

City of Chester **(County of Delaware)**

Request for Proposals

**for the Purchase, Lease, or Concession of Certain Water,
Wastewater, and/or Stormwater Systems Assets**

May 2, 2025

<u>Event</u>	<u>Deadline</u>
Release of Request for Proposals	May 2, 2025
Due Diligence Period Expiration	5:00PM EDT on August 1, 2025
Q&A Period Expiration	5:00PM EDT on August 15, 2025
Submission of Formal Proposals	5:00PM EDT on September 2, 2025

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Section 1. Introduction - Continuation of Process

The City of Chester, Delaware County, Pennsylvania (the “**City**”) is soliciting proposals from Qualified Bidders for the purchase, lease, and/or concession of the City’s interests in the following municipal assets:

1. All of the water sources, treatment and distribution system assets (the “**Water System**”) of the Chester Water Authority (“**CWA**”), a municipal authority created by the City;
2. All of the City’s reversionary interests in certain wastewater collection and conveyance assets (the “**Wastewater Assets**”) currently owned by the Delaware County Regional Water Quality Control Authority (“**DELCORA**”), a municipal authority created by the County of Delaware, Pennsylvania; and/or
3. All of the assets of the Stormwater Authority of the City of Chester (“**SAC**”), a municipal authority created by the City (the “**Stormwater System**” and, together with the Water System and the Wastewater Assets, the “**Systems**”).

The City is seeking to sell, lease, or enter into one or more long-term concession arrangement(s) – individually or in combination – with respect to the Systems to or with one or more established municipal authorities or public utilities with proven records of successfully owning and managing municipal water, wastewater, and/or stormwater systems in Pennsylvania. The successful party/ies will be expected to:

- (i) finance the acquisition, lease or concession of, and construct improvements to, one or more of the Systems in a manner necessary and appropriate to meet all applicable regulatory and permit requirements, applicable consent decrees, and long-term control plans;
- (ii) manage user rates, fees, and charges to minimize increases thereof, with an emphasis on the impacts to residents of the City;
- (iii) maintain public ownership of the Systems; and
- (iv) operate and maintain the Systems in a manner that will assure reliable, affordable and sustainable service to current and future customers of the Systems.

This Request for Proposals (this “**RFP**”) follows the Request for Qualifications of prospective bidders previously conducted by the City. All recipients of this RFP have been determined to be qualified bidders and are invited to continue in the process by submitting a proposal (each, a “**Proposal**”) in response to this RFP by no later than 5:00PM EDT on September 2, 2025. Parties who participate in this RFP process are referred to herein as “**Respondents**.” Respondents will be given an opportunity to conduct due diligence with regard to each of the Systems until 5:00PM EDT on August 1, 2025, as more fully described herein.

Register. If your organization intends to prepare and submit a Proposal, please register your intent to do so by sending an e-mail to the formal email address for all Chester RFP Responses (chesterrfpresponse@ballardspahr.com), with the following information:

- The name of your organization.
- Contact name, phone number and e-mail address for the individual who will be your organizations' primary point of contact for the City.

This information will enable the City to provide your organization with: (i) access to a data room (the "**Data Room**") containing information about the Systems to inform each Respondent with regard to the preparation of its Proposal and (ii) updates to the time schedule and available information, as may be necessary.

Confidentiality Agreement. During the qualification process, each Respondent heretofore executed and delivered a Confidentiality Agreement in the form attached hereto as **Appendix A**. Each Respondent will remain bound by its Confidentiality Agreement throughout the RFP process. Any proposed changes to the Confidentiality Agreement should be communicated via e-mail to chesterrfpresponse@ballardspahr.com.

City Objectives. As noted in the RFQ, the City has identified certain objectives it seeks to achieve through the bidding process, namely:

- maintaining the Systems in public ownership;
- maintaining affordable rates for all rate payers;
- preserving public sector employment opportunities;
- preserving public access to, and use of, the Octoraro Reservoir;
- promoting cost-effective capital reinvestment;
- enhancing the quality of service to customers;
- maintaining access to low-cost capital; and
- boosting operational efficiencies (reducing costs and improving service delivery).

