



Kristin Eby
Senior Project Manager
3807 Transportation Drive
Fort Wayne, IN 46818
Phone: (260) 497-7645
k.eby@sesadvantage.com

January 3, 2023

Mr. Todd Sattison
City of Auburn Department of Water Pollution Control
2010 Wayne Street
Auburn, Indiana 46706

RE: 2023 Health & Safety Services and Tier II Reporting

Sent via email to: tmsattison@ci.auburn.in.us; dewallace@ci.auburn.in.us

Dear Mr. Sattison,

This letter serves as a proposal to continue to provide Health & Safety services for the City of Auburn Department of Water Pollution Control for 2023 and prepare and submit the Department's Tier II report due March 1, 2023 for the previous year.

SCOPE OF SERVICES

HEALTH & SAFETY COMPLIANCE

SES proposes to conduct training sessions, develop/update required written programs, and perform specified assessments and annual reviews / reassessments in accordance with OSHA. SES will be responsible for submitting the necessary CEU forms to the IDEM Wastewater Section to obtain certified education credits for qualified operators. The safety programs and content will be updated in accordance with the required standards under 29 CFR 1910 for General Industry regulations.

Written Programs: SES will develop and update the Auburn WPC safety manual and will conduct the annual program reviews. Written programs will be updated in order to comply with new regulations and reflect changes in the workplace.

Training: Training will be provided on a schedule that fits your business schedule. SES staff will work with you to determine required training needs for your organization, as well as identify the employees that will receive training. In addition to required training, employer recommendations for specific training needs will be included on the training schedule. SES will provide all training supplies (handouts, presentation materials, videos, training aids etc.) in conjunction with creative teaching techniques designed to be interactive and help the employee retain their training knowledge. SES will document all training per OSHA requirements. Virtual training sessions (original or make-up) will be available if preferred or as an option.



Ongoing/additional Environmental, Health, Safety, and DOT Consulting: SES will be available through phone, e-mail, faxes and scheduled personal visits to answer any environmental and safety questions and provide research data to your organization. On-site visits will be conducted on a regular pre-determined basis unless an emergency exists.

TIER II REPORTING

In addition to the usual H&S services provided, SES will begin preparing and submitting the Department's Tier II Report due March 1st for the previous year. SES will work with the WPC Safety Director to evaluate the maximum/current chemical inventory and obtain estimates of maximum onsite storage information to prepare and submit the Tier II report by **March 1, 2023**. As required by SARA Title 3 regulations, the report will be submitted to the local Fire Department, Local Emergency Planning Committee, and the Indiana Department of Homeland Security through the online Tier II Manager.

RESPONSIBILITIES

As part of our services, we will address the usual and customary requirements that would be reasonably anticipated to be included in a compliance program for operations conducted by your organization. SES will provide guidance, assessment and instruction pursuant to applicable requirements as determined to be appropriate for the conditions and operations that exist.

Your organization will provide open access to the facilities and any records or documents necessary to complete our safety reviews and evaluation. SES personnel will abide by all rules, regulations and requirements of your organization and the regulatory agencies while on site. SES will treat any information acquired at your site as proprietary and confidential.

SES cannot guarantee an accident-free environment or absolute compliance with regulations for reasons of control, personnel administration, or abnormally complex regulatory interpretations. Furthermore, it is the responsibility of the employer to implement and enforce practices and procedures and to maintain supporting documentation.

FEES

SES will provide the described scope of services to your organization for an annual fee of \$7,200. For your convenience, this fee may be paid in monthly installments of \$600.


SERVICE	Annual Cost
Continued H&S Services for 2023	\$6,600
Tier II Reporting	\$600
TOTAL	\$7,200



AUTHORIZATION

Thank you for allowing SES an opportunity to provide this proposal. Please sign and return a copy of this proposal authorization by email **OR PROVIDE US WITH A PO** to continue uninterrupted service. We look forward to assisting you. Please do not hesitate to contact me with any questions, concerns, or requests for additional information.

