

**DEPARTMENT OF PUBLIC WORKS
PREVENTIVE MAINTENANCE CONTRACT**

AGREEMENT

Contract No. _____

This Agreement entered into this **1st** day of **July, 2012**, between the County of Cuyahoga, Ohio ("COUNTY"), and S.A. Comunale, Co., Inc. an Ohio Corporation, Federal ID 34-1122758, with principal offices located at 1200 East 55th Street, Unit B, Cleveland, Ohio 44311, ("VENDOR")

WITNESSETH:

WHEREAS, the COUNTY has determined to engage the VENDOR to perform Preventive Maintenance Services for Fire Alarm/Security; and

WHEREAS, the Department of Public Works of Cuyahoga County, Ohio, has requested the employment, by the COUNTY, of the VENDOR, which, pursuant to a review process, was determined to be the most suitable for this RFP 22724.

WHEREAS, the VENDOR has agreed to the terms and conditions for the consideration indicated herein below.

NOW THEREFORE, in consideration of the mutual promises and obligations herein to be observed and performed by the parties hereto, the COUNTY and the VENDOR, hereby agree as follows:

ARTICLE ONE - SCOPE OF AGREEMENT

Section 1 - Scope of Work:

Preventive Maintenance services may include, but are not limited to, the following:

Fire Alarm System:

Test and inspection includes one annual test of the Electronic Fire Alarm System at the Main Complex and includes Courts Tower, Jail-1, Galleria and the Justice Center. Preventative maintenance includes quarterly cleaning of Simplex CPU and computers located in the Control Room for the period beginning July 1, 2012 through June 30, 2014.

Testing includes the following:

Schedule of Equipment

- All fire panels and NAC panels including load testing batteries
- 100% of smoke detectors
- 100% of duct detectors
- 100% of heat detectors
- 100% of pull stations
- 100% of fire phones
- 100% of selective paging/page over EVAC from NDU's and graphic computer (after-hours)
- Accuracy of graphics, limited to verifying that devices tested are displayed on the Graphics System
- Simplex/Metasys integration (after-hours for Courts Tower/Galleria), limited to verifying that the Metasys point on the system is triggered
- 100% of Audio/Visual activation (after-hours)
- 100% of Elevator Recall (after-hours)
- Door drops in Courts Tower and Floor 2 of Jail 1 (after-hours)
- 100% of the monitor modules for Waterflows and Tamper Switches (does not include a full functional test)
- 100% of the monitor modules for the 3 ANSUL systems (does not include a full functional test)

Testing is not included for Water-based (sprinkler) systems and ANSUL systems.

Section 2 - Term of this Agreement:

The term of this Agreement is Two (2) year from the date set forth in first paragraph of this Agreement.

Section 3 - Procedures:

The COUNTY and the VENDOR agree to adhere to the following procedure for all work authorized under this Agreement:

- A.) The VENDOR will submit documentation showing test results.
- B.) When testing the devices, the VENDOR shall provide 2 technicians, one to test the field devices and one to monitor the head end to verify the alarm.

Section 4 - Schedule of Completion/Project Work Schedule:

- A) The VENDOR's technicians will have to schedule with the COUNTY on-site staff for access to restricted areas to complete the Fire Alarm/Metasys integration testing. Said technicians will also need to schedule a COUNTY escort for access to Jail 1 and Courts Tower to complete system testing. Said technicians will need to schedule with the elevator company to gain access to elevator machine rooms. Any associated cost from the elevator company is not part of this contract.
- B) Any permission for the extension of a task's duration shall not constitute a change in the scope of work.

ARTICLE TWO - CONDITIONS, TERMINATION OF AGREEMENT, INSURANCE AND MISCELLANEOUS ITEMS

Section 1 - Conditions, the COUNTY's Responsibilities:

The COUNTY shall:

Grant the VENDOR the right to enter onto the COUNTY's premises to conduct testing and inspection at reasonable times, and provide the VENDOR access to the equipments being inspected and any other pertinent duties which are applicable to the work covered in this Agreement; and

Section 2 - Conditions, the VENDOR's Responsibilities:

The VENDOR shall:

- A.) Schedule with the elevator company to gain access to elevator machine rooms. Any associated cost from the elevator company is not part of this contract ; and
- B.) Perform each inspection in accordance with the standards of the NFPA, and applicable state and local codes and regulations. All inspections of sprinklers heads, pipe, fittings, hangers and seismic braces shall be done from the floor level ; and
- C.) Insure that its technicians are licensed by the State of Ohio to service, test, repair, and install Electronic Fire Alarm systems ; and
- D.) Comply with all Federal, County, State and municipal laws, ordinances, resolutions and policies applicable to the work to be done under this Agreement. The VENDOR shall obtain Federal, State, County and/or local licenses, permits and/or clearances necessary to fulfill their obligations of this Agreement; and

