

WORK ORDER/CONTRACT

Electrical Automation Services, LLC ("EAS"), an Indiana limited liability company, and Owner/Client agree to the work assignment described by this Work Order/Contract (the "Contract") on the terms set forth below.

Project Name: Terre Haute Wastewater Engineering

Project Location: Terre Haute, Indiana

Project Owner/Client: City of Terre Haute
Attn: City of Terre Haute Wastewater Utility
3200 S. State Road 63
Terre Haute, Indiana 47802

Owner Representative: Debbie Padgett

Scope of Work: See Exhibit A

Fee: See Exhibit B

Terms: The General Conditions set forth below are incorporated in full as part of this Contract. The fees set forth above cover the scope of work described in Exhibit A. Changes to the scope of work may result in a corresponding fee change and are to be approved by the Owner in writing prior to our commencement of changed work.

**ELECTRICAL AUTOMATION
SERVICES, LLC**

CITY OF TERRE HAUTE

Harold Sims
Signature

Signature

Harold Sims Owner
Printed Name and Title

Printed Name and Title

1-4-18
Date

Date

GENERAL CONDITIONS

Section 1 – Basic and Additional Services

- 1.1. The services set forth at Exhibit A or otherwise performed by EAS under this Contract shall be performed consistent with the generally-accepted standards of the industry and shall represent EAS's best efforts consistent with project limitations such as time, budget, accessibility, local conditions, reasonable assumptions, etc.
- 1.2. EAS shall have at least one full-time employee on-site performing the services identified herein forty (40) hours per week. EAS shall provide additional staffing, up to three (3) full-time employees, as necessary. EAS shall deviate from this only due to extraordinary circumstances and only in the event that doing so shall not result in an interruption of the provision of services requested by Owner under this Contract.
- 1.3. If authorized in writing by Owner, consistent with the services generally offered by EAS and at an agreed-upon fee, EAS shall furnish or obtain from third party subcontractors requested services in addition to those described in Exhibit A to this Contract.
- 1.4. EAS is not obligated to perform additional services beyond those identified in Exhibit A without first obtaining written authorization and agreement to pay from Owner. The refusal of EAS to perform such additional services under such condition shall not constitute a material breach of this Contract.
- 1.5. Notwithstanding any other provisions of this Contract, in any emergency situation affecting the life, health or safety of persons or property, EAS may act without written amendment or change order, at the sole discretion of EAS, to prevent threatened damage, injury or loss provided, however, that EAS shall provide written notice to the Owner of such emergency action as soon as possible but no later than seventy-two (72) hours after such emergency has been resolved.

Section 2 – Payment Terms

- 2.1. Payment is due to EAS upon Owner's receipt of each EAS invoice. Payments not made within thirty (30) days from the receipt of an invoice shall accrue interest at the rate of one percent (1%) per month.
- 2.2. In the event of a disputed invoice, whether the dispute relates to the services performed or the amount billed by EAS, Owner shall pay all undisputed portions of each invoice consistent with Section 2.1 of this Contract, without regard to any alleged set-offs or backcharges.
- 2.3. In the event Owner fails to satisfy its obligations in this Section 2, or either party fails to satisfy other obligations identified by this Contract, the non-defaulting party may recover

its costs and expenses of collection, including reasonable attorney fees, regardless of whether a lawsuit is filed.

Section 3 – Owner Responsibilities

Owner shall do the following in a timely manner so as to not delay the services of EAS:

- 3.1 Provide all criteria and full information as to Owner's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included as part of EAS's services and finished product.
- 3.2 Arrange for access to and make all provisions for EAS to enter upon public and private property as necessary for EAS to perform services under this Contract. Owner hereby grants to EAS, at any and all times, full access to its facilities and the right to use all easements and public right-of-way permits granted to the Owner in furtherance of or necessary to the operation and maintenance of the facilities that are the subject of this Contract.
- 3.3 Examine all reports, specifications, proposals or other documents presented by EAS and promptly notify EAS regarding any issues, concerns, questions or potential problems identified by Owner with such EAS documents.
- 3.4 Give prompt written notice to EAS whenever Owner observes or otherwise becomes aware of any development or issues that affect the scope or timing of EAS's services, or any defect or non-conformance in the services being provided by EAS.
- 3.5 Furnish and install any capital improvements, upgrades or software (if the cost of such software exceeds \$1,000.00) required to (a) permit EAS to perform the services requested by Owner through this Contract and (b) meet all regulatory requirements necessary for or appurtenant to the provision of the services by EAS. EAS shall notify Owner of necessary capital improvements, upgrades or software required to satisfy this paragraph, which shall be promptly and timely fulfilled by Owner.
- 3.6 Bear all costs incident to compliance with the requirements of this Section 3.

