

**CITY OF MARATHON, FLORIDA
RESOLUTION 2023-53**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING A "SOLE SOURCE" PURCHASE PURSUANT TO THE CITY'S PURCHASING POLICIES AND PROCEDURES AND AUTHORIZING PANTROPIC POWER PRODUCTS, INC. TO PERFORM CORRECTIVE MAINTENANCE SERVICE ON THE AREA 5 WWTP BACKUP DIESEL GENERATOR IN THE AMOUNT OF \$50,193.94; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance 2015-04, the City adopted purchasing policies and procedures (the "Purchasing Policies and Procedures") after determining that it was fiscally prudent and, in the City's, best interest to adopt policies and procedures for City employees and officials regarding the acquisition and purchase of contractual services, equipment, goods, and other similar types of services and;

WHEREAS, the Purchasing Policies and Procedures allow the City to waive competitive bidding requirements due to a sole source supplier; and

WHEREAS, Pantropic Power is the only authorized dealer in the area to service the generator at the WWTP 5; and

WHEREAS, by servicing and making the necessary repairs to the generator we will continue to stay in compliance as required by the FDEP permitting.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The agreement for the maintenance and repairs in an amount not to exceed \$50,193.94, a copy of which is attached as Exhibit "A," together with such non-material changes as may be acceptable to the City Manager and approved as to form by the City Attorney, is hereby approved. The City Manager is authorized to expend budgeted funds on behalf of the City.

Section 3. This resolution shall take effect immediately upon its adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA THIS 27th DAY OF JUNE 2023.**

THE CITY OF MARATHON, FLORIDA



Luis Gonzalez, Mayor

AYES: Landry, Matlock, Smith, Still, Gonzalez
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**



Steve Williams, City Attorney



May 8th, 2023

City of Marathon
Christopher Wright
10685 Overseas Hwy Marathon FL 33050

RE: Authorized Cat Dealer

Dear Mr. Wright:

Pantropic Power Products Inc. with its primary offices at 8205 NW 58th St. Miami, FL 33166 ("Dealer"), is an authorized independent dealer of various models of Cat® branded machines, equipment, engines, oils and spare parts ("Cat® products"). As an authorized Cat dealer, Dealer provides prompt, competent services for Cat® products in the following counties in the state of Florida: Indian River, Okeechobee, Glades, Charlotte, Lee, Hendry, Collier, Monroe, Dade, Broward, Palm Beach, Martin, and St. Lucie (the "Service Territory"). Dealer is the only Cat dealer with approved business locations in the Service Territory.

In the event Dealer ceases to be an authorized Cat dealer, support for Equipment will be available from either a newly appointed dealer or another Cat dealer in Caterpillar's dealer network.

If you have any questions concerning Caterpillar or Cat dealers, or require additional information, please contact me at the number below.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Kania".

Adam Kania
Aftermarket Solutions Representative
Caterpillar, Inc.
Phone: (309) 453-0794



ONE SOURCE-ONE CALL-ONE SOLUTION™
www.PantropicPower.com

Miami West Palm Bch Ft. Myers Ft. Lauderdale Stuart
305-592-4944 561-640-0818 239-337-4222 954-797-7972 772-692-3442

Estimate

Estimate No.: SQ0048673
WorkOrder: SC131657
Estimate Date: 5/3/2023
Customer No.....: 4010176

Expiry Date: 6/2/2023

Sold To: City of Marathon
9805 Overseas Hwy
Marathon FL 33050-3339

Ship To City of Marathon
Area 5
10685 Overseas Hwy
Marathon FL 33050

Pantropic Power Contact Phone No. **Division**
Riveron, Jonathan Electric Power Generatio

Model	Serial No.	ID No.	Customer Equipment No.	Service Meter
C27PKGG	DWB02665	P011252	AREA 5 WWTP	563.00

DISCONNECT & CONNECT- BACKEND

Will also do the rear main seal in the disconnect / connect portion.

