



**Katonah Lewisboro  
UNION FREE SCHOOL DISTRICT  
P.O. Box 387, Katonah, N.Y. 10536**

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**RFP # 18/19-05**

**Request for Proposals for the  
Operation, Maintenance, Management & Monitoring of the  
Katonah Lewisboro U.F.S.D. Wastewater Treatment Facilities**

**Return Qualifications to:**

**Karen Carroll, Purchasing Agent  
60 North Salem Road  
Cross River, New York 10518  
914-763-7044**

**RFP Release Date: January 8, 2019**

**Pre-bid conference and Plant walk-thru: January 17, 2019 10:00 Increase Miller Elementary  
School, 186 Waccabuc Road Goldens Bridge, New York 10526**

**Proposal Due Date: January 30, 2019, No later than 12:00 P.M.**

**Opening Date: To be Opened: January 30, 2019, 2018 at 12:00 PM in the District Offices located at  
60 North Salem Road, Cross River, NY 10518**

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LATE RESPONSES will NOT be considered.

Send a clearly marked original and three (3) copies of each response, along with an electronic copy (flash drive or email attachment).

2018-2019 Katonah Lewisboro Union Free School District Request For Proposal:  
Wastewater Treatment Plant Operations Maintenance, Management & Monitoring

The Katonah-Lewisboro School District wishes to procure Wastewater Treatment Operations, Maintenance, and Monitoring (OM&M) Services for three (3) 10,000 gpd Wastewater Treatment Plants (WWTPs) located at the Lewisboro Elementary School (79 Bouton Road, South Salem, NY 10590), the Increase Miller Elementary School (186 Waccabuc Road, Goldens Bridge, NY 10526), and the Katonah Elementary School (106 Huntville Road, Katonah, NY 10536). Each of the treatment facilities consist of the following technologies:

- Flow Equalization
- Membrane Bio-Reactor (MBR)
- Sand Filtration
- Tertiary Membrane Filtration
- Ultraviolet (UV) Disinfection
- Post -aeration

The selected contractor will be responsible for all day-to-day OM&M services for these facilities as required by the Katonah-Lewisboro School District. All pricing is to be provided in accordance with the attached bid form. The contract term is for a period of five (5) months, with an option to extend the OM&M contract for additional four (1) year periods at the discretion of the School District. The anticipated contract initiation date is on or about February 2019.

This request for proposal includes the following documents/exhibits:

- RFP Submission Checklist
- Proposed Scope of Work
- Draft Operations, Maintenance & Monitoring Agreement (Exhibit A)
- SPDES Permit for the Lewisboro Elementary School WWTP (NY-0036684), the Increase Miller Elementary School WWTP (NY-0036692), and the Katonah Elementary School WWTP (ADD) (Exhibit B)
- Bid Form (Exhibit C)
- Insurance Specifications (Exhibit D)

To be considered responsive to this request for proposal, you must respond to and provide all requested information noted within this proposal.

2018-2019 Katonah Lewisboro Union Free School District Request For Proposal:  
Wastewater Treatment Plant Operations Maintenance, Management & Monitoring

Proposal Submission Checklist

It is suggested that you use the following checklist to ensure your proposal is complete:

- Submit completed Request for Proposal Form (Exhibit C).
- Agreement exceptions and clarifications.
- A three-year history of Contractor's OM&M Regulatory Compliance history, including explanations of any non-compliance.
- A list of three (3) references for facilities where your company has provided, or is currently providing OM&M services. Include a contact person from each facility with name, title of contact person and telephone number.
- Any other data that is not requested but you feel is applicable.
- Signed and Notarized Non-Collusive Agreement
- Signed and Notarized Hold Harmless Agreement
- Signed and Notarized Iran Energy Sector Divestment Form
- Insurance and Liability Certificates

Return the above proposal no later than 12:00 p.m. (EST) on January 30, 2019, to:

**Return Qualifications to:**

**Karen Carroll, Purchasing Agent  
60 North Salem Road  
Cross River, New York 10518  
914-763-7044**

## **SCOPE OF WORK**

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- C Bid Sheet
- D Insurance Specifications

## **1.0 Introduction**

### **1.1 Confidentiality Statement**

No part of this RFP or its exhibits may be reproduced, in whole or in part, unless specifically required for the Contractor's internal use in responding to the solicitation. Unauthorized disclosure of the RFP or its contents or failure to observe other specific requirements contained herein, will result in disqualification from further consideration. No representations or warranties are made concerning the completeness or accuracy of information contained in this RFP.

### **1.2 Terms of Negotiation**

This RFP is not an offer to enter an agreement with any supplier, but rather it is a request to receive proposals from suppliers interested in providing services to the Katonah-Lewisboro School District (OWNER). The OWNER reserves the right to reject all proposals, in whole or in part, and/or to enter into negotiations with any party. The OWNER reserves the right to select and negotiate with those suppliers it deems qualified and to stop negotiations at any time without incurring any liability. The OWNER also reserves the right to reject any and all quotations submitted and change the schedule of events as necessary. Neither receipt of proposal nor failure to reject a response will impose any legal obligation on the OWNER or create any legal right in favor of the Contractor who submitted the proposal.

### **1.3 Agreement**

If Contractor has an issue with any of the provisions noted within this RFP or the Draft Agreement (Exhibit A), it should be noted in the contractor's Proposal. Pricing, staffing, and all other requests for information should be provided assuming full compliance with these General Contract Terms and Conditions.

Following the evaluation of Contractors' proposals, the OWNER will notify Contractors of their selection status. If Contractor is selected, the OWNER and Contractor will engage in a good faith negotiation of an Agreement that will govern the provision of the services to be provided to the OWNER by the chosen contractor. The OWNER will consider the outcome of these negotiations in selecting the final Contractor.

