

AGREEMENT

for

LABORATORY TESTING SERVICES

THIS AGREEMENT, made and entered into on this _____ day of _____ 2014, by and between **Sanders Laboratories, Inc., as the Primary vendor**, authorized to do business in the State of Florida, whose business address is 150 Endeavor Court, Nokomis, FL 34275 (the "Firm") and the City of Venice, a political subdivision of the State of Florida, whose address is 401 West Venice Avenue, Venice, FL 34285 (the "City"):

WITNESSETH:

1. **COMMENCEMENT.** The Firm shall commence the Work, as described in Section 3 herein, upon City Council award.
2. **CONTRACT TERM.** The Agreement shall be for a three (3)-year period, commencing on Date of Council award, and terminating three (3) years from that date. The City may, at its discretion and with the consent of the Firm, renew the Agreement under all of the terms and conditions contained in this Agreement for two (2) additional one (1)-year periods. The City shall give the Firm written notice of the City's intention to extend the Agreement term not less than ten (10) days prior to the end of the Agreement term then in effect.
3. **STATEMENT OF WORK.** The Firm shall provide various categories of laboratory testing services as may be needed to support the City's Utilities departments (the "Work") in accordance with the terms and conditions of **Bid # 2981-14** and the Firm's proposal referred to herein and made an integral part of this Agreement. This Agreement contains the entire understanding between the parties and any modifications to this Agreement shall be mutually agreed upon in writing by the Firm and the City's Contract Manager or his designee, in compliance with the City of Venice's Purchasing Policy and Administrative Procedures in effect at the time such services are authorized.
4. **COMPENSATION.** The City shall pay the Firm for the performance of this Agreement the aggregate of the units actually ordered and furnished at the unit prices (per Exhibit A – Bid Schedule), together with the cost of any other charges/fees submitted in the proposal.

Any City agency may purchase products and services under this Agreement, provided sufficient funds are included in its budget(s). Payment will be made upon receipt of a proper invoice and upon approval by the City's Contract Manager or his designee, and in compliance with Chapter 218, Florida Statutes (F.S.), otherwise known as the "Local Government Prompt Payment Act."

4.1 Payments will be made for services furnished, delivered, and accepted, upon receipt and approval of invoices submitted on the date of services or within six (6) months after completion of this Agreement. Any untimely submission of invoices beyond the specified deadline period is subject to non-payment under the legal doctrine of "laches" as untimely submitted. Time shall be deemed of the essence with respect to the timely submission of invoices under this Agreement.

5. **SALES TAX.** Firm shall pay all sales, consumer, use, and other similar taxes associated with the Work or portions thereof, which are applicable during the performance of the Work.
6. **NOTICES.** All notices from the City to the Firm shall be deemed duly served if mailed or faxed to the Firm at the following Address:

Sanders Laboratories, Inc.
ATTN: Henry Mason
150 Endeavor Court
Nokomis, Florida 34275
Facsimile: (941) 484-6774

All Notices from the Firm to the City shall be deemed duly served if mailed or faxed to the City to:

City of Venice
401 West Venice Avenue
Venice, Florida 34285
Fax: 941-496-2790

The Firm and the City may change the above mailing address at any time upon giving the other party written notification. All notices under this Agreement must be in writing.

7. **NO PARTNERSHIP.** Nothing herein contained shall create or be construed as creating a partnership between the City and the Firm or to constitute the Firm as an agent of the City.
8. **PERMITS; LICENSES; TAXES.** In compliance with Section 218.80, F.S., all permits necessary for the prosecution of the Work shall be obtained by the Firm. Payment for all such permits issued by the City shall be processed internally by the City. All non- City permits necessary for the prosecution of the Work shall be procured and paid for by the Firm. The Firm shall also be solely responsible for payment of any and all taxes levied on the Firm. In addition, the Firm shall comply with all rules, regulations and laws of City of Venice, Sarasota County, the State of Florida, or the U. S. Government now in force or hereafter adopted. The Firm agrees to comply with all laws governing the responsibility of an employer with respect to persons employed by the Firm.

