NOTICE OF AWARD OF CONTRACT

TO:
M&E SERVICES, INC.
212 South 15th Avenue
Hopewell, VA 23860

DATE ISSUED: February 19, 2014
CURRENT CONTRACT NO: 622-14
EXERCISE EQUIPMENT MAINTENANCE AND REPAIR SERVICES

THIS IS A NOTICE OF AWARD OF CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.

Your firm is awarded the above referenced contract. The contract term covered by this Notice of Award is effective IMMEDIATELY and expires on DECEMBER 1, 2014.

This is the FIRST year of a THREE year contract.

The contract documents consist of County of Prince William Contract No. 12094QA4 and any amendments thereto and this Notice of Award.

CONTRACT PRICING:
1. Refer to Exhibit A for pricing

ATTACHMENTS:
1. Contract No. 12094QA4 (Exhibit A)
2. RIDER AGREEMENT 622-14

EMPLOYEES NOT TO BENEFIT:
NO COUNTY EMPLOYEE SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.

VENDOR CONTACT: Ernie Hostetler
EMAIL: ernie@frnva.com

TELEPHONE NO.: 804-915-9429

COUNTY CONTACT: J. Shawn Hill
EMAIL: jhill@arlingtonva.us

TELEPHONE NO.: 703-228-4659

CONTRACT AUTHORIZATION

[Signature]
Elizabeth Dooley, CGPQ, CPPB
Assistant Purchasing Agent

DISTRIBUTION

[Signature]
Date 2/19/14
BID FOLDER: 1
THIS RIDER AGREEMENT (hereinafter "Agreement") is made, on the date of its execution by the County, between M & E Services, Inc., 212 South 15th Avenue, Hopewell, VA 23860 ("Contractor"), a Virginia Corporation authorized to transact business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia ("Countye). The County and the Contractor, for the consideration and quantities specified herein or specified in a County Purchase Order referencing this Agreement, agree as follows:

1. CONTRACT DOCUMENTS
The Contract Documents consist of this Agreement and Exhibit A, Prince William County Government, VA Contract #12090BA4 ("Contract Documents" or "Contract").

This Agreement rides a competitive procurement process conducted by Prince William County Government, Virginia. The Contractor desires to extend to the County the same pricing as the Contractor's agreement with Prince William County Government, Virginia.

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement shall prevail over the other Contract Documents and the remaining Contract Documents shall be complementary to each other and if there are any conflicts the most stringent terms or provisions shall prevail.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either of them has made any representation or promise with respect to the parties' agreement which is not contained in the Contract Documents.

2. CONTRACT TERM
The Contractor's provision of goods for the County ("Work") shall commence on the date of execution of this Agreement by the County and shall be completed no later than December 1, 2014 ("Initial Contract Term"), subject to any modifications as provided for in the Contract Documents.

Upon satisfactory performance by the Contractor, and with the concurrence of the Contractor, if Prince William County Government, Virginia renews their agreement identified in Exhibit A, the County may elect to renew this Agreement under the same contract unit prices for not more than two (2) additional twelve (12) month period from December 2, 2014 to December 1, 2016 ("Subsequent Contract Term"). However, if Prince William County Government, Virginia does NOT renew their
agreement identified in Exhibit A, this Agreement shall automatically expire on the date of Prince William County Government, Virginia's contract expiration date.

3. **CONTRACT PRICING**
The County will pay the Contractor in accordance with the terms of the Payment paragraph below, at the unit prices set forth in Exhibit A for Work provided by the Contractor, as described and required in the Contract Documents, and accepted by the County.

4. **SCOPE OF WORK**
The Contractor agrees to provide the goods described in the Contract Documents. The primary purpose of the Work is to provide preventive maintenance for exercise equipment located at all (10) Arlington County fire stations and the Arlington County Fire Training Academy.

The Contract Documents set forth the minimum work estimated by the County and the Contractor to be necessary to complete the work. It shall be the Contractor's responsibility, at the Contractor's sole cost, to provide the specific Work set forth in the Contract Documents sufficient to fulfill the purposes of the Work. Nothing in the Contract Documents shall be construed to limit the Contractor's responsibility to manage the details and execution of the Work.

5. **REQUIREMENTS CONTRACT (ESTIMATED QUANTITIES)**
During the Initial Contract Term or any Subsequent Contract Term, the Contractor will furnish all of the goods or services described in the Contract Documents if so requested by the County. The Contractor understands and agrees that this is a requirements contract and the County will have no obligation to the Contractor if no, or fewer, items or services are required or requested by the County. Any quantities which are included in the Contract Documents are the present expectations of those who are planning for the County for the period of the Contract. The amount is only an estimate and the Contractor understands and agrees that the County is under no obligation to the Contractor to buy that amount, or any amount, as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The Contractor further understands that the County may require goods and/or services in excess of the estimated annual contract amount and that such excess shall not give rise to any claim for compensation other than at the unit prices set forth in this Contract.

