

VILLAGE OF LA RUE  
Water Production Plant and Distribution System Sale  
MARION COUNTY, OHIO

Request for Proposals

Village Officials

Dustin Ford, Mayor  
Mary Price, Village Clerk  
Tyler Howell, Maintenance  
Bailey Higgins, Law Director

Council Members

John Boyd  
John Howard  
Connie Kendall  
Melissa Shawver  
Lance Roberts  
Dave Stallsmith

September 2022

**PERSONAL & CONFIDENTIAL**

9/6/2022

Dear Madam / Sir,

The Village of La Rue is interested in exploring its options for the sale of its water production plant and system and is therefore issuing a formal Request for Qualifications (RFQ) as well as Request for Proposal (RFP) bid proposal associated with that potential sale. This letter details the guidelines for the submission of a formal offer ("Offer") to acquire and operate the System. To that end, we ask that you submit an Offer to acquire and then operate the System no later than 12:00 pm ET on October 7, 2022.

Please submit your Offer addressed to:

Village of La Rue

*P O Box 33*

La Rue, Ohio 43332

Inquiries and general information requests are to be submitted to:

Attn: Mary Price, Fiscal Officer

Phone: (740) 499-2100

Laruevillage@gmail.com

## Overview of the **Water System**

A brief description of the System is as follows:

- *Water System* - - The Water System consists of distribution mains (4.76 miles), 150,000 Elevated storage tank and treatment facility (water treatment facility with a design flow of up to 250,000 gallons per day). Further information on the Water System can be found in the Exhibits attached to this letter.

## **Factors Considered in Evaluating Offers**

Since the overall intent of this initiative is to secure the best alternative for our residents served by the Village's Water System, formal Offers will be evaluated on the proposer's capabilities, experience and qualifications set forth in the RFQ proposal. The Village reserves the right to determine *in* its sole discretion whether any prospective proposer is qualified to then participate *in* the RFP process. In evaluating and comparing Offers, we will, together with our consultants and professional advisors, consider each of the factors set forth below.

The RFQ proposal document should address the following evaluation factors:

- ***Technical Capabilities & Experience*** - To qualify, the Prospective Proposer must demonstrate sufficient utility operations and experience as a company serving at least 100,000 customers in Ohio or another major market in another state, and the experience in delivering reliable and sustainable service to our residents. A demonstrated track record of operation, maintenance and ownership of water utility systems, the capability to undertake sustainable capital improvements, the ability to ensure environmental stewardship and the execution of an efficient, timely and seamless transition plan are required. Roles and responsibilities of key staff involved in the proposer's utility operations should also be included.
- ***Financing*** - Please specify the source(s) for the funds necessary to pay the purchase price described above. If necessary, specify the source, structure and amount of any third-party financing to be used to fund the purchase price. If third-party financing is

required, please submit fully negotiated commitment letters from such third-party financing sources as evidence of having secured committed financing for the transaction. If third-party financing is not required, please provide reasonable evidence that you have sufficient funds on hand to pay the purchase price in full. Offers should **not** be subject to any financing contingency.

- **Capital Investment Plan** — System age and growing regulatory issues demand that additional investment will be needed in the future. Therefore, the Offer should also address the anticipated capital investment strategy and year-by-year plans covering the next five years which can reasonably be derived from a detailed due diligence evaluation.
- **Customer Service** - *You will* be expected to continue to provide a high level of customer service to the Village's Water System customers. Please detail your resources and plan to provide a high level of customer service in a cost-effective manner, including with respect to customer complaints regarding billing issues, service quality (including water taste and odor issues), the monitoring of service response times and conducting routine customer satisfaction assessments. Please also provide evidence of your prior performance with respect to customer service.
- **Required Approvals** - Please indicate the level of review and approval that the Offer has received within your organization. Please also provide a list of any legal, regulatory or other approvals which you may be required to obtain and the estimated timing to obtain such approvals in order to execute definitive transaction documents and consummate the transaction. Our expectation is that, other than the approval of the Public Utilities Commission of Ohio (PUCO), no other approvals will be conditions to closing the **transaction**.
- **Economic Development and community Involvement** - An Offer will receive added consideration if strong commitments to economic development and community involvement are included (such as a commitment to quality of life elements of the community in the form of support for arts, culture, youth sports, charitable or other

forms of community values and development). Please indicate your plans to partner with La Rue in the areas of economic development and community involvement.