Quantity	Unit	Item Name	Unit price	Extended Price
1.00	pc	Seal Gp-Cshf	111.44	111.44
Total parts on segment 01:				111.44
Total labor on segment 01:				16,250.00
Segment 01 Total:				16,361.44

Customer Complaint
CLEAN, DIP & BAKE

DISCONNECT & CONNECT- BACKEND (HELPER)

Quantity	Unit	Item Name	Unit price	Extended Price
Total labor on segment 02:				9,600.00
Segment 02 Total:				9,600.00

Customer Complaint
CLEAN, DIP & BAKE

PERFORM- CLEAN, DIP, & BAKE- ON BACKEND

Quantity	Unit	Item Name	Unit price	Extended Price
1.00	pc	BACKEND SERVICE / REPAIR	15,600.00	15,600.00
Total misc. on segment 03:				15,600.00



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Ship To City of Marathon
Area 5
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Marathon FL 33050

Pantropic Power Contact Phone No.	Division
Riveron, Jonathan	Electric Power Generation

Model	Serial No.	ID No.	Customer Equipment No.	Service Meter
C27PKGG	DWB02665	P011252	AREA 5 WWTP	563.00

PERFORM- CLEAN, DIP, & BAKE- ON BACKEND

Quantity	Unit	Item Name	Unit price	Extended Price
			Segment 03 Total:	15,600.00

Customer Complaint
CLEAN, DIP & BAKE

TRANSPORT BACK END (TO & FROM)

Quantity	Unit	Item Name	Unit price	Extended Price
			Total labor on segment 04:	2,560.00
			Segment 04 Total:	2,560.00

Customer Complaint
CLEAN, DIP & BAKE

TRAVEL TO/FROM - WORK AREA

Quantity	Unit	Item Name	Unit price	Extended Price
			Total labor on segment 05:	3,572.50
1.00	pc	Lodging	2,500.00	2,500.00
			Total misc. on segment 05:	2,500.00
			Segment 05 Total:	6,072.50

Customer Complaint
CLEAN, DIP & BAKE

PANTROPIC POWER, INC.

SERVICE ESTIMATE

TERMS AND CONDITIONS

Per Owner/Customer's request, Pantropic Power, Inc. (hereinafter "PPI") has estimated repairs on the Equipment, including all components, parts or other miscellaneous items listed herein. A repair description with labor and/or parts is stated herein. Upon disassembly of the Equipment to be repaired additional parts, labor and miscellaneous items may be necessary. If so, at customer's request a Service Estimate for additional repairs will be forwarded to Owner/Customer for approval. NOTE: By accepting this Service Estimate in writing, verbally or by signing a corresponding "AUTHORIZATION FOR SERVICE WORK," Owner/Customer agrees to all terms and conditions set forth herein. NOTE: TERMS AND CONDITIONS SET FORTH HEREIN PREVAIL OVER OWNER/CUSTOMER PURCHASING TERMS.

AUTHORITY TO PERFORM REPAIRS: It is understood that upon receipt of any items or Equipment for repair, maintenance or other work, PPI may examine the item or Equipment received and PPI may suggest other work to be performed, in addition to whatever work, if any, might have been requested by Owner/Customer.

TIME AND MATERIAL WORK: PPI will proceed with the work agreed upon as set forth herein.

FIRM PRICE: If requested, a firm price will be given in writing to Owner/Customer for labor and/or parts to do a specific repair. Any agreed-upon repair order not covered by a firm written proposal will be billed at current time and material prices.

UNFORESEEN PROBLEMS OR ADDITIONAL REPAIRS: PLEASE BE ADVISED: UNFORESEEN ISSUES/PROBLEMS AND UNANTICIPATED CONDITIONS MAY CAUSE REPAIR PRICE TO INCREASE AND DUE TO THE CIRCUMSTANCES THE TIME NECESSARY TO REPAIR MAY INCREASE. In the event additional repair work is found to be necessary pursuant to PPI's examination and inspection of the Equipment (due to continuous use, unknown problems, working conditions, dirty equipment, waiting on Owner/Customer approved support, parts exchange cores that do not meet 100% core refund criteria, conditions out of PPI's control and items discovered during disassembly in need of repair or replacement during disassembly that are not covered herein), PPI will communicate with Owner/Customer regarding the additional repair work needed. In the event PPI is unable to communicate with Owner/Customer, PPI, at its sole discretion, shall have the absolute right to cease any and all repairs on the Equipment until such time as the additional repairs are discussed with Owner/Customer. In the event the

Owner/Customer consents to the additional repairs, either verbally or in writing, PPI has the right to proceed with the additional repair without further communication with Owner/Customer and any and all additional repairs will be charged to Owner/Customer at current time and material prices.

