Broward, Dade or Palm Beach Counties, all books of account, reports and records relating to this contract.

24 E-Verify Compliance

As a condition precedent to entering into this Agreement, and in compliance with Section 448.095, Fla. Stat., Consultant and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021. Consultant shall require each of its subcontractors to provide Consultant with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Consultant shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Agreement. City, Consultant, or any subcontractor/subconsultant who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity. City, upon good faith belief that a subcontractor knowingly violated the provisions of this section; but Consultant otherwise complied, shall promptly notify Consultant and Consultant shall immediately terminate the contract with the subcontractor.

An agreement or contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any agreement or contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. Consultant acknowledges that upon termination of this Agreement by the City for a violation

of this section by Consultant, Consultant may not be awarded a public contract for at least one (1) year. Consultant further acknowledges that Consultant is liable for any additional costs incurred by the City as a result of termination of any contract for a violation of this section. Consultant or subcontractor shall insert in any subcontracts the clauses set forth in this section; requiring the subcontractors to include these clauses in any lower tier subcontracts. Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

25 Public Records Custodian

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:

**CITY CLERK
7525 NW 88TH AVENUE
ROOM 101
TAMARAC, FL 33321
(954) 597-3505
CITYCLERK@TAMARAC.ORG**

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature. CITY OF TAMARAC, signing by and through its Mayor and City Manager, and CONTRACTOR, signing by and through its President / CEO duly authorized to execute same.

CITY OF TAMARAC

Michelle J. Gomez

Michelle J. Gomez, Mayor

10/12/2023

Date

[Signature]
Levent Sucuoglu, City Manager

10/12/23

Date

Approved as to form and legal sufficiency:

[Signature]

Hans Ottinot, City Attorney

Date

Lhoist North America of Alabama, LLC.

Company Name

[Signature]
Signature of Dr. Philipp Niemann,
President/CEO

Dr. Philipp Niemann

Name of President/CEO

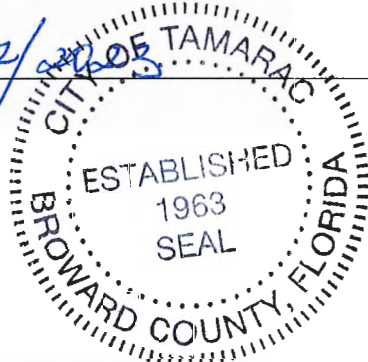
Date

ATTEST:

for [Signature]
Kimberly Dillon, CMC
City Clerk

Date

10/12/2023



ATTEST:

[Signature]

Signature of Corporate Secretary

Kenneth Cortez

Type/Print Name of Corporate Secy.

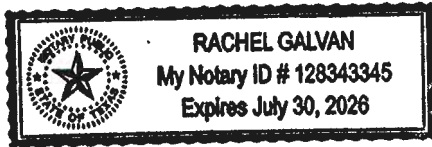
(CORPORATE SEAL)

CORPORATE ACKNOWLEDGEMENT

STATE OF Texas :
COUNTY OF Tarrant : SS

I HEREBY CERTIFY that on this day, before me, an Officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Philipp Niemann, of Host North America of Alabama, LLC a AL LLC Corporation, to me known to be the person(s) described in and who executed the foregoing instrument and acknowledged before me that he/she executed the same.

WITNESS my hand and official seal this 21st day of September, 2023.



Rachel Galvan
Signature of Notary Public
~~State of Florida at Large~~
State of Texas

Print, Type or Stamp
Name of Notary Public

☒
☐

Personally known to me or
Produced Identification

Type of I.D. Produced

☐

DID take an oath, or

☒

DID NOT take an oath.

APPENDIX A

CONTRACTOR PASS REQUEST

**THIS FORM IS AVAILABLE ON THE CITY'S ELECTRONIC SOLICITATION SITE,
BIDS & TENDERS, AND BIDDERS MUST PROVIDE INFORMATION IN THE
DESIGNATED AREA WITHIN THE BID DOCUMENT. (BIDDER MAY ADD
ADDITIONAL ROWS.)**

Vendor Name: Southern Tank Transport

Vendor Address:

800 W McNab RD 1789 Gardner Blvd
Fort Lauderdale, FL 33309 Holly Hill, SC 29059

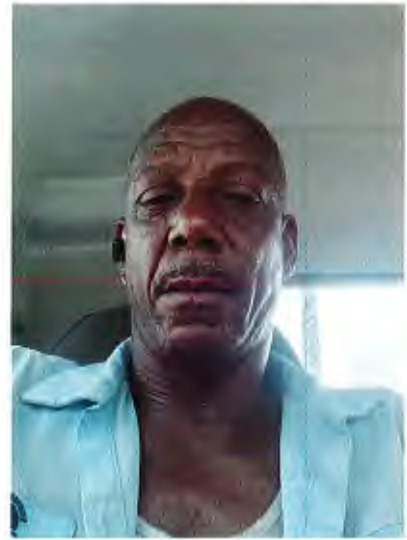
Vendor Contact Name: Matthew Sweatman

Vendor Contact Phone Number: 803-971-2860

List of Contractor Employees Requiring Entry to Facilities

(Attach copy of Picture Identification for all persons listed below)

Name	Work to be Performed
Glover Gilley	Pump lime from pneumatic tanks
Hayden Gayle	
Franklyn Ulysses	
Santos George	
Jody Gardner	Pump lime from pneumatic tanks