Sincerely,
SES Environmental



Kristin Eby
Senior Project Manager



ATTACHMENT A
AUTHORIZATION FOR SES ENVIRONMENTAL TO PROCEED

SES Project Manager: Kristin Eby
Client: **Auburn WPC Department**
Attn: Todd Sattison, Superintendent
Proposal Title: **2023 Health & Safety Services & Tier II Reporting**
Proposal Amount: **\$7,200 annually, \$600 per month**
Proposal Terms: **NET 30 days**

The undersigned hereby authorizes SES Environmental; (SES) to proceed on the above-described project in accordance with the referenced proposal and its associated work scope, terms, and conditions (attached). The undersigned further acknowledges that they have read, understand, and agree to the terms and conditions governing the project, which are incorporated herein, and are authorized to contractually bind the above-named Client in executing this Authorization.

Todd M Sattison
(Signature)

TODD SATTISON
(Typed or Printed Name)

SUPERINTENDENT
(Title)

260 - 925- 1714
(Telephone Number)

2010 WAYNE ST. AUBURN IN 46706
(Billing Address)

1/4/23
(Date)

(SES will proceed with the work after receiving this Authorization to Proceed)

[PLEASE RETURN THIS PAGE TO SES via fax, email or USPS]

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Fort Wayne, IN 46818
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Fax: (260) 497-7646
Email: k.eby@sesadvantage.com



Health & Safety Services
SES Environmental

1(a). All work performed by SES Environmental, hereinafter called SES, for Client is subject to these Terms and Conditions, except that these Terms and Conditions incorporate, and may be modified by, the work scope or proposal prepared by SES for the specific project location. In the event of any conflict, the terms of the work scope or proposal shall govern.

2. Unless stated otherwise in SES's work scope or proposal, SES's services are performed on an hourly (time-and-expenses) basis including, but not limited to, project scoping by professional, technical, and clerical staff. Time required for SES personnel to travel between SES's offices and the site (or any other destination applicable to the project) is also charged in accordance with SES's prevailing hourly rate schedule. Client agrees that time for any authorized work that is outside the scope of work in SES's CPP proposal, including meetings and consultation, shall be charged to Client in accordance with SES's prevailing hourly rate schedule or at rates specifically stated in the work scope of the proposal.

3. Unless specifically stated in the proposal, SES's use of SES-owned vehicles and field equipment and internal expenses incurred by SES during Client's work are chargeable to Client at SES's prevailing rates for equipment use, stock supplies, and internal expenses. These rates may be modified from time to time to reflect changes in SES's equipment and expense charges.

4. For those additional services or external expenses described in SES's work scope or proposal, Client authorizes SES to engage subcontractors; rent or purchase special equipment; purchase expendable supplies; and so forth. Such purchases or contracts shall be charged to Client at their direct cost plus 15%.

5(a). SES's work scope or proposal and estimated costs therein are firm for 90 calendar days.

(b). Cost estimates provided to Client for out-of-scope services (non-CPP) are opinions of probable costs based on SES's professional experience, information available to SES, and assumptions about possible site conditions and material costs, many of which are beyond SES's control. Therefore, **any cost estimate or "not to exceed" cost limitation provided by SES is not a guaranteed maximum, fixed lump-sum price, or a guarantee that the work will be completed for the estimated amount.** Such cost estimate only indicates that SES will not incur fees and expenses in excess of the estimate or cost limitation without obtaining Client's prior agreement. Charges for SES's services and expenses may be less than those estimated, in which case only those charges will be invoiced to Client.

6(a). SES's invoices are payable upon receipt, unless Client and SES have agreed to a regular, periodic payment schedule. Invoices for out-of-scope, non-CPP services are payable upon receipt. Client shall notify SES in writing of any disputed invoiced amounts within ten (10) calendar days after Client receives the invoice. The notice shall include the specific amount(s) and item(s) disputed and the basis for the dispute. Client agrees to pay all undisputed invoiced amounts according to the following terms. Undisputed fees remaining unpaid for more than forty-five (45) calendar days after the invoice date or after the date upon which a regular CPP payment is due shall incur late charges of 1.5% per month (18% per annum) from the invoice date. If Client fails to pay any amount due within seventy-five (75) calendar days of the due date, SES shall have the right to immediately stop work and recover from Client payment for all work executed, late-payment charges, and any additional costs incurred by SES in collecting past-due amounts from Client.