#### **A. Manuals and Training**

The selected Contractor must prepare a Health and Safety Plan, and Sampling/Analysis Plan for the WWTP. Documentation of training of assigned Operators must be provided by the Contractor upon request.

## **2.0 Administration of the RFP**

### **2.1 Response Deadline and Delivery**

All proposals must be received by January 30, 2019 at 12:00PM (EST). **Late receipts will not be considered.** Proposals shall be submitted to:

**Karen Carroll, Purchasing Agent  
60 North Salem Road  
Cross River, New York 10518  
914-763-7044**

### **2.2 Response Format**

Failure to follow the requested format or respond to all questions may impair the Owner's ability to evaluate your proposal, resulting in your proposal being rejected.

### **2.3 Withdrawal of Proposal**

Contractors may withdraw their proposals from consideration at any time prior to award of a contract or the reaching of an agreement by advising in writing at the address indicated in Section 2.1.

### **2.4 Right to Reject**

The right is reserved by the OWNER to reject proposals or any portion thereof. Neither receipt of a proposal nor failure to reject proposals will impose any legal obligation on the OWNER.

### **2.5 RFP Documents**

The OWNER reserves the right to retain all received proposals. No proposals in whole, or in part, or any accompanying information (exhibits, diskettes, etc.) will be returned unless arrangements are made in advance of receipt of the proposal by the Contractor. All expenses incurred by the Contractor in preparing a response to this RFP will be at the Contractors sole expense.

## **3.0 Request for Proposal**

### **3.1 Scope and Magnitude of Contract**

#### **3.1.1 Walk-Through**

A pre-proposal conference to review the proposal requirements and to conduct a walk-through inspection tour of the WWTP will be held on January 17, 2019 at 10:00. Representatives of the Owner and the Engineer will be present to answer questions regarding this RFP and the Project. Contractors interested in attending this conference and walk-through must contact Paul Christensen 914-763-7242 no later than January 15, 2019. Following the conference, additional site visits may be requested; however, the Owner retains the right to deny additional site inspections.

### **3.1.2 Contract Duration and Payment Terms**

The term of the contract with the successful bidder will be for a period of five (5) months with the option to extend the contract for additional one (1) year periods up to four (4) consecutive years commencing on or about February 2019. Any future contract or agreement extensions will be based on continuous improvement of Contractor's performance in cost, quality, and service. Payment terms will be net 30 days.

### **3.1.3 Pricing Structure**

The OWNER will pay the Contractor at the agreed upon lump sum and unit price rates presented on the Bid Sheet (Exhibit C) provided by the Contractor as part of the Contractor's proposal submission. Items not covered under the lump sum or unit price line items will be billed on a "cost plus" basis at a mark-up to be negotiated between the Contractor and OWNER.

## **3.2 Service Requirements**

The following describes the general scope of work covered under this RFP:

- Perform OM&M services for the OWNER's Lewisboro Elementary School WWTP (79 Bouton Road, South Salem, NY 10590), Increase Miller Elementary School WWTP (186 Waccabuc Road, Goldens Bridge, NY 10526), and Katonah Elementary School (106 Huntville Road, Katonah, NY 10536).
- Maintain the WWTP Standard Operating Procedures and WWTP Health and Safety Plan for review and approval by the OWNER. An O&M Manual will be supplied by the Design Engineer and made available for the selected Contractor. It will be the responsibility of the selected OM&M Contractor to update this manual and all standard operating procedures for the process control of the facility.  
The Health and Safety Plan, shall include, at a minimum, discussion of the following topics; the most current OSHA and NYSDOL health & safety regulations, site specific Lock Out Tag Out (LOTO), site specific Arc Flash requirements, confined space, elevated work rules, toolbox meeting procedures, maintenance specific PPE, off-hour notification protocols, and develop site-specific emergency procedures and protocols.
- The Contractor will provide an appropriate NYSDEC Licensed Operator to act as Lead Operator In-Charge.
- Contractor will be responsible for the performance of all compliance and process sampling/analysis as well as the preparation of all monthly reports (Discharge Monitoring Reports) for submission to the NYSDEC

### **3.3 Instructions for Completion of RFP**

#### **3.3.1 Draft Agreement**

Provide any written exceptions or clarifications to the terms and conditions listed within the Draft Agreement (Exhibit A)

#### **3.3.2 Bid Sheet**

Provide all data requested in the attached Bid Sheet (Exhibit C).

#### **3.3.3 Contractor Background and Qualifications**

In a section to be labeled **Section A-1**, provide a project management summary, including the make-up of the employees assigned to this project, including the telephone numbers, names of contact persons and of lead personnel, and the proposed assignment of responsibility for the tasks involved in the operations and maintenance. Include documentation of all certifications maintained by Contractor and/or its employees to be assigned to this project and resumes for each of the individuals listed, as an appendix.

In a section to be labeled **Section A-2**, describe the qualifications of the Contractor including: prior relevant experience in the operation and maintenance of a WWTP in the New York City Watershed including a WWTP having nitrification, sand filtration, micro filtration and UV disinfection. For each organization include the information listed below. (If more than ten projects are relevant to this RFP, remaining examples of experience may be briefly summarized):

- (a) Customer's name.
- (b) Type of contract.
- (c) Name and telephone number of reference for the project.
- (d) Brief description of the project's scope of services and status. (Include type of facility at which project was implemented, whether the project was timely completed and whether significant problems occurred that affected project performance. As appropriate, identify all prime contractors or subcontractors and their role in each project.)

The right to call the references provided by the Proposer will be presumed by the Owner.

#### **3.3.4 Additional Data**

Provide additional information that is not requested by this Request for Proposal, but is relevant to your particular bid. Please include that information separately.