9. **NO IMPROPER USE.** The Firm will not use, nor suffer or permit any person to use in any manner whatsoever, City facilities for any improper, immoral or offensive purpose, or for any purpose in violation of any federal, state, county or municipal ordinance, rule, order or regulation, or of any governmental rule or regulation now in effect or hereafter enacted or adopted. In the event of such violation by the Firm or, if the City or its authorized representative shall deem any conduct on the part of the Firm to be objectionable or improper, the City shall have the right to suspend the Agreement with the Firm. Should the Firm fail to correct any such violation, conduct, or practice to the satisfaction of the City within twenty-four (24) hours after receiving notice of such violation, conduct, or practice, such suspension is to continue until the violation is cured. The Firm further agrees not to commence operation during the suspension period until the violation has been corrected to the satisfaction of the City.

10. **TERMINATION.** Should the Firm be found to have failed to perform its services in a manner satisfactory to the City as per this Agreement, the City may terminate said Agreement for cause; further the City may terminate this Agreement for convenience with thirty (30) days written notice. The City shall be sole judge of non-performance.

In the event that the City terminates this Agreement, Firm's recovery against the City shall be limited to that portion of the Contract Amount earned through the date of termination. The Firm shall not be entitled to any other or further recovery against the City, including, but not limited to, any damages or any anticipated profit on portions of the services not performed.

11. **NO DISCRIMINATION.** The Firm agrees that there shall be no discrimination as to race, sex, color, creed or national origin.

12. **INSURANCE.** The Firm shall provide insurance as follows:

A. **Workers Compensation:** Company will provide Workers Compensation Insurance on behalf of all employees, including sub-contractors who are to provide a service under this Agreement, as required under Florida Law, Chapter 440, and Employers Liability with limits of not less than \$100,000 per employee per accident; \$500,000 disease aggregate; and \$100,000 per employee per disease.

B. **Business Auto Liability:** Coverage shall have minimum limits of \$1,000,000 Per Occurrence, Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This shall include: Owned Vehicles, Hired and Non-Owned Vehicles and Employee Non-Ownership.

C. **Commercial General Liability** including but not limited to bodily injury, property damage, contractual, products and completed operations, and personal injury with limits of not less than \$1,000,000 per occurrence, \$1,000,000 aggregate covering all work performed under this Agreement, to include broad form property damage.

Special Requirements: City of Venice shall be listed as the Certificate Holder and included as an **Additional Insured** on the Comprehensive General Liability Policy.

Current, valid insurance policies meeting the requirement herein identified shall be maintained by the Firm during the duration of this Agreement. The Firm shall provide City with certificates of insurance meeting the required insurance provisions. Renewal certificates shall be sent to the City ten (10) days prior to any expiration date. Coverage afforded under the policies will not be canceled or allowed to expire until the greater of: ten (10) days prior written notice, or in accordance with policy provisions. Firm shall also notify City, in a like manner, within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, non-renewal or material change in coverage or limits received by Firm from its insurer, and nothing contained herein shall relieve Firm of this requirement to provide notice.

Firm shall ensure that all subcontractors/consultants comply with the same insurance requirements that it is required to meet.

13. **INDEMNIFICATION.** To the maximum extent permitted by Florida law, the Firm shall indemnify and hold harmless the City, its officers and employees from any and all liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees and paralegals' fees, whether resulting from any claimed breach of this Agreement by Firm, any statutory or regulatory violations, or from personal injury, property damage, direct or consequential damages, or economic loss, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Firm or anyone employed or utilized by the Firm in the performance of this Agreement. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified party or person described in this section.

This section does not pertain to any incident arising from the sole negligence of the City of Venice.

13.1 The duty to defend under this Section 13 is independent and separate from the duty to indemnify, and the duty to defend exists regardless of any ultimate liability of the Firm, City, or any indemnified party. The duty to defend arises immediately upon presentation of a claim by any party and written notice of such claim being provided to Firm. Firm's obligation to indemnify and defend under this Section 13 will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that an action against the City or an indemnified party for the matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

14. **CONTRACT ADMINISTRATION.** This Agreement shall be administered on behalf of the City by the City's Contract Manager.
15. **CONFLICT OF INTEREST:** Firm represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. Firm further represents that no persons having any such interest shall be employed to perform those services.