Pre-Proposal Conferences. Voluntary pre-proposal conferences will be held in the months of May and June 2025 for individual Respondents upon request. The meeting dates, locations and times will be communicated to Respondents registered in accordance with this RFP following any such request. Attendance at these meetings is not required, but such conferences may be worthwhile for any Respondents interested in acquiring some or all of the Systems.

Site Visits. The City will use commercially and legally available means to provide each Respondent with an opportunity for a supervised visit to the locations of major components of each System. As the City does not currently own or manage the Systems, its ability to provide such site visits may be limited by the rights of the current owners of each System and the mandates of the bankruptcy court.

Contact and Questions. The City specifically requests that any contact by a Respondent concerning this RFP shall be made exclusively in writing and directed exclusively to chesterrfpresponse@ballardspahr.com. Failure to comply with this request may result in the Respondent being disqualified from continuing in the RFP process. To manage the submission of and responses to questions, a deadline of 5:00PM on August 15, 2025 has been established by the Receiver for submission of written questions. **All questions related to this RFP must be submitted in writing** to chesterrfpresponse@ballardspahr.com no later than 5:00 p.m. on August 15, 2025. ***Responses to all questions received will be provided to all registered Respondents and posted online in the Data Room.***

Deadlines May Change at Discretion of the City. At the discretion of the Receiver or as may be directed by any applicable court of competent jurisdiction, the times and dates for completion of (i) the due diligence period, (ii) the submission of questions by Respondents, and (iii) the date of submission of Proposals are subject to change at the discretion of the Receiver. The City will communicate any such extension(s) to all bidders.

Section 2. Information about the Systems

Information about each of the Systems will be uploaded from time to time to an electronic data room to which each Respondent who has executed the Confidentiality Agreement in the form set forth in **Appendix A** will be granted access. Such information is expected to contain information about the Systems; their assets; current employees and collective bargaining agreements; customers (broken down by classifications); current tariffs, rates, fees, and charges; operating permits, pending notices of violations; permits, authorizations and consent decrees; operating and capital budgets, existing service agreements and other contracts; financial and operational information, including outstanding indebtedness; as well as any System assets and/or rights-of-way that would be excluded from any proposed purchase, lease, or concession arrangement involving one or more of the Systems.

Section 3 – Proposal Requirements and Process

A. General Certifications.

Respondents shall certify in writing that they will:

1. Implement rates (or, in the case of a regulated utility, seek approval of rates) that meet applicable legal standards while providing for appropriate system maintenance and capital improvement; and, in the event of noncompliance by a Respondent, provide adequate and legally available remedies to rate payers in order to protect the City's, its residents', and all other customers' access to the services proposed to be acquired, leased, or concessioned.

2. Comply with (a) all applicable federal and Pennsylvania laws; (b) all Pennsylvania Department of Environmental Protection ("**PADEP**"), Delaware Basin Commission ("**DRBC**") and United States Environmental Protection Agency ("**USEPA**") regulations; and (c) all applicable System permits, authorizations, approvals and consent decrees and, in the event of non-compliance, specify adequate and legally available remedies to rate payors in order to protect the City and its residents' and all other customers' access to the services proposed to be acquired, leased, or concessioned.
3. Use best efforts to retain existing System employees and minimize rate increases, notwithstanding the necessity to invest significantly in capital upgrades and improvements.

B. Expected Improvements.

Each Respondent shall describe in its Proposal the improvements it would expect to undertake (and the relevant, approximate timeframe for such undertakings) with respect to the following:

1. customer service improvements and enhancements;
2. customer safety, security, and environmental compliance;
3. capital improvement plans and budgets, and evidence of such Respondent's financial and legal capability to undertake such capital improvements;
4. improvements to ensure necessary compliance with applicable regulatory requirements;
5. ability to offer other System enhancements with a demonstrated knowledge of technologies;
6. billing collection plan for retail and wholesale customer accounts; and
7. operational plans relating to the implementation of such improvements.

C. Disclosure of Partners.

If (i) a Respondent comprises more than one principal, partner, or other third party as owner, lessee, concessionaire, operator, or manager, or (ii) a Respondent intends to contractually partner with any third party to operate or manage any System assets that Respondent seeks to acquire, lease or enter into a concession arrangement (other than as a construction contractor or subcontractor), such Respondent must identify each such party, describe in detail the role each such party will play in the transaction, and explain the relationship and responsibility each such party will have to the Respondent and the City.