**OPERATIONS, MAINTENANCE and MONITORING AGREEMENT**

**Between**

**KATONAH-LEWISBORO CENTRAL SCHOOL DISTRICT**

**and**

**CONTRACTOR**

**for**

**OPERATION, MAINTENANCE AND MONITORING**

**of the**

**LEWISBORO ELEMENTARY SCHOOL  
INCREASE MILLER ELEMENTARY and  
KATONAH ELEMENTARY SCHOOL  
WASTEWATER TREATMENT PLANTS**

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Wastewater Treatment Plant Operations Maintenance, Management & Monitoring

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**AGREEMENT**

This Agreement (the "Agreement"), is made by and between KATONAH\_LEWISBORO SCHOOL DISTRICT (hereafter "Owner" or "School District") and CONTRACTOR (hereafter "Contractor") a corporation with a place of business located at \_\_\_\_\_.

WHEREAS, Contractor has submitted a cost estimate proposal dated \_\_\_\_\_ (attached as Exhibit A), to perform the Operation Maintenance & Monitoring ("OM&M") Services at the Lewisboro Elementary, the Increase Miller Elementary School, and the Katonah Elementary School Wastewater Treatment Plants;

WHEREAS, Contractor acknowledges that such OM&M Services are to be performed in accordance with the terms of any and all Contract Documents identified herein and approved by Owner and Contractor as set forth below for work that is undertaken;

WHEREAS, Owner desires to retain and Contractor desires to provide the professional services under the terms and conditions contained herein;

NOW THEREFORE, in consideration of the mutual promises set forth herein, Owner and Contractor agree as follows:

**1.0 Definitions**

"Cost Proposal" means the OM&M Services proposal, as submitted by Contractor on \_\_\_\_\_ (Exhibit A).

"Effective Date" means the Notice to Proceed date as provided by the OWNER.

"OM&M Services" means the activities specified in the Contractor's Proposal.

"Treatment Facilities" means the equipment and systems described in the RFP that are used for the conveyance and/or treatment of wastewater. Such equipment is listed in documents that were provided as part of the Request for Proposal.

**2.0 Scope of Services**

Contractor shall provide Owner with OM&M Services in strict accordance with this Agreement, including all Exhibits hereto, and all applicable laws and regulations. For the OM&M Services covered by this Agreement, Contractor shall provide to Owner, in a timely manner, any necessary document submittals and all accompanying health and safety and site monitoring reports as required by the RFP. In performing the OM&M Services, Contractor shall report to and generally be supervised by Owner under this Agreement.

**2.01 Operations and Maintenance.**

Commencing on the date of the Notice to Proceed as provided by the OWNER, Contractor will perform the OM&M Services including all routine operation and maintenance of Owner's Treatment Facilities on a seven (7) day per week basis within the design capabilities of the Treatment Facilities. For purposes of this Agreement, routine operation and maintenance shall

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include all activities necessary to satisfy the requirements imposed upon Owner by the NYSDEC SPDES Permit provided with the RFP.

**2.02 Procedures and Programs.**

On the Effective Date of this Agreement, Contractor shall implement standard operating procedures and place into operation a preventive maintenance and process control programs, including documentation of operation and maintenance procedures conducted upon the Treatment Facilities and a written analysis of the condition of all equipment in the Treatment Facilities. Such records shall be available for inspection by Owner at all times.

**2.03 Expenses for Routine Service.**

Contractor will perform the OM&M Services including the responsibility for the cost of labor for those routine and/or repetitive activities in accordance with the equipment manufacturers' manuals to assure compliance with the New York State Pollution Discharge Elimination System (SPDES) Permit NY-0036684, NY-0036692, and [ADD] for these facilities. Contractor is responsible to operate the Treatment Facilities and to maximize the service life of the equipment and Treatment Facilities.

**2.04 Expenses for Maintenance.**

Contractor will perform the OM&M Services including the responsibility for labor costs incurred in the preventive maintenance of the Treatment Facilities.

**2.05 Non-Routine Services.**

Additional operation and maintenance not considered routine under this Agreement or required by changes to the applicable regulatory requirements (including a change in any regulatory Permit) or required as a result of flood, fire, Act of God other force majeure, civil disturbance, or other circumstance beyond Contractor's control (collectively, "Non-Routine Services"), are not included in the Standard Service as defined in Section 4.01. Contractor will assist Owner in obtaining or providing, or Contractor will obtain and provide, the non-routine operation and maintenance so required, and Contractor will be paid for such Non-Routine services in accordance with Section 4.02 of this Agreement. As described in the RFP, equipment repair or replacement, large-scale scheduled shutdown maintenance as agreed to by Owner, and responses to reasonably unanticipated operating conditions are classified as Non-Routine services.

**2.06 Staffing.**

Contractor will provide properly certified employees of Contractor for the staffing of the Treatment Facilities and the performance of OM&M Services. Such employees shall be experienced in the operation, maintenance and repair of wastewater treatment systems and shall have the proper certifications and training as required by standard industry practices and by federal, state and local regulation to perform the OM&M Services. In addition, Contractor will be on-call 24-hours per day, 7 days per week for emergency situations. Contractor shall provide its employees to perform all services required by this Agreement subject to Section 2.07 relating to contractors and subcontractors.

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Prior to the commencement of the OM&M services, Contractor shall provide Owner a list showing the name, title, and licenses held by, all staff required for routine operation and maintenance. Contractor shall provide Owner written notice of any voluntary or involuntary change in personnel and/or staffing. Contractor shall act solely as an independent contractor in conducting the Work under this Contract, and nothing herein shall at any time be construed to create the relationship of employer and employee, principal and agent, partners, or joint ventures between Owner and Contractor or Owner or Contractor's officers, partners, associates, directors, employees, subcontractors and agents. Contractor shall have no right or authority to act for Owner and shall not attempt to enter into any contract, commitment, or other agreement, or incur any debt of liability of any nature, in the name or on behalf of Owner. Contractor shall be solely responsible for the compensation, benefits, contributions, and taxes, if any, of its employees, subcontractors and agents.