16. **COMPONENT PARTS OF THIS AGREEMENT.** This Agreement consists of the following component parts, all of which are as fully a part of the Agreement as if herein set out verbatim: Firm's Proposal, Insurance Certificate, Bid # 2981-14 Specifications/ Scope of Services and written response to questions in the form of addendum(s), Exhibit A Bid Schedule.
17. **SUBJECT TO APPROPRIATION.** It is further understood and agreed by and between the parties herein that this Agreement is subject to appropriation by the City of Venice Council.
18. **PROHIBITION OF GIFTS TO CITY EMPLOYEES.** No organization or individual shall offer or give, either directly or indirectly, any favor, gift, loan, fee, service or other item of value to any City employee, as set forth in Chapter 112, Part III, Florida Statutes, City of Venice Ethics Ordinance Section 2-173, and "General Conditions & Instructions to Offerors"- Section 22 of Bid# 2981-14. Violation of this provision may result in one or more of the following consequences: (a) Prohibition by the individual, Firm, and/or any employee of the Firm from contact with City staff for a specified period of time; (b) Prohibition by the individual and/or Firm from doing business with the City for a specified period of time, including but not limited to: submitting bids, RFP, and/or quotes; and, (c) immediate termination of any contract held by the individual and/or Firm for cause.
19. **IMMIGRATION LAW COMPLIANCE.** By executing and entering into this Agreement, the Firm is formally acknowledging without exception or stipulation that it is fully responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 as located at 8 U.S.C. 1324, et seq. and regulations relating thereto, as either may be amended. Failure by the Firm to comply with the laws referenced herein shall constitute a breach of this Agreement and the City shall have the discretion to unilaterally terminate this Agreement immediately.
20. **OFFER EXTENDED TO OTHER GOVERNMENTAL ENTITIES.** The City of Venice encourages and agrees to the Firm extending the pricing, terms and conditions of this Agreement to other governmental entities at the discretion of the Firm.
21. **AGREEMENT TERMS.** If any portion of this Agreement is held to be void, invalid, or otherwise unenforceable, in whole or in part, the remaining portion of this Agreement shall remain in effect.
22. **ADDITIONAL ITEMS/SERVICES.** Additional items and/or services may be added to this Agreement in compliance with the City's Purchasing Policy.
23. **DISPUTE RESOLUTION.** Prior to the initiation of any action or proceeding permitted by this Agreement to resolve disputes between the parties, the parties shall make a good faith effort to resolve any such disputes by negotiation. The negotiation shall be attended by representatives of the Firm with full decision-making authority and by City's staff person who would make the presentation of any settlement reached during negotiations to City for approval. Failing resolution, and prior to the commencement of depositions in any litigation

between the parties arising out of this Agreement, the parties shall attempt to resolve the dispute through mediation before an agreed-upon Circuit Court Mediator certified by the State of Florida. The mediation shall be attended by representatives of Firm with full decision-making authority and by City's staff person who would make the presentation of any settlement reached at mediation to City's Council for approval. Should either party fail to submit to mediation as required hereunder, the other party may obtain a court order requiring mediation under Section 44.102, F.S.

24. **VENUE.** Any suit or action brought by either party to this Agreement against the other party relating to or arising out of this Agreement must be brought in the appropriate federal or state courts in Sarasota County, Florida, which courts have sole and exclusive jurisdiction on all such matters.
25. **AGREEMENT STAFFING.** The Firm's personnel and management to be utilized for this Agreement shall be knowledgeable in their areas of expertise. The City reserves the right to perform investigations as may be deemed necessary to ensure that competent persons will be utilized in the performance of the Agreement. The Firm shall assign as many people as necessary to complete the required services on a timely basis, and each person assigned shall be available for an amount of time adequate to meet the required service delivery dates.
26. **PROTECTION OF PROPERTY.** The Firm shall ensure that the Work is performed in such manner as to not damage any property. In the event damage occurs to any property as a direct result of the Firm or their sub-contractor in the performance of the Work, the Firm shall repair/replace, to the City's satisfaction, damaged property at no additional cost to the City. If the damage caused by the Firm or their sub-contractor has to be repaired/ replaced by the City, the cost of such work will be deducted from the monies due the Firm.
27. **CLEAN UP.** If applicable, Firm agrees to keep the project site clean at all times of debris, rubbish and waste materials arising out of the Work. At the completion of the project, Firm shall remove all debris, rubbish and waste materials from and about the project site, as well as all tools, appliances, construction equipment and machinery and surplus materials, and shall leave the project site clean and ready for occupancy by the City.
28. **SUBSTITUTE PERFORMANCE.** In the event the Firm fails to perform any required service within the time schedule under the Agreement, the City reserves the right to obtain substitute performance. Further, the City reserves the right to deduct the cost of such substitute performance from the Firm's payments. The Firm may be exempt from this provision if such exemption is granted by the City's Contract Manager or his designee, in writing, prior to any delays or as a result of an Act of Nature.
29. **CHANGES IN THE WORK.** City shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after being notified of a change, Firm shall submit an itemized estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or as expressly set forth herein, no addition or changes to the Work shall be made except upon written order by the City, and City shall not be liable to the Firm for any increased compensation without such written order. No officer, employee or agent of the City is