D. Delivery of Proposals.

Respondents should submit their Proposals in word-searchable portable document format (PDF) by electronic mail transmittal of one PDF copy of their Proposal to chesterrfpresponse@ballardspahr.com, by no later than 5:00 p.m. on Tuesday, September 2, 2025. Each proposal must be no more than twenty-five (25) pages, exclusive of exhibits. Each Proposal should contain the following:

1. A transmittal letter.
2. A narrative of the Respondent's key personnel (and any third party contractual partner key personnel) who will initially be involved, along with their contact information.
3. Responses to address the matters described above in Section 3A, 3B, and 3C.
4. A description of three (3) comparable acquisitions, long-term leases, and/or concession arrangements entered into by a principal, partner or other entity involving the Respondent with a municipal water, wastewater, and/or stormwater enterprise (or municipal authority) during the past five (5) years.
5. A summary of Respondent's compliance record with PADEP, DRBC, and USEPA during the past five (5) years.
6. Disclosure of any actual or potential conflicts of interest Respondent or its Partners may have.
7. A detailed description of the proposed transition plan, including rates, capital improvements, and hiring/staffing operations that would be implemented during the first five (5) years of ownership by Respondent as follows:
 - a. *Rates*: Provide a projected ten (10)-year post-acquisition rate schedule, detailing expected or estimated rate changes, their justifications, and anticipated impacts on ratepayers.
 - b. *Capital Improvements*: Describe the improvements the Respondent would expect to make to the Water, Wastewater, and/or Stormwater System in the next ten (10) years, including the approximate cost thereof and timeframes therefor in your Proposal.
 - c. *Hiring/Staffing*: Describe operations that would be implemented during the first five (5) years of ownership by Respondent. If any employment positions may be eliminated, Respondent shall provide a detailed description thereof. Describe Respondent's intentions relating to maintaining employees, labor strategy and steps to be taken.
8. A detailed explanation of the Respondent's current tariffs, rates, fees and other charges for the region or rate district applicable to City residents and other System customers, and information about any pending or planned rate changes comparable to such regions and rate districts.
9. A record of all approved rate changes, by asset, for the past fifteen (15) years showing the effective date of such changes, the annual average percentage rate

change for all customers, and the specific annual tariffs, rates, fees and charges for a customer using (a) in the case of water and sewer rates, 9,000 gallons per quarter and (b) in the case of stormwater rates, 1,000 square feet of impervious area.

10. Describe the Respondent's proposed plan to assist low-income customers, including eligibility criteria, available discounts or assistance measures, funding mechanisms, and outreach strategies.
11. If submitting a combined bid for multiple Systems, please provide a brief explanation of any operational or financial advantages to the City of such a combined bid.
12. A completed and executed Bid Form attached hereto as **Appendix B**. The City encourages Respondents to bid for some or all of the Systems, however the City will not allow "all-or-none" bidding for multiple systems. Respondents who wish to submit proposals for more than one System should specify on the bid form attached hereto as Appendix B the prices offered for each System separately.

E. Responsiveness. Each Proposal will be reviewed for (i) the level of responsiveness of the Respondent to the requirements set forth in this RFP, (ii) the conformity to the RFP instructions regarding organization and format, and (iii) minor nonconformities, irregularities, and apparent clerical mistakes that are unrelated to the substantive content of the Proposal. The City may exclude from consideration any Respondent whose Proposal contains a material misrepresentation or omission from the requirements of a Proposal.

F. Selection of Successful Respondent. Upon receipt of the Proposals, the City will proceed to review the Proposals. The evaluation process may include a request for revised Proposals from one or more Respondents selected by the City in its sole discretion. The City will determine which Respondent, if any, is the successful Respondent and will notify all Respondents of the City's selection(s).