The Owner reserves the right to request the removal of an employee of the Contractor for any reason. In the event the Owner exercises said right, the Contractor will indemnify and hold the Owner harmless from any and all claims the employee may have in connection with the Owner's request for removal.

### **2.07 Contractors/Subcontractors.**

- (i) Errors and Omissions. Contractor shall be liable to Owner for the errors, acts and omissions of Contractor's subcontractors as if such errors, acts, and omissions were its own.
- (ii) Subcontracts. Contractor shall not subcontract any work without first securing Owner's written approval of the subcontractor.
- (iii) Control. Contractor shall have and retain full control of any subcontractor utilized, and shall be responsible for the performance of all subcontracted portions of the OM&M Services. Contractor shall not be relieved of the responsibility for the proper performance and completion of subcontracted portions of the OM&M Services and shall cause all subcontractors to abide by each and every term of this Contract, including without limitation Section 2.11 (Insurance) and Contractor's Health and Safety Plan developed for the performance of the OM&M Services hereunder. Contractor shall provide a copy of the applicable Health and Safety Plan ("HSP") to each subcontractor.

### **2.08 Liaisons.**

Contractor shall communicate with the Owner's Project Manager regarding decisions and other matters related to the operation of the wastewater treatment plant facilities. In addition, Contractor shall advise Owner in matters related to the operation of the Wastewater treatment plant facilities.

### **2.09 Regulatory Compliance.**

Contractor will supervise all regulatory compliance and financial transactions pertaining to the day-to-day operation of the wastewater treatment plant facilities. Contractor shall operate the wastewater treatment plant facilities and perform all services under this contract in compliance with local, state, and regulatory requirements, the facility, O&M Manual, and standard industry practices. Contractor shall indemnify and hold harmless the Owner from all fines, penalties or damages that Owner incurs due to noncompliance with the above referenced standards, if, and to

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the extent, such noncompliance was within Contractor's reasonable control and results from Contractor's failure to operate the Treatment Facilities or perform the OM&M Services in accordance with the terms of this Agreement. At its sole cost and expense, Contractor agrees to assist Owner in the defense of any legal or administrative action or proceeding in which such fine, penalty or damage is sought. Contractor shall cooperate fully with any federal, state, and local investigations, inquiries, or requests for information regarding the OM&M Services. This section 2.09 shall survive the termination of this Agreement.

**2.10 Performance of Duties and Obligations.**

Contractor shall exercise due care in performing its obligations and duties under this Agreement normally and reasonably provided with respect to similar contract services. Contractor shall not be liable for any claim, damage, cost, or expense (including attorney fees) not caused by the negligent acts, errors, or omissions of Contractor.

**2.11 Insurance Coverage.**

Contractor will provide and maintain at all times during the term of this Agreement the minimum insurance coverages as listed in Exhibit D – Insurance Specifications:

Contractor will furnish Owner with a Certificate of Insurance as evidence that policies providing the required coverages and limits are in full force and effect. Such policies shall provide for no less than thirty (30) days advance written notice of cancellation or termination, and such notice shall be sent directly to Contractor and Owner. In the event that Contractor retains any subcontractors to perform work under this contract, Contractor will forward to Owner, subcontractor's certificate of insurance evidencing the required coverage prior to commencement of work. The Certificates of Insurance provided by the Contractor shall name the OWNER and its agents as additional insured.

**2.12 Reports and Records.**

Contractor shall maintain records of Treatment Facilities operations, maintenance, and repair and improvement activities. Contractor will prepare all reports required by local, state and federal regulatory agencies concerning OM&M Services, and at Owner's option, will provide same under Letter of Certification that documents have been prepared in compliance with applicable regulations and requirements for Owner's signature and submittal. Contractor will maintain all records required by local, state, and federal regulations and other records deemed useful by Contractor and Owner to monitor and control the operation of the Treatment Facilities.

**2.13 Proprietary Rights.**

All Treatment Facilities records, data, software, and information, including, but not limited to, operation reports, laboratory data, and budgetary and financial information shall remain the property of Owner. All operating procedure guidelines, preventive maintenance and safety programs, and plant evaluation reports shall, upon termination of this Agreement, remain the property of the Owner.

**2.14 Indemnification.**

Contractor shall indemnify, protect, and hold Owner its officers, employees, and agents harmless from and against all liability, claims, demands, losses, damages, costs, or expenses caused by malfunction or failure of the Treatment Facilities or any components thereof or other liability or loss, including injury, death, or damages to any person or property, related in any way to the

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performance of this Agreement to the extent such liability, claims, demands, or emissions was within Contractor's reasonable control *and results from Contractor's failure* to operate the Treatment Facilities or perform the OM&M Services in accordance with the terms of this Agreement. This Section 2.14 shall survive the termination of this Agreement.

**2.15 Engineering and Technical Services.**

As part of the Standard Services as defined in Section 4.01., Contractor shall provide such value engineering and technical services required to identify, evaluate, and prepare preliminary recommendations to both Owner and Engineer necessary to ensure the proper operation and maintenance of the Treatment Facilities.

**2.16 Additional Engineering and Technical Services.**

Contractor shall provide Additional Engineering and Technical Services which are in addition to the services detailed in Section 2.15 (“Additional Engineering and Technical Services”), as and when requested by the Owner. Contractor shall be compensated for such Additional Engineering and Technical Services in the manner provided by Section 4.02 of this Agreement. A detailed scope of work and cost estimate for such Additional Engineering and Technical Services will be provided to Owner by Contractor and written Change Order authorization by the OWNER provided before such services are initiated by the Contractor.

