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**CONTRACT BETWEEN
CORE POWER AND ENVIRONMENT
AND
COUNTY OF GLOUCESTER**

THIS CONTRACT is made effective the 1st day of May, 2017 by and between the **COUNTY OF GLOUCESTER**, a body politic and corporate, with offices in Woodbury, New Jersey, hereinafter referred to as "County", and **CORE POWER AND ENVIRONMENT** of 625 Clark Avenue, King of Prussia, PA, 19406, hereinafter referred to as "Contractor".

RECITALS

WHEREAS, there exists a need for maintenance services on the UPS Model 9390-120 located at the back-up 9-1-1 Communications Center in Clarksboro, NJ; and

WHEREAS, Contractor represents that it is qualified to perform said services 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 the Contractor do hereby agree as follows:

TERMS OF AGREEMENT

1. **TERM.** This Contract shall be effective from May 1, 2017 to April 30, 2018.
2. **COMPENSATION.** Contractor shall be compensated pursuant to the attached schedule, for a total contract amount of \$7,612.00.

Contractor shall be paid in accordance with this Contract document upon receipt of an invoice and a properly executed voucher. After approval by County, the payment voucher shall be placed in line for prompt payment.

All payments are due net sixty (60) days in full from date of invoice. County shall be invoiced for, and shall pay for, all Services not expressly provided for by the terms hereof, such as, but not limited to, site calls involving no-fault found inspections where no corrective maintenance was required. If any payment is not made when due, Contractor reserves the right to refuse to provide any further Service until such payment has been received. County shall be liable for expenses, including reasonable attorneys' fees, associated with the collection proceedings for non-payment. In the event of early termination: i.) County will be liable for any Service rendered to the reasonable satisfaction of County prior to the effective date of termination; and ii.) Contractor, at its discretion will provide a credit against any advance payments received as follows: a.) a pro-rated amount based on the terminated portion of the fixed-price fee due Contractor; or b.) an amount based on the difference between the amount paid by County prior to the effective date of early termination and the actual cost of Service completed (including emergency repair calls) by Contractor prior to the effective date of early termination.

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.

It is also agreed and understood that the acceptance of the final payment by Contractor shall be considered a release in full of all claims against the County arising out of, or by reason of, the work done and materials furnished under this Contract.

3. **DUTIES OF CONTRACTOR.** The specific duties of the Contractor shall be as set forth in Contractor's quote, dated February 9, 2017 which is incorporated and made part of this contract as Attachment A, together with any other specifications issued by the County in connection with this contract.

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

The Vendor 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, sex, veteran status or military service. The Vendor 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, sex, veteran status or military service. 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 Vendor 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 Vendor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the Vendor, 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, sex, veteran status or military service.

The Vendor 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 Vendor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Vendor 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 Vendor 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. Pursuant to the termination provisions set forth in the Bid Specifications or in the Request for Proposals, if any, as the case may be, which are specifically referred to and incorporated herein by reference.

B. 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.

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.

7. **BATTERY REPLACEMENT SERVICES AND TERMINATION.** Prices stated herein do not include installation, freight, and handling charges unless these items are specifically listed and priced in the quotation. Prices stated herein are F.O.B. factory (unless otherwise stated) and title and risk of loss to each article sold by Contractor to County shall pass to County upon delivery at the F.O.B. point.

Shipment estimates are after receipt of this Agreement at the factory. If drawings are required for approval before Contractor is authorized to proceed with manufacture, then shipment estimates are after receipt of written approval to proceed. If the County cannot accept delivery of equipment, they will arrange for storage. Contractor shall not be liable or responsible for any damages or loss of delay or default in delivery due to any cause beyond Contractor's reasonable control, nor shall County cancel or have the right to cancel its purchase order because of delays or default in delivery due to such causes.

The County may not cancel or terminate its purchase order without prior written notice to the Contractor and upon payment of cancellation charges which shall take into action, among other things, expenses already incurred and commitments made by the Contractor. Cancellation

charges are as follows: (a) for batteries and Drop Ship Items, cancellation 31 days or more prior to shipment, 50% of the total invoice; between 0-30 days prior to shipment, 100% of the total invoice. Changes made to an order may be subject to increase or decrease in purchase order amount, change order charges, and changes in schedule date. The County is responsible for return freight charges related to cancellation.

8. **NO ASSIGNMENT OR SUBCONTRACT.** This Contract may not be assigned nor subcontracted by either party, except as otherwise agreed in writing by both parties. Notwithstanding anything in this Contract or otherwise to the contrary, upon written notice to the other party, either party may assign this Contract or any of its rights and interests herein to: (i.) any parent, subsidiary, affiliated or successor corporation; or the purchaser of any of these entities; (ii.) any corporation to which the party has sold all or substantially all of its assets (including the purchaser of any of the party's subsidiaries); or (iii.) any corporation or legal entity with which the party may merger consolidate.

9. **INDEMNIFICATION.** Limitation of Liability, herein, Contractor shall defend, indemnify and hold harmless the County, its officers, employees and agents, from and against any and all claims, liabilities, damages, demands, losses, causes of action and suits, including reasonable attorney's fees incident thereto, to the extent they result directly from or out of (1) any injury to or death of any person or damage to or destruction of any property caused by negligent acts, errors, omissions or willful misconduct of Contractor, its agents or employees, and (2) any violation of federal or state law, regulation, order, rule or of any other governmental authority having jurisdiction by Contractor, its employees or agents.