Section 4 – Period of Service and Termination

- 4.1 This Contract shall remain effective for an initial term of two (2) years. Thereafter, the Contract shall automatically renew indefinitely for successive one (1) year terms unless either party hereto shall provide notice of not less than ninety (90) days prior the expiration of the then-existing term of the intent to non-renew the Contract.

- 4.2 Either party may terminate this agreement upon the material breach of this Contract by the other party provided that the non-breaching party has provided the party alleged to be in breach with written notice of each alleged material breach and thirty (30) days to cure the breach.
- 4.3 Notwithstanding the foregoing, in the event of a material breach that threatens the health, safety or well-being of the parties hereto or the public, either party may immediately terminate the Contract.
- 4.4 In the event of a non-renewal or termination, EAS shall be paid for services performed prior to the late date of the Contract.
- 4.5 The failure by Owner to timely pay for services rendered by EAS in accordance with this Contract shall constitute a material breach.
- 4.6 In the event the Contract is terminated or permitted to expire, EAS shall provide to Owner copies of any and all documentation, data or other related information utilized and/or prepared as a result of any Services provided by EAS pursuant to the terms of this Contract. EAS shall deliver same within ten (10) days from the date of termination and/or expiration of the Contract.

Section 5 – Indemnity, Insurance and Liability

- 5.1. Indemnification by Owner. Owner shall indemnify, protect, defend and hold harmless EAS and its affiliates, respective directors, stockholders, members, managers, officers, employees, agents, consultants, representatives, successors, transferees and assigns (collectively “Owner-Indemnified Parties”) from and against any and all claims, damages, losses and expenses, including but not limited to attorney fees, arising from, relating to or associated with (i) any actual or alleged actions or omissions of the Owner-Indemnified Parties undertaken at the specific direction of Owner, (ii) any breach, violation or default by Owner or its employees, agents, representatives, subcontractors or any employees, agents, representatives or contractors of any of the foregoing, of Owner’s obligations under the Contract or (iii) any such claims, damages, losses or expenses attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom and caused in whole or in part by any negligent act or omission of Owner or any of Owner’s subcontractors, anyone directly or indirectly employed by any of them or for anyone for whose acts any of them may be liable, regardless of whether it is caused in part by an Owner-Indemnified Party.
- 5.2. Indemnification by EAS. EAS shall indemnify, protect, defend and hold harmless Owner and its managers, officials, employees, agents, consultants, representatives, successors, transferees and assigns (collectively “EAS-Indemnified Parties”) from and against any and all claims, damages, losses and expenses, including but not limited to attorney fees, arising from, relating to or associated with (i) any breach, violation or default by EAS or its employees, agents, representatives, subcontractors or any employees, agents,

representatives or contractors of any of the foregoing, of EAS's obligations under the Contract or (ii) any such claims, damages, losses or expenses attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom and caused in whole or in part by any negligent act or omission of EAS or any of EAS's subcontractors, anyone directly or indirectly employed by any of them or for anyone for whose acts any of them may be liable, regardless of whether it is caused in part by an EAS-Indemnified Party