G. Evaluation Criteria. Proposals will be evaluated based on the following criteria:

1. *Bid Price Considerations:* The financial value of the Proposal, including the total purchase, lease, concession or other payment structure, including amounts and dates of all such payments.
2. *Non-Bid Price Considerations:* The quality and completeness of responses to the requested information in Section 3.D above, including without limitation:
 - (a) Respondent's projected short-term and long-term (up to ten (10) years) impacts on tariffs, rates, fees and charges charged to City customers, including without limitation the establishment and use of any separate rate district(s) for City customers;
 - (b) Respondent's management experience and capabilities;

- (c) Respondent's history of prior acquisitions, leases, concessions, and management transactions, including evidence of the proper and timely integration of the same into Respondent's system;
- (d) Respondent's record of compliance with applicable law, consent decrees, dockets and other regulatory permits, approvals, and requirements;
- (e) Respondent's plans for the transition of staff and employees; and
- (f) any and all low-income customer assistance commitments by Respondent.

H. Definitive Agreement(s). The City intends to negotiate and enter into one or more asset purchase agreements, leases, and/or concession agreements (each, a "***Definitive Agreement***") with the successful Respondent(s). In the event that the City and any successful Respondent were unable to successfully negotiate the terms of, and execute and deliver, a Definitive Agreement, the City reserves the right to select the next-ranked Respondent as the successful Respondent, and negotiate and enter into a Definitive Agreement with such Respondent for the same System(s).

SECTION 4 - Certifications and Disclaimers

A. Certifications. The Respondent certifies by virtue of submitting information in accordance with Section 3 of this RFP that, at the time of submittal of its Proposal, the information and materials provided in its Proposal are truthful, accurate and complete, to the best of its knowledge after due inquiry, in all material respects. The Respondent also agrees to cooperate with the City, upon request of the City, with reasonable follow-up information or discussions to enable the City to understand fully the Proposal submitted. All such information, discussions and participation shall be provided by the Respondent solely at its own cost and expense and at no cost or further obligation whatsoever to the City. The City may utilize data submitted by any Respondent in any reasonable manner unless otherwise expressly limited in such Respondent's submittal. ***For the avoidance of doubt, the City invokes, and reserves its rights to invoke, all applicable exemptions pursuant to the Right-to-Know Law of the Commonwealth of Pennsylvania or similar statute and/or in connection with the City's chapter 9 plan of adjustment, the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of the United States Bankruptcy Court for the Eastern District of Pennsylvania, with respect to all materials submitted by each Respondent.***

The information contained within this RFP is preliminary, is subject to modification, and is in no way binding on the City. The City reserves the right to use, adopt, or incorporate any

information, data, and/or recommendations presented in the Proposals in the development of a strategy in support of potential future transactional opportunities unless otherwise expressly limited in such Respondent's submittal. No Proposal shall constitute a contractual relationship between the Respondent and the City or the Receiver on behalf of the City. In the event that Proposals are received for an individual System as well as Proposals for combined bids for multiple Systems, the City reserves the right to evaluate all Proposals based on total value to the City, operational efficiencies, and other relevant factors. The City may, at its sole discretion, select a bid for only one System from a bidder that submitted a combined bid if it is determined to be in the City's best interest. The City is not obligated to (i) select the highest bid for each System or (ii) select any submitted bid.

A Respondent is not guaranteed in any way that it will secure any future contract or agreement with the City with regard to any System or any other City asset. The issuance of this RFP shall not be deemed or construed to bind the City to undertake a sale, lease, or other disposition of any System with any party. The City reserves all rights to (i) disqualify any Respondent from future bidding at any time and for any reason and (ii) accept, reject, or disregard any and all Proposals for any reason, or for no reason.

Each Respondent should submit a complete and concise response to the RFP, which will be retained by City subject to the City's record retention policies. Any data submitted to the City hereunder may be utilized by the City in its sole discretion. All submittals received from Respondents will become the property of the City and will not be returned. By submitting a response to this RFP, each Respondent expressly acknowledges and agrees that the City will not be responsible or liable in any way to any Respondent or any other person or entity for any losses that such Respondent or third party may suffer from disclosure of information or materials to third parties.

B. Respondent Responsibility for Proposal Costs. This RFP is issued solely for the purpose of assisting the City in making a determination as to whether or not to sell, lease, or enter into a long-term concession agreement with respect to any or all of the Systems. It should be understood by each Respondent that the City shall not be liable for any cost incurred by any Respondent associated with the preparation of a Proposal, the submission of additional information, participation in meetings and discussions with representatives of the City, or any other participation efforts associated with this RFP and any addenda to the foregoing.

Respondents may be asked to participate in further discussions with representatives of the City. By submitting a Proposal, a Respondent shall be deemed to (i) waive its rights to assert any claims whatsoever against the City, the Receiver, their respective staff or any other involved party for reimbursement of any Respondent costs and expenses incurred as a result of this RFP and (ii) agree that no such claims shall be asserted. The Respondents shall bear all of their own costs and expenses for the preparation and submission of Proposals, providing other information requested by the City, and participating in discussions with representatives of the City.

C. Disclosure of Submitted Content. Public disclosure of submitted Proposals will be governed by applicable law, including without limitation (i) the confidentiality requirements of the U.S. Bankruptcy Court and (ii) the Right-to-Know Law of the Commonwealth of Pennsylvania (subject to applicable exemptions under the Right-to-Know Law). If a Proposal contains confidential or proprietary information that the Respondent does not want to be disclosed to the public, all such information must be identified in a separate written statement setting forth the proprietary information and the legal basis for the requested confidentiality. All such nondisclosure items specified in the Proposal shall nevertheless be subject to public disclosure requirements provided by law, regulation or protective order.

D. Rights to Use Proposals. Respondent acknowledges and agrees that all material provided to the City during the RFP process and subsequent discussions or correspondence shall become property of the City and may be used by the City, the Receiver, and their respective staffs without restriction in the future unless otherwise expressly limited in such Respondent's submittal. Respondent must be specific (including specifying applicable exceptions to the Right-to-Know law of the Commonwealth of Pennsylvania).

The City shall be entitled to make use of any materials, information, data, or concepts disclosed by any Respondent, without limitation, except as otherwise limited hereby. Each Respondent, by submitting a Proposal, specifically disclaims and waives any claim it may have based upon the use of such materials, information, data, or concepts by the City in whatever form the Receiver deems appropriate except as specified in the previous heading "Disclosure of Submitted Content."

Appendix A – Form of Confidentiality Agreement

CONFIDENTIALITY AGREEMENT

EXHIBIT A

FORM OF CONFIDENTIALITY AGREEMENT

CONFIDENTIALITY AND DATA ROOM USAGE AGREEMENT

This Confidentiality and Data Room Usage Agreement (“Agreement”) is made as of this ____ day of _____, 20__, by and between the City of Chester, Pennsylvania, acting through the Receiver (the “City”),¹ and _____, a(n) [insert business entity type and State of formation] (the “Receiving Party”).

In connection with (i) the *Plan for the Adjustment of Debts of the City of Chester* [Docket No. 583] (the “Chapter 9 Plan”) filed in the City’s chapter 9 bankruptcy case pending in the United States Bankruptcy Court for the Eastern District of Pennsylvania under Case No. 22-13032 (the “Chapter 9 Case”), and (ii) the City’s procurement process regarding the City’s ownership rights to the water assets (the “Water Assets”) presently held by the Chester Water Authority, the City’s stormwater assets (the “Stormwater Assets”) presently operated by the Stormwater Authority of the City of Chester, and/or the City’s reversionary interest in certain sewer assets (the “Sewer Assets”) and, together with the Water Assets and the Stormwater Assets, the “Assets”) owned by the Delaware County Regional Water Quality Control Authority, the City agrees to disclose to the Receiving Party certain information through a secure, virtual data room. The virtual data room will contain City information related to the Assets, which may include but is not limited to, user statistics, financial data, statistical data, and existing equipment. The Receiving Party agrees to access the virtual data room under the following terms and conditions.

(i) Confidentiality. Subject only to the provisions of paragraph (ii) below, the Receiving Party will not disclose any Confidential Information (as defined below) received from the City to anyone except employees of the Receiving Party and those members of the Receiving Party’s “project team” (“Team Members”) with a need to know who have been informed by the Receiving Party of the confidentiality of such information. The Receiving Party agrees that it and its Team Members will use such information only for the purpose of preparing the Receiving Party’s submittal in response to the City’s Request for Qualification (the “RFQ”) and Request for Bids (the “RFB”). Upon the completion of the RFB process, or at such time if earlier that the Receiving Party decides that it does not wish to pursue the RFB process further, the Receiving Party acknowledges and agrees that its access to the virtual data room shall be terminated and it further agrees to destroy all copies of Confidential Information in its possession, as directed by the City.