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 companies deemed satisfactory by County. Contractor shall, simultaneously with the execution of this Contract, deliver certifications of said insurance to County, naming County as an additional insured to the extent of Contractor's negligence. Neither party shall be liable for any failure to perform, or delay in performing to the extent that such failure or delay results from causes beyond its reasonable control including, without any limitation, any act of God, war, revolution, riot, civil commotion, labor strike or any applicable governmental or judicial law or regulation, order or decree.

12. **PREVENTION OF PERFORMANCE.** In the event that either party is prevented from performing this Contract by circumstances beyond its control, then any obligations owing by the County to the Contractor or vice versa shall be suspended without liability for the period during which the County/Contractor is so prevented. Neither party shall be liable for any failure to perform, or delay in performing to the extent that such failure or delay results from causes beyond its reasonable control including, without any limitation, any act of God, war, revolution, riot, civil commotion, labor strike or any applicable governmental or judicial law or regulation, order or decree.

13. **METHODS OF WORK.** Contractor agrees that in performing its work, it shall employ such reasonable methods or means that will attempt to avoid any interruption or interference with the operations of County or infringe on the rights of the public.

14. **NON-WAIVER.** The failure by the County to enforce any particular provision of this

Contract, or to act upon a breach of this Contract by Contractor, shall not operate as or be construed as a waiver of any subsequent breach, nor a bar to any subsequent enforcement.

15. **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.
16. **CHANGES.** This Contract may be modified by approved 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.
17. **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.
18. **APPLICABLE LAW.** The terms and provisions of this Contract shall be construed pursuant to the laws of the State of New Jersey and, where applicable, the laws of the United States of America.
19. **INDEPENDENT CONTRACTOR STATUS.** The parties acknowledge that Contractor is an independent contractor and is not an agent of the County.
20. **CONFLICT OF INTEREST.** Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services pursuant to this Contract. The Company further covenants that in the performance of this Contract, no person having any such interest shall be employed.
21. **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.
22. **BINDING EFFECT.** This Contract shall be binding on the undersigned and their successors and assigns.
24. **LIMITATION OF LIABILITY.** In no event shall any of the respective Officers, Directors, Employees or Agents or Freeholders or any Employees of the County be liable individually for any damages which shall include incidental, indirect, special or consequential damages. The extent of liability will be whichever party is at fault will extend to the County of Gloucester or the Contractor.
25. **TAX.** Contractor's price is exclusive of any applicable tax. All orders will be subject to all applicable sales tax unless a current tax exemption certificate is on file with Contractor.

26. **CANCELLATION/TERMINATION.** Except for cancellation of battery orders, which will have the cancellation charges outlined in the sections entitled, *Battery Replacement Services and Termination*, either party may terminate this Contract at any time upon thirty (30) days written notice to the other, Subject to Section 2, *Compensation* above.

27. **CUSTOMER'S RESPONSIBILITY.**

- A. Communication and Scheduling – County shall contact Contractor's Owner Reliability Center (1-800-843-9433) regarding all service and Preventative Maintenance ("PM") requests and all other matters arising out of or relating to this Contract. With respect to PM purchased by County, it shall be County's responsibility to contact Contractor to schedule the PM. In the event that County fails to schedule and/or does not permit, for any reason, the PM to be completed within ninety (90) days of the scheduled service date, Contractor's obligation for that PM shall be considered fulfilled.
- B. Movement – If the equipment covered under this Contract ("Covered Equipment") is moved to another location within the United States, service coverage will continue only upon the following conditions: (i) County shall notify Contractor in writing at least thirty (30) days in advance of power-down of Covered Equipment; (ii) Contractor reserves the right to supervise the power-down, disconnection, rigging, packing, movement, unpacking, reinstallation and re-start of the Covered Equipment for which County will be charged according to Contractor's then current Time and Material Service Rate Schedule; and (iii) resumption of service coverage under this Contract is subject to acceptance by Contractor of Covered Equipment at the new location.
- C. Safety – County shall, at all times during the provision of service hereunder, have a representative present at the service site at no cost to, and solely for, the safety of Contractor.
- D. Access – County shall grant ready access to the Covered Equipment, subject to reasonable security requirements, so that Contractor may perform service under this Contract.

THIS CONTRACT is made effective the 1st day of May, 2017.

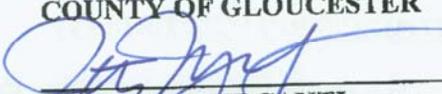
IN WITNESS WHEREOF, the Gloucester County Purchasing Agent, pursuant to authority granted to him and set forth in the County Administrative Code has executed this Agreement and Contractor's authorized representative has executed this Agreement on the date indicated herein.

ATTEST:



ANDREA LOMBARDI,
PRINCIPAL CLERK TYPIST

COUNTY OF GLOUCESTER



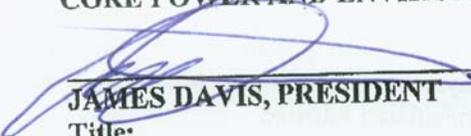
PETER M. MERCANTI,
PURCHASING DIRECTOR

ATTEST:



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CORE POWER AND ENVIRONMENT



JAMES DAVIS, PRESIDENT
Title: