

contractors shall be required to furnish surety bonds in an amount equal to 100% of the amount of such contracts, to insure the completion of said contracts in accordance with their terms, and such contractors shall also be required to carry such employers' liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(f) The Project shall be constructed under plans and specifications approved by a competent engineer designated by the City. All estimates for work done or material furnished shall first be checked by the engineer and approved by the City.

(g) The City shall take all actions or proceedings necessary and proper, to the extent permitted by law, to require connection of all property where liquid and solid waste, sewage, night soil or industrial waste is produced with available sanitary sewers. The City shall, insofar as possible, and to the extent permitted by law, cause all such sanitary sewers to be connected with said sewage works.

(h) The provisions of this ordinance shall constitute a contract by and between the City and the owners of the Bonds and BANs herein authorized, and after the issuance of the Bonds or BANs, this ordinance shall not be repealed, amended or modified in any respect which will materially and adversely affect the rights or interests of the owners of the Bonds or BANs, nor shall the Common Council or any other body of the City adopt any law, ordinance or resolution in any way adversely affecting the rights of such owners so long as any of the Bonds or BANs, or the interest thereon, remain outstanding or unpaid; provided that except in the case of changes described in Section 22(a)-(g) hereof, this ordinance may be amended, without the consent of the owners of the Bonds or BANs, if the Common Council determines, in its sole

discretion, that such amendment would not adversely affect the owners of the Bonds or BANs or any other bonds ranking on parity therewith.

(i) The provisions of this Ordinance shall be construed to create a trust in the proceeds of the sale of the Bonds for the uses and purposes herein set forth, and the owners of the Bonds shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this Ordinance and of the Act. The provisions of this Ordinance shall also be construed to create a trust in the portion of the net revenues herein directed to be set apart and paid into the Sinking Fund for the uses and purposes of such fund as set forth in this Ordinance. The owners of the Bonds shall have all of the rights, remedies and privileges set forth in the provisions of the Act, and may either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted pursuant to the Act and the provisions of this Ordinance, and may enforce and compel performance of all duties required by the Act and this Ordinance to be performed by the City and any board or officer thereof, including the making and collecting of lawful, reasonable and sufficient rates and charges for services rendered by the sewage works. In the event of any failure to pay the principal of or interest on any of the Bonds when due, any court having jurisdiction of the action may appoint a receiver to administer the sewage works on behalf of the City and the owners of the Bonds, with power to charge and collect rates sufficient to provide for the payment of the expenses of operation, repair and maintenance and also to pay the principal of and interest on the Bonds, and to apply the revenues of the sewage works in conformity with the Act and the provisions of this Ordinance.

Section 22. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this section and Section 21(h), the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds issued pursuant to this

ordinance and then outstanding shall have the right from time to time, to consent to and approve the adoption by the Common Council of the City of such ordinance or ordinances supplemental hereto or amendatory hereof, as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of or interest on, or any mandatory sinking fund redemption date for, any Bond issued pursuant to this ordinance; or

(b) A reduction in the principal amount of any Bond or the redemption premium or the rate of interest thereon; or

(c) The creation of a lien upon or a pledge of the revenues or Net Revenues of the sewage works ranking prior to the pledge thereof created by this ordinance; or

(d) A preference or priority of any Bond or Bonds issued pursuant to this ordinance over any other Bond or Bonds issued pursuant to the provisions of this ordinance; or

(e) A reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance; or

(f) A reduction in the Reserve Requirement; or

(g) The extension of mandatory sinking fund dates, if any.

If the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk-Treasurer of the City, no owner of any Bond issued pursuant to this ordinance shall have any right to object to the adoption of such supplemental

ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Common Council of the City from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City and all owners of Bonds then outstanding, shall thereafter be determined, exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the City and of the owners of the Bonds authorized by this ordinance, and the terms and provisions of the Bonds and this ordinance, or any supplemental or amendatory ordinance, may be modified or altered in any respect with the consent of the City and the consent of the owners of all the Bonds then outstanding.

Without notice to or consent of the owners of the Bonds, the City may, from time to time and at any time, adopt such ordinances supplemental hereto as shall not be inconsistent with the terms and provisions hereof (which supplemental ordinances shall thereafter form a part hereof),

(a) to cure any ambiguity or formal defect or omission in this ordinance or in any supplemental ordinance; or

(b) to grant to or confer upon the owners of the Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the owners of the Bonds; or

(c) to make any other change which is not to the prejudice of the owners of the Bonds.