1) “Confidential Information” shall be all information disclosed in writing, orally, visually, electronically, or otherwise, by the City to the Receiving Party, including

¹ Pursuant to applicable law, the Receiver is vested with the power to act on behalf of the City in connection with the bankruptcy case. See Pennsylvania Municipalities Financial Recovery Act, Act of 1987, P.L. 246 No. 47, § 706(a)(9) (vesting the Receiver with the power “to file a municipal debt adjustment action under the Bankruptcy Code (11 U.S.C. § 101 et seq.) and to act on the municipality’s behalf in the proceeding.”)

all documents, data and/or information contained in or obtained from the City's virtual data room, and the existence and terms and conditions of the Receiving Party's response to the RFQ and/or RFB.

2) With respect to the Confidential Information, the Receiving Party specifically agrees to and shall cause all its Team Members to:

- a) Protect and preserve the confidential and proprietary nature of all Confidential Information and the information contained therein;
- b) Not disclose, give, sell or otherwise transfer or make available, directly or indirectly, any Confidential Information or the information contained therein to any third party for any purpose, except on a need to know basis as is reasonably necessary for evaluation by advisors, consultants, or agents of the Receiving Party or potential investors or other financing sources who have been informed by the Receiving Party of the confidentiality of such information, or otherwise as explicitly permitted in advance in writing by the City;
- c) Not use, transcribe or make records or copies of the Confidential Information except as necessary to prepare the Receiving Party's submittal to the RFQ and/or RFB;
- d) Limit the dissemination of the Confidential Information within the Receiving Party's own organization and within the organizations of any reasonably required advisors, consultants, agents, potential investors, or other financing sources, to those individuals whose duties justify the need to know the Confidential Information, and then only provided that there is a clear understanding by such individuals of their obligation to maintain the confidential and proprietary nature of the Confidential Information in accordance with this Agreement;
- e) Notify the City immediately of any loss or misplacement of Confidential Information, in whatever form; and
- f) Promptly advise the City if it learns of any unauthorized use or disclosure of the Confidential Information. In addition, the Receiving Party agrees to cooperate fully and provide any assistance necessary to protect against the unauthorized use or disclosure of such Confidential Information.

(ii) Exceptions. Notwithstanding the provisions of paragraph (i):

1) The Receiving Party's obligation with respect to keeping the Confidential Information confidential and with respect to the use of Confidential Information shall

terminate with respect to any part of such information which appears in printed or online publications or which ceases to be confidential through no fault of the Receiving Party.

2) The Receiving Party shall not be precluded from disclosing or making any use whatsoever of any information which it can show was in its possession prior to the disclosure made by the City or which subsequently comes into its possession from a source independent of the City, which source was not, to the knowledge of Receiving Party, under any obligation of confidentiality to the City, or which was independently developed by the Receiving Party.

3) For the purpose of keeping confidential the Confidential Information received by it, the Receiving Party agrees that it shall treat all such Confidential Information with no less than the same degree of care to avoid disclosure to any third party as the Receiving Party employs with respect to its own proprietary and confidential information.

4) For the purpose of preserving the applicability of exemptions from disclosure under Pennsylvania's Right-to-Know Law, 65 P.S. §§ 67.101 *et. seq.* (the "RTKL") and to the extent that the Receiving Party is subject to the RTKL or similar statute, the Receiving Party shall provide the City with notice of any request received by the Receiving Party made under the RTKL or similar statute seeking any Confidential Information (each a "RTKL Request") in accordance with Section 707(b) of the RTKL. The City shall have, to the maximum extent provided by law, the opportunity to contest such RTKL Request seeking any Confidential Information. For the avoidance of doubt, the City invokes and reserves its rights to invoke all applicable exemptions available pursuant to the RTKL or similar statute and/or under the Chapter 9 Plan, the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of the United States Bankruptcy Court for the Eastern District of Pennsylvania, with respect to all Confidential Information. Nothing contained herein shall be deemed to require the Receiving Party or the City to disclose Confidential Information. The Receiving Party shall not be precluded from disclosing any Confidential Information in response to a RTKL Request in accordance with a final and unappealable order by the United States Bankruptcy Court for the Eastern District of Pennsylvania.