6. **PROJECT OFFICER**
The performance of the Contractor is subject to the review and approval of the County Project Officer ("Project Officer"), who shall be appointed by the Director of the Arlington County department or agency requesting the work under the Contract Documents. However, it shall be the responsibility of the Contractor to manage the details of the execution and performance of its work pursuant to the Contract Documents.
7. **PAYMENT TERMS**

Payment terms will be recorded by the County as Net thirty (30) days. The County will pay the Contractor within thirty (30) calendar days after the date of receipt of a correct, as determined by the Project Officer, invoice approved by the Project Officer describing completed work which is reasonable and allocable to the Contract, or the date of receipt of the entire order, or the date of acceptance of the work which meets the Contract requirements, whichever is later. Payments will be made by the County for goods or services furnished, delivered, inspected, and accepted upon receipt of invoices submitted on the date of shipment or delivery of service, subject to applicable payment terms. The number of the County Purchase Order pursuant to which authority shipments have been made or services performed shall appear on all invoices. Invoices shall be submitted in duplicate. Unless otherwise specified herein, payment shall not be made prior to delivery and acceptance of the entire order by the County.

8. **PAYMENT OF SUBCONTRACTORS.**

The Contractor is obligated to take one of the two following actions within seven (7) days after receipt of amounts paid to the Contractor by the County for work performed by any subcontractor under this Contract:

a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or

b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven (7) calendar days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements as those contained herein with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

9. **NON-APPROPRIATION**

All funds for payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for
this purpose by the County Board of Arlington County, Virginia. In the event of non-appropriation of funds by the County Board of Arlington County, Virginia for the goods or services provided under this Contract or substitutes for such goods or services which are as advanced or more advanced in their technology, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Contract is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Contract, cancellation will be accepted by the Contractor on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the County shall not be obligated under this Contract beyond the date of termination specified in the County’s written notice.

10. COUNTY PURCHASE ORDER REQUIREMENT
County purchases are authorized only if a County Purchase Order is issued in advance of the transaction, indicating that the ordering agency has sufficient funds available to pay for the purchase. Such a Purchase Order is to be provided to the Contractor by the ordering agency. The County will not be liable for payment for any purchases made by its employees without appropriate purchase authorization issued by the County Purchasing Agent. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and sole expense.

11. DELIVERY
All goods are purchased F.O.B. destination in Arlington County as designated in this Contract. All costs for handling and transportation charges to the designated point of delivery shall be borne by the Contractor. Transportation, handling and all related charges are included in the unit prices or discounts submitted by the Contractor with its bid.

12. WARRANTY
All goods and materials provided to the County shall be fully guaranteed by the Contractor against factory defects. Any defects which may occur as the result of either faulty material or workmanship by the manufacturer within the period of the manufacturer's standard warranty shall be corrected by the Contractor at no expense to Arlington County. The Contractor shall provide evidence of all manufacturers' warranties to the Project Officer at the time of delivery. All goods and materials are also guaranteed by the Contractor against defects resulting from the use of inferior or faulty materials or workmanship for one (1) year from the date of final acceptance by the County in addition to and irrespective of any manufacturer's or supplier's warranty. No date other than the date of final acceptance shall govern the effective date of the Guaranty, unless that date is agreed upon by the County and the Contractor in advance and in a signed writing.

13. INSPECTION, ACCEPTANCE, TITLE, AND RISK OF LOSS
Inspection and acceptance of goods or materials by the County will be at the delivery location in Arlington County, Virginia, and within ten
(10) calendar days of delivery, unless otherwise provided for in the Contract. The County will not inspect, accept, or pay for any goods or materials stored or delivered off-site by the Contractor.

Title and risk of loss or damage to all goods shall be the responsibility of the Contractor until acceptance by the County. The County's right of inspection shall not be deemed to relieve the Contractor of its obligation to ensure that all articles, materials and supplies are consistent with specifications and instructions and are fit for their intended use. The County reserves the right to conduct any tests or inspections it may deem appropriate before acceptance.

No goods or materials shall be purchased by the Contractor or any subcontractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the seller. The Contractor warrants that it has good title to, and that it will require all subcontractors to warrant that they have good title to, all goods or materials for which the Contractor invoices for payment.

14. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED
During the performance of this Contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by federal or Virginia law related to discrimination in employment except where there is a bona fide occupational qualification reasonably necessary or related to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that the Contractor is an Equal Opportunity Employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

d. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment, and mandates their full participation in both publicly and privately-provided services and activities.

e. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over $10,000.00, so that these provisions will apply to each subcontractor or vendor.
15. **EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED**
In accordance with § 2.2-4311.1 of the Code of Virginia, 1950, as amended, the Contractor acknowledges that it does not, and shall not during the performance of this Contract, knowingly employ an unauthorized alien as that term is defined in the federal Immigration Reform and Control Act of 1986.

16. **DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR**
During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of marijuana or any other controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000.00 relating to this Contract, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor by Arlington County, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

17. **TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE**
The Contract shall remain in force for the Initial Contract Term or any Subsequent Contract Term(s) and until the County determines that all the following requirements and conditions have been satisfactorily met: the County has accepted the Work, and thereafter until the Contractor has met all requirements and conditions relating to the Work under the Contract Documents, including warranty and guarantee periods. However, the County shall have the right to terminate this Contract sooner if the Contractor is in breach or default or has failed to perform satisfactorily the Work required, as determined by the County in its discretion.

If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure such failure(s) within at least fifteen (15) days before termination of the Contract takes effect ("Cure Period"). If the Contractor fails to cure within the Cure Period, or as otherwise specified in the notice, the Contract may be terminated for the Contractor's failure to provide satisfactory Contract performance. Upon such termination, the Contractor may apply for compensation for Contract services satisfactorily performed by the Contractor, allocable to the Contract and accepted by the County prior to such termination unless otherwise barred by the Contract ("