7. SES strives to perform its services in a manner consistent with that level of care and skill ordinarily exercised by other environmental health and safety consultants practicing in the same locality and under similar conditions prevailing at the time SES's services are performed. **No other warranty, expressed or implied, is intended in these Terms and Conditions or in any other document generated by SES.** Services not expressly described in SES's work scope or proposal shall not be considered part of the work; SES assumes no duty to Client to perform such services.

8. The total cumulative liability of SES, its employees, directors, officers, and agents to Client arising from SES's services, including any legal fees or costs awarded under these Terms and Conditions, shall not exceed 100% of the net compensation received by SES (total fee less any subcontractor charges) for the specific work item at issue, regardless of the legal theory under which such liability is imposed.

9. SES and Client agree to waive any claim against each other for special, incidental, or consequential damages incurred by either due to the fault of the other, regardless of the nature of the fault, or whether it was committed by Client or SES, their employees, agents, or subcontractors. Special, incidental, and consequential damages include, but are not limited to, delays, shutdowns or disruptions, loss of product or inventory, non-operation, cost of capital, loss of use, and loss of profits or revenue.

10(a). Client recognizes that SES's data, interpretations, opinions, and recommendations are based on information available to SES and obtainable with the methods employed. Information obtained from SES's inspections, audits, analysis, and testing is considered evidence with respect to compliance issues or the potential detection, identification, quantification, and distribution of contaminants, but any inference or conclusion based thereon is necessarily an opinion based on SES's professional judgment and shall not be construed as a representation of fact. Client acknowledges that inspecting, auditing, sampling, and testing reduce, but do not eliminate, the risk of non-compliance or that contaminants may escape detection.

(b). Client shall provide to SES all information in Client's possession concerning the project site/facility that could affect SES's performance of the work. SES may rely on information provided by Client and others in performing its services; however, unless specified in the proposal or work scope, SES will not verify, validate, or warrant the accuracy of work conducted or information provided by independent laboratories, contractors, or consultants, whether retained by SES or Client.

11(a). SES is solely responsible for the on-site activities and safety of its own employees. This responsibility shall not be construed by any party to relieve the site owner, Client, or Client's other contractors or subcontractors from their customary and contractual responsibilities and obligations to maintain a safe site.

(b). Neither SES's professional activities nor the presence of SES's employees or subcontractors shall be construed by any party to imply that SES is responsible for any employee's or contractor's work performance, methods, direction, superintendence, sequencing of operations, or safety in, on,





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or about the site/facility. Under no circumstances shall SES's field representative have stop-work authority over Client's employees, contractors, or subcontractors or any other party active on or near the site.

(c). SES assumes no responsibility for reporting to any federal, state, or local public agencies any conditions or releases that present a potential danger to public health, safety, or the environment. Client agrees to indemnify SES for any claims related to Client's failure to properly report such conditions or releases to appropriate agencies.

(d). The requirements of this article shall apply continuously and are not limited to normal working hours.

12(a). Professional fees paid to SES by Client are in exchange for SES's services. All reports, audits, recommendations, environmental health and safety programs, assessments, training presentations and materials, and other documents prepared by SES are instruments of service, not products, and as such remain the property of SES. Documents provided to SES by Client shall remain Client's property.

(b). The data and opinions of SES reported and expressed in its instruments of service are for the sole and exclusive use of Client, who may rely on SES's information, audits, assessments, findings, and opinions, subject to the limitations expressed therein. Reliance by any third party on the information, findings, and opinions in SES's instruments of service is unauthorized and at their sole risk. If SES is requested by Client or Client's representative to review, update, or provide additional consultation regarding SES's instruments of service, SES shall be entitled to additional compensation for these services in accordance with SES's prevailing rate schedules or at rates specifically stated in the work scope of the proposal.

(c). Client agrees to waive any claim against SES and to defend, indemnify, and hold SES harmless from any claim or liability for injury or loss allegedly arising from the unauthorized use of SES's information, opinions, or instruments of service or from their use in a manner that is incorrect, inappropriate, not intended by SES, not foreseen at the time SES's services were rendered, or allegedly arising from considering SES's instruments of service as products. Such indemnification shall extend to any claim or liability for injury or loss arising from failure to follow SES's recommendations. Client further agrees to compensate SES for any time spent or expenses incurred in defense of any such claim, in accordance with SES's prevailing rate schedules.

