

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To: Matthew J. Fertal
From: William E. Murray
Dept: City Manager
Dept: Public Works
Subject: APPROVAL OF AN AGREEMENT
WITH SIEMENS INDUSTRY, INC.
FOR HVAC SYSTEM UPGRADES
Date: November 26, 2013

OBJECTIVE

To receive City Council approval to enter into an agreement with Siemens Industry Inc. for Heating, Ventilation and Air Conditioning systems (HVAC) upgrades.

BACKGROUND

In 2003, the City received an energy grant that replaced the HVAC units and the system controls with Viron International, Inc. energy saving equipment. At that time, the controls were the most cost effective, as well as the best available for the City buildings.

Since the equipment was installed, major improvements have been made to make HVAC controls operate more efficiently. By entering into this contract with Siemens, staff will be able to take advantage of this new technology to improve all the City's Energy Management Systems (EMS). The current EMS in the other City facilities has been failing and is no longer serviceable. This contract will provide EMS equipment to Fire Station #2 and Station #4.

DISCUSSION

The Public Safety Building, Fire Station #3, and the Gem Theater currently have Siemens equipment to control their HVAC systems. City staff has found that Siemens provides a serviceable network system. Since the EMS is proprietary, Siemens Industry, Inc. is the only authorized company in the Southern California area licensed to perform work on the system. Siemens has performed EMS and HVAC work for the City and were found to be competent in their field of work. Based on this past experience, it is determined that this firm is qualified to perform both EMS and HVAC work.

Pursuant to Garden Grove Municipal Code Section 2.50.060(4), and based on the Public Works Department's recommendations, the Finance Director has determined

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that Siemens Industry Inc. is the only company that offers the services that the City requires to implement and maintain the HVAC systems.

FINANCIAL IMPACT

Funds have been budgeted in the HVAC and Building Maintenance Funds for the FY 2013/2014 Budget. This agreement shall not exceed \$46,700.

RECOMMENDATION

It is recommended that the City Council:

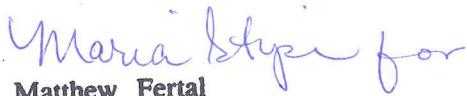
- Approve the Agreement with Siemens Inc. for HVAC systems upgrades, in the amount of \$46,700; and
- Authorize the City Manager to execute the agreement with Siemens Industry Inc. on behalf of the City.


WILLIAM E. MURRAY, P.E.
Public Works Director/City Manager

By: 
Ron Meislahn
Facilities Manager

Attachment: Siemens Industry Inc. Agreement

Recommended for Approval


Matthew Fertal
City Manager

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2013, by the **CITY OF GARDEN GROVE**, a municipal corporation, ("CITY") and **Siemens Industry, Inc.**, herein after referred to as "CONTRACTOR".

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Garden Grove COUNCIL AUTHORIZATION, DATED _____.
2. CITY desires to utilize the services of CONTRACTOR to **Provide all parts, equipment, material and labor for installation of Siemens controls at Fire Station #2 and #4 and connect to existing City of Garden Grove Siemens networks.**
3. CONTRACTOR is qualified by virtue of experience, training, education and expertise to accomplish services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** The term of the agreement shall be for period of 180 days from the date of full execution. This agreement may be terminated by the CITY without cause. In such event, the CITY will compensate CONTRACTOR for work performed to date in accordance with proposal which is attached as Attachment A and is hereby incorporated by reference. Contractor is required to present evidence to support performed work.
2. **Services to be Provided.** The services to be performed by CONTRACTOR shall consist of tasks as set forth in the Proposal. The Proposal is attached as Attachment A, and is incorporated herein by reference. The Proposal and this Agreement do not guarantee any specific amount of work.
3. **Compensation.** CONTRACTOR shall be compensated as follows:
 - 3.1 **AMOUNT.** Total Compensation under this agreement shall not exceed (NTE) amount of Forty Six Thousand Seven Hundred Dollars (\$46,700.00) payable in arrears and in accordance with proposal in Attachment "A".

- 3.2 Payment. For work under this Agreement, payment shall be made per invoice for work completed. For extra work not a part of this Agreement, a written authorization by CITY will be required, and payment shall be based on schedule included in Proposal (Attachment A).
- 3.3 Records of Expenses. CONTRACTOR shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to CITY.
- 3.4 Termination. CITY and CONTRACTOR shall have the right to terminate this agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by CITY, then the provisions of paragraph 3 would apply to that portion of the work completed.