- E.) Agree that all work under this Agreement shall be done under the direction and supervision of one of the officers or principals of the VENDOR; and
- F.) Agree that all employees of the VENDOR shall cooperate with representatives of the COUNTY, various municipalities or any other agency (public or private) who may be involved in this project; and
- G.) Monitor the qualifications, capabilities and capacities of its technicians to perform those items of the scope of work which have been delegated to them. Should the VENDOR be required to make change through the course of this agreement, the VENDOR must receive written approval from the COUNTY. The VENDOR will be required to notify the COUNTY as to why a change or addition is required, how the change, addition or deletion will affect the VENDOR's original proposal and how this will affect VENDOR's ability to meet any other requirements of the COUNTY before receiving written approval ; and
- H.) Not engage the services of any person or persons currently employed by the COUNTY or any other public body in the State of Ohio for any of the work covered by the terms of this Agreement, without the specific written permission of the COUNTY; and
- I.) Maintain vendor registration with the Cuyahoga County Inspector General throughout the life of this Agreement.

Section 3 - Termination of Agreement:

The COUNTY may terminate the contract any time by providing the VENDOR with forty-five (45) days written notice of the intent to terminate. In that event, the compensation to be paid to the VENDOR by the COUNTY shall be determined by the COUNTY on the basis of work completed and usable data available to the COUNTY.

Section 4 - Insurance:

- A.) The VENDOR hereby agrees to indemnify and save harmless the COUNTY from all claims and/or liability of whatsoever kind caused by the negligent errors or omissions of the VENDOR, its employees and/or its subcontractors in the performance of the work under this Agreement.
- B.) The VENDOR shall maintain a general commercial liability policy with the minimum coverage being in the amounts of TWO MILLION DOLLARS (\$2,000,000.00). Said insurance to be placed with an insurance company authorized to do business in the State of Ohio. VENDOR shall provide evidence of such insurance upon request by the COUNTY. Said policy shall name the

COUNTY as additional insured and shall provide for notification to the COUNTY thirty (30) days prior to the cancellation of the policy except for notice of cancellation due to nonpayment of premium(s), which notice shall be ten (10) days prior to cancellation. A Certificate of Insurance shall be appended to this Agreement, by the VENDOR when they agree to the terms of this Agreement.

- C.) The VENDOR shall secure Worker's Compensation for all of its employees as required by law. A Certificate of compliance from the State of Ohio's Bureau of Workers' Compensation shall be provided to the COUNTY upon request.

Section 5 - Miscellaneous:

- A.) The COUNTY reserves the right to inspect any and all equipment, materials and technical data used or developed for the scope of this Agreement.
- B.) The COUNTY reserves the right to inspect the VENDOR's work site and to conduct interviews of personnel previously and/or currently assigned to the project to assure the quality and progress of all authorized work.
- C.) For the purpose of this Agreement, the agent for the COUNTY and liaison officer on the matter contained herein shall be the Director of Public Works and/or such members of her or his staff as designated.
- E.) The VENDOR hereby agrees that there will be no charge to the COUNTY for any patent rights which it controls and which may be involved in the work under this Agreement unless such charges have been specified and included in the fees enumerated in Article Three of this Agreement. The VENDOR shall advise the COUNTY of any process or patent rights which are not held or controlled by the VENDOR, but which in the VENDOR's opinion may be involved in the work contemplated herein.
- F.) All reports, specifications and any other records developed by the VENDOR solely in the performance of this Agreement shall remain the sole property of the COUNTY. The VENDOR shall not copy or use such records except to develop contracted work associated with this Agreement. In addition, the shall not transfer any such records to any other party not involved with this Agreement except for subcontractors working under this Agreement. All of the above shall be delivered to the COUNTY upon completion of this Agreement. Notwithstanding the above, the VENDOR may retain a copy of any documents upon which it relied for its records.
- G.) During the performance of this Agreement, the VENDOR agrees for itself, its assignees, its subcontractors, and its successors in interest to comply with all applicable laws, resolutions, regulations and/or policies of the COUNTY, relative to equal employment, affirmative action requirements which are herein incorporated by reference and made a part of this Agreement. Failure to comply

with any of the aforementioned laws, resolutions, regulations and/or policies may result in the termination of this Agreement.

- H.) The VENDOR warrants and represents that it has not employed or retained any company, firm or person, other than a bonafide employee working for the VENDOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company, firm or person, other than a bonafide employee working for the VENDOR, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the COUNTY shall have the right to annul this Agreement without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, gift, percentage, brokerage fee, or contingent fee.
- I.) The AGREEMENT constitutes the entire AGREEMENT between the COUNTY and the VENDOR, and supersedes any prior understanding or representation of any kind preceding the date of this AGREEMENT. There are no other promises, conditions, understanding or other agreements, whether orale or written, relating to the subject matter of this AGREEMENT.
- J.) IF ANY PROVISION OF THIS agreement is invalid or unenforceable for any reason, the AGREEMENT shall be and remain valid and biding as thought such provision was not included herein.
- K.) By entering into this AGREEMENT, the MUNICIPALITY agrees to conduct this transaction by electronic means by agreeing that all documents requiring COUNTY signatures may be executed by electronic means, and that the electronic signatures affixed by the COUNTY to said documents shall have the same legal effect as if that signature was manually affixed to a paper vision of the document. The MUNICIPALITY also agrees to be bound by the provisions of Chapter 304 and 1306 of the Ohio Revised Code as they pertain to electronic transactions, and to comply with the electronic signature policy of the COUNTY.

ARTICLE THREE - FEES, PROGRESS REPORTS, FEE PAYMENTS AND SCOPE CHANGES

Section 1 - Fees:

In consideration of the terms and obligations of this Agreement, the COUNTY agrees to pay and the VENDOR agrees to accept the following as full compensation for labor, material, and equipment necessary to perform the work, including overhead, profit and expenses of every kind incurred in connection with the undertaking and performing of said work, as part of this Agreement.

The total maximum fee for the preventive maintenance services authorized under this Agreement shall not exceed ONE HUNDRED SEVENTY THOUSAND, NINE HUNDRED FIFTY DOLLARS AND NO CENTS (\$170,950.00).

Section 2 - Progress Reports and Fee Payment:

The fees for the work to be performed under this Agreement, as set forth in Section 1 of this Article, shall be paid as follows:

- A.) The VENDOR must include a proposed schedule of payment. The trigger for payment for each cost must be identified (e.g. timing, deliverable). Each month, the COUNTY will receive one invoice, from the VENDOR Preventive Maintenance Services. Invoices will be prepared and submitted to the COUNTY for payment based on the work performed since the previous invoice, all of which are subject to audit by the COUNTY or others and possible revision. Each invoice will contain the information necessary for fire alarm that inspector inspects on the following facilities: Courts Tower, Jail I, Galleria, and Justice Center. Invoices are to be sent to: Otilio Morales, Sr., Facilities Superintendent, Department of Public Works, at the Justice Center, 2nd Floor Superintendents Office, 1200 Ontario Street, Cleveland, Ohio 44113.
- B.) The VENDOR shall be required to submit invoices in a format that is recommended and acceptable to the COUNTY. Sample copies of this invoicing format shall be provided to the VENDOR by the COUNTY.
- C.) Invoices for any portion of the work authorized under this Agreement shall not be submitted more frequently than monthly.
- D.) If the VENDOR has not processed an invoice to the COUNTY for three consecutive months; The VENDOR must submit a written progress report updating the COUNTY accordingly.

Section 3 - Scope Changes:

It is understood and agreed by and between the parties hereto that only those situations, as documented by VENDOR, and agreed to by the COUNTY shall constitute a scope change. Fee and schedule adjustments for documented scope changes may be appraised and adjusted by mutual agreement.

Until the COUNTY has agreed that a scope change is in effect, VENDOR shall continue to proceed with the work necessary to complete the authorized aspects of this contract as hereinbefore outlined. That is, a scope change request shall not constitute a reason for VENDOR to delay or suspend work on any authorized tasks unless they have been so directed by the Director of Public Works. A change in scope of work is defined as any of the following:

- A.) The addition, deletion or substantial alteration of items of work for maintenance services that was not included in the scope of work documents, scope meeting minutes, and/or addenda to the scope meeting minutes. Such substantial changes are beyond the control of VENDOR.
- B.) Unavoidable delays or hindrances beyond the control of the parties to this Agreement which will require extending the time frame of the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above mentioned.

S.A. COMUNALE COMPANY, INC.

By: 

Stephen Comunale, President

COUNTY OF CUYAHOGA, OHIO

Edward FitzGerald, County Executive

By: 

2012-06-18 11:34:27

Edward FitzGerald, County Executive



S.A. Comunale

An EMCOR Company

30 May 2012

Whereas the Corporation is bidding and tendering in respect to contracts from time to time,

And Whereas the customer or general contractor from time to time, requires confirmation as to the authority to execute contracts and documents which will be binding upon the corporation in request to such bids or tenders,

Therefore be it resolved that the corporation confirms specifically, and in addition to any other powers and authorities of any of the other officers of the corporation, that Stephen Comunale, is authorized by the Corporation to execute any and all statements, tenders, bids or contracts on behalf of the Corporation and that all such executed documents shall be binding upon the Corporation.

The undersigned being the sole director of the Corporation hereby confirms the foregoing resolution this day 30 May 2012.

Stephen Comunale, President

State of Ohio

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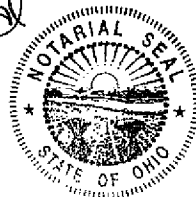
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County of Summit

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Before me, a Notary Public in and for said County, personally appeared Stephen Comunale who acknowledged that he did sign and seal the foregoing instrument and that the same is his free act and deed.

In testimony whereof I have hereunto set my hand and official seal at Summit, Ohio the 31 day of May 2012.



Nicole Wood
Resident Summit County
Notary Public, State of Ohio
My Commission Expires: 08/26/12

Full Service Fire Protection Contractor
2900 Newpark Drive Barberton, Ohio 44203
Phone: 1-800-776-7181
Fax: 330-861-0837