13. SES carries insurance for public liability, property damage, automobile liability, professional liability, and statutory worker's compensation. Certificates of coverage will be forwarded to Client upon request. Within the limits of said insurance and the limitations of article 8, SES agrees to save Client harmless from any loss, damage, injury, or liability arising directly from negligent acts, negligent errors, or negligent omissions by SES, SES's employees, agents, subcontractors and their employees, or agents arising in connection with performance of the work described in SES's proposal or work scope. SES shall not be responsible for property damage from any cause including, but not limited to, fire and explosion, beyond the amounts and coverage of SES's insurance.

14. Client shall furnish, or arrange for, reasonable and safe access to all areas of the site, facilities, or structures necessary for SES to perform the work specified in the proposal or work scope.

15. Client agrees to defend, hold harmless, and indemnify SES, its officers, representatives, and employees from and against any and all suits, claims, actions, losses and liabilities resulting from Client's violation of any federal, state or local statute, regulation, or ordinance, including without limitation the Occupational Safety and Health Administration Regulations; Department of Transportation Regulations; Resource Conservation and Recovery Act; the Clean Air Act; the Comprehensive Environmental Response, Compensation and Liability Act; and all amendments to these regulations, ordinances, and acts in effect at the time the work is performed.

16. SES will not intentionally divulge information regarding its services for Client other than to parties designated by Client in writing. Information that is in the public domain at the time SES's work is performed or is provided to SES by third parties is exempt from this limitation.

17(a). All claims, disputes, and other matters in controversy between SES and Client shall be subject to non-binding mediation as a condition precedent to other remedies provided by law. Either party may demand mediation by serving written notice stating the essential nature of the dispute, the amount of time or money at issue, and requiring that the matter be mediated within forty-five (45) days of the service of notice. The mediation shall be administered by the American Arbitration Association in accordance with its most recent applicable mediation rules or by such other person or organization on which the parties agree. No other action or suit may be brought unless the mediation did not occur within forty-five (45) days after the service of notice, the mediation occurred but did not resolve the dispute, or a statute of limitation would elapse if the suit is not filed prior to forty-five (45) days after service of notice.

(b). If a dispute at law arises related to services provided under these Terms and Conditions, Client agrees (a) to personal jurisdiction in the State of Indiana, (b) the claim will be brought and tried in the state or federal courts in Allen County, Indiana, and Client waives the right to move the action to another county or jurisdiction, and (c) the prevailing party, in addition to any other remedy or compensation, shall be awarded reasonable costs incurred in pursuing the claim, including staff time, court costs, attorney and expert witness fees, and other related expenses.

18. In the event that SES's field, technical, or on-site services are interrupted by causes beyond its control, SES shall be entitled to compensation for the labor, equipment, and other costs SES incurs to maintain its work force and capability for Client's benefit during the interruption. For purposes of these Terms and Conditions, such causes include, but are not limited to, unusual weather conditions or other natural catastrophes; epidemics; war; riots; labor strikes; lockouts or other industrial disturbances; protest demonstrations; unanticipated site conditions; acts of governmental authorities; inability, despite reasonable diligence, to supply personnel, equipment, or material to the project; or any other cause beyond the reasonable control or contemplation of SES.

19. Neither Client nor SES shall delegate, assign, sublet, or transfer any duties, claims, or interest under these Terms and Conditions without the express written consent of the other. These Terms and Conditions shall be binding upon SES and Client, their heirs, executors, administrators, successors, and assigns.



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20. These Terms and Conditions and the associated work scope or proposal are the final and entire agreement between SES and Client and supersede any prior written or oral agreements. These Terms and Conditions and work scope or proposal shall not be modified or amended except in writing and signed by Client (or Client's duly authorized representative) and SES. If Client issues a purchase order to authorize SES's work, the purchase order's terms and conditions shall not modify or replace these Terms and Conditions. SES's failure to object to terms in any communication from client shall not be a waiver of the terms set forth in these Terms and Conditions.

21. Any part of these Terms and Conditions later held to violate a law, regulation, or policy shall be deemed void, and all remaining provisions shall continue in force. However, Client and SES shall in good faith attempt to replace any invalid or unenforceable provision with one that is valid and enforceable and which comes as close as possible to expressing the intent of the original voided provision. Terms and Conditions allocating liability and responsibility between Client and SES shall survive completion of SES's services.