AUTHORITY OF OWNER/CUSTOMER'S PERSONNEL: Unless the Owner/Customer notifies PPI, **in writing**, that only authorized Owner/Customer employees have binding authority, PPI is authorized and Owner/Customer specifically agrees that PPI can accept any Owner/Customer employee's authorization as Owner/Customer's full authority to approve PPI to perform any and all work, repairs, service or maintenance. Should Owner/Customer not provide PPI with written instructions as to the names of authorized employees, any Owner/Customer employee has the right to authorize PPI to perform work, repairs, service or maintenance, and such authorization serves to waive any defense on behalf of Owner/Customer that the work, repairs, service or maintenance was not properly authorized by Owner/Customer. All instructions to PPI regarding authority of Owner/Customer's personnel to bind Owner/Customer to this Repair Estimate shall be in writing and sent via courier or U.S. mail, return receipt requested, to PPI's main office, Attention President of PPI, at 8205 NW 58th Street, Miami, Florida 33166.]

PURCHASE ORDER: In the event PPI has performed any work and a purchase order number is required Owner/Customer shall provide such purchase order number to PPI within 3 business days of receiving either a pro forma invoice or the Repair Estimate from PPI. If Owner/Customer fails to provide such purchase order number within such period of time (3 business days), PPI has a right to invoice Owner/Customer without a purchase order number and Owner/Customer waives, forfeits and/or renounces any right to dispute such invoice for failure to obtain a purchase order.

HOLD HARMLESS AGREEMENT FOR OWNER/CUSTOMER'S PARTICIPATION IN SERVICE WORK: In the event Owner/Customer or Owner/Customer's personnel, agents, representatives and/or employees assist PPI's personnel in performing any service or warranty work, Owner/Customer agrees to hold harmless and fully indemnify PPI for any injuries or damages to anyone, including Owner/Customer's personnel, agents, representatives and/or employees arising out of the assistance to PPI's personnel in servicing or repairing Owner/Customer's Equipment.

NO CORPORATE OR OTHER DISCOUNTS: No additional discounts may be applied to this Service Estimate.

PRICE ADJUSTMENTS: This Service Estimate is based on current parts and labor pricing. If any price increases occur by others outside of the control of PPI,

Owner/Customer agrees, consents and approves to assume such price increases and to pay any such increased amounts as part of the invoiced amount.

MISCELLANEOUS: This Service Estimate is prepared with the most current information available to PPI.

- A. The following charges are not included unless stated in this Service Estimate: state, local, incidental care, environmental, taxes, freight, etc. All prices are subject to all federal, state, local sales, use, excise and other taxes on the production, sale, use or shipment of the Equipment serviced, now or subsequently becoming effective and if not included in the invoice for the serviced Equipment, the amount may be invoiced later.
- B. This is the entire Service Estimate agreed to between Owner/Customer and PPI and may not be modified or amended except by a written document signed by the party against whom enforcement is sought.

RISK OF LOSS: All risk of loss and damage not covered by insurance (including any deductibles) shall be borne solely by Owner/Customer of Equipment.

SEVERABILITY: In the event any provision found in this Service Estimate's Terms and Conditions are found by a Court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provision shall thereby not in any way be affected or impaired.

STATUTORY LIEN: Owner/Customer hereby waives its rights to possession under any and all Florida law and agrees that PPI is entitled to a possessory lien in connection with the Equipment being serviced herein until PPI is paid in full for any and all parts, labor and/or services rendered as listed in this Service Estimate.

LIMITATION OF WARRANTIES AND LIABILITIES/EXCLUSIVE LIMITED WARRANTY: The following limited warranty applies:

- A. PPI warrants workmanship and materials furnished by it for a period of 30 days from the date of completion of any particular job. If defects or suspected defects are found, Owner/Customer or Owner/Customer's agent must notify PPI in writing within 30 days from the date of the job's completion as indicated by PPI as to the defects or suspected defects. In the event there are any defective parts claimed to exist by Owner/Customer, the alleged defective component must be stated in the notice and made available to PPI for inspection and repair within 30 days after completion of the repair for which adjustment is claimed. If not, PPI shall be

