



**MANAGER'S REPORT
AGENDA ITEM REQUEST
FINANCE DEPARTMENT**



TO: Ed Lavallee, City Manager
THRU: Jeff Snyder, Finance Director JS
FROM: Jon Mayes, Procurement Specialist JM
DATE: October 24, 2013

SUBJECT: Eastside WRF Return Activated Sludge Pumps (ITB# 2974-13)

Background:

At the request of the Utilities Department, Finance solicited sealed bids for the "Eastside WRF Return Activated Sludge Pumps". This project includes the replacement of three return activated sludge pumps in the City's water distribution system. On September 26, 2013 one bid was received and subsequently opened from Barney's Pumps, Inc. of Lakeland, Fl.

It was determined that Barney's Pumps, Inc. of Lakeland, Fl is a responsive, responsible bidder and the Utilities Department recommends award of the contract to Barney's Pumps, Inc. in the amount of \$99,882.00.

Requested Action:

It is requested that City Council concur with the Utilities Department's determination of Barney's Pumps, Inc. of Lakeland, Fl, being a responsive, responsible bidder and grant authorization for the Mayor to execute a contract for the amount of \$99,882.00.

City Attorney Review: Approved

Risk Management Review: Approved

Funds Availability: Funds are appropriated in the Utilities fund budget.

cc: Bid file

CONTRACT

This contract is made and entered into this _____ day of _____, 2013, by and between the CITY OF VENICE, FLORIDA, hereafter referred to as CITY, and **Barney's Pumps, Inc, 2965 Barney's Pumps Place, Lakeland, FL 33802-3529,** hereafter referred to as VENDOR.

For and in consideration of the mutual covenants and obligations contained herein, the parties agree as follows.

1. The VENDOR shall sell and deliver to the CITY **three (3) Return Activated Sludge Pumps** designed, manufactured and equipped in accordance with the specifications set forth in Invitation to Bid Number 2974-13. Said **three (3) Return Activated Sludge Pumps** shall conform and comply with all applicable federal, state and local laws, statutes, ordinances and resolutions.
2. The VENDOR shall deliver the **three (3) Return Activated Sludge Pumps** to the CITY "Free On Board" shipping to **the Waste Water Reclamation Plant, 3510 East Laurel Road, Nokomis, FL 34275** within **150 days** from the date of issue of purchase order.
3. The CITY shall pay the VENDOR the total sum of **Ninety-Nine Thousand, Eight Hundred-Eighty-Two Dollars and 00/100 (\$99,882.00)** for the **three (3) Return Activated Sludge Pumps**. The purchase price shall be paid to the VENDOR in accordance with the Florida Prompt Payment Act (Florida Statutes 218.70).

4. A standard warranty package as described in the Invitation to Bid is included in the purchase price.
5. The CITY and VENDOR agree that timely delivery of the three (3) Return Activated Sludge Pumps is of the essence of this contract, that the CITY will suffer damages in the event of a failure to so perform and that such damages may be difficult to precisely calculate or prove. As a result, the VENDOR shall pay to the CITY, as liquidated damages and not as a penalty, the amount of \$ 250.00 per day, or portion thereof, for each day of delay in delivery for a capped total of thirty (30) days of the three (3) Return Activated Sludge Pumps. Such liquidated damages shall be paid in addition to any other recourse that may be available to the CITY in the event of such a breach.
6. Delivery of the three (3) Return Activated Sludge Pumps to the CITY does not constitute acceptance for the purpose of payment or warranty start time. The CITY shall inspect and test the three (3) Return Activated Sludge Pumps to determine whether it meets all specifications and requirements set forth in this contract and within ten (10) days following delivery, the CITY shall notify the VENDOR, in writing, of either its final acceptance of the three (3) Return Activated Sludge Pumps or the failure of such three (3) Return Activated Sludge Pumps to meet certain specifications and requirements.

In the latter case, the VENDOR, within ten (10) days following its receipt of written notice from the CITY, shall deliver to the CITY a detailed proposal and schedule for corrective action. If the proposed corrective action is acceptable to the CITY, the

VENDOR will be given written notice to proceed, and a new inspection, testing and notice process shall commence upon completion of corrective action. If the proposed corrective action or schedule is not acceptable, or if approved corrective action is not timely completed, the CITY may refuse the three (3) Return Activated Sludge Pumps. The three (3) Return Activated Sludge Pumps shall remain the property and responsibility of the VENDOR, and the VENDOR shall bear all risk of loss with respect thereto, until final acceptance by the CITY.

7. The VENDOR shall deliver to the CITY, in an electronic format acceptable to the CITY, the following pertaining to the three (3) Return Activated Sludge Pumps:
 - (a) three (3) copies of the associated technical and service manuals;
 - (b) a copy of the manufacturer's preventive maintenance schedule; and,
 - (c) the manufacturer's statement of origin, title application and all warranty documents.
8. The VENDOR shall indemnify and save harmless the CITY, its officials and employees, from all losses, damages, costs, expenses, liability, claims, actions and judgments of any kind whatsoever, including reasonable attorney's fees and costs of litigation, to the extent arising out of or caused by any act or omission of the VENDOR, its subcontractors, or their respective employees, officers, directors or agents, in the performance under this contract.
9. The VENDOR shall not assign any of its rights or obligations under this contract without prior written approval by the CITY.

10. This contract and every question arising hereunder shall be construed, interpreted or determined according to the laws of the State of Florida. Venue for any action brought in relation to this contract shall be placed in a court of competent jurisdiction in Sarasota County, Florida.
11. Contractor agrees to comply with Florida's public records law by keeping and maintaining public records that ordinarily and necessarily would be required by the public agency in order to perform the service; by providing the public with access to public records on the same terms and conditions that City would provide the records and at a cost that does not exceed the cost provided by Florida law; by ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed excepts as authorized by law; and by meeting all requirements for retaining public records and transferring, at no cost, to City all public records in possession of Contractor upon termination of this contract and destroying any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.
12. It is understood and agreed that this contract, including the Invitation to Bid, is the entire contract between the parties and supersedes all prior oral agreements and negotiations between the parties relating to the subject matter hereof. The CITY and the VENDOR, by mutual agreement, may change or amend the terms and conditions of this contract. All such changes or amendments shall be set forth in a written amendment to this contract.

This contract 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 contract shall be binding upon the successors and assigns of the parties.

IN WITNESS WHEREOF, the CITY and VENDOR set their hands and seals hereto on the day and year first above written.

ATTEST:

CITY OF VENICE
IN SARASOTA COUNTY, FLORIDA

CITY CLERK

BY: _____
MAYOR

ATTEST:

VENDOR

Cara Codd

BY: Karen L. Smith

Karen L. Smith
Credit Manager

CARA Codd
Signed by (typed or printed)

Signed by (typed or printed)

10/24/13
Title

Approved as to Form and Correctness

David Persson, City Attorney