

CITY OF LEBANON, INDIANA

**REQUEST FOR PROPOSALS FOR THE DESIGN,
CONSTRUCTION, FINANCE, OPERATION AND
MAINTENANCE OF A REGIONAL WASTEWATER
PRETREATMENT FACILITY FOR THE CITY OF LEBANON,
INDIANA**

Issued: June 6, 2017

RFP Response Due: Not later than 12:00 pm Eastern Daylight Time on June 23, 2017

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REQUEST FOR PROPOSAL

City of Lebanon, Indiana Regional Wastewater Pretreatment Facility

1. OVERVIEW

This Request for Proposal (“RFP”) issued by the City of Lebanon, Indiana (the “City”) seeks proposals from entities or groups of entities (the “Offeror”) to develop, design, construct, finance, operate, manage and maintain a new regional wastewater pretreatment facility on a parcel in the Lebanon Business Park consisting of approximately 10 acres with close proximity to the Ken’s Foods operations (as shown on the site map included in this RFP) (the “Project”). The City and its representatives are interested in receiving proposals from Offerors which, on a turn-key basis, will develop, design, construct, finance, operate, manage and maintain a centralized pretreatment center to serve Ken’s Foods within the Lebanon Business Park. The Project is envisioned to be the creation of a centralized regional pretreatment center with the capacity to serve the Ken’s Foods operations at the Lebanon Business Park, and with the flexibility to expand to support future food manufacturers within the Lebanon Business Park or from the surrounding region. The City anticipates that the pretreatment center will treat the wastewater by providing anaerobic treatment and will utilize the generated gas for either combined heat and power or as pipeline quality renewable biofuel. The City seeks a private sector partner who will develop, design, construct, finance, operate, manage and maintain the Project and that will be obligated to transfer the Project to the City at the completion of the contract term.

Responses to this RFP are requested from financially viable Offerors with a high degree of skill capable of providing engineering, project development, and construction services to install energy and infrastructure improvements, commissioning and programming services, operations and maintenance, and on-going measurement, monitoring and verification and guarantee services necessary to achieve and maintain operational benefits over the Project’s life. The City is particularly interested in Offerors with experience in the development, design, construction, and operations of anaerobic treatment processes with emphasis on resource recovery and biogas optimization. Knowledge areas that are most relevant to the Project include anaerobic digestion, organic waste receiving, biogas cleaning, and utility interconnection. The Offeror must provide all necessary financing for the Project, including debt and equity.

The City intends to negotiate a public-private agreement with the successful Offeror (the “PPA”) to develop, design, construct, finance, operate, manage and maintain the Project and either own or lease the real property on which the Project will be located (“Site”). At the conclusion of the PPA between the City and the Operator (defined herein), ownership of the facility, all improvements, equipment and other property used in the operation of the facility, and the Operator’s interests in the Site (collectively, the “Facility”) shall be transferred to the City without any cost to the City (other than such payments as may be provided in the PPA for early termination of the PPA). The selected successful Offeror must be an authorized and/or licensed company in the State of Indiana and Boone County that has the capability to design, construct, operate, manage, finance and maintain the Facility and can demonstrate the financial strength to

do so. The selected Offeror will be required to develop, design, construct and finance, operate and maintain the Project to meet the intent of this RFP and the specifications for the Project set forth in this RFP. The selected Offeror will also be required to operate, manage and maintain the Facility as designed and constructed as provided for within this RFP and to be provided in the PPA.

The Site is currently owned by Duke Realty [or an affiliate of Duke Realty]. The City will acquire or assist in the acquisition of the Site by the Operator and will cooperate in assuring the Site is available to the Operator for the Project, subject to compliance with Indiana law regarding the ownership and disposition of the City's assets. Each Offeror's proposal for the Project should include such Offeror's requirements for ownership or leasing of the Site.

This RFP describes the requirements for the Project. The term "Offeror" as used throughout this RFP refers to those firms submitting a proposal in response to this RFP ("Proposal") and the term "Operator" refers to the firm awarded the PPA.

2. PROCUREMENT PROCESS

Pursuant to Ind. Code 5-23 et seq. (the "Statute"), the City is authorized to solicit requests for proposals, to conduct discussions with Offerors to clarify their proposals, to have eligible Offerors revise their proposals and to negotiate best and final offers with responsible Offerors who submit proposals on a timely basis that the City determines to be reasonably susceptible of being selected for award of the PPA.

Pursuant to this authority and in accordance with the process described in this RFP, the City intends to select an Offeror to enter into a PPA with the City with respect to the Project. The selection of the Offeror will be based on the City's evaluation of the factors and criteria described in this RFP.

Following submission of proposals in response to this RFP, the City reserves the right to conduct discussions with one or more of the Offerors to clarify their RFPs and to understand and evaluate them in accordance with the process set forth herein. The process of selecting an Operator is described in this RFP.

The City considers the Project to be fully integrated. Offerors will need to propose a comprehensive solution. Proposals that do not address all of the Project's requirements as described in this RFP will be considered noncompliant and will be rejected.

The City intends to award a PPA to a single Offeror. The selected Offeror will become the City's private partner for the Project (the "Operator") to develop, design, build, finance, operate, manage and maintain the Project in return for payments to be proposed by the Offeror and, subject to final negotiations, to be set forth in the PPA. The City reserves the right to negotiate a PPA with more than one Offeror if it determines that it is in the City's interests to do so.

3. PROPOSAL REQUIREMENTS

a. Sealed proposals for the Project will be received by the City Board of Public Works and Safety of the City of Lebanon, Indiana “Board”) at the Office of the City Engineer, 401 South Meridian Street, Lebanon, Indiana 46052 Attn: Kevin Krulik, until 12:00 noon, local time (Eastern Daylight Time), on or before June 23, 2017 (or such later day and time as the City in its discretion may set) (“Proposal Submission Deadline”). Any proposals received later than the Proposal Submission Deadline will be returned unopened. No conditional proposals will be considered.

b. Seven (7) copies of the proposal shall be submitted to the City by the Proposal Submission Deadline at the location specified above.

c. An Offeror may not modify, withdraw or cancel its proposal for a period of ninety (90) days following the above-stipulated date for the Proposal submission.

d. The Proposal shall be signed by an officer of the Offeror duly authorized to submit the Proposal on behalf of the respective Offeror and who is authorized to enter into and bind the respective Offeror to a contract with the City.

e. The Operator’s staff shall be available to meet with City staff, when requested, to discuss the respective Proposal and to discuss and coordinate the Project.

f. The Operator shall have, as a minimum, the capabilities listed herein, and the proposal submitted must reflect in detail the capabilities of the Operator to deliver the Project as well as the Operator’s experience in performing these capabilities.

g. Each Offeror shall submit evidence of its solvency at the time of submission of its Proposal and its financial capability to deliver the Project. The City reserves the right to determine whether any Offeror has demonstrated sufficient financial responsibility with respect to the Project.

h. The City may conduct discussions and negotiations with Offerors who have responded to this RFP for the purpose of clarifying a Proposal and assuring full understanding of the Proposal and its responsiveness to the requirements of this RFP. The City will not disclose the contents of an Offeror’s Proposal during discussions and negotiations with other Offerors (subject to any requirements of applicable law or judicial process).

i. The City will evaluate all responsive Proposals and will provide a written explanation of the basis for its recommendation of the successful Offeror to the Board. In conducting this evaluation and making its recommendation, the City will consider the information in the Proposals and other public information available to the City which it considers credible and relevant to its evaluation of the Proposals. The City will provide the Board with any other information as necessary or requested by the Board.

j. The final award of contract shall be made by the Board in accordance with the Statute. In determining the award, the Board will consider and review the Proposal recommended by the City in accordance with this RFP, including the weighting of the evaluation criteria set out in Section 9 of this RFP.

4. PROJECT GOALS

The Project will be designed in consideration of the following goals (not listed in any order of importance):

- a. Energy resource recovery and supporting conveyance infrastructure to serve the needs of Ken's Foods in the Lebanon Business Park.
- b. Design features that will allow for expansion to accommodate new industry within the Lebanon Business Park or from the surrounding region.
- c. Minimize additional organic loading to the City's existing wastewater treatment plant.
- d. Minimize impact to City taxpayers.
- e. Optimize energy recovery from food industry wastewater.
- f. Reduce Green House Gas Emissions and carbon footprint.
- g. Compliance with aesthetic, odor and other applicable site requirements.
- h. Return a fully functioning regional wastewater pretreatment facility to the City at the completion of the PPA.

5. OPERATOR RESPONSIBILITIES

The proposals by each Offeror should be based on, and take into account, the terms and conditions set forth in this RFP, including the assumptions and the responsibilities of the Operator set forth in this Section.

The Operator will own the Facility until the expiration of the PPA. At the termination of the PPA, the Operator will transfer ownership of the Facility to the City without charge at the expiration of the full term of the PPA and on such other terms for any earlier termination as provided in the PPA.

The Site will be available for ownership by the Operator or for lease. The Site is currently owned by Duke Realty (or one of its affiliates) as part of the Lebanon Business Park. The City will acquire or assist in the acquisition of the Site by the Operator and will cooperate in assuring the Site is available to the Operator for the Project either as owner or pursuant to a lease, subject to compliance with Indiana law regarding the ownership and disposition of the City's assets.

Each Offeror's proposal for the Project should include such Offeror's requirements for ownership or leasing of the Site.

The general scope of the Operator's responsibilities under the PPA include but are not necessarily limited to the following:

a. Design and Construction: Operator will be responsible for all of the design and construction of the Project in accordance with the PPA and all applicable laws, regulations and industry standards. The design work and construction will meet the initial needs of the Project as described below as well as allowing for expanded capacity.

- i. The initial needs will include an anaerobic MBR process sufficient to treat:
 - 1) 160,000 gallons per day of industrial wastewater
 - 2) 46,000 mg/L COD (62,000 lbs/day)
 - 3) 20,000 mg/L TSS (26,600 lbs/day)
- ii. The construction will also involve the placement of the conveyance pipelines necessary to convey the industrial wastewater from the industry to the Facility.
- iii. It is anticipated that within 5-years, the Facility will need to be expanded to handle 200,000 gallons per day from the same industry. The characteristics of the wastewater is expected to remain the same. Ultimate capacity of the Facility could reach up to 450,000 gallons per day, but is subject to economic development efforts in the Lebanon Business Park. The Operator will be involved in discussions with future industry to evaluate the impact on the Facility and the need for expansion.
- iv. The Facility may be operated as a commercial digester and receive outside high strength waste. The operation of the digestion facilities in this manner is the decision of the Operator.
- v. The Facility will be subject to the City's Sewer Use Ordinance and pretreatment limits contained therein.
- vi. In addition to the treatment, the Facility will be required to include a renewable biomethane (RBM) component in the Project. This biogas to RBM conversion will allow for either pipeline injection or on-site sale of a clean, renewable natural gas for sale to regional partners for vehicle fuel. The final RBM scenario will be determined by the Operator and the anticipated revenue generated from the biogas, including revenue sharing with the City to be reflected in the PPA. The RFP response must include the anticipated RBM plan and examples of where the Offeror has successfully implemented this type of reuse.

- b. Professional Services: Operator will be required to provide (or obtain at its expense) all professional services necessary to implement the Project (other than the professional services which the City obtains), which will be more fully defined in the PPA.
- c. Construction: Operator will be responsible for construction and commissioning of the Project.
- d. Permits/Approvals: Operator will be responsible for obtaining all permits and approvals necessary for construction of the Project, excluding certain approvals that the PPA will expressly indicate will be obtained by the City.
- e. Finance: Operator will be required to provide the financing necessary for the Project, including any required debt and equity.
- f. Bonding: Operator will be required to provide a performance bond for the construction and completion of the Project.
- g. Facility Operation and Management Services: Operator will be responsible for all operational and maintenance aspects of the Facility and the management of such services. This includes compliance with the City's pretreatment standards and the disposal of all wastes from the Facility (including the ultimate disposal of biosolids generated by the Facility).
- h. Handback: Operator will be responsible for ensuring that the Project is returned to the City following the completion of the term of the PPA in fully operational condition and otherwise as specified in the PPA.

6. TERM AND COMPENSATION

The Offeror should propose the initial term of the PPA, including automatic renewals and automatic extensions, if any. Terms in excess of five (5) years (in the aggregate) require approval of the Common Council of the City of Lebanon. Compensation shall be structured pursuant to the PPA as follows:

- a. The Operator will receive either a percentage of revenues received in the operation and management of the Project or a fixed amount until all of the following costs are recovered:
 - i. Capital outlay costs for the Facility and public service plus interest and principal repayment for any debt incurred.
 - ii. Costs associated with the operation, management, maintenance and transfer of the Project.
 - iii. Reimbursement for payments made to the City for the costs of maintenance, law enforcement, and other services if the services are performed by the City.

- iv. An agreed upon return on investment to the Operator.
- v. Amounts to be charged by the Operator to the City, if any, as set forth in the PPA.

b. The City will be entitled to retain all revenues generated from sewer user fees from its existing sewer base and to utilize such revenues in its discretion. If the City provides services in connection with the administration of any incremental revenue stream resulting from the Project, the City will receive a portion of such incremental revenue at a rate to be negotiated and set by mutual agreement by the City and the Operator under the terms of the PPA.

c. The specific method by which the Operator will be paid under terms of the PPA will be dependent upon the specific Project and operational model identified by the Operator.

d. The Operator and the City will provide for sharing of any revenue generated by the Project with respect to the RBM component and any other byproducts that may be identified from the operation of the Facility.

7. PROPOSAL INFORMATION

a. **Request For Proposal** – The City hereby notifies prospective Offerors who have the potential to develop, design, construct, finance, operate, manage and maintain the Project of the opportunity to submit a Proposal in response to this RFP. Upon request, each prospective Offeror will receive one (1) copy of the RFP from the City. Prospective Offerors are responsible for making additional copies as required to satisfy their needs. Offerors are encouraged to initiate preparation of Proposals immediately upon receipt of this RFP so that all relevant questions and information needs can be identified and answered, and so adequate time is available to prepare a comprehensive and complete response.

b. **Deadline for Proposals** – All proposals must be submitted to the Office of the City Engineer, 401 South Meridian Street, Lebanon, Indiana 46052 Attn: Kevin Krulik, by 12:00 noon, local time (Eastern Daylight Time), on or before June 23, 2017. Risk of delivery is assumed by the Offeror.

c. **Point of Contact** – All communication with the City must be directed to the single point of contact (the “POC”) for this Project, as follows:

| | |
|------------|---|
| Name: | Kevin Krulik |
| Title: | City Engineer |
| City: | Lebanon, Indiana |
| Address: | 401 South Meridian Street Lebanon, Indiana 46052 |
| Email: | kkruklik@cityoflebanon.org |
| Telephone: | 765-482-8845 |
| Fax: | 765-482-8883 |

d. **Schedule of Activities** – The following schedule outlines the major activities for the RFP and Proposal selection processes. The City reserves the right to amend the schedule in its discretion as it deems appropriate.

| <u>Event</u> | <u>Date</u> |
|---|-----------------------|
| Issue the RFP | June 6, 2017 |
| First notice of RFP published; posted on City website | June 8, 2017 |
| Second notice of RFP published. | June 15, 2017 |
| Cutoff date for questions | June 23, 2017 (noon) |
| Proposal Submission Deadline | June 23, 2017 (noon) |
| Proposal evaluations/negotiations | June 26- July 5, 2017 |
| Recommendation to Board | July 7, 2017 |
| Notice of Board public hearing published. | July 7, 2017 |
| Board holds public hearing; approves and awards PPA | July 17, 2017 |
| Notification of Award | July 18, 2017 |
| Execute PPA | July 18, 2017 |

e. **Offeror Minimum Qualifications** – The Offeror shall have the following minimum qualifications:

- i. A sound business reputation;
- ii. Proven capabilities in delivering services on time and on budget;
- iii. Appropriate resources to satisfy the requirements set forth herein;
- iv. Experience in the implementation of the proposed Facility, consisting of no less than five (5) comparable operational facilities;
- v. Established strong financial stability necessary to back workmanship, guarantee long-term financial performance, and demonstrate business longevity to initiate a potentially long-term contractual partnership with the City. The Offeror shall include in its submission demonstrable financial backing for the Project in place at the time of submission of the RFP;
- vi. Is registered to do business in the State of Indiana; and

- vii. Is not, nor is any of its principals or affiliates, presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from or ineligible for participation in any Federal assistance or procurement program by any Federal department or agency, or by any department, agency or political subdivision of the State of Indiana.

If the Offeror is relying on one or more other entities to satisfy any of these qualifications information about each entity shall be provided with the Proposal, including a description of the portion of the Project to be provided by each entity and other information relevant to an assessment of each entity's qualifications.

f. **Offeror Rights** – All materials submitted in response to this RFP become the property of the City upon delivery and shall be appended to any formal documentation, which would further define or expand the contractual relationship between the City and Offeror. Each Offeror, as an express condition for the City's consideration of such Offeror's Proposal, agrees that the contents of each Proposal submitted to the City is confidential, and may contain proprietary and trade secret information of the Offeror submitting a Proposal in one or more technical areas, and each Offeror waives any right to access to any Proposals by any other Offeror. No submissions or supporting documentation will be returned to the respective Offeror. Offerors submitting Proposals should recognize that the City is a public body and, as a public body, the City is subject to disclosure requirements and must abide by public record laws. Neither the City nor any Offeror shall be liable for disclosures required by law.

g. **Reservation of Rights** – This RFP does not commit the City to award the PPA, to pay any costs incurred in the preparation of a Proposal to this request, or to otherwise contract for any services. The City reserves the right to accept or reject any or all Proposals received as a result of this request, to negotiate with any qualified Offerors, or to cancel in part or in its entirety this RFP, if it is in the best interest of the City to do so. This is in addition to other rights reserved by the City in this RFP.

h. **Late Proposals Not Considered** – Proposals received after the stipulated Proposal Submission Deadline will not be considered.

i. **Inconsistency or Error in the RFP** – Any Offeror believing that there is any ambiguity, inconsistency or error in the RFP shall promptly notify the City in writing of such apparent discrepancy by June 13, 2017. Failure to so notify the City by this date will constitute a waiver of claim of ambiguity, inconsistency or error.

j. **Offeror Errors or Omissions** – The City is not responsible for any of Offeror's errors or omissions.

k. **Addenda** – The City shall not be responsible for any oral instructions given by any employees of the City in regard to the proposal instructions, specifications or proposal documents as described in this RFP. Any changes will be in the form of an addendum, which

will be furnished to all Offerors who are listed with the City as having received the RFP, or to any other Offeror who requests an addendum.

l. **Offeror Incurred Costs** – The Offeror shall be responsible for all of its costs incurred in preparing or responding to this RFP. All materials and documents submitted in response to this RFP become the property of the City and will not be returned after the Proposal Submission Deadline.

m. **Modification or Withdrawal of Proposal** – A Proposal may not be modified, withdrawn or cancelled by an Offeror for ninety (90) days following the Proposal Submission Deadline and each Offeror so agrees in submitting the Proposal. Proposals may be withdrawn, altered and/or resubmitted at any time prior to the Proposal Submission Deadline. Withdrawn Proposals may be resubmitted up to the Proposal Submission Deadline, provided that they are then fully in conformance with these general terms and conditions. Notice of pre-submittal date withdrawal must be in writing over the signature of the Offeror and must be received (either by physical delivery or by confirmed facsimile transmission of a complete notice) prior to the Proposal Submission Deadline.

n. **Protest of Rejection of Solicitation Responses** – Any Offeror objecting to the rejection of a Proposal, or portion thereof, must submit a written protest stating the reasons for the protest to the City within three (3) calendar days from the date of the City’s Notification of Award letter set forth in Section 7.d. Failure to submit a timely written protest constitutes a waiver of the objection by the applicable Offerors.

o. **Offeror Certification** – By submission of a Proposal, the Offeror certifies that the Offeror has not paid or agreed to pay any fee or commission, or any other item of value contingent on the award of a contract to any employee, official or current contracting consultant of the City.

p. **Exceptions** – It is the intent of the City to award the PPA on a fair and competitive basis. For this reason, the City may view the notation of any “Exception” in response to any material conditions or requirement of the RFP as an attempt by the Offeror to vary the terms of the RFP, which, in fact, may result in giving such Offeror an unfair advantage over other Offerors. For this reason, the City will, at its option, not allow exceptions to any material requirement if, in the opinion of the City, the exceptions alter the overall intent of this RFP, unless the exception would be of material benefit to the City. The City reserves the right to allow exceptions which it determines in its discretion do not alter the overall intent of this RFP.