- ***Due Diligence and Timing*** - Please indicate what, if any, business, legal, financial, regulatory or other due diligence investigation remains to be completed. Please also provide a detailed timeline for the completion of such due diligence and a list of any third-party consultants that will be used to conduct such due diligence.

We will provide you access to our facilities as well as the technical and financial information associated with the Water System electronically or through, on-site visits and otherwise. As such, we expect that you will have completed all material due diligence prior to submitting your Offer. We are available between now and then to assist you and any third-party advisors in finalizing your work.

Please provide a detailed schedule with your Offer specifying any remaining confirmatory diligence as well as a timetable for completing such diligence, executing an Asset Purchase Agreement, finalizing financing documentation, if applicable, and closing the proposed transaction. Other than approval by the PUCO, please indicate any other matter that would impact your timing of closing the transaction. **Speed and certainty of closing are critical factors to us.**

- ***Asset Sale; Excluded Assets*** - The transaction to be ultimately consummated shall be an asset purchase, whereby the Village intends to sell all of the assets used in connection with the operation of the Water System. Notwithstanding the foregoing however, the Village intends to exclude from this transaction all motor vehicles, heavy equipment and certain other items which shall be identified by the Village during the due diligence process. It is the intention of the Village that when certain assets are used by the Village in other aspects of its service to the community, beyond just the scope of the Water System, then those assets shall be excluded.
- ***Employees*** - Please indicate your plan with respect to the current Water System employees. It is our expectation that you will locally hire all of the current employees who work exclusively for the System and provide them with substantially similar

compensation and benefits as those provided to them prior to the transaction and credit for the length of their prior service to the Village. Purchaser shall accommodate all employees who elect to remain in the OPERS benefit for a minimum of 12 years and maximum of 15 years. Unlicensed employees with over 15 years' service with the Village should be grandfathered in with regard to licensing requirements of the purchaser. We are also open to any other proposals that serve to maintain the wellbeing of our employees impacted by the Water System sale.

- ***Definitive Agreement*** - We anticipate that after the acceptance of any Offer, the successful bidder and the Village will work diligently to finalize an Asset Purchase Agreement. To enable us to thoroughly evaluate your Offer, we ask that you submit a draft of an Asset Purchase Agreement along with your Offer along with the terms of any indemnification provisions you propose (including whether or not you intend to use representation and warranty insurance).
- ***Minimum Service Standards*** - We expect you to provide the citizens of La Rue with certain minimum levels of service. Please provide a detailed outline setting forth your plan to address each of the following areas:

*Continuous Operations* - operate the water production plant and distribution system 24 hours per day, 365 days per year.

*Maintenance and Repair* - provide routine, preventative, predictive and corrective maintenance on the System.

*System Improvement Plan* - provide your system improvement plan for the Water System, including the timeline for such system improvement plan.

*Administration of Pollutants and Residuals* - transport, handle and dispose of waste generated by the Water System operations.

*Data Management* - continue to operate the System data management system, or a similar replacement system.

*Cybersecurity* - maintain sufficient technology systems (and system security) to protect the Water System's, infrastructure, data and customer information.

*Laboratory Services* - operate sampling, testing and analysis to ensure quality control and for regulatory compliance.

*Emergency Preparedness* - develop and implement an effective preparedness plan in conjunction with other agencies within La Rue for the protection of La Rue's assets, staff and the public.

*Reports* - providing La Rue with periodic reports on a mutually agreed upon schedule.

*Safety Program* - develop and implement a safety program for the operation and maintenance of the Water System.

*Inventory* - maintain adequate inventory of consumable supplies required for the operation of the Water System.