**2.17 Contractor Equipment.**

Any tools/equipment required for OM&M Services that are purchased by Contractor during the term of this Agreement, and approved by the Owner, shall remain the property of Owner upon termination of this Agreement. Any temporary tool or portable equipment that is provided by Contractor during the term of this Agreement that does not constitute purchased tools approved by the Owner, and that is not deemed part of the Treatment Facilities shall remain the property of Contractor upon termination of this Agreement. Contractor shall ensure that any of its equipment that is utilized in providing OM&M Services is appropriately cleaned before any subsequent reuse, and shall notify Owner and comply with Owner’s equipment cleaning procedures prior to the removal of any such equipment from Owner’s property. Contractor shall notify Owner before removing any of its equipment. Contractor shall not make any capital replacements of the Treatment Facilities or any component thereof without prior written approval of Owner.

**2.18 Environmental.**

Owner and Contractor understand and intend that neither this Agreement nor the performance hereof by Contractor shall render Contractor an “owner” of the Treatment Facilities.

**2.19 Conflicts.**

There are no outstanding claims, suits or proceedings or other service projects involving Contractor’s which would in any way conflict with Contractor’s performance under this Agreement, or conflict with Owner’s interests. If any such claim, suit or proceeding or other service project is hereafter instituted, Owner shall be promptly notified. Owner in its sole discretion, retains the right to terminate this Agreement if it concludes that a conflict has arisen.

**2.20 Disposal of Treatment Residues.**

Contractor shall obtain the specific prior approval from Owner for the locations and methods to be employed in treating, storing and/or disposing of any treatment residues resulting from



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performing the OM&M Services. Such residues include, without limitation, sludges, solids, liquids, used/replaced Treatment Facilities parts or equipment, Treatment Facilities maintenance wastes, personal protective equipment etc.

**3.0 Responsibilities**

**3.01. Basic Responsibilities.**

As part of the Agreement, Owner agrees to perform all functions and retain all responsibilities and obligations related to the Treatment Facilities not assumed under this contract by Contractor, including, without limitation, the following:

- (a) Owner shall promptly procure and continually maintain, in full force and effect, and in accordance with their respective terms, all guarantees, warranties, easements, permits, licenses, and other similar approvals and consents necessary to operate and maintain the Treatment Facilities;
- (b) Owner shall be responsible for expenditures for all capital equipment replacements, provided that Contractor will provide jurisdiction and review of the related expenditures;
- (c) Owner shall, at all times, provide access to the Treatment Facilities for Contractor, its agents, and employees;
- (d) Owner shall provide Contractor the use of all existing equipment owned by Owner necessary for the operation and maintenance of the Treatment Facilities.
- (e) Owner shall be responsible for damage and liability to the Treatment Facilities or components thereof caused by flood, fire, Acts of God or other force majeure, civil disturbance or misuse of property caused other than by the negligent acts, errors, or omissions of Contractor;
- (f) Owner shall be responsible for all fines and penalties imposed for process upsets, violation of discharge limits, and violation of the New York State Pollution Discharge Elimination System (SPDES) Permits NY-0036684 and NY-0036692 attributable to the operation and maintenance of the Treatment Facilities together with related costs and expenses, to the extent not assumed by Contractor on the terms set forth in Section 2.09 of this Agreement; and

3.02 Owner shall designate an individual to act as Project Manager in connection with the performance of services by Contractor under this Agreement.

**4.0 Compensation**

**4.01 Standard Services.**

As compensation for all services rendered by Contractor hereunder (the "Standard Services"), except the Non-Routine Services and the Additional Engineering and Technical Services, Owner shall pay Contractor on a monthly basis during the terms of this Agreement, commencing with the Effective Date, the sum per month for Standard Services as shown in Exhibit A; subject to pursuant to Section 4.02.

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**4.02 Non-Standard Services, Change Order Approval and Payment.**

- (a) Non-Routine Services and Additional Engineering and Technical Services shall constitute Non-Standard Services. Contractor will be compensated for such Non-Standard Services only to the extent such services are pre-approved by Owner per a written approval (hereafter a “Change Order”), subject to 4.02(b).
- (b) All Change Orders shall be processed in accordance with the following procedures:
  - 1) A Change Order may be initiated by either a directive from Owner to Contractor in the form of a Proposed Change Order or by Request for Change Order from Contractor to Owner. Within five (5) days after receipt of a Proposed Change Order, or together with any Request for Change Order presented by Contractor, Contractor shall submit to Owner a statement, with reasonable detail, showing the necessity for the Non-Standard Services, and any justifiable adjustment from the Standard Services Base Rate.
  - 2) Owner shall notify Contractor as to whether the proposed adjustments are acceptable and, if they are, Owner shall issue the Change Order for execution by Owner and Contractor. The adjustment to the Standard Services Base Rate set forth in such Change Order shall be deemed to cover all costs and delays to the Contractor associated with the Change Order for Non-Standard Services and no further or subsequent adjustments to the Standard Services Base Rate shall be allowed on account thereof. Owner reserves the right to reject any proposal submitted by Contractor for Non-Standard Services and to have such work performed by others.
  - 3) Owner shall, at all times, have the right to order that any proposed Change Order Work be performed on the basis of a (i) lump sum basis; (ii) a unit price basis; or (iii) a time and material basis.
- (c) Notwithstanding any inability to agree upon an adjustment, or the basis for an adjustment, Contractor shall, if directed by Owner in a written order to proceed with any Change Order Work, nevertheless proceed in accordance with the Change Order, and the Standard Services Base Rate shall be adjusted initially, pending final resolution, on the basis of the costs associated with the Change Order Work as reasonably determined by Contractor in accordance with the provisions hereof, with any dispute pertaining to such costs and credits to be resolved promptly after the completion of such Change Order Work.
- (d) Change Orders shall be processed in accordance with the applicable provisions hereof except where otherwise agreed to by Owner in writing. Failure to submit a proposal for Non-Standard Services within thirty (30) days after the need for such Change Order Work is known, and in any event prior to commencing the Change Order Work, shall conclusively establish that no adjustments in the Cost Proposal of Work Schedule is justified in respect of such change and any subsequent claims in respect thereof shall be barred.
- (e) Owner shall pay costs for Non-Standard Services to Contractor separately pursuant to the terms and conditions contained in the approved Change Order.
- (f) Responding to critical alarms outside the normal hours the operator is onsite is considered a Non-Routine Service. The Owner shall pay the labor cost associated with this Non-Routine Service at the hourly billing rate entered in the Bid Sheet plus travel cost at the standard mileage rate established by the IRS.