Contract Exhibit A - Schedule of Prices

AGENCY	DELIVERED PRICE PER TON YEAR 1	DELIVERED PRICE PER TON YEAR 2	DELIVERED PRICE PER TON YEAR 3
Table 1 -- TYPE 1 - Pebble Lime			
City of Boynton Beach	\$ 446.95	\$ 491.65	\$ 540.81
Broward County Dist. 1	\$ 446.95	\$ 491.65	\$ 540.81
Broward County Dist. 2	\$ 446.95	\$ 491.65	\$ 540.81
City of Coral Springs (1)	\$ 446.95	\$ 491.65	\$ 540.81
Town of Davie	\$ 446.95	\$ 491.65	\$ 540.81
City of Dania Beach	\$ 446.95	\$ 491.65	\$ 540.81
City of Deerfield Beach	\$ 446.95	\$ 491.65	\$ 540.81
City of Fort Lauderdale (2)	\$ 446.95	\$ 491.65	\$ 540.81
City of Hallandale Beach (3)	\$ 446.95	\$ 491.65	\$ 540.81
City of Lake Worth Beach	\$ 446.95	\$ 491.65	\$ 540.81
City of Lauderhill	\$ 446.95	\$ 491.65	\$ 540.81
City of North Lauderdale	\$ 446.95	\$ 491.65	\$ 540.81
City of North Miami	\$ 448.38	\$ 493.22	\$ 542.54
Village of Palm Springs	\$ 451.23	\$ 496.36	\$ 545.99
Village of Palm Springs	\$ 451.23	\$ 496.36	\$ 545.99
City of Pompano Beach	\$ 446.95	\$ 491.65	\$ 540.00
City of Riviera Beach	\$ 451.23	\$ 496.36	\$ 545.99
City of Sunrise	\$ 446.95	\$ 491.65	\$ 540.81
City of Sunrise	\$ 446.95	\$ 491.65	\$ 540.81
Village of Wellington	\$ 449.79	\$ 494.77	\$ 544.25
TABLE 2 -- TYPE 1A -- Foundry/ Rice Lime			
City of Delray Beach	\$ 446.95	\$ 491.65	\$ 540.81
City of Hollywood	\$ 446.95	\$ 491.65	\$ 540.81
City of Margate	\$ 446.95	\$ 491.65	\$ 540.81
City of North Miami Beach	\$ 448.38	\$ 493.22	\$ 542.54
City of Pembroke Pines	\$ 446.95	\$ 491.65	\$ 540.81
City of Tamarac	\$ 446.95	\$ 491.65	\$ 544.25
City of West Palm Beach	\$ 449.79	\$ 494.77	\$ 544.25

APPENDIX B

2023 TRUCK FUEL SURCHARGE SCALE

Truck Fuel Surcharges are a percentage of the truck freight rate for product movement from the bidder's distribution origin to the customer's site. Truck Fuel Surcharges are subject to change quarterly.

- The percentage of the Monthly Truck Fuel Surcharge is computed by determining the Department of Energy's DOE Retail On-Highway Diesel Price – US Average index may be found at: published on the 3rd Monday of the last month of the quarter. DOE Diesel Prices may be found at the following website: <https://www.eia.gov/petroleum/gasdiesel/>
- Percentages change .5% for every \$0.05 per gallon price change

DIESEL FUEL PRICE NATIONAL AVERAGE	FS = % OF FREIGHT RATE	DIESEL FUEL PRICE NATIONAL AVERAGE	FS = % OF FREIGHT RATE
\$1.75	0.00%	\$3.00	13.00%
\$1.80	1.00%	\$3.05	13.50%
\$1.85	1.50%	\$3.10	14.00%
\$1.90	2.00%	\$3.15	14.50%
\$1.95	2.50%	\$3.20	15.00%
\$2.00	3.00%	\$3.25	15.50%
\$2.05	3.50%	\$3.30	16.00%
\$2.10	4.00%	\$3.35	16.50%
\$2.15	4.50%	\$3.40	17.00%
\$2.20	5.00%	\$3.45	17.50%
\$2.25	5.50%	\$3.50	18.00%
\$2.30	6.00%	\$3.55	18.50%
\$2.35	6.50%	\$3.60	19.00%
\$2.40	7.00%	\$3.65	19.50%
\$2.45	7.50%	\$3.70	20.00%
\$2.50	8.00%	\$3.75	20.50%
\$2.55	8.50%	\$3.80	21.00%
\$2.60	9.00%	\$3.85	21.50%
\$2.65	9.50%	\$3.90	22.00%
\$2.70	10.00%	\$3.95	22.50%
\$2.75	10.50%	\$4.00	23.00%
\$2.80	11.00%	\$4.05	23.50%
\$2.85	11.50%	\$4.10	24.00%
\$2.90	12.00%	\$4.15	24.50%
\$2.95	12.50%	\$4.20	25.00%