Section 23. Tax Covenants. In order to preserve the exclusion of interest on the Bonds and BANs from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986 as existing on the date of issuance of the Bonds or BANs, as the case may be (“Code”), and as an inducement to purchasers of the Bonds or BANs, the City represents, covenants and agrees that:

(a) The sewage works will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity other than the City or another state or local governmental unit will use more than 10% of the proceeds of the Bonds or BANs or property financed by the Bond or BAN proceeds other than as a member of the general public. No person or entity other than the City or another state or local governmental unit will own property financed by Bond or BAN proceeds or will have any actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, arrangements such as take-or-pay or output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person’s or entity’s use of such property from use by the general public, unless such uses in the aggregate relate to no more than 10% of the proceeds of the BANs or the Bonds, as the case may be. If the City enters into a management contract for the sewage works, the terms of the contract will comply with IRS Revenue Procedure 2017-13, as it may be amended, supplemented or superseded from time to time, so that the contract will not give rise to private business use under the Code and the Regulations, unless such use in aggregate relates to no more than 10% of the proceeds of the Bonds or BANs as the case may be.

(b) No more than 10% of the principal of or interest on the Bonds or BANs is (under the terms of the Bonds, BANs, this ordinance or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for any private business use or payments in respect of any private business use or payments in respect of such property or to be derived from payments (whether or not to the City) in respect of such property or borrowed money used or to be used for a private business use.

(c) No more than 5% of the Bond or BAN proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than 5% of the Bond or BAN proceeds will be transferred, directly or indirectly, or deemed transferred to a nongovernmental person in any manner that would in substance constitute a loan of the Bond or BAN proceeds.

(d) The City reasonably expects, as of the date hereof, that the Bonds and BANs will not meet either the private business use test described in paragraph (a) and (b) above or the private loan test described in paragraph (c) above during the entire term of the Bonds and BANs, as the case may be.

(e) No more than 5% of the proceeds of the Bonds or BANs will be attributable to private business use as described in (a) and private security or payments described in (b) attributable to unrelated or disproportionate private business use. For this purpose, the private business use test is applied by taking into account only use that is not related to any government use of proceeds of the issue (Unrelated Use) and use that is related but disproportionate to any governmental use of those proceeds (Disproportionate Use).

(f) The City will not take any action nor fail to take any action with respect to the Bonds or BANs that would result in the loss of the exclusion from gross income for federal tax purposes on the Bonds or BANs pursuant to Section 103 of the Code, nor will the City act in any

other manner which would adversely affect such exclusion. The City covenants and agrees not to enter into any contracts or arrangements which would cause the Bonds or BANs to be treated as private activity bonds under Section 141 of the Code.

(g) It shall not be an event of default under this ordinance if the interest on any Bond or BAN is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of issuance of the Bonds or BANs, as the case may be.

(h) These covenants are based solely on current law in effect and in existence on the date of delivery of such Bonds and BANs, as the case may be.

(i) The City covenants that it will rebate any arbitrage profits to the United States to the extent required by the Code and the regulations promulgated thereunder.

Section 24. Issuance of BANs. (a) The City, having satisfied all the statutory requirements for the issuance of its Bonds, may elect to issue its BAN or BANs to a financial institution, the Indiana Bond Bank or any other purchaser, pursuant to a Bond Anticipation Note Purchase Agreement (“BAN Purchase Agreement”) to be entered into between the City and the purchaser of the BAN or BANs. The Common Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing the Bonds to provide interim financing for the Project until permanent financing becomes available. It shall not be necessary for the City to repeat the procedures for the issuance of its Bonds, as the procedures followed before the issuance of the BAN or BANs are for all purposes sufficient to authorize the issuance of the Bonds and the use of the proceeds to repay the BAN or BANs.

(b) The Mayor and the Clerk-Treasurer are hereby authorized and directed to execute a BAN Purchase Agreement in such form or substance as they shall approve acting upon the advice of counsel. The Mayor and the Clerk-Treasurer may also take such other actions or deliver such other certificates as are necessary or desirable in connection with the issuance of the BANs or the Bonds and the other documents needed for the financing as they deem necessary or desirable in connection therewith.

Section 25. Noncompliance with Tax Covenants. Notwithstanding any other provisions of this ordinance, any of the covenants and authorizations contained in Section 23 of this Ordinance (the "Tax Covenants") which are designed to preserve the exclusion of interest on the Bonds and BANs from gross income under federal law ("Tax Exemption") need not be complied with if the City receives an opinion of nationally recognized bond counsel to the effect that compliance with such Tax Covenant is unnecessary to preserve the Tax Exemption.

Section 26. Rate Ordinance. The present rates and charges of the sewage works are set forth in Ordinance No. 2015-17 adopted on November 23, 2015 as supplemented by Ordinance No. 2017-06, which ordinances are incorporated herein by reference.

Section 27. Non-Business Days. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this ordinance, is a legal holiday or a day on which banking institutions in the area are typically closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are typically closed, with the same force and effect as if done on the nominal date provided in this ordinance, and no interest shall accrue for the period after such nominal day.