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**5.0 Record Retention and Review**

**5.01 Records.**

Contractor shall maintain accurate and detailed financial records, books, documents, records of all sampling and analytical records associated therewith (“Records”) in connection with the OM&M Services and all transactions related thereto, and shall retain such Records at its expense for a period of at least seven (7) years. In no event shall the Contractor destroy the records without the prior written consent of the Owner. If Owner withholds such consent it shall reimburse Contractor for reasonable expenses incurred in connection with retention of the Records from and after such permission is withheld. Owner and/or its designees may, upon reasonable notice, review, inspect, copy and audit the Records at the place or places where such Records are kept. Such Records shall be maintained at a place reasonably convenient to both parties.

**5.02 Right to Review.**

Owner shall have access to all aspects of the Project and the right to monitor and review any materials or operations relating to performance of this Agreement. Owner shall have the right to inspect and obtain copies of any written license, permit, or approval issued by any governmental entity or agency to Contractor or its subcontractors or any correspondence or other documentation that is related to the performance of this Agreement.

**6.0 Confidentiality**

**6.01 Documents.**

All drawings, specifications, technical documents, reports, or documents of any nature, prepared in connection with provision of the Work; computer data generated in connection with provision of the Work; copies of any of the foregoing; and any documents provided to Contractor by Owner (collectively, the “Documents”) shall be considered to be the property of Owner and shall be treated as highly privileged and confidential. All Documents including drafts thereof, shall be automatically delivered to Owner upon the termination of this Agreement pursuant to Section 7. Owner shall be entitled to demand and receive prompt delivery of all Documents at any time whatsoever and Contractor expressly waives any right it may have under any circumstance, including but not limited to payment disputes with Owner or disputes Contractor may have with third parties, to withhold Documents from Owner.

***Disclosure to Third Parties.***

Contractor shall treat as privileged and confidential: (i) all Documents; (ii) all documents and records reviewed or obtain in connection with provision of the OM&M Services; (iii) computer data received or reviewed in connection with provision of the Work; (iv) information contained in any of the foregoing; (v) any other information obtained in connection with this Agreement; and (vi) any information about Owner wherever and however obtained excepting information in the public domain through no action of Contractor (all of the foregoing being collectively referred to as “Confidential Documents and Information”). Contractor shall not disclose any element of the Confidential Documents and Information to any third party without the prior written consent of Owner.

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**6.02 Internal Disclosure.**

Contractor shall disclose Confidential Documents and Information to its employees only on a need-to-know basis. Contractor shall make its employees having access to Confidential Documents and Information aware *of the* obligations of confidentiality set forth in this Agreement and bind said employees under similar obligations of confidence. No article, paper, commentary or treatise related to or in any way associated with Work shall be submitted for publication without Owner's prior written consent.

**6.03 Disclosure to Subcontractors.**

Owner consents to disclosure of Confidential Documents and Information to Contractor's subcontractors and agents on the following conditions: (i) such disclosure is made only on a need-to-know basis and, (ii) Contractor secures the signature of each of its subcontractors and agents on a confidentiality agreement and provides Owner with copies of such agreements prior to disclosing such information to any subcontractors.

**7.0 Term and Termination of Agreement.**

This Agreement shall remain in full force and effect for a period of approximately five (5) months from the Effective Date until June 30, 2019, with the option to extend the Agreement up to four (4) additional one (1) year terms. The extension and increments will be at the discretion of Owner in accordance with the Contractor's Proposal included as Exhibit A.

**7.01. Term.**

This Agreement shall remain in full force and effect from the date of its execution until the later of termination date above or the termination of the Agreement. Termination of this Agreement shall discharge only those obligations that are executory by either party hereto on or after the Effective Date of termination. Any right or duty of a party hereto based on either performance or a breach of this Agreement prior to the Effective Date of termination shall survive.

**7.02 Termination.**

(i) Termination By Owner: In the event of a default or a substantial breach of a material obligation by Contractor, Owner reserves the right to terminate this Agreement at any time by providing Contractor with written notice.

(ii) Termination By Contractor: In the event of default or a substantial breach of a material obligation by Owner, Contractor reserves the right to terminate this Agreement upon providing Owner with thirty (30) days advance written notice.

**7.03 Termination without Cause.**

This Agreement may be terminated by either Contractor or Owner for any reason by giving thirty (30) days advance written notice to the other party.

**8.0 Waiver**

A waiver on the part of Owner or Contractor of any term, provision or condition of this Agreement shall not provide a basis for a waiver of any succeeding breach of the same or any other term, provision or condition of this Agreement.

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**9.0 Entire Agreement**

This Agreement, including the Exhibits hereto, constitute the entire Agreement between Contractor and Owner. They supersede all prior and contemporaneous communications, representations or agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be amended only by a written instrument signed by both parties hereto. The captions in this Agreement and the Table of Contents are for the convenience of the parties in identification of the several provisions and shall not constitute a part of this Agreement nor be considered interpretative thereof.

***Conflict of Terms***

In the event of any conflict between the terms of this Agreement and the Exhibits hereto, this Agreement shall govern.

