

1/20/16

**CONTRACT BETWEEN  
COUNTY OF GLOUCESTER  
AND  
SIEMENS INDUSTRY, INC.**

**THIS CONTRACT** is made effective the 1<sup>st</sup> day of January 2016, by and between the **COUNTY OF GLOUCESTER**, a body politic and corporate, with offices at 2 South Broad Street, Woodbury, New Jersey, 08096 hereinafter referred to as "**County**", and **SIEMENS INDUSTRY, INC.**, with offices at 2000 Crawford Place Suite 300, Mount Laurel, NJ 08054 hereinafter referred to as "**Contractor**".

**RECITALS**

**WHEREAS**, the County of Gloucester Justice Center (parking garage not included) has determined that there is a need for the annual testing, inspections, and service maintenance of the County's installed Siemens Industry, Inc., fire alarms; and

**WHEREAS**, this service related to this contract is the testing and maintenance of proprietary hardware installed in the County Justice Center; and

**WHEREAS**, N.J.S.A. 40A:11-5DD permits the performance of services for the support and maintenance of proprietary computer hardware and software without public advertising for bids; and

**WHEREAS**, the contract has been awarded consistent with the fair and open provisions of the Gloucester County Administrative Code and with N.J.S.A. 19:44A-20.4 et seq., which exempt this contract from competition because Contractor has certified that it has not previously made and will not make a disqualifying contribution during the term of the contract; and

**WHEREAS**, Contractor represents that all testing procedures and equipment used to test life safety equipment conform to NFPA-72 Section 7 guidelines by certified Siemens fire alarm technicians and desires to so perform pursuant to the terms and provisions of this Contract.

**NOW, THEREFORE**, in consideration of the mutual promises, agreements and other considerations made by and between the parties, the County and Contractor do hereby agree as follows:

**TERMS OF AGREEMENT**

1. **TERM.** The contract shall be for the period of two (2) years from January 1, 2016 to December 31, 2017.
2. **COMPENSATION.** The contract shall be for the purchase of an estimated quantity of services, for a total contract amount of \$76,471.00, payable as \$37,712.00 in 2016 and \$38,759.00 in 2017, and an additional amount not to exceed \$8,000.00 for maintenance, on an as-need basis, annually for the (2) two year period.

Each invoice shall contain an itemized, detailed description of all work performed during the billing period. Failure to provide sufficient specificity shall be cause for rejection of the invoice until the necessary details are provided.

3. **DUTIES OF PARTIES.** The specific duties of the Parties shall be as set forth in the Contractor's The Gloucester County Justice Center revised November 22, 2015 Agreement which along with the terms and conditions attached thereto, are incorporated and made a part of this Contract. Should a conflict occur between this form of contract and either of the aforementioned documents provided by the Contractor, this contract shall prevail.

Contractor agrees that it has or will comply with, and where applicable shall continue throughout the period of this Contract to comply with, all of the requirements of the Contractor's renewal documents.

4. **FURTHER OBLIGATIONS OF THE PARTIES.** During the performance of this Contract, the Contractor agrees as follows:

The Contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the Contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The Contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The Contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the Contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The Contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

5. **LICENSING AND PERMITTING.** If the Contractor or any of its agents is required to maintain a license, or to maintain in force and effect any permits issued by any governmental or quasi-governmental entity in order to perform the services which are the subject of this Contract, then prior to the effective date of this Contract, and as a condition precedent to its taking effect, Contractor shall provide to County a copy of its current license and permits required to operate in the State of New Jersey, which license and permits shall be in good standing and shall not be subject to any current action to revoke or suspend, and shall remain so throughout the term of this Contract.

Contractor shall notify County immediately in the event of suspension, revocation or any change in status (or in the event of the initiation of any action to accomplish such suspension, revocation and/or change in status) of license or certification held by Contractor or its agents.

6. **TERMINATION.** This Contract may be terminated as follows:

A. If Contractor is required to be licensed in order to perform the services which are the subject of this Contract, then this Contract may be terminated by County in the event that the appropriate governmental entity with jurisdiction has instituted an action to have the Contractor's license suspended, or in the event that such entity has revoked or suspended said license. Notice of termination pursuant to this subparagraph shall be effective immediately upon the giving of said notice.

B. If, through any cause, the Contractor or subcontractor, where applicable, shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the County shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Contractor under this Contract, shall be forthwith delivered to the County.

C. The County may terminate this Contract for public convenience at any time by a notice in writing from the County to the Contractor. If the Contract is terminated by the County as provided herein, the Contractor will be paid for the services rendered to the time of termination.

D. Notwithstanding the above, the Contractor or subcontractor, where applicable, shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Contractor.

E. Termination shall not operate to affect the validity of the indemnification provisions of this Contract, nor to prevent the County from pursuing any other relief or damages to which it may be entitled, either at law or in equity.

7. **NO ASSIGNMENT OR SUBCONTRACT.** This Contract may not be assigned nor subcontracted by the Contractor, except as otherwise agreed in writing by both parties. Any attempted assignment or subcontract without such written consent shall be void with respect to the County and no obligation on the County's part to the assignee shall arise, unless the County shall elect to accept and to consent to such assignment or subcontract.

8. **INDEMNIFICATION.** The Contractor or subcontractor, where applicable, shall be responsible for, shall keep, save and hold the County of Gloucester harmless from, and shall indemnify and shall defend the County of Gloucester against any claim, loss, liability, expense (specifically including but not limited to costs, counsel fees and/or experts' fees), or damage resulting from all personal injury, including death, to employees or recipients of the Contractor's services or to any other persons, or from any damage to any property of third parties sustained in connection with this contract which results from any negligent acts or omissions of any of its officers, directors, employees, agents, servants or independent contractors. The Contractor's liability under this agreement shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

9. **POLITICAL CONTRIBUTION DISCLOSURE AND PROHIBITION.** This contract has been awarded to Contractor based on the merits and abilities of Contractor to provide the goods or services described in this Contract. This contract was awarded through a non-competitive process pursuant to N.J.S.A. 19:44A-20.4 et seq. The signer of this Contract does hereby certify that Contractor, its subsidiaries, assigns or principals controlling in excess of 10% of the Contractor will not make a reportable contribution during the term of the contract to any political party committee in Gloucester County if a member of that political party is serving in an elective public office of Gloucester County when the contract is awarded, or to any candidate committee of any person serving in an elective public office of Gloucester County when the contract is awarded.

10. **INSURANCE.** Contractor shall, if applicable to the services to be provided, maintain general liability, automobile liability, business operations, builder's insurance, and Workers' Compensation insurance in amounts, for the coverages, and with carriers deemed satisfactory by County, and which shall be in compliance with any applicable requirements of the State of New Jersey. Contractor shall, simultaneously with the execution of this Contract, deliver certifications of said insurance to County.

If Contractor is a member of a profession that is subject to suit for professional malpractice, then Contractor shall maintain and continue in full force and effect an insurance policy for professional liability/malpractice with limits of liability acceptable to the County. Contractor shall, simultaneously with the execution of this Contract, and as a condition precedent to its taking effect, provide to County a copy of a certificate of insurance, verifying that said

insurance is and will be in effect during the term of this Contract. The County shall review the certificate for sufficiency and compliance with this paragraph, and approval of said certificate and policy shall be necessary prior to this Contract taking effect. Contractor also hereby agrees to continue said policy in force and effect for the period of the applicable statute of limitations following the termination of this Contract and shall provide the County with copies of certificates of insurance as the certificates may be renewed during that period of time.

11. **PREVENTION OF PERFORMANCE BY COUNTY.** In the event that either party is prevented from performing this Contract by circumstances beyond its control, then any obligations owing such party to the other party shall be suspended without liability for the period during which the party is so prevented.

12. **NON-WAIVER.** The failure by either party to enforce any particular provision of this Contract, or to act upon a breach of this Contract, the other party shall not operate as or be construed as a waiver of any subsequent breach, nor a bar to any subsequent enforcement.

13. **PARTIAL INVALIDITY.** In the event that any provision of this Contract shall be or become invalid under any law or applicable regulation, such invalidity shall not affect the validity or enforceability of any other provision of this Contract.

14. **CHANGES.** This Contract may be modified by change orders, consistent with applicable laws, rules and regulations. The County, without invalidating this Contract, may order changes consisting of additions, deletions, and/or modifications, and the contract sum shall be adjusted accordingly. This Contract and the contract terms may be changed only by change order. The cost or credit to the County from change in this Contract shall be determined by mutual agreement before executing the change involved.

15. **NOTICES.** Notices required by this Contract shall be effective upon mailing of notice by regular and certified mail to the addresses set forth above, or by personal service, or if such notice cannot be delivered or personally served, then by any procedure for notice pursuant to the Rules of Court of the State of New Jersey.

16. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall at all times during the course of the effective period of this Contract comply with and be subject to all applicable laws, rules and regulations of the State of New Jersey and of any other entity having jurisdiction pertaining to the performance of Contractor's services.

17. **INDEPENDENT CONTRACTOR STATUS.** The parties acknowledge that Contractor is an independent contractor and is not an agent of the County.

18. **CONFIDENTIALITY.** Contractor agrees not to divulge or release any information, reports, or recommendations developed or obtained in connection with the performance of this Contract, during the term of this Contract, except to authorized County personnel or upon prior approval of the County.