(iii) Accessing the Virtual Data Room. Within a reasonable time after both parties execute this Agreement, the Receiving Party will receive usernames and passwords to access the virtual data room.

(iv) Rules of Use. The virtual data room and all content within the virtual data room may not be copied, reproduced, republished, uploaded, posted, or transmitted; provided, however, that the City grants the Receiving Party non-exclusive, non-transferable, limited permission to access and display the Web pages within the virtual data room, solely on a computer or computers owned and operated by the Receiving Party. All materials contained within the virtual data room that are made available for downloading, access, or other use shall constitute Confidential Information and shall be governed by the terms of this Agreement.

(v) Indemnification. The Receiving Party agrees that its compliance with this Agreement is of utmost importance and, accordingly, the Receiving Party agrees to indemnify,

defend and hold harmless the City and any third party (to the extent a breach of this Agreement affects the proprietary rights of such third party) with respect to any claims, losses, damages and expenses (including reasonable outside attorney's fees) which are attributable to or arise out of the Receiving Party's and/or its Team Members' breach of this Agreement. The obligations of the Receiving Party under this Agreement and the indemnification provisions provided herein shall survive termination of this Agreement. Further, the Receiving Party agrees that the City nor any official, trustee, officer, or employee thereof shall have any liability to the Receiving Party or any person asserting claims on behalf of the Receiving Party as a result of any matter associated with the transactions contemplated hereby, except in the case of willful misconduct of such party (and such exception shall apply only as to such party) or gross negligence.

(vi) Insider Trading. The Receiving Party acknowledges that it is aware that United States securities laws prohibit any person who has received from an issuer material, non-public information concerning the matters which are the subject of this Agreement from purchasing or selling bonds or other securities of such issuer or from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such bonds or other securities.

(vii) Disclosure relating to negotiations or transaction status. Without the prior written consent of the City, the Receiving Party and its agents and employees shall not disclose to any person (including, without limitation, any person or entity directly or indirectly bidding on, or otherwise involved in, the transactions contemplated hereby) either the fact that discussions, negotiations, or exchanges are taking place concerning possible transactions between the City and the Receiving Party or any of the terms, conditions or other facts with respect to any such possible transaction, including the status thereof and the Receiving Party's potential participation therein.

(viii) Waiver. No failure or delay by the City in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

(ix) Disclaimer of Warranty. All Confidential Information is provided "as is." The City does not make any representation or warranty, either express or implied, as to its quality, adequacy, completeness, accuracy, fitness for a particular purpose, sufficiency or freedom from defects of any kind. The City shall not be liable in damages of whatever kind as a result of the Receiving Party's reliance on or use of the Confidential Information provided hereunder.

(x) Remedies. The Receiving Party acknowledges that the breach of any of the covenants or agreements contained in this Agreement on the part of the Receiving Party and/or its employees will result in irreparable harm and continuing damages to the City, and that the City's remedy at law for any such breach or threatened breach would be inadequate. Accordingly, in addition to such remedies as may be available to the City at law or in equity, in the event of any such breach, any court of competent jurisdiction may issue an injunction (both preliminary and permanent), without bond, enjoining and restricting the breach or threatened breach of any such covenant, including, but not limited to, an injunction restraining the Receiving Party and/or its Team Members from disclosing, in whole or in part, any Confidential Information. The Receiving Party shall pay all of the City's costs and expenses incurred in enforcing such covenants.

(xi) Ownership. Confidential Information disclosed hereunder shall be and remain the property of the City. No license, right, title, or interest is granted herein, directly or indirectly, by implication or otherwise, to the Confidential Information by virtue of the City disclosing said Confidential Information to the Receiving Party, except such license or other rights as may be mutually and expressly agreed upon between the parties by separate written agreement.

(xii) Notice. Whenever notice is required to be given pursuant to this Agreement, the same shall be in writing, and either personally delivered, sent by a nationally recognized overnight delivery service, postage prepaid, or sent via United States certified mail, return receipt requested, postage prepaid, and addressed to the parties at their respective addresses as set forth on the signature page of this Agreement, or at such other addresses as any party, by written notice in the manner specified above to the other party hereto, may designate from time to time. All notices shall be deemed to have been given upon receipt (or refusal of receipt) thereof.