4. Insurance requirements.

- 4.1 COMMENCEMENT OF WORK. CONTRACTOR/CONSULTANT shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance.
- 4.2 WORKERS COMPENSATION INSURANCE. During the duration of this Agreement, CONTRACTOR and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable.
- 4.3 INSURANCE AMOUNTS. CONTRACTOR shall maintain the following insurance for the duration of this Agreement:
 - (a) Commercial general liability in an amount not less than \$1,000,000.00 per occurrence (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-, Class VII or better, as approved by the CITY.
 - (b) Automobile liability in an amount not less than \$1,000,000.00 combined single limit (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-, Class VII or better, as approved by the CITY.

- (c) Professional liability in an amount not less than \$1,000,000. Insurance companies must be admitted and licensed in California and have a Best's Guide Rating of A-, Class VII or better, as approved by the City. If the policy is written on a "claims made" basis, the policy shall be continued in full force and effect at all times during the term of the agreement, and for a period of three (3) years from the date of the completion of services provided. In the event of termination, cancellation, or material change in the policy, professional/consultant shall obtain continuing insurance coverage for the prior acts or omissions of professional/consultant during the course of performing services under the term of the agreement. The coverage shall be evidenced either by a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier

An **On-Going and Completed Operations Additional Insured Endorsement** for the policy under section 4.3 (a) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, its officers, officials, employees, agents, and volunteers as additional insureds for automobiles, owned, leased, hired, or borrowed by the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, and volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable to CONTRACTOR in the event of any default or breach by CITY, or for any amount which may become due to CONTRACTOR.

6. **Non-Discrimination.** CONTRACTOR covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

7. **Independent Contractor.** It is agreed to that CONTRACTOR shall act and be an independent contractor and not an agent or employee of the CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.

8. **Compliance with Law.** CONTRACTOR shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government. CONTRACTOR shall comply with, and shall be responsible for causing all contractors and subcontractors performing any of the work pursuant to this Agreement to comply with, all applicable federal and state labor standards, including, to the extent applicable, the prevailing wage requirements promulgated by the Director of Industrial Relations of the State of California Department of Labor. The City makes no warranty or representation concerning whether any of the work performed pursuant to this Agreement constitutes public works subject to the prevailing wage requirements.

9. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.
 - a. (Contractor)
Siemens Industry, Inc.
 Attention: Mitch Sager, Area Sales Manager
 10775 Business Center Drive
 Cypress, CA 90630

 - b. (Address of CITY) (with a copy to):
 City of Garden Grove Garden Grove City Attorney
 11222 Acacia Parkway 11222 Acacia Parkway
 Garden Grove, CA 92840 Garden Grove, CA 92840

10. **CONTRACTOR'S PROPOSAL.** This Agreement shall include CONTRACTOR'S proposal or bid which shall be incorporated herein by reference. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

11. **Licenses, Permits, and Fees.** At its sole expense, CONTRACTOR shall obtain a Garden Grove Business License, all permits, and licenses as may be required by this Agreement.

12. **Familiarity with Work.** By executing this Agreement, CONTRACTOR warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it

understands the facilities, difficulties, and restrictions of the work under this Agreement. Should Contractor discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONTRACTOR'S risk, until written instructions are received from CITY.

13. **Time of Essence.** Time is of the essence in the performance of this Agreement.
14. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONTRACTOR, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONTRACTOR shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONTRACTOR is permitted to subcontract any part of this Agreement, CONTRACTOR shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. All persons engaged in the work will be considered employees of CONTRACTOR. CITY will deal directly with and will make all payments to CONTRACTOR.
15. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
16. **Indemnification.** CONTRACTOR agrees to protect, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by CONTRACTOR, CONTRACTOR'S agents, officers, employees, subcontractors, or independent contractors hired by CONTRACTOR. The only exception to CONTRACTOR'S responsibility to protect, defend, and hold harmless CITY, is due to the sole negligence of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR.

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(Agreement Signature Block On Next Page)

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

Date: _____

**"CITY"
CITY OF GARDEN GROVE**

By: _____
City Manager

ATTESTED:

City Clerk

Date: _____

**"CONTRACTOR"
Siemens Industry, Inc.**

By: 

Name: **Daniel H. Holmes**

Title: **Area Sales Manager**

Date: 10-30-13

Tax ID No. 13-2762488

Contractor's License: 758796

Expiration Date: 2/28/15

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

APPROVED AS TO FORM:

Garden Grove City Attorney

Date

ATTACHMENT "A"

SIEMENS

August 30, 2013

Bill Pickrell
City of Garden Grove
13802 Newhope Street
Garden Grove, CA 92843

Project: City of Garden Grove, Fire Station #2

Proposal: Siemens Industry, Inc. appreciates the opportunity to submit this proposal. The scope of this proposal encompasses the installation of field components as described below.

Scope of Work

- Provide and install necessary labor and material required to install Siemens Controls and connect to the existing City of Garden Grove Siemens network.