authorized to direct any extra or changed work orally. Any modifications to this Agreement shall be in compliance with the City's Purchasing Policy and Administrative Procedures in effect at the time such modifications are authorized.

30. **ORDER OF PRECEDENCE.** In the event of any conflict between or among the terms of any of the Contract Documents, the terms of this Agreement shall take precedence over the terms of all other Contract Documents.
31. **ASSIGNMENT.** Firm shall not assign this Agreement or any part thereof, without the prior consent in writing of the City. Any attempt to assign or otherwise transfer this Agreement, or any part herein, without the City's consent, shall be void. If Firm does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward Firm all of the obligations and responsibilities that Firm has assumed toward the City.
32. **PUBLIC RECORDS.** Pursuant to applicable Florida law, the Firm's records associated with the Work may be subject to Florida's public records laws, Florida Statutes 119.01, et seq, as amended from time to time. The Firm shall comply with all public records obligations set forth in such laws, including those obligations to keep, maintain, provide access to, and maintain any applicable exemptions to public records, and transfer all such public records to the City at the conclusion of the Agreement, as provided for in Section 119.0701, F.S.
33. **ENTIRE AGREEMENT.** This Agreement and the Contract Documents constitute the entire agreement of the parties and may not be changed or modified, except by a written document signed by both parties hereto. This Agreement shall be binding upon the successors and assigns of the parties.

SIGNATURES ON NEXT PAGE

IN WITNESS WHEREOF, the Firm and the City, have each, respectively, by an authorized person or agent, hereunder set their hands and seals on the date and year first above written.

ATTEST:
Lori Stelzer
City Clerk

CITY OF VENICE, FLORIDA

By: _____
Dated: _____
(SEAL)

By: _____
John Holic, Mayor, City of Venice

SANDERS LABORATORIES, INC.

First Witness

By: _____
Signature

Type/print witness name

Second Witness

HEMAY MASON, PAES
Type/print signature and title

Type/print witness name

Approved as to Form and Correctness

David Persson, City Attorney

EXHIBIT A – BID SCHEDULE

Eastside WRF

Parameter	Source	Unit Cost
Influent		
CBOD	Influent	<u>\$12.00</u>
Total Suspended Solids	Influent	<u>\$8.00</u>
Total Nitrogen	Influent	<u>\$19.00</u>
Effluent		
CBOD	Effluent	<u>\$12.00</u>
Total Suspended Solids	Effluent	<u>\$8.00</u>
Fecal Coliform	Effluent	<u>\$8.00</u>
Total Nitrogen	Effluent	<u>\$19.00</u>
Total Phosphorus	Effluent	<u>\$10.00</u>
Monitoring Wells (13)		
Nitrate	Well	<u>\$8.00</u>
Total Dissolved Solids	Well	<u>\$8.00</u>
Chloride	Well	<u>\$6.00</u>
Sulfate	Well	<u>\$6.00</u>
Arsenic	Well	<u>\$9.00</u>
Cadmium	Well	<u>\$9.00</u>
Chromium	Well	<u>\$9.00</u>
Lead	Well	<u>\$9.00</u>
Sodium	Well	<u>\$7.00</u>
Fecal Coliform (no dilutions)	Well	<u>\$9.00</u>
Miscellaneous		
Residuals TCLP		<u>\$150.00</u>
Calibrate Gel Standards		<u>\$15.00</u>
Calibrate DR850		<u>\$15.00</u>
Calibrate DR520		<u>\$15.00</u>