**10.0 Governing Law**

This Agreement shall be governed by and interpreted in accordance with the law of the State of New York applicable to contracts made and to be performed therein.

**11.0 Assignment**

This Agreement shall be binding on the successors of the parties hereto. Contractor shall not assign, transfer, or subcontract their interest in or obligations under this Agreement without the express written consent of Owner.

**12.0 Severability**

Every paragraph, part, term or provision of this Agreement is severable from the others. If any paragraph, part, term or provision of this Agreement is construed or held to be void, invalid or unenforceable by order, decree or judgment of a court of competent jurisdiction, the remaining paragraphs, parts, terms, and provisions shall not be affected thereby but shall remain in full force and effect.

**13.0 Notices**

Any information or notices required to be given in writing under this Agreement shall be deemed to have been sufficiently given if delivered either personally or by certified mail (return receipt requires, postage prepaid), telex or wire to the address of the respective party set forth below, or to such other address for either party as that party may designate by written notice.

Katonah Lewisboro School District

CONTRACTOR

P.O. Box 387

Katonah, NY 10536

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**14.0 Non-Exclusivity**

Owner will use Contractor's services and nothing in this Agreement should be construed as a commitment to purchase future services on the part of Owner.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives, as follows:

	<b>CONTRACTOR</b>
By: <b>KATONAH-LEWISBORO SCHOOL DISTRICT</b>	By:
Name:	Name:
Title:	Title:
Date:	Date:

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EXHIBIT B

SPDES PERMITS

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EXHIBIT C

BID FORMS



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PROPOSAL – INCREASE MILLER ELEMENTARY SCHOOL

Description	Quantity	Unit	Unit Price	Extended Price	Year 2	Year 3	Year 4	Year 5	Total
Health & Safety Plan & Sampling/Analysis Plan Preparation	1	LS							
Labor for Startup, Performance Testing, & Training	1	LS							
Labor for Operation, Maintenance & Monitoring for Year 1	1	LS							
<b>TOTAL</b>									

Contractor's Proposed Labor Hourly Billing Rate for Year 1 = \$ \_\_\_\_\_  
 Contractor's Proposed Labor Hourly Billing Rate for Year 2 = \$ \_\_\_\_\_  
 Contractor's Proposed Labor Hourly Billing Rate for Year 3 = \$ \_\_\_\_\_  
 Contractor's Proposed Labor Hourly Billing Rate for Year 4 = \$ \_\_\_\_\_  
 Contractor's Proposed Labor Hourly Billing Rate for Year 5 = \$ \_\_\_\_\_

Items to be Billed at Cost Plus

- Laboratory Testing
- Miscellaneous Maintenance Consumables
- Chemicals
- Sludge Transportation and Disposal
- Miscellaneous items required for the operation and maintenance of the WWTP as approved by the Owner

Contractor's Proposed Markup for Items to be Billed at Cost Plus = \_\_\_\_\_ %

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PROPOSAL – LEWISBORO ELEMENTARY SCHOOL

Description	Quantity	Unit	Unit Price	Extended Price	Year 2	Year 3	Year 4	Year 5	Total
Health & Safety Plan & Sampling/Analysis Plan Preparation	1	LS							
Labor for Startup, Performance Testing, & Training	1	LS							
Labor for Operation, Maintenance & Monitoring for Year 1	1	LS							
<b>TOTAL</b>									

Contractor's Proposed Labor Hourly Billing Rate for Year 1 = \$ \_\_\_\_\_

Contractor's Proposed Labor Hourly Billing Rate for Year 2 = \$ \_\_\_\_\_

Contractor's Proposed Labor Hourly Billing Rate for Year 3 = \$ \_\_\_\_\_

Contractor's Proposed Labor Hourly Billing Rate for Year 4 = \$ \_\_\_\_\_

Contractor's Proposed Labor Hourly Billing Rate for Year 5 = \$ \_\_\_\_\_

Items to be Billed at Cost Plus

- Laboratory Testing
- Miscellaneous Maintenance Consumables
- Chemicals
- Sludge Transportation and Disposal
- Miscellaneous items required for the operation and maintenance of the WWTP as approved by the Owner

Contractor's Proposed Markup for Items to be Billed at Cost Plus = \_\_\_\_\_ %

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PROPOSAL – KATONAH ELEMENTARY SCHOOL

Description	Quantity	Unit	Unit Price	Extended Price	Year 2	Year 3	Year 4	Year 5	Total
Health & Safety Plan & Sampling/Analysis Plan Preparation	1	LS							
Labor for Startup, Performance Testing, & Training	1	LS							
Labor for Operation, Maintenance & Monitoring for Year 1	1	LS							
<b>TOTAL</b>									

Contractor's Proposed Labor Hourly Billing Rate for Year 1 = \$ \_\_\_\_\_

Contractor's Proposed Labor Hourly Billing Rate for Year 2 = \$ \_\_\_\_\_

Contractor's Proposed Labor Hourly Billing Rate for Year 3 = \$ \_\_\_\_\_

Contractor's Proposed Labor Hourly Billing Rate for Year 4 = \$ \_\_\_\_\_

Contractor's Proposed Labor Hourly Billing Rate for Year 5 = \$ \_\_\_\_\_

Items to be Billed at Cost Plus

- Laboratory Testing
- Miscellaneous Maintenance Consumables
- Chemicals
- Sludge Transportation and Disposal
- Miscellaneous items required for the operation and maintenance of the WWTP as approved by the Owner

Contractor's Proposed Markup for Items to be Billed at Cost Plus = \_\_\_\_\_%

## EXHIBIT D

### INSURANCE AND LIABILITY

Please provide evidence that the District is named an unrestricted additional insured on the firm's insurance policies, with the exception of workers' compensation.