The installation will include Siemens Controls on the following

- (2) Rooftop Gas / Electric A/C Units
 - Unit controller
 - Current switch
 - Supply air temperature sensor
 - Cooling and heating enable
- (2) Siemens Adjustable Room Sensors
- (1) Reznor Furnace interlocked with (2) roll up doors
- Interlock the A/C units with (6) pass through doors and (1) sliding window
- Electrical wire and conduit for control power and communication
- Programming Siemens control devices
- Confirm communication with City of Garden Grove existing network
- Work will be performed during normal business hours with care to minimize disruption to business and operations

Exclusions:

- After hours performance
- Delays due to lack of building access.
- Correction of any existing code violations.
- Patching and painting of any surfaces.
- Engineering and plan check fees.
- Repair of any mechanical and /or control equipment outside the scope of work described above.

Warranty: (1) year on all new parts and workmanship provided.

Total Price: \$22,855.00

Siemens Industry, Inc.
10775 Business Center Dr.
Cypress, Ca. 90630
Direct 714-267-1590 Fax 866-457-9805

SIEMENS

Proposal accepted:
Siemens Industry, Inc. is authorized to proceed with the work
as proposed.

Proposal submitted:
Siemens Industry, Inc.

Purchaser	_____	By	<u>Craig Mackey</u> Craig Mackey
By	_____		_____
Title	_____	Title	Account Executive
Date	_____	Date	August 30, 2013

If any additional labor or materials are required above and beyond the outlined scope of service, additional charges may apply. You will be informed prior to the commencement of any such services. This proposal is based on straight time labor. The proposed price does not include the replacement of any part not specifically listed in the above scope of service. This price is firm for thirty days.

In order to execute the proposed work, please complete the information below. If I may be of any assistance, please feel free to contact me at (714) 267-1590. Your active consideration of *Siemens Industry, Inc* service is greatly appreciated.

Respectfully submitted,

Craig Mackey
Siemens Industry, Inc
Cell: 714.267.1590
Fax: 866.457.9805
E-mail: craig.mackey@siemens.com

Siemens Industry, Inc.
10775 Business Center Dr.
Cypress, Ca. 90630
Direct 714-267-1590 Fax 866-457-9805

ATTACHMENT "A"

SIEMENS

August 30, 2013

Bill Pickrell
City of Garden Grove
13802 Newhope Street
Garden Grove, CA 92843

Project: City of Garden Grove, Fire Station #4

Proposal: Siemens Industry, Inc. appreciates the opportunity to submit this proposal. The scope of this proposal encompasses the installation of field components as described below.

Scope of Work

- Provide and install necessary labor and material required to install Siemens Controls and connect to the existing City of Garden Grove Siemens network.

The installation will include Siemens Controls on the following

- (2) Rooftop Gas / Electric A/C Units
 - Unit controller
 - Current switch
 - Supply air temperature sensor
 - Cooling and heating enable
- (2) Siemens Adjustable Room Sensors and (1) averaging sensor
- (1) Reznor Furnace interlocked with (2) roll up doors
- Interlock the A/C units with (7) pass through doors and (1) sliding window
- Electrical wire and conduit for control power and communication
- Programming Siemens control devices
- Confirm communication with City of Garden Grove existing network
- Work will be performed during normal business hours with care to minimize disruption to business and operations

Exclusions:

- After hours performance
- Delays due to lack of building access.
- Correction of any existing code violations.
- Patching and painting of any surfaces.
- Engineering and plan check fees.
- Repair of any mechanical and /or control equipment outside the scope of work described above.

Warranty: (1) year on all new parts and workmanship provided.

Total Price: \$23,845.00

Siemens Industry, Inc.
10775 Business Center Dr.
Cypress, Ca. 90630
Direct 714-267-1590 Fax 866-457-9805

SIEMENS

Proposal accepted:
Siemens Industry, Inc. is authorized to proceed with the work
as proposed.

Proposal submitted:
Siemens Industry, Inc.

Purchaser	_____	By	<u>Craig Mackey</u> _____
By	_____		Craig Mackey
Title	_____	Title	<u>Account Executive</u> _____
Date	_____	Date	<u>August 30, 2013</u> _____

If any additional labor or materials are required above and beyond the outlined scope of service, additional charges may apply. You will be informed prior to the commencement of any such services. This proposal is based on straight time labor. The proposed price does not include the replacement of any part not specifically listed in the above scope of service. This price is firm for thirty days.

In order to execute the proposed work, please complete the information below. If I may be of any assistance, please feel free to contact me at (714) 267-1590. Your active consideration of *Siemens Industry, Inc* service is greatly appreciated.

Respectfully submitted,

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Fax: 866.457.9805
E-mail: craig.mackey@siemens.com

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