19. **BINDING EFFECT.** This Contract shall be binding on the undersigned and their successors and assigns.

20. **CONTRACT PARTS.** This Contract consists of this Contract document and Contractor's The Gloucester County Justice Center revised 1.09.14 Agreement which along with the terms and conditions attached thereto, are incorporated and made a part of this Contract. Should a conflict occur between this form of contract and either of the aforementioned documents provided by the Contractor, this contract shall prevail.

**THIS CONTRACT** is effective as of the 1st day of January, 2016.

**IN WITNESS WHEREOF,** the County has caused this instrument to be signed by its Director, attested by its Clerk, and its corporate seal affixed hereunto, pursuant to a Resolution of the said party of the first part passed for that purpose, and Contractor has caused this instrument to be signed by its properly authorized representative and its corporate seal affixed the day and year first above written.

**ATTEST:**

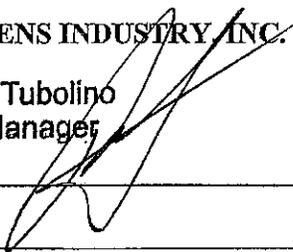
**COUNTY OF GLOUCESTER**

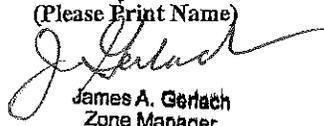
  
\_\_\_\_\_  
**CHAD M. BRUNER,**  
**ADMINISTRATOR/CLERK OF THE BOARD**

  
\_\_\_\_\_  
**ROBERT M. DAMMINGER,**  
**DIRECTOR**

**ATTEST:**

**SIEMENS INDUSTRY, INC.**

  
\_\_\_\_\_  
**Peter J. Tubolino**  
**Area Manager**

  
\_\_\_\_\_  
**(Please Print Name)**  
**James A. Gerlach**  
**Zone Manager**  
**Finance & Business Admin.**

  
\_\_\_\_\_

## 4 Siemens Industry, Inc.

### 4.1 Signature Page and Investment By and Between:

Siemens Industry, Inc.  
2000 Crawford Place Suite 300  
Mt Laurel, NJ 8054  
Michael Pottorff  
(856) 234-7666

County of Gloucester.  
2 south Broad Street  
Woodbury, NJ 08096  
James Cross  
856-251-6702

Services shall be provided at 2 south Broad Street, Woodbury, NJ 08096.

Siemens Industry, Inc. shall provide the services as outlined in the attached proposal dated 11/22/2015 and the attached terms and conditions.

Duration: This agreement shall remain in effect for an Initial Term of 2 Years beginning 01/01/2016 and from year to year thereafter.

Investments:

Year 1	01/01/2016 to 12/31/2016	\$37,712 annually	paid \$37,712 annually in advance
Year 2	01/01/2017 to 12/31/2017	\$38,759 annually	paid \$38,759 annually in advance

Applicable sales taxes are not included in the price of this proposal. Prices quoted in this proposal are firm for 30 days.

**County of Gloucester**

**Robert M. Damminger, Director**

\_\_\_\_\_  
Signature Date

Proposal submitted by:  
Michael Pottorff  
Service Sales Manager  
Siemens Industry, Inc.

\_\_\_\_\_  
Signature Date

P.O.# \_\_\_\_\_

\_\_\_\_\_  
Signing Manager Name

Customer purchase order included as an attachment to this agreement and will be referenced on invoices.

\_\_\_\_\_  
Signing Manager Title

Or

Customer purchase order not required. Invoices will be approved and processed with signature of authorized customer representative.

\_\_\_\_\_  
Signature Date

The Customer acknowledges that when approved by the Customer and accepted by Siemens Industry, Inc.: (i) the Proposal and the Contract Terms and Conditions, (together with any other documents incorporated into the foregoing) shall constitute the entire agreement of the parties with respect to its subject matter (collectively, hereinafter referred to as the "Agreement") and (ii) in the event of any conflict between the terms and conditions of the Proposal and the terms and conditions of The Contract Terms and Conditions, the Contract Terms and Conditions shall control.

BY EXECUTION HEREOF, THE SIGNER CERTIFIES THAT (S)HE HAS READ ALL OF THE TERMS AND CONDITIONS AND DOCUMENTS, THAT SIEMENS INDUSTRY, INC. OR ITS REPRESENTATIVES HAVE MADE NO AGREEMENTS OR REPRESENTATIONS EXCEPT AS SET FORTH THEREIN, AND THAT (S)HE IS DULY AUTHORIZED TO EXECUTE THE SIGNATURE PAGE ON BEHALF OF THE CUSTOMER.