(xiii) Parties. This Agreement inures to the benefit of the City and is binding upon the City and the Receiving Party, and their respective successors and assigns. This Agreement shall not be construed to recognize or create a joint venture, partnership, or other formal joint business or agency relationship.

(xiv) Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania applicable to agreements made and to be performed within such Commonwealth without regard to the conflict of laws principles thereof. Additionally, this Agreement shall be subject to the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules for the United States Bankruptcy Court for the Eastern District of Pennsylvania. Any dispute arising out of this Agreement, if litigated, shall be resolved within the City's Chapter 9 Case by the United States Bankruptcy Court for the Eastern District of Pennsylvania, and the parties hereby consent to the jurisdiction of such court.

(xv) Severability. In the event any provision of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, the provisions of this Agreement being severable in such circumstances.

(xvi) Entire Agreement. This Agreement (a) constitutes the entire agreement and supersedes all written and oral communications between the parties relating to the subject matter hereof, and (b) may be modified or amended only by a written instrument specifically stating that it modifies this Agreement, signed by the parties hereto.

(xvii) Counterparts. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same document.

(Remainder of page intentionally left blank.)

IN WITNESS WHEREOF, the City and the Receiving Party have executed this Agreement as of the day and year first above written.

RECEIVING PARTY

By: _____

Name: _____

Title: _____

Address for Notices:

Facsimile (____) _____

City of Chester

By: _____

Name: _____

Title: _____

Address for Notices:

Facsimile (____) _____

Appendix B – Bid Form

1. A total purchase, lease or concession price(s) are hereby offered to the City:

- a. Bid for the Water System \$ _____
- b. Bid for the Wastewater Assets \$ _____
- c. Bid for the Stormwater System \$ _____
- d. Combined Bid (check all that apply):

____ Water System \$ _____
____ Wastewater Assets \$ _____
____ Stormwater System \$ _____

If any purchase, lease or concession price(s) noted above involve the payment of installments of the prices noted, the bidder must set forth a schedule of the dates and amounts of each installment payment. Failure to provide such installment payment schedule will result in the bid being viewed by the City as a lump-sum, upfront payment in whole by such bidder at closing of the transaction.

The City reserves the right to accept or reject any portion of a multi-system bid and may elect to award only the Water System, only the Wastewater Assets, or only the Stormwater System to a bidder who submitted a combined proposal. If submitting a combined bid, please attach a brief explanation of any operational or financial advantages to the City as Exhibit 4.

2. In recognition of the City's desire that we retain as many of the employees as possible working at the [_____] System, we commit to pursue the attached described strategy (Attach your company's current intentions, strategy and steps you commit to take relating to collective bargaining and labor retention goals as Exhibit 1 to this Bid Form). If any existing positions may be eliminated during the next five (5) full calendar years, state so explicitly.
3. The bid in "1" above assumes an approximate capital investment over the next ten (10) years, as set forth on Exhibit 2 to this Bid Form.
4. The bid in "1" above assumes rate increases and Distribution System Improvement Charges and Collections as set forth on Exhibit 3 to this bid form, and whether all such rate increases would be subject to review and approval by the Pennsylvania Public Utility Commission or other governmental authority. The current tariffs, rates, fees and charges for customers in the applicable region for existing customers of the [_____] System, including anticipated changes thereto over the next ten (10) years, are also attached to Exhibit 3 to this Bid Form.

5. All terms and conditions set forth in the RFP are hereby incorporated by reference as if set forth in full in this Bid Form.

Exhibit 1 to Bid Form

Describe intentions relating to maintaining employees, labor strategy and steps to be taken to offer employment opportunities for all current employees of the applicable System.

Exhibit 2 to Bid Form

Describe improvements that the Respondent would expect to undertake to the [_____] System in the next ten (10) years including the expected timetable and approximate cost thereof built into your Proposal.

Exhibit 3 to Bid Form

Provide (i) applicable current tariffs, rates, fees, and charges, (ii) expected Distribution System Improvement and Collection charges (if applicable), and (iii) all rate increases that are anticipated under your Proposal over the next ten (10) years, including without limitation (a) the establishment and use of any separate rate districts and (b) any and all low-income customer assistance commitments by Respondent.