- 5.3. Insurance. At all times during the term of this Contract, EAS shall maintain in full force and effect at its sole cost and expense (a) Commercial General Liability Insurance with minimum limits of liability of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate; (b) automobile liability insurance with a minimum combined single limit of One Million Dollars (\$1,000,000) per claim; and (c) workers' compensation and employer's liability insurance covering all of EAS's employees. Owner shall be named as a certificate holder on such policies. EAS shall provide Owner with certificates of insurance evidencing the required coverage, which certificates shall be renewed and provided annually. Owner shall be given at least thirty (30) days' prior written notice of termination, expiration, cancellation, modification or reduction in coverage limits of any such policy.
- 5.4. The parties each agree to the fullest extent permitted by law to waive all rights of subrogation against each other in the event of an occurrence that is covered by an applicable policy of insurance.
- 5.5. IN NO EVENT WILL EAS BE LIABLE FOR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, BUSINESS INTERRUPTION OR LOSS OF SERVICES) EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EAS'S TOTAL LIABILITY TO OWNER OR ANY THIRD PARTY FOR A CLAIM OF ANY KIND RELATED TO THIS CONTRACT, WHETHER FOR BREACH OF CONTRACT OR WARRANTY, STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, SHALL BE LIMITED TO ACTUAL DAMAGES DIRECTLY AND PROXIMATELY CAUSED BY EAS. NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THE TRANSACTIONS UNDER THIS CONTRACT MAY BE BROUGHT BY OWNER MORE THAN ONE YEAR AFTER THE EVENTS WHICH GIVE RISE TO THE ACTION OCCURRED.
- 5.6. Owner shall be liable for those fines or civil penalties imposed by any regulatory or enforcement agencies on Owner or EAS that are not the result of EAS's gross negligence or willful misconduct and shall defend, indemnify and hold EAS harmless from the payment of any such fines and/or penalties.
- 5.7. The indemnify obligations of this Contract shall survive the termination or expiration of the Contract.

- 5.8. In the event Owner rightfully rejects any services provided by EAS pursuant to this Contract, EAS shall have the right to specific notice of the basis for such rejection and the opportunity to correct the deficiency, omission or defect at its expense.
- 5.9. EAS shall not be liable for its failure to perform its obligations under this Contract if such failure is caused by or contributed to by any unforeseen circumstances beyond its reasonable control, including but not limited to adverse weather conditions, acts of god, riots, terrorism, lack of supply of necessary materials from third parties or other similar acts or events.

Section 6 – Intellectual Property Rights

- 6.1 Owner shall own, retain and hold all intellectual property rights in any codes, programs or software utilized by EAS or developed uniquely for Owner. The foregoing is not intended to and does not apply to any codes, programs or software developed by a third-party and utilized by EAS to provide services to Owner pursuant to this Contract.

Section 7 – General Terms

- 7.1. **Contract Documents.** The Contract shall consist of this Contract as well as all specific proposals, estimates, work orders, specifications or other project-specific documents exchanged by the parties with regard to specific services to be rendered by EAS.
- 7.2. **Time.** Time is of the essence.
- 7.3. **Dispute Resolution.** All disputes not informally resolved between the parties shall, at EAS's sole discretion, first be submitted to mediation as a prerequisite to any further legal action. Any disputes not informally resolved or settled through mediation shall be resolved in the litigation in the Vigo County, Indiana Superior or Circuit Courts. The prevailing party in a dispute relating to the Contract or services, it shall be entitled to recover its reasonable attorney fees and expenses incurred.
- 7.4. **Non-Waiver.** Except as otherwise provided herein, no waiver by Contractor to any default or breach of this contract by Subcontractor shall be effective unless in writing nor operate as a waiver of any other default or of the same default in a future occasion.
- 7.5. **Severance.** If any term, provision or condition of this Contract is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be impaired, affected or invalidated. The offensive term, provision or condition shall, if permitted by law, be amended pursuant to the blue-pencil doctrine consistent with the remaining terms of this Contract and the intentions of the parties as determined consistent with this Contract.
- 7.6. **Notice.** Except as otherwise stated herein, any notice required by this Contract shall be made in writing and served (a) via certified mail with return receipt requested, (b) by any

nationally-recognized overnight mail service (including but not limited to Federal Express, USPS, etc.) or (c) via e-mail utilizing the read-receipt acknowledgment function.

- 7.7. No Third-Party Beneficiaries. This Contract is not intended to and shall not create any third-party beneficiaries. All duties and obligations of EAS under this Contract shall be solely to and for the benefit of Owner.