The policy naming the District as an additional insured shall:

- Be an insurance policy from an A.M. Best rated "secure" or better, New York State admitted insurer.
- Provide for 30 days' notice of cancellation.
- State that the organization's coverage shall be primary coverage for the District, its Trustees, employees and volunteers.
- The District shall be listed as an additional insured by using endorsement CG 2026 or broader. The certificate must state that this endorsement is being used. If another endorsement is used, a copy shall be included with the certificate of insurance.

The contractor agrees to indemnify the District for any applicable deductibles.

#### **Required Insurance:**

- Commercial General Liability Insurance
  - \$1,000,000 per occurrence/\$2,000,000 aggregate with coverage for sexual misconduct, and Athletic Trainer Professional Liability \$1,000,000 per occurrence/\$2,000,000 aggregate for the negligent professional acts of the Athletic Trainer.
- Automobile Liability
  - \$1,000,000 combined single limit for owned, hired and borrowed and non-owned motor vehicles.
- Workers' Compensation and N.Y.S. Disability
  - Statutory Workers' Compensation, Employers' Liability and N.Y.S. Disability Benefits Insurance for all employees. Proof of coverage must be on the approved specific form, as required by the New York State Workers' Compensation Board. ACORD certificates are not acceptable. A self-employed person and certain partners and corporate officers are excluded from the definition of "employee" pursuant to Workers' Compensation Law Section 2 (4). As such, individuals in such capacity are excluded from Workers' Compensation Law coverage requirements. A person seeking an exemption must file a CE-200 form with the State. The form can be completed and submitted directly online to the Workers Compensation Board:  
[http://www.wcb.ny.gov/content/ebiz/wc\\_db\\_exemptions/requestExemptionOverview.jsp](http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/requestExemptionOverview.jsp)

Consultant acknowledges that the failure to obtain such insurance on behalf of the District constitutes a material breach of contract. The consultant is to provide the District with a certificate of insurance, evidencing the above requirements prior to the commencement of work or use of facilities. The failure of the District to object to the contents of the certificate of the absence of same shall not be deemed a waiver of any and all rights held by the District.

The District is a member/Katonah-Lewisboro School District of the NY Districts Insurance Reciprocal (NYSIR). The consultant further acknowledges that the procurement of such insurance as required herein is intended to benefit not only the District but also NYSIR, as the District's insurer.

**Form #2**

2018-2019 Katonah Lewisboro Union Free School District Request For Proposal:  
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**IRANIAN ENERGY SECTOR DIVESTMENT**

Pursuant to State Finance Law §165-a, the Commissioner of General Services is required to develop a list of persons it determines engage in investment activities in Iran, which is defined as provision of goods, services or credit of \$20,000,000 or more, relating to the energy sector.

General Municipal Law §103-g(4) states as follows:

Every bid or proposal hereafter made to a political subdivision of the state or any public department, agency or official thereof where competitive bidding is required by statute, rule, regulation or local law, for work or services performed or to be performed or good sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under penalties of perjury:

The below signed bidder affirms the following as true under penalties of perjury:

“By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the state finance law.”

\_\_\_\_\_  
Corporate or Company Name

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Notary Public

2018-2019 Katonah Lewisboro Union Free School District Request For Proposal:  
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**NON-COLLUSION BID/REQUEST FOR PROPOSAL CERTIFICATION**

By submission of this bid or proposal, each firm and each person signing on behalf of any firm certifies and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

1. The prices in this proposal have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other firm or with any competitor, or potential competitor.
2. (Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the firm prior to opening, directly or indirectly, to any other firm or to any competitor or potential competitor, and
3. (No attempt has been made or will be made by the firm to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

We, the undersigned, propose to furnish all materials and or services called for, in full accordance with the specifications and instructions in the attached bid or proposal, and agree to all conditions therein.

\_\_\_\_\_  
Corporate or Company Name

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Notary Public  
My Commission expires:

2018-2019 Katonah Lewisboro Union Free School District Request For Proposal:  
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**HOLD HARMLESS AGREEMENT**

*This form must be signed and notarized and submitted with this proposal.*

It is hereby agreed and understood that the bidder agrees to hold harmless and indemnify the Katonah Lewisboro Union Free School District and its board of education and, any officer, agent, servant or employee of the Katonah Lewisboro Union Free School District, from any lawsuit, action, proceeding, liability, judgment, claim, or demand which may arise out of:

- A. Any injury (including death) to person or property sustained by the bidder, its agents, servants or employees or any person, firm, or corporation employed directly or indirectly by them upon or in connection with their performance under the contract however caused;
- B. Any injury (including death) to person or property sustained by any person, firm, or corporation, caused by any act, default, error, or omission of the contractor, its agents, servants, or employees or any person, firm or corporation, directly or indirectly employed by them upon or in connection with performance under the contract.

The assumption or indemnity, liability and loss hereunder shall survive contractor's completion of service or other performance hereunder and any termination of this contract.

The contractor at its own expense and risk shall defend any such legal proceedings that may be brought against the Katonah Lewisboro Union Free School District, its board of education, or any officer, agent, servant, or employee of the Katonah Lewisboro Union Free School District on any claim or demand, and shall satisfy any judgment that may be rendered against the Katonah Lewisboro Union Free School District, its board of education, or any officer, agent, servant, or employee of Katonah Lewisboro Union Free School District.

This indemnification, defense and hold harmless agreement shall apply to any lawsuit, action, proceeding, liability, judgment, claim or demand of name or nature, notwithstanding that contractor may deem the same to be frivolous or without merit. It is intended that this agreement be interpreted in the broadest manner possible so as to insulate all of the entities, parties and individuals named above from any liability, cost or judgment, monetary or otherwise, as the same may relate to the personnel and services provided by the contractor.

\_\_\_\_\_  
Corporate or Company Name

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 2018 \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
My Commission expires:

\_\_\_\_\_  
Notary Public