ATTACHMENT A: PARTICIPATING AGENCIES				
Below is a list of the agencies participating in this bid and their respective delivery locations:				
AGENCY	DELIVERY ADDRESS	CITY / STATE / ZIP	CONTACT	PHONE / EMAIL
Type 1 - Pebble Lime				
City of Boynton Beach	124 E. Woolbright Road	Boynton Beach, FL: 33435	William Newsome	561-7426593 NewsomeW@bbfl.us
Broward County Dist. 1A	3701 N. State Road 7	Lauderdale Lakes, FL: 33319	Pedro Berrios	954-831-4115 Office 954-553-0653 Mobile pberrios@broward.org
Broward County Dist. 2A	1390 NE 50th Street	Deerfield Beach, FL: 33064	Jose Otero	954-831-4115 Office 954-234-1034 Cell jotero@broward.org
City of Coral Springs	3800 NW 85th Avenue	Coral Springs FL: 33065	Alvan Jones	954-345-2160 ajones@coralsprings.org
City of Dania Beach	1201 Stirling Road	Dania Beach, FL 33004	Nate Costa	954-924-6808 ext. 3616 ncosta@daniabeachfl.gov
Town of Davie	3500 NW 76th Ave	Hollywood, FL: 33024	Anand Maharaj	954-327-3748
City of Deerfield Beach	290 Goolsby Blvd.	Deerfield Beach, FL: 33442	Bakari Scott	954-480-4368 bscott@deerfieldbeach.com
City of Ft. Lauderdale	949 NW 38th Street	Ft. Lauderdale, FL:	Cesar Alza	954-828-7865 calza@fortlauderdale.gov
City of Hallandale Beach	630 NW 2nd. Street	Hallandale Beach, FL: 33009	J. Fawcett	954-457-1632 jfawcett@cohb.org
City of Lake Worth Beach	301 College Street	Lake Worth Beach: FL	Garry Baker II	561-586-1713 gabaker@lakeworthbeachfl.gov
City of Lauderhill	2101 NW 49th Avenue	Lauderhill, FL:	Marc Celetti	954-730-3057 mceletti@lauderhillfl.gov
City of North Lauderdale	841 NW 71st. Avenue	North Lauderdale: FL 33068	Neil Buckeridge	954-597-4757 nbuckeridge@nlauderdale.org
City of North Miami	12098 NW 11th Avenue	North Miami, FL:		
Village of Palm Springs	360 Davis Road	Palm Springs, FL: 33461	David Burgin	561-584-8200 ext. 8718 dburgin@vpsfl.org
Village of Palm Springs	5618 Basil Drive	Boynton Beach, FL: 33435	David Burgin	561-584-8200 ext. 8718 dburgin@vpsfl.org
City of Pompano Beach	301 NE 12th Street	Pompano Beach		954-545-7018
City of Riviera Beach	800 W. Blue Heron Blvd.	Riviera Beach, FL: 33404	David Salas	561-723-2741
City of Sunrise	15400 Watermill Road	Davie, FL: 33331	Hugo Alagic	954-572-2427 halagic@sunrisefl.gov
City of Sunrise	4350 springtree Drive	Sunrise, FL: 33351	Jose Alvarez	954-572-2427 jalvarez@sunrisefl.gov
Village of Wellington	1100 Wellington Trace	Wellington, FL: 33414	Mike Zembrzusi	561-791-4128 mzembrzusi@wellingtonfl.gov
Type 1A - Foundry / Rice Lime				
City of Delray Beach	201 SW 7th Street	Delray Beach, FL: 33444	Bryan Heller	561-531-0817 hellerb@mydelraybeach.com
City of Hollywood	3441 Hollywood Blvd.	Hollywood, FL: 33021	Luis Montoya	954-967-4230 lmontoya@hollywoodfl.org
City of Margate	980 NW 66th Ave.	Margate, FL: 33063	Richard Uber	954-972-0828 ruber@margate.com
City of North Miami Beach	19150 NW 8th Ave.	Miami Gardens, FL: 33169	Carlos Carrazana	786-586-8395 carlos.carrazana@citynmb.com
City of Pembroke Pines	7960 Johnson Street	Pembroke Pines, FL:	Michael Cepeda	754-260-4505 michael.cepeda@jacobs.com
City of Tamarac	7803 NW 61st. Street	Tamarac, FL: 33321	Anthony Licata	954-597-3775 / 3777 anthony.licata@tamarac.org
City of West Palm Beach	1009 Banyan Blvd.	West Palm Beach, FL: 33401	Lester Galloway / Sandra Feliciano	561-351-4555 lgalloway@wpb.org 561-822-2290 sfeliciano@wpb.org

AGREEMENT

BETWEEN THE CITY OF TAMARAC

AND

CARMEUSE LIME AND STONE, INC.

THIS AGREEMENT is made and entered into this 11th day of OCTOBER, 2023 by and between the City of Tamarac, a municipal corporation with principal offices located at 7525 N.W. 88th Ave., Tamarac, FL 33321 (the "CITY") and Carmeuse Lime and Stone, Inc., a Pennsylvania corporation with principal offices located at 11 Stanwix Street, 21st. Floor, Pittsburgh, Pennsylvania, 15222 (the "Contractor") to provide for Furnishing, Delivery and Discharge of Quicklime.

Now therefore, in consideration of the mutual covenants hereinafter set forth, the City and Contractor agree as follows:

1. The Contract Documents

The contract documents consist of this Agreement, Bid Document No. 23-36B, "Furnish, Deliver and Discharge Quicklime", including all conditions therein, (General Terms and Conditions, Special Conditions and/or Special Provisions), drawings, Technical Specifications, all addenda, the Contractor's bid/proposal included herein, and all modifications issued after execution of this Agreement; and Contract Exhibit A, which is a schedule of delivered pricing for individual delivery locations. These contract documents form the Agreement, and all are as fully a part of the Agreement as if attached to this Agreement or repeated therein. In the event that there is a conflict between Bid Document No. 23-36B, "Furnish Deliver and Discharge Quicklime", as issued by the City, and the Contractor's Proposal, Bid Document No. 23-36B, as issued by the City shall take precedence over the Contractor's Proposal. Furthermore, in the event of a conflict between this document and any other contract documents, this Agreement shall prevail.

2. The Work

2.1. The Contractor shall perform all work for the City required by the contract documents as set forth below:

2.1.1 Contractor shall furnish all labor, materials, and equipment necessary to Furnish, Deliver and Discharge Quicklime in accordance with the Technical Specifications, terms and conditions contained in Bid Document 23-36B, "Furnish, Deliver and Discharge Quicklime".