*Position on Equal Opportunity Employment* - maintain an equal employment opportunity environment that does not discriminate against employees, or potential employees, on the basis of race, religion, gender or sexual orientation.

A separate RFP proposal document should address the following:

- ***RFP Purchase Proposal*** - Please specify in a separate RFP document containing your proposed cash purchase price to acquire the System. Please also include any material assumptions upon which you have relied in arriving at your purchase price. The information contained in the RFP regarding the purchase price and proposed customer rates will be maintained as "confidential" as provided herein until an Asset Purchase Agreement has been finalized.
- ***Rate Expectations*** - For the Water System, please provide a rate comparison chart

summarizing the proposed rates you would anticipate charging customers over the five years following closing of the transaction. Also include a description of any plan for rate stabilization on phase in.

- ***Fees & Expenses*** - Please indicate the amount of La Rue's fees and expenses you would be willing to reimburse in the event that your Offer is accepted.

### **Specific Offer Process Instructions**

In submitting your Offer, please comply with each of the following specific instructions:

- ***Due Date*** - All Offers are due no later than 12:00 PM November 30, 2022.
- ***Contents of Offer*** - Each Offer should address each of the items identified in the *Factors Considered in Evaluating Offers* section detailed above. Your failure to address any such item would have a negative impact on your Offer.
- ***Draft of Purchase Agreement*** - Your Offer should be accompanied by a draft of an Asset Purchase Agreement as described above. Your failure to submit a draft of an Asset Purchase Agreement would have a negative impact on your Offer.
- ***Advisors*** - Please provide a list (with contact information) of each of your advisors in connection with the transaction (including legal, accounting, regulatory or otherwise).

### **CONFIDENTIALITY**

Information regarding the purchase price and proposed customer rates shall be maintained as confidential as provided herein until the Asset Purchase Agreement has been executed with the Offeror. The only other items the Village can hold as confidential are items in the proposal marked confidential. If the Offeror has marked information in the proposal as confidential, upon receipt of a public records request, the



Village will notify the Offeror of its intent to release records to the requestor. The Offeror shall have a maximum of five (5) business days beginning with the date it receives notification to respond to the Village by either accommodating the requestor, providing redacted copies of the documents, or pursuing legal remedies to stop the Village's release of requested information. Said notification shall relieve the Village of any further obligation under any claim of Offeror or any of its agents or affiliates in any jurisdiction in connection with the disclosure of such records. Offeror and its agents and affiliates may pursue legal and/or equitable remedies to stop or limit disclosure at their sole expense.

#### Attachments

In addition to the information that we anticipate to provide in a virtual data room, enclosed with this letter are the following Exhibits:

- Exhibit A - Technical Information for the Water System
- Exhibit B - Financial Information for the Water System Operations
- Exhibit C - Current Rates and Charges
- Exhibit D - Engineering Report (s)

Finally, we encourage you to provide us with any other information you believe we should consider in evaluating your Offer.

La Rue expressly reserves the right, in its sole discretion, to evaluate the terms and conditions of any Offer, to accept or reject any such Offer without specifying reasons therefore and to alter or terminate this process at any time. Neither La Rue nor any of its employees or agents make any expressed or implied representation or warranty as to the accuracy or completeness of and disclaims any liability for, any information supplied

to you, other than those representations that may be made in an executed definitive agreement.

By submitting an Offer, you acknowledge that you are relying solely on your own independent investigation and evaluation of the Water System. You will be responsible for all of your expenses incurred in connection with your investigation of the proposed transaction, the submission of your Offer and the consummation of the transactions contemplated hereby, including those of your agents and Advisors. Please maintain strict confidentiality over all information provided to you.

We would be pleased to answer any questions you have about the Water System in advance of the Offer deadline. Please feel free to contact us at any time. Thank you for your interest in this opportunity. We look forward to hearing from you.

The Village reserves the right to modify or terminate this RFQ process and or the RFP process at any stage if the Village determines such action to be in its best interests.

Very truly yours,

Village of La Rue

*740-499-2100*

laruevillage@gmail.com