EXHIBIT A – BID SCHEDULE

Reverse Osmosis Water Treatment Plant

Parameter	Source	Unit Cost
RO Concentrate		
pH	Outfall	<u>\$45.00</u>
Dissolved Oxygen	Outfall	<u>\$45.00</u>
Chlorine Residual, Low MDL	Outfall	<u>\$45.00</u>
Fluoride	Outfall - Composite	<u>\$12.00</u>
Chloride	Outfall - Composite	<u>\$6.00</u>
Copper	Outfall - Composite	<u>\$9.00</u>
Total Suspended Solids	Outfall - Composite	<u>\$8.00</u>
Gross Alpha	Outfall - Composite	<u>\$55.00</u>
Radium 226	Outfall - Composite	<u>\$85.00</u>
Radium 228	Outfall - Composite	<u>\$85.00</u>
Conductivity	Outfall - Composite	<u>\$10.00</u>
Aluminum, Total Recoverable	Outfall - Composite	<u>\$9.00</u>
Iron, Total Recoverable	Outfall - Composite	<u>\$7.00</u>
Nitrogen, Total	Outfall - Composite	<u>\$19.00</u>
Phosphorus, Total (as P)	Outfall - Composite	<u>\$10.00</u>
Bromide	Outfall - Composite	<u>\$12.00</u>
Bacteriological		
Total Coliform	Drinking Water Sources	<u>\$9.00</u>
Total Coliform	Main Breaks/Misc.	<u>\$9.00</u>
Well Sample Analysis		
Chloride	Monitoring Well	<u>\$7.00</u>
Sulfate	Monitoring Well	<u>\$7.00</u>
Total Dissolved Solids	Monitoring Well	<u>\$8.00</u>
Chloride	Production Well	<u>\$7.00</u>
Sulfate	Production Well	<u>\$7.00</u>
Total Dissolved Solids	Production Well	<u>\$8.00</u>
Chloride	Domestic Monitoring Wells	<u>\$7.00</u>
Sulfate	Domestic Monitoring Wells	<u>\$7.00</u>
Total Dissolved Solids	Domestic Monitoring Wells	<u>\$8.00</u>

EXHIBIT A – BID SCHEDULE

Ambient Water - Intracoastal Waterway

Ammonia	Salt Water	<u>\$12.00</u>
Nitrate-Nitrite	Salt Water	<u>\$10.00</u>
TKN	Salt Water	<u>\$12.00</u>
Total Nitrogen	Salt Water	<u>\$5.00</u>
Orthophosphate	Salt Water	<u>\$12.00</u>
Total Phosphate	Salt Water	<u>\$12.00</u>
Total Suspended Solids	Salt Water	<u>\$8.00</u>
Chlorophyll A	Salt Water	<u>\$25.00</u>
Pheophytin	Salt Water	<u>\$10.00</u>
Hydrogen Sulfide	Salt Water	<u>\$20.00</u>
BOD	Salt Water	<u>\$12.00</u>
Gross Alpha	Salt Water	<u>\$55.00</u>
Radium 226	Salt Water	<u>\$80.00</u>
Radium 228	Salt Water	<u>\$80.00</u>
pH (field)	Salt Water	<u>\$5.00</u>
Dissolved Oxygen (field)	Salt Water	<u>\$5.00</u>
Temperature (field)	Salt Water	<u>\$5.00</u>
Salinity (field)	Salt Water	<u>\$5.00</u>
Chloride (calculated salinity)	Salt Water	<u>\$5.00</u>

Required DEP samples

Lead and Copper Sampling	Drinking Water Sample	<u>\$20.00</u>
Nitrates/Nitrites	Drinking Water Sample	<u>\$8.00</u>
Asbestos	Drinking Water Sample	<u>\$400.00</u>
Inorganics	Drinking Water Sample	<u>\$150.00</u>
Volatile Organic Compounds	Drinking Water Sample	<u>\$60.00</u>
Pesticides and PCB's	Drinking Water Sample	<u>\$500.00</u>
Radionuclides	Drinking Water Sample	<u>\$215.00</u>
Secondaries	Drinking Water Sample	<u>\$150.00</u>
TTHM's/Haa5's	Drinking Water Sample	<u>\$140.00</u>
EPA/UCMR sampling	Drinking Water Sample	<u>\$1,084.00</u>