Section 28. Other Actions. Each of the Mayor and the Clerk-Treasurer is hereby authorized and directed, for an on behalf of the City, to execute and deliver any agreement, certificate

or other instrument or take any other action which such officer determines to be necessary or desirable to carry out the transactions contemplated by this Ordinance, which determination shall be conclusively evidenced by such officer's having executed such agreement, certificate or other instrument or having taken such other action, and any such agreement, certificate or other instrument heretofore executed and delivered and any such other action heretofore taken are hereby ratified and approved.

Section 29. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided, however, that this Ordinance shall not be construed as modifying, amending or repealing the ordinances authorizing the 2013 Bonds or the 2014 Bonds.

Section 30. Headings. The headings or titles of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this ordinance.

Section 31. Effective Date. This ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

ALL OF WHICH IS ADOPTED this 12th day of June, 2017 by the Lebanon
Common Council of the City of Lebanon, Indiana.

Voting For

Voting Against

Abstain

Keith Campbell
Keith Campbell

Keith Campbell

Keith Campbell

John Copeland
John Copeland

John Copeland

John Copeland

Dan Fleming
Dan Fleming

Dan Fleming

Dan Fleming

Mike Kincaid
Mike Kincaid

Mike Kincaid

Mike Kincaid

Corey Kutz
Corey Kutz

Corey Kutz

Corey Kutz

Jeremy Lamar
Jeremy Lamar

Jeremy Lamar

Jeremy Lamar

Dick Robertson
Dick Robertson

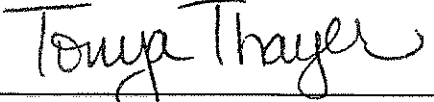
Dick Robertson

Dick Robertson

ATTEST:

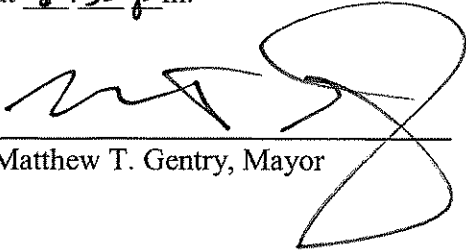
Tonya Thayer
Tonya Thayer, Clerk-Treasurer

I hereby certify that Ordinance 2017-07 was delivered to the Mayor of Lebanon on the 12th day of June, 2017, at 8:57 p.m.



Tonya Thayer, Clerk-Treasurer

I hereby APPROVE ORDINANCE 2017-07 this 12 day of June, 2017, at 8:55 p.m.

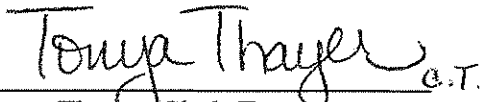


Matthew T. Gentry, Mayor

I hereby VETO ORDINANCE 2017-07 this ____ day of _____, 2017, at ____:____ m.

Matthew T. Gentry, Mayor

ATTEST:

 c.t.

Tonya Thayer, Clerk-Treasurer

This document prepared by:
Julie C. Bolling, Esq.
KRIEG DEVAULT, LLP
(317) 238-6241

KD_8378689_4.doc

EXHIBIT A

Project Description

The existing WWTP has a design average daily flow (ADF) capacity of 3.3 million gallons per day (MGD) and design peak daily flow (PDF) of 8.6 MGD. The design loadings for the WWTP are: 4,128 lbs/day CBOD₅, 4,128 lbs/day TSS, and 826 lbs/day Ammonia. Over the past three years, the plant has experienced an actual ADF of 2.84 MGD and peak flows as high as 13.4 MGD. The plant has also experienced CBOD₅ loadings as high as 10,743 lbs/day and TSS loadings as high as 9,684 lbs/day. The plant is currently being challenged by loadings from Maplehurst and has a limited amount of flow capacity available to accommodate Lebanon's future growth. With incoming industries, as well as future residential and economic development, the plant needs to expand to handle future flows and loadings.

The expanded WWTP will be designed to handle the incoming flows and loads for the existing conditions as well as the expected future conditions. These future conditions include the development of the following for the next 20 years:

- Expected residential growth of 2,000 homes
- Full build-out of 4 production lines at Maplehurst
- Ken's Foods (initial and full production)
- Enterprise Development residential and commercial growth (2028 estimate)
- Allowance for addition industrial growth.

These future conditions will require both an increase in flow capacity to a 5.0 MGD ADF and 15 MGD peak flow facility as well as increasing loadings capacity to address industrial growth. The following table presents the anticipated flows and loads for the expanded facility.

Anticipated WWTP Influent Flows and Loadings				
	Flow (MGD)	CBOD ₅ (lbs/day)	TSS (lbs/day)	NH ₃ N (lbs/day)
Baseline Residential (Existing Flow)	2.84	2,341	2,569	290
Residential Growth	0.68	853	853	114
Commercial Growth	1.00	1,668	1,668	167
Industrial Growth	0.45	1,506	394	1,334
TOTAL	5.00	6,368	5,484	1,905