CITY OF TERRE HAUTE

**ELECTRICAL AUTOMATION
SERVICES LLC**

Signature

Harold Sims

Signature

Printed Name and Title

HAROLD SIMS owner

Printed Name and Title

Date

1-4-18

Date

EXHIBIT A - SCOPE OF SERVICES

1. Preventative Maintenance

- a. Monitor and maintain all Siemens programmable logic controllers (PLC) and Human-Machine interfaces (HMI) throughout the main plant, remote lift stations, and combined sewer overflows. Perform memory tests as required.
- b. Monitor and maintain SCADA systems and underlying Siemens SIMATIC servers and databases and related connectivity.
- c. Monitor and maintain Profibus networks and perform periodic signal strength testing to maintain performance optimization per Profibus standards. Perform periodic testing of all connectors and bus terminations.
- d. Maintain fiber optic loop redundancy throughout plant and perform fiber installation, tier I and tier II testing, and repairs as necessary.
- e. Monitor and maintain Profinet networks and perform repairs as necessary. Maintain relevant firmware updates to Siemens SCALANCE Industrial Ethernet switches and address any system faults.
- f. Monitor and maintain 900Mhz and cellular radio networks connecting to remote lift stations and combined sewer overflows throughout the city.
- g. Monitor and maintain variable frequency drive (VFD) operation and perform calibrations as needed or as specified by original equipment manufacturer.
- h. Perform field device calibration as needed or as specified by original equipment manufacturer and EPA permit(s). Field devices include (but not limited to):
 - i. PH transmitters
 - ii. Dissolved oxygen (DO) meters
 - iii. Oxidation reduction potential (ORP) meters
 - iv. Level transmitters
 - v. Flow meters

2. Security Posture

- a. Monitor and maintain secured and optimized OSPF routing topologies for all Siemens SCALANCE layer 3 Industrial Ethernet switches.
- b. Monitor and maintain secured IPsec connectivity between Cisco and Red Lion security appliances.
- c. Perform the following to maintain strict security posture for SCADA servers and operator workstations (including but not limited to):
 - i. Manage onsite and offsite backups of all mission-critical data.
 - ii. Manage endpoint security for all Windows-based servers and workstations.
 - iii. Install all OS-related security patches.
 - iv. Monitor all server hardware subsystems and perform repairs/replacements as necessary.
- d. Provide ongoing support to existing surveillance systems as needed.
- e. Provide ongoing support to existing door access control systems as needed.

1. Documentation

- a. At all times (and where applicable) EAS will maintain exhaustive and readily available onsite and offsite documentation repositories including but not limited to:
 - i. Source code for all of the following systems including but not limited to:
 - 1. PLCs
 - 2. HMIs
 - 3. SCADA systems.
 - ii. All relevant device addressing information including but not limited to:
 - 1. IP addresses
 - 2. Profibus addresses
 - 3. MPI addresses
 - iii. Logical and physical network and bus topologies
 - iv. All relevant usernames and passwords

4. Additional Services

- a. As needed, EAS can also offer the following services:
 - i. Work with the city's municipal Information Technology (IT) department to provide onsite assistance to IT-supported systems.
 - ii. Provide support (troubleshooting, moves, adds, and changes) to the existing Voice over IP (VoIP) phone system and analog lines.
 - iii. Provide advanced thermal imaging services to assist with troubleshooting system failures.
 - iv. Provide heating and cooling system installation, repair, and fabrication services.
 - v. Emergency services, as needed, 24 hours per day, 7 days per week, 365 days per year.

EXHIBIT B - FEES

Fees will be charged based upon the nature of the services rendered and the level of experience and skill required for the specific project. While all work details will be determined on a project-specific basis, the following information provides general guidelines for the skill level that will be required and assigned by EAS.

A Level I Engineer is capable of providing beginner level programming and troubleshooting of PLC's and HMI's, install and troubleshoot field device installations and install and terminate wiring.

A Level II Engineer encompasses all of the Level I skills, in addition to offering advanced programming and troubleshooting of PLCs and HMIs, and beginner level programming and troubleshooting of SCADA deployments.

A Level III Engineer encompasses all of the Level I and Level II skills, in addition to offering installation and troubleshooting of variable frequency drives, advanced SCADA deployments, and advanced Profibus and Profinet topologies.

Fees will be invoiced by EAS at the following rates unless otherwise agreed upon in writing by the parties:

Level I Engineer: \$80.00 per hour

Level II Engineer: \$90.00 per hour

Level III Engineer: \$100.00 per hour

In addition, while most expenses are included in the fee schedule rates, certain expenses will be billed separate from and in addition to the foregoing fees. This includes, but is not limited to software or other purchases of equipment or materials in excess of \$1,000.00 necessary for providing the services. In such instances, a written request for approval to purchase such software, equipment or materials will be submitted by EAS to Owner prior to incurring such expenses.