q. **City’s Right to Disqualify For Conflict of Interest or Other Sound Reasons** – The City reserves the right to disqualify any Offeror on the basis of any real or apparent conflict of interest that is disclosed by the Proposal submitted or any other data available to the City or of any other sound reason on which the City determines it is not in the City’s best interests to further consider the Offeror. The right of disqualification is at the sole discretion of the City. Any Offeror submitting a Proposal herein, waives any right to object at any future time, before anybody or agency, including but not limited to, the City, or any court, to the City’s exercise of

its right of disqualification by reason of real or apparent conflict of interest as determined by the City or for other sound reasons.

r. **Warranties** – Any Offeror submitting a proposal in response to this RFP warrants and guarantees that the Offeror is fully capable of performing each and every task set forth in the Proposal in all material respects and in a good and workmanlike manner. No limitation or exception to this warranty provision will be acceptable to the City; except, it is understood that the Offeror is not responsible for any problems in performance caused by improper acts or omissions by the City.

s. **Covenant Against Contingent Fees** – The Offeror warrants that no person or selling agent has been employed or retained to solicit or secure the PPA upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Offeror for the purpose of securing business. For breach or violation of this warranty, the City shall have the right to annul the PPA without liability or in its discretion to deduct from fees or payments due the Offeror the commission, percentage brokerage or contingent fee.

t. **Gratuities** – The City may at its option, by written notice to the Offeror, terminate the right of the Offeror to proceed under the PPA upon one (1) calendar day notice if it is found that gratuities of a significant value in the form of entertainment, gifts or otherwise were offered or given by the Offeror, or any agency or representative of the Offeror, to any officer or employee of the City with a view toward securing or amending, or the making of any determinations with respect to the performance of such contract; provided that the existence of facts upon which the City makes such findings shall be an issue and may be reviewed in any court of law. In the event of such termination, the City shall be entitled to pursue the same remedies against the Offeror as the City could pursue in the event of default by the Offeror.

u. **Affirmative Action in Employment** – The City is committed to provide an equal opportunity for participation of minority and women owned business enterprises (and any other disadvantaged businesses) and providing equal opportunity in all City business. A successful Offeror in performing under the PPA rendered shall not discriminate against any worker, employee or applicant or any member of the public because of race, creed, color, religion, gender, national origin, age or disability, nor otherwise commit an unfair employment practice. The selected Operator will take affirmative action to ensure that applicants are employed, and that employees are dealt with during employment, without regard to their race, creed, color, religion, gender, national origin, age or disability.

v. **Proposal Fees and/or Percentages** – The Offeror must submit clearly stated fees, if any, as part of the Proposal.

w. **Contract Period** – The PPA shall cover the period from such date as mutually agreed to such date as mutually agreed upon which will include all extensions of the PPA, or an equivalent period depending upon the date the PPA is awarded. The term of the PPA is limited

under the Statute to a maximum of five (5) years (inclusive of the initial term and any renewal or extended terms) unless otherwise approved by the Common Council of the City of Lebanon.

x. **Protest of Award** – Any person who has an objection to the awarding of the PPA to any Offeror by the City, shall lodge that protest, in writing, with the City no later than 5:00 p.m. local time of the third calendar day following release of the City’s Notification of Award letter described in Section 7.d. The City retains the right to reject all protests not filed within this time or those found to be without merit.

y. **Offeror Inquiries** – Any questions regarding this RFP must be submitted in writing and directed to:

Name: Kevin Krulik
Title: City Engineer
City: Lebanon, Indiana
Address: 401 South Meridian Street
Lebanon, Indiana 46052
Email: kkrulik@cityoflebanon.org
Telephone: 765-482-8845
Fax: 765-482-8883

Please include your name; the name of your company; the telephone number; address; and e-mail address of the person responsible for making decisions in your company. Questions should be submitted as promptly as possible to allow for a response from the City, if any, and allow for submission prior to the Proposal Submission Deadline. No extensions will be granted as a result of the submission of any questions (though the City reserves the right to extend the Proposal Submission Deadline in its discretion).

z. **News Releases** – News releases by the Offerors pertaining to this RFP or the requested services shall not be made without prior approval of the City.

aa. **Standard/Licensure Requirements** – The selected Operator shall provide documentation to the City evidencing all necessary licenses, if any, required to perform the services prior to the execution of the PPA which can be issued at such time.

bb. **Out of State Offerors** – It shall be a condition to the PPA that any out-of-state Offeror that may be selected as Operator shall be duly registered and qualified to do business within the State of Indiana.

8. **GENERAL TERMS AND CONDITIONS**

Any Offeror entering into the PPA with the City must agree to a number of general terms and conditions. If an Offeror cannot agree to any of the stated general terms and conditions, its Proposal must clearly state the reason for any such non-compliance.

The submission of the proposal herein constitutes the acknowledgment of the Offeror that any PPA to be drawn as a result of an award herein will be prepared by the City. The language of the PPA to be executed will be drafted under the supervision of the City Attorney and shall be the controlling document. Offerors are requested, however, to submit copies of their applicable standard contract forms for information purposes.

a. **Compliance With Laws** – In performing under the PPA, the Operator shall comply with all applicable laws, ordinances, rules, regulations, and codes of Federal, State and local governments.

b. **Continuation During Disputes** – The Operator agrees that, notwithstanding the existence of any dispute between the parties, insofar as is possible under the terms of the PPA to be entered into, each party shall continue to perform the obligations required of it during the continuation of any such dispute, unless enjoined or prohibited by any court.

c. **Organization Employment Disclaimer** – Any PPA entered into as the result of this RFP will not constitute, create, give rise to or otherwise recognize a joint venture, agreement or relationship, partnership or formal business organization of any kind between the parties, and the rights and obligations of the parties shall be only those expressly set forth therein. The Operator will agree that no persons utilized by it in the performance of the PPA are employees of the City and further agrees that no rights of the City's civil service, retirement or personnel rules accrue to such persons.

d. **Method of Payment** – Payments to the selected Operator, if any, will be made in accordance with payment procedures as stipulated in the PPA. Reports and invoices submitted must contain the contract number under which the PPA is awarded. If necessary, the Operator shall submit invoices and reports to the addressee designated in the PPA. All invoices will be paid within thirty (30) days of receipt by the City.

e. **Insurance** – The selected Operator, performing as an independent Operator under the PPA, shall be required to carry insurance coverage, as necessary, providing a commercially reasonable amount of insurance coverage, which shall show the City as an additional insured. The selected Operator must provide certificates of insurance compliance prior to execution of the PPA.

f. **Suspension of Work/Termination or Suspension** – The City reserves the right to terminate or suspend all or any portion of the service for which the Operator is engaged by giving written notice to the selected Operator a reasonable time prior to such termination or suspension (which may be immediate if the City determines such to be necessary to protect the City's interests and those of its citizens); however, if any portion of the services shall be terminated or suspended, the City shall pay the Operator equitably for all services properly performed pursuant to the PPA after such termination or suspension.

g. **Prime Operator Responsibility** – Planned use of subcontractors in connection with the PPA should be clearly explained and described in the Proposal. The prime Operator

will be responsible, and must take responsibility for the performance under the entire PPA whether or not subcontractors are used.

h. **Confidentiality of Information** – The Offeror shall treat all information furnished by the City and services provided hereunder as confidential. The Offeror shall not disclose such information to others without the prior written consent of the City’s authorized representative.

i. **Other Standard Terms** – The PPA will include other terms as may be required by applicable law or as are customary for transactions similar in size and scope to the Project.

9. PROPOSAL SUBMISSION AND EVALUATION

a. **Introduction** – The following guidelines are provided to ensure the equitable evaluation of competitive sealed Proposals and to contain the cost of participation to a reasonable level. Proposals should be prepared as closely as possible in accordance with the instructions outlined in this Section. Offeror is advised to read this RFP in its entirety. Failure to read and/or understand any portion of this RFP shall not be cause for waiver of any portion of the RFP.

b. **Proposal Format** – The Proposal shall be signed by an individual authorized to bind the Offeror and shall contain a statement to the effect that the Proposal is a firm offer for a ninety (90) calendar day period from the date of the opening. The Proposal shall provide the name, title, address and telephone number of individuals with authority to contractually bind the Operator and who may be contacted during the period of the PPA.