relieved of any and all liability for such defect, suspected defect and/or adjustment. If inspection by PPI confirms that the reported deficiency is attributable to its furnished parts or workmanship as determined by its qualified personnel, PPI will repair or replace the faulty part or assembly at its nearest service department, during regular working hours, subject to conditions stated herein. No other warranty is authorized by PPI and, in fact, all other warranties are fully, completely and expressly disclaimed. **SUCH REMEDIES SHALL CONSTITUTE OWNER/CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND OWNER/CUSTOMER HEREBY AGREES THAT ALL OTHER REMEDIES, INCLUDING BUT NOT LIMITED TO CLAIMS FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, OR ANY CAUSE, LOSS, ACTION, CLAIM OR DAMAGE, INCLUDING LOSS OF TIME, WHATSOEVER, OR INJURY TO PERSON OR PROPERTY OR ANY OTHER CONSEQUENTIAL DAMAGE OR INCIDENTAL OR ECONOMIC LOSS ARE EXPRESSLY WAIVED AND EXCLUDED. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR EXPRESS WARRANTIES OF ANY KIND. IN THE EVENT SUBSTANDARD REPAIR WORK IS REQUESTED BY OWNER/CUSTOMER AND SUCH WORK IS PERFORMED BY PPI AT OWNER/CUSTOMER'S REQUEST, SUCH WORK WILL CARRY ABSOLUTELY NO WARRANTY WHATSOEVER. OWNER/CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT NO VERBAL CONTRACTS, AGREEMENTS OR WARRANTIES OTHER THAN WHAT IS SET FORTH HEREIN HAVE BEEN RECEIVED OR GIVEN.**

- B. Other than the warranty stated, there are **NO OTHER WARRANTIES AND PPI DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES EITHER EXPRESS OR IMPLIED AND PPI FULLY AND COMPLETELY EXCLUDES AND DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY, WARRANTIES RELATED TO A PARTICULAR PURPOSE, EXPRESS WARRANTIES OR OTHER TYPES OF WARRANTIES OR GUARANTEES.**
- C. Owner/Customer fully acknowledges this Service Estimate constitutes the entire agreement between Owner/Customer and PPI and any representation, promise, condition, inducement or warranty, express or implied, not included in this Service Estimate shall not be binding upon any party unless in writing and signed by PPI's Corporate President.
- D. It is also agreed by Owner/Customer that PPI is not liable for any consequential damages in connection with defective workmanship or materials. PPI's liability related to any work performed is solely and exclusively limited to the refund of any amounts paid to PPI for the service, work or parts related hereto. **ALL**

CONSEQUENTIAL DAMAGES OF ANY KIND ARE AGREED BY OWNER/CUSTOMER TO BE FULLY AND COMPLETELY WAIVED SO THAT PPI HAS NO LIABILITY FOR ANY SUCH CONSEQUENTIAL DAMAGES.

Owner/Customer hereby acknowledges the only warranty applicable hereto is as stated in Section "A" titled "Limitation of Warranties and Liabilities/Exclusive Limited Warranty" hereinbefore stated.

- E. Warranty work is performed during normal business hours, Monday through Friday. An overtime differential will be charged on warranty work performed after hours and/or work performed on Saturday, Sunday and all holidays. Travel time and mileage will be an additional charge.
- F. Irrespective of other provisions of this Service Estimate, PPI will be permitted to perform any warranty service work on Equipment where it deems such appropriate. Owner/Customer agrees to be responsible for delivery of the Equipment to PPI's main facility unless directed otherwise for the performance of the warranty work. The location of any warranty work to be performed is to be determined by PPI in its sole discretion. The cost of transporting the Equipment to/from PPI is the responsibility of Owner/Customer.
- G. **CHOICE OF LAW, CHOICE OF VENUE, FORUM AND FEES AND EXPENSES, WAIVER OF JURY TRIAL:**
 - i. Fees and Costs: Owner/Customer shall pay PPI for all reasonable costs, fees and expenses incurred (including attorneys' fees and court costs incurred through appellate levels and any post-judgment expenses and interest) in the event of any controversy, litigation or claim regarding this Service Estimate or any matter related to the services provided, repairs made, labor and/or parts provided, including any action required to collect monies due or that become due, or incurred in replevying the Equipment.
 - ii. Choice of Law, Venue and Forum: Regardless of the place of execution, the place of performance, the residence of the parties involved, the work provided, the repairs made or the choice of law rules existing in the jurisdiction where any such activity occurs, any action arising or relating to the Service Estimate Terms and Conditions, this agreement, the transactions involved herein or the services provided shall be construed and governed exclusively under the laws of the state of Florida and no other state. It is further agreed that the sole and exclusive venue of any action brought by any party concerning any matter related hereto shall lie solely and exclusively in the courts of Miami-Dade County, Florida. This choice of law and venue provision means that only Florida law will apply and any

action commenced or maintained related hereto must and shall be commenced and thereafter maintained exclusively in Miami-Dade County, Florida.

- iii. Waiver of Jury Trial: It is agreed to by all parties that trial by jury is fully and completely waived. As such, there is no entitlement to a trial by jury as to anything related to the Service Estimate Terms and Conditions, the transactions involved herein or the services provided as such right is fully and completely released, waived or otherwise deemed unenforceable by all parties.