2.1.2 Contractor shall supervise the work force to ensure that all workers conduct themselves and perform their work in a safe and professional manner. Contractor shall comply with all OSHA safety rules and regulations in the operation of equipment and in the performance of the work. Contractor shall at all times have a competent field supervisor on the job site to enforce these policies and procedures at the Contractor's expense.

2.1.3 Contractor shall comply with any and all Federal, State, and local laws and

regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to the Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

- 2.1.4 Contractor shall be required to complete and provide the "Contractor Pass Request Form" (See attached Appendix A to Bid Document No. 23-36B), with photo identification of all personnel authorized to be on premises at City delivery sites. This form will be sent to the awarded vendor(s) with the notification of award letter.
- 2.1.5 Personnel additions and/or deletions shall be reported to the City's designated representative in writing, via fax to a number to be provided by the using agency, within twenty four (24) hours of the personnel change, by modification of the names submitted on the original Contractor Pass Request Form.
- 2.1.6 All personnel shall check-in with the Security Guard or Operator on duty immediately upon arrival at any delivery location. Photo identification, purpose of visit, and name of City staff contact, shall be required for entry.
- 2.1.7 Contractor shall ensure that only authorized Contractor employees and/or authorized City personnel shall have access to Contractor/City vehicles, work site, equipment, work products, reports, electronic data and any/all other information pertaining to the City. Contractor shall not admit any unauthorized personnel onto any work site. Contractor will not release, discuss or share any information on systems, equipment and/or operations, to any non-City personnel.
- 2.1.8 Upon leaving premises, all personnel shall be required to check out with the Security Guard or Operator on duty.

3. Insurance

- 3.1. Contractor shall obtain at Contractor's expense all necessary insurance in such form and amount as specified in the original bid document or as required by the City's Risk and Safety Manager before beginning work under this Agreement including, but not limited to, Workers' Compensation, Commercial General Liability, Builder's Risk and all other insurance as required by the City, including Professional Liability when appropriate. Contractor shall maintain such insurance in full force and effect during the life of this Agreement. Contractor shall provide to the City's Risk and Safety Manager certificates of all insurances required under this section prior to beginning any work under this Agreement. The Contractor will ensure that all subcontractors comply with the above guidelines and will retain all necessary insurance in force throughout the term of this agreement.
- 3.2. Contractor shall indemnify and hold the City harmless for any damages resulting from failure of the Contractor to take out and maintain such insurance. Contractor's Liability Insurance policies shall be endorsed to add the City as an additional insured and shall list the City as the Certificate Holder. Contractor shall be responsible for payment of all deductibles and self-insurance retentions on Contractor's Liability Insurance policies. Insurance limits are outlined below:

- General Liability - \$1M per occ. / \$2M aggregate
- Automobile – \$1M per occ. / \$1M aggregate
- Workers Comp – Statutory

- 3.3** Contractor shall at a minimum, provide the level of coverage provided for in Section 3.2 of this Agreement to any other organization in the Southeast Florida Governmental Purchasing Cooperative, and shall provide those agencies with their own Certificate of Insurance to validate coverage for their entity.

4. Term

The contract term shall be for an initial period of three (3) years, beginning November 1, 2023. The City reserves the right to renew the contract for one additional three (3) year period or up to three (3) additional (1) year periods, whichever is in the best interest of the City and the Southeast Florida Governmental Purchasing Cooperative providing all parties agree to the extension and renewal terms. In the event that the agreement is set to expire, and no replacement agreement is in place, the Agreement shall continue on a month-to-month basis until a new Agreement is in place for a period of not to exceed six (6) months from the original date of scheduled expiration.

5. Contract Sum

The Contract Sum for the above work for entities listed in Contract Exhibit A (UNIT PRICING PROVIDED IN BID) shall be based on delivered cost per ton, F.O.B. Destination. The Contract sum includes all labor, materials and freight charges for the job also known as Bid No. 23-36B, "Furnish, Deliver, and Discharge Quicklime" for the Southeast Florida Government Purchasing Cooperative entities listed in Contract Exhibit A. All Terms and Conditions, except product price, freight, transfer, and rail and truck fuel surcharges shall remain firm through the term of the contract, Pricing shown in Contract Exhibit A for the initial year of the Agreement shall be firm for the period from November 1, 2023 through October 31, 2024; Pricing shown in Contract Exhibit A for the second year of the Agreement shall be firm for the period from November 1, 2024 through October 31, 2025 and Pricing shown in Contract Exhibit A for the third year of the Agreement shall be firm from November 1, 2025 through October 31, 2026.

- 5.1** Contract Pricing shall be based on delivered cost per ton. The Contract sum includes all labor, materials and freight charges pricing shall be firm for the as indicated in Exhibit A for each year of the contract for the periods from November 1, 2023 through October 31, 2024; November 1, 2024 through October 31, 2025 and November 1, 2025 through October 31, 2026.

- 5.2** In consideration of fluctuations in fuel prices, the City will allow rail and trucking fuel surcharges during the term of the contract. Such surcharges shall be updated quarterly with notice being provided to the City as detailed in Section 5.2.3 herein.

- 5.2.1** Rail Surcharge – The rail fuel surcharge rate will be based on actual contracts, invoices or published rates of the contractor's rail carrier. Contractor shall provide documentation regarding the rail carrier's pricing as a part of the request for an adjustment to the rail surcharge. No surcharge will be applied on top of another one. The Bidder should provide a rail fuel surcharge schedule as part of their bid submittal in the area provided in Appendix B herein.

5.2.2 Trucking Surcharge - The truck fuel surcharge rate will be based on the Trucking Fuel Surcharge Scale contained in Appendix B herein, which shall be determined by referencing the Retail On-Highway Diesel Price – U.S. Average, as published by the U.S. Department of Energy, Energy Information Administration (DOE) for the third Monday of the final month of each quarter. The truck fuel surcharge will be applied to the base contract price per ton of quicklime transported effective with the start of the next quarter. No surcharge will be applied on top of another one. The bidder shall utilize the trucking fuel surcharge scale included in Appendix B as a basis for adjustment, and surcharge adjustments will be based on that scale. The DOE Retail On-Highway Diesel Price – US Average index may be found at: http://tonto.eia.doe.gov/oog/info/wohdp/diesel_detail_report_combined.asp.

5.2.3 The City acknowledges that Contractor's rail and truck carriers adjust fuel surcharges monthly. The Contractor will apply fuel surcharges for each quarter based on the amount of the rail and truck fuel surcharges in effect for the month preceding the quarterly price change as calculated in accordance with Section 5.2 of this Agreement, utilizing Appendix B to the original bid #23-36B. At the end of each quarter, the Contractor will process a "true up" by comparing the actual monthly rail and truck fuel surcharges for the quarter to the rail and truck fuel surcharges implemented at the time of the quarterly price change. Based on this comparison, the Contractor will issue the City a credit or debit that represents the variance.

5.2.4 Cost adjustments, in all cases, shall reflect only a direct pass-through of costs, and no changes to the Contractor's profit margin shall be permitted. The City and the Contractor may also utilize recognized government/industry indices or combination of indices to be mutually agreed upon by the City and Contractor, when determining price increases.

5.3 Adjustment of Price for the Effects of Government Action: Notwithstanding anything else contained herein to the contrary, the price shall be adjusted for all costs incurred by Supplier hereunder in order to comply with any Federal, State or local law, regulation or order enacted, changed or amended after the Effective Date including, without limitation, fuel and other taxes, laws, regulations or orders relating to health, safety, conservation, reclamation, environmental protection, pollution control and air, water and soil standards but specifically excluding any and all income taxes. Supplier warrants that, to its knowledge, it is currently in compliance with all applicable laws, regulations or orders (except where noncompliance would not have a material adverse effect on Supplier's performance under this Agreement), and the costs incurred hereunder for such compliance whether or not actually incurred have been included in the initial price. In the event that any Federal, State or local law, regulation or order is enacted, changed or amended after the date of this Agreement, Supplier shall determine prospectively the cost per ton to Supplier of complying with such laws, regulations or orders and advise Purchaser of such costs, verified by adequate supporting documentation. The amount so determined shall be added to the payment price as an adjustment to become effective as and when such costs are incurred by Supplier. When the actual costs are known, Supplier shall provide Purchaser with appropriate data showing net effect of change. This data shall be subject to

Purchaser's audit. For this audit Supplier shall produce evidence of actual costs within twelve months from institution of the additional charge and will either invoice or credit Purchaser as appropriate for the difference between Supplier's initial assessment and the results of the final determination of the audit.

5.4 Hardship: Notwithstanding anything else contained herein to the contrary, if extraordinary circumstances beyond a party's reasonable control significantly increase the cost of performance by such party of its obligations hereunder, upon the request of the adversely affected party, the parties shall seek to adjust the conditions of this Agreement in order to reasonably alleviate the effect of such extraordinary circumstances upon the affected party. If the parties do not reach an agreement with regard to adjusted conditions occasioned by such extraordinary circumstances within thirty (30) days following the notification of the request, the party adversely affected by the extraordinary circumstances shall have the right, at its sole discretion, to terminate this Agreement upon thirty (30) days' notice to the other party.

5.5 Pricing for Subsequent Renewal Terms: Contractor shall propose pricing for renewal terms which shall be submitted to the City at least sixty (60) calendar days prior to the expiration of the initial contract term. Contractor shall include with the price proposal, justification and back-up materials which shall be used to validate any price increase. Contractor may utilize recognized government/industry indices or combination of indices to be mutually agreed upon by the City and Contractor, when determining price increases. Additionally, Contractor may include copies of correspondence and invoices from suppliers of material, services and transportation providers which may include, but not be limited to any additional documentation which will provide validation for such increases. Contractor shall also offer the City any decreases which may apply at the time of contract renewal. Under no circumstances will the City allow for any increase to Contractor's profit at the time of renewal. Increases shall reflect a direct pass-through of any applicable costs.

6 Payments

A monthly payment will be made for work that is completed, accepted and properly invoiced. The City shall pay the Contractor for work performed subject to the specifications of Bid 23-36B. All payments shall be governed by the Local Government Prompt Payment Act, F.S., Part VII; Chapter 218.

7 Conditions of Material & Warranties

- 7.1. All materials and products supplied by the Bidder in conjunction with this bid shall conform to the specifications of the bid. The City reserves the right to return the product to the Bidder and require the delivery of new product at no cost to the City.
- 7.2. Warranties. Supplier warrants that the Product shall conform to the specifications set forth herein and shall be free and clear of all liens and other encumbrances. SUPPLIER MAKES NO FURTHER WARRANTIES

OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY INTENDED USE OR PURPOSE.

7 Indemnification

- 8.1** The Contractor shall indemnify and hold harmless the City, its elected and appointed officials, employees, and agents from any and all claims, suits, actions, damages, liability, and expenses (including attorneys' fees) in connection with loss of life, bodily or personal injury, or property damage, including loss of use thereof, directly or indirectly caused by, resulting from, arising out of or occurring in connection with the operations of the Contractor or its officers, employees, agents, subcontractors, or independent Contractors, excepting only such loss of life, bodily or personal injury, or property damage solely attributable to the gross negligence or willful misconduct of the City or its elected or appointed officials and employees. The above provisions shall survive the termination of this Agreement and shall pertain to any occurrence during the term of this Agreement, even though the claim may be made after the termination hereof.
- 8.2** Upon completion of all Services, obligations and duties provided for in this Agreement, or in the event of termination of this Agreement for any reason, the terms and conditions of this Article shall survive indefinitely.
- i. The Contractor shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees (including appellate attorney's fees) and costs.
 - ii. City reserves the right to select its own legal counsel to conduct any defense in any such proceeding and all costs and fees associated therewith shall be the responsibility of Contractor under the indemnification agreement.
- 8.3** The City and Contractor recognize that various provisions of this Agreement, including but not limited to this Section, provide for indemnification by the Contractor and requires a specific consideration be given there for. The Parties therefore agree that the sum of Ten Dollars and 00/100 (\$10.00), receipt of which is hereby acknowledged, is the specific consideration for such indemnities, and the providing of such indemnities is deemed to be part of the specifications with respect to the services to be provided by Contractor. Furthermore, the City and Contractor understand and agree that the covenants and representations relating to this indemnification provision shall serve the term of this Agreement and continue in full force and effect as to the City's and the Contractor's responsibility to indemnify.
- 8.4** Nothing contained herein is intended nor shall be construed to waive City's rights and immunities under the common law or Florida Statutes 768.28, as amended from time to time.

8 Non-Discrimination & Equal Opportunity Employment

During the performance of the Contract, the Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, color, sex including pregnancy, religion, age, national origin, marital status, political affiliation, familial status,

sexual orientation, gender identity and expression, or disability if qualified. The Contractor will take affirmative action to ensure that employees and those of its subcontractors are treated during employment, without regard to their race, color, sex including pregnancy, religion, age, national origin, marital status, political affiliation, familial status, sexual orientation, gender identity or expression, 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. The Contractor and its subcontractors shall agree to post in conspicuous places, available to its employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. The Contractor further agrees that he/she will ensure that all subcontractors, if any, will be made aware of and will comply with this nondiscrimination clause.

9 Independent Contractor

This Agreement does not create an employee/employer relationship between the Parties. It is the intent of the Parties that the Contractor is an independent contractor under this Agreement and not the City's employee for any 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 Worker's Compensation Act, and the State Unemployment Insurance law. The Contractor shall retain sole and absolute discretion in the judgment of the manner and means of carrying out Contractor's activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of Contractor, which policies of Contractor shall not conflict with City, State, or United States policies, rules or regulations relating to the use of Contractor's funds provided for herein. The Contractor agrees that it is a separate and independent enterprise from the City, that it had 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. This Agreement shall not be construed as creating any joint employment relationship between the Contractor and the City and the City will not be liable for any obligation incurred by Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

10 Assignment and Subcontracting

Contractor shall not transfer or assign the performance required by this Agreement without the prior consent of the City. This Agreement, or any portion thereof, shall not be subcontracted without the prior written consent of the city.

11 Notice

Whenever either party desires or is required under this Agreement to give notice to any other party, it must be given by written notice either delivered in person, sent by U.S. Certified Mail, U.S. Express Mail, air or ground courier services, or by messenger service, as follows:

CITY

City Manager
City of Tamarac
7525 N.W. 88th Avenue

Tamarac, FL 33321

With a copy to the City Attorney at the same address:

CONTRACTOR

Carmeuse Lime and Stone, Inc.

Yves Willems, President / CEO

11 Stanwix Street, 21st. Floor

Pittsburgh, Pennsylvania, 15222

12 Termination

13.1 Termination for Convenience: This Agreement may be terminated by the City for convenience, upon seven (7) days of written notice by the terminating party to the other party for such termination in which event the Contractor shall be paid its compensation for services performed to termination date, including services reasonably related to termination. In the event that the Contractor abandons this Agreement or causes it to be terminated, Contractor shall indemnify the city against loss pertaining to this termination.

13.2 Default by Contractor: In addition to all other remedies available to the City, this Agreement shall be subject to cancellation by the City for cause, should the Contractor neglect or fail to perform or observe any of the material terms, provisions, conditions, or requirements herein contained, if such neglect or failure shall continue for a period of thirty (30) days after receipt by Contractor of written notice of such neglect or failure.

14 Uncontrollable Forces

14.1 Neither the City nor Contractor shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.

14.2 Neither party shall, however, be excused from performance if nonperformance is due to forces, which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

14.3 Hardship. Notwithstanding anything else contained herein to the contrary, if extraordinary circumstances beyond a party's reasonable control significantly increase the cost of performance by such party of its obligations hereunder, upon

the request of the adversely affected party, the parties shall seek to adjust the conditions of this Agreement in order to reasonably alleviate the effect of such extraordinary circumstances upon the affected party. If the parties do not reach an agreement with regard to adjusted conditions occasioned by such extraordinary circumstances within thirty (30) days following the notification of the request, the party adversely affected by the extraordinary circumstances shall have the right, at its sole discretion, to terminate this Agreement upon thirty (30) days' notice to the other party.

15 Limitation of Liability

NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT, OR DEFAULT IN THE PERFORMANCE HEREOF, WHETHER BASED UPON CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), WARRANTY OR ANY OTHER LEGAL THEORY. SUPPLIER'S LIABILITY FOR DAMAGES SHALL BE LIMITED TO REPLACEMENT OF NON-CONFORMING PRODUCT OR REIMBURSEMENT OF THE PURCHASE PRICE FOR SUCH NON-CONFORMING PRODUCT

16 Agreement Subject to Funding

This agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the City Commission of the City of Tamarac in the annual budget for each fiscal year of this Agreement and is subject to termination based on lack of funding.

17 Venue

This Agreement shall be governed by the laws of the State of Florida as now and hereafter in force. The venue for actions arising out of this agreement is fixed in Broward County, Florida.

18 Signatory Authority

The Contractor shall provide the City with copies of requisite documentation evidencing that the signatory for Contractor has the authority to enter into this Agreement.

19 Severability; Waiver of Provisions

Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

20 Merger; Amendment

This Agreement constitutes the entire Agreement between the Contractor and the City, and negotiations and oral understandings between the parties are merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the Contractor and the City.

21 No Construction Against Drafting Party

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 Scrutinized Companies -- 287.135 AND 215.473

22.1 By execution of this Agreement, Contractor certifies that Contractor is not participating in a boycott of Israel. Contractor further certifies that Contractor is not on the Scrutinized Companies that Boycott Israel list, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has Contractor been engaged in business operations in Syria. Subject to limited exceptions provided in state law, the City will not contract for the provision of goods or services with any scrutinized company referred to above.

22.2 Submitting a false certification shall be deemed a material breach of contract. The City shall provide notice, in writing, to Contractor of the City's determination concerning the false certification. Contractor shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active contract term, Contractor 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 Contractor does not demonstrate that the City's determination of false certification was made in error then the City shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes, as amended from time to time.

23 Public Records

23.1 The City of Tamarac is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:

23.1.1 Keep and maintain public records required by the City in order to perform the service;

23.1.2 Upon request from the City's custodian of public records, provide the public agency 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 or as otherwise provided by law.

23.1.3 Ensure that 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 contract term and following completion of the contract if the contractor does not transfer the records to the City.

23.1.4 Upon completion of the contract, 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 service. If the Contractor transfers all public records to the City upon completion of the contract, 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 contract, 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.

23.2 During the term of the contract, the Contractor shall maintain all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the City's Auditor. The Contractor agrees to make available to the City's Auditor, during normal business hours and in Broward, Dade or Palm Beach Counties, all books of account, reports and records relating to this contract.

24 E-Verify Compliance

As a condition precedent to entering into this Agreement, and in compliance with Section 448.095, Fla. Stat., Consultant and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021. Consultant shall require each of its subcontractors to provide Consultant with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Consultant shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this Agreement. City, Consultant, or any subcontractor/subconsultant who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat. or the provisions of this section shall terminate the contract with the person or entity. City, upon good faith belief that a subcontractor knowingly violated the provisions of this section; but Consultant otherwise complied, shall promptly notify Consultant and Consultant shall immediately terminate the contract with the subcontractor.

An agreement or contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any agreement or contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. Consultant acknowledges that upon termination of this Agreement by the City for a violation

of this section by Consultant, Consultant may not be awarded a public contract for at least one (1) year. Consultant further acknowledges that Consultant is liable for any additional costs incurred by the City as a result of termination of any contract for a violation of this section. Consultant or subcontractor shall insert in any subcontracts the clauses set forth in this section; requiring the subcontractors to include these clauses in any lower tier subcontracts. Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

25 Public Records Custodian

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:

**CITY CLERK
7525 NW 88TH AVENUE
ROOM 101
TAMARAC, FL 33321
(954) 597-3505
CITYCLERK@TAMARAC.ORG**

TAMARAC

The City For Your Life

City of Tamarac

Purchasing and Contracts Division

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature. CITY OF TAMARAC, signing by and through its Mayor and City Manager, and CONTRACTOR, signing by and through its President / CEO duly authorized to execute same.

CITY OF TAMARAC

Michelle J. Gomez
Michelle J. Gomez, Mayor

10/12/2023
Date

Levent Sucuoglu
Levent Sucuoglu, City Manager

10/12/23
Date

ATTEST:

Kimberly Dillon, CMC
Kimberly Dillon, CMC
City Clerk

10/12/2023
Date

Approved as to form and legal sufficiency:

Hans Ottinot
Hans Ottinot, City Attorney

10/13/23
Date

ATTEST:

Signature of Corporate Secretary

Nicholas Bonarrigo
Type/Print Name of Corporate Secy.

(CORPORATE SEAL)

Carmeuse Lime and Stone, Inc.

Company Name

Signature of Yves Willem, President / CEO

Yves Willem
Name of President / CEO

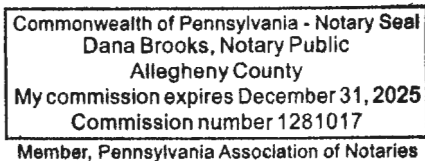
9/20/23
Date

CORPORATE ACKNOWLEDGEMENT

STATE OF Pennsylvania :
COUNTY OF Allegheny : SS

I HEREBY CERTIFY that on this day, before me, an Officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Jonathan Bright, of Carmeuse Lime & Stone, Inc., a Delaware Corporation, to me known to be the person(s) described in and who executed the foregoing instrument and acknowledged before me that he/she executed the same.

WITNESS my hand and official seal this 20th day of September, 2023



[Signature]
Signature of Notary Public
State of ~~Florida~~ Pennsylvania at Large

Dana Brooks
Print, Type or Stamp
Name of Notary Public

☒ Personally known to me or
☐ Produced Identification

[Signature]
Type of I.D. Produced

☒ DID take an oath, or
☐ DID NOT take an oath.

Exhibit A - Schedule of Prices

AGENCY	ANNUAL USAGE	DELIVERED PRICE PER TON YEAR 1	DELIVERED PRICE PER TON YEAR 2	DELIVERED PRICE PER TON YEAR 3
City of Hollywood	5550	\$ 475.00	\$ 498.75	\$ 523.68



CERTIFICATE OF LIABILITY INSURANCE

1/1/2024

DATE (MM/DD/YYYY)

12/22/2022

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 Lockton Companies Three City Place Drive, Suite 900 St. Louis MO 63141-7081 (314) 432-0500	CONTACT NAME:	FAX (A/C, No):	
	PHONE (A/C, No, Ext):	E-MAIL ADDRESS:	
INSURED 1356795 Carmeuse Lime, Inc. and all subsidiaries 11 Stanwix Street, 21st Floor Pittsburgh PA 15222	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : State National Insurance Company, Inc.		12831
	INSURER B : National Union Fire Ins Co Pitts. PA		19445
	INSURER C : AIU Insurance Company		19399
	INSURER D :		
	INSURER E :		
INSURER F :			

COVERAGES CARMU

CERTIFICATE NUMBER: 12043280

REVISION NUMBER: XXXXXXXX

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	☒ COMMERCIAL GENERAL LIABILITY ☒ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y	N	RDN-11242-CGX	1/1/2023	1/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B B C	☒ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY	N	N	8682553 (AOS) 8682554 (VA) 8682555 (MA)	1/1/2023 1/1/2023 1/1/2023	1/1/2024 1/1/2024 1/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
A	☒ UMBRELLA LIAB ☐ EXCESS LIAB DED ☐ RETENTION \$		N	RDN-11243-UMX	1/1/2023	1/1/2024	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$ XXXXXXXX
C C	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 ☒ N	N/A	WC 067713193 (AOS) WC 067713192 (WI)	1/1/2023 1/1/2023	1/1/2024 1/1/2024	☒ PER STATUTE ☐ 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

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
CITY OF TAMARAC IS ADDITIONAL INSURED UNDER GENERAL LIABILITY AS REQUIRED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER

CANCELLATION See Attachment

12043280
CITY OF TAMARAC
ATTN: KEITH K. GLATZ
7525 NW 88TH AVENUE
TAMARAC FL 33321

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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CITY OF TAMARAC ATTN: KEITH K. GLATZ
7525 NW 88TH AVENUE
TAMARAC FL 33321

To whom it may concern:

In our continuing effort to provide timely certificate delivery, Lockton Companies is transitioning to paperless delivery of Certificates of Insurance.

To ensure electronic delivery for future renewals of this certificate, we need your email address. Please contact us via one of the methods below, referencing Certificate ID **12043280**.

•Email: STL-edelivery@lockton.com

•Phone: (866) 728-5657 (toll-free)

If you received this certificate through an internet link where the current certificate is viewable, we have your email and no further action is needed.

In the event your mailing address has changed, will change in the future, or you no longer require this certificate, please let us know using one of the methods above.

The above inbox is for providing e-Delivery email addresses for next year's renewal certificates ONLY. Your information will be input within 90 days.

Thank you for your cooperation and willingness in reducing our environmental footprint.

Lockton Companies

**UNANIMOUS WRITTEN CONSENT
OF THE BOARD OF DIRECTORS OF
CARMEUSE LIME & STONE, INC.**

The undersigned, being all of the members of the Board of Directors of Carmeuse Lime & Stone, Inc., a Delaware Corporation (the “**Corporation**”), do hereby vote for, consent to, authorize and adopt the following resolutions by unanimous written consent pursuant to Section 141(f) of the Delaware General Corporation Law, with the same force and effect as if the undersigned had been present at a meeting of the Board of Directors of the Corporation and had voted for the same:

WHEREAS, the Corporation desires to restate its entire list of officers in order to reflect changes in the management of the Corporation;

RESOLVED, that the following persons be, and they hereby are, elected to the offices set forth opposite their names below and to hold such offices until their successors have been duly elected and qualified:

Yves Willems	President and CEO
Jack Fahler	Chief Operating Officer
Jose Voisin	Chief Information Officer
Jonathan Bright	Vice President, Finance
Jeff Bittner	Senior Vice President, Operations
Melissa Croll	Vice President, Human Resources
Alain Baert	Vice President, Engineering
Phil Piggott	Vice President, Sales and Marketing
Eric Segal	Vice President, Supply Chain
Mary D. Colin	Treasurer, Assistant Secretary
Nicholas Bonarrigo	VP Legal and Environmental, General Counsel and Secretary
David Mikan	Tax Director

RESOLVED, that the above elected officers do hereby replace and supplant the previous officers of the Corporation, and the elected officers do hereby commence to serve as officers of the Corporation from the date hereof;

RESOLVED, that the officers of the Corporation be, and they hereby are, authorized to do or cause to be done any and all such acts and things and execute and deliver any and all documents and papers as they may deem necessary or appropriate to carry out the purposes of the foregoing resolutions;

RESOLVED, that a copy of this Unanimous Written Consent of the Board of Directors be delivered to the Secretary of the Corporation with direction that it be filed and maintained with the corporate records of the Corporation.

IN WITNESS WHEREOF, the undersigned have executed this Unanimous Written Consent of the Board of Directors as of the 1st Day of January, 2023.

DocuSigned by:
Yves Willems
14219454F50F470...

Yves Willems

DocuSigned by:
Jack Fahler
47303B4F1649492...

Jack Fahler

Being all the Directors of Carmeuse Lime & Stone, Inc.