Proposals are requested to be typewritten and on 8-1/2 x 11 inch paper for ease of evaluation. Responses should be specific and complete in every detail, prepared in a simple straight-forward manner, and shall include responses to each of the following:

- i. A letter of proposal submission and introduction, including the name and address of the firm submitting the Proposal, and name of a contact person, shall be the first page of the Proposal. The Proposal shall be signed by an authorized representative of the Offeror and shall include the name(s), title, address, and telephone number of the individual(s) authorized to negotiate the PPA with the City.
- ii. A section describing the Offeror’s background, experience, skills and financial resources necessary to develop, design, construct, finance, operate and maintain the Project shall immediately follow the letter of proposal submission and introduction.
- iii. A brief statement of the Offeror’s understanding of the Project.
- iv. A work plan detailing the approach the Offeror intends to follow in delivering the Project.

- v. A description of the Offeror’s capability to meet the intended objectives of this RFP. Description of the Offeror’s organization chart, names of staff members that would primarily be assigned to the Project, the role of each staff member, and resumes of principal officers showing education and experience relevant to the Project.
 - vi. Information regarding the financial solvency of the Offeror at the time of submission, and demonstrating the financial backing to complete the Project, which shall include at a minimum current financial statements for the period ending December 31, 2016 (with a report of independent accountants on such year-end financial statements, if available, and if not available, an explanation of the absence of any such report) and for the most recent completed interim period of 2017 as are available.
 - vii. Up to three (3) references showing prior experience in the areas as outlined in this RFP including, if available, experience with government entities and/or corporate clients. Each reference shall include the name and address of client, the name and telephone number of individual who can be contacted for verification of services and a list of services performed for each reference.
 - viii. Copies of reports, forms, standard agreements, etc. proposed by the Offeror for the City’s consideration which are relevant to the Offeror’s proposal.
 - ix. Any other information required by this RFP or that the Offeror considers to be important and relevant to evaluation of its Proposal by the City and the Board.
- c. **Proposal Submittal Instructions** – Seven (7) copies of the Proposal shall be sealed in a package(s) showing, in addition to the following address, the following information on the outside:
- a. Offeror’s Name, Address and Contact Information:
 - b. RFP Entitled: Regional Wastewater Pretreatment Facility Proposal
 - c. Proposal Submission Deadline: Noon, local time, June 23, 2017

The Proposal package shall be delivered or sent by mail to:

Name: Kevin Krulik
 Title: City Engineer
 City: Lebanon, Indiana
 Address: 401 South Meridian Street
 Lebanon, Indiana 46052
 Email: kkrulik@cityoflebanon.org
 Telephone: 765-482-8845
 Fax: 765-482-8883

All proposals must be received by June 23, 2017 (12:00 noon, local time).

Risk of delivery is assumed by the Offeror.

d. **Proposal Evaluation** – The evaluation of the RFP responses will be based on the contents of the RFP response, any information or clarifications provided at the request of the Board, if any, any reference or background checks carried out by the Board, the City or their employees, agents or consultants, and other public information available to the Board and the City which they consider credible and relevant to the evaluation of the Proposals. RFP submissions will be evaluated as follows:

- i. Minimum Qualifications (Pass/Fail); and
- ii. Relative weighting of the Evaluation Criteria described below:

| | <u>Evaluation Criteria</u> | <u>Weighting</u> |
|----|---|-------------------------|
| a. | The structure of the Offeror’s team and experience in developing similar projects. | 30% |
| b. | The Offeror’s approach to the Project | 15% |
| c. | The Offeror’s ability to design and construct the Project. | 15% |
| d. | The Offeror’s ability to operate and maintain the Project. | 15% |
| e. | Offeror’s ability to finance the Project without financial assistance from or utilizing public funds of the City. | 25% |

10. SITE LOCATION MAP



LEBANON BUSINESS PARK

I-65 and S.R. 32 and 39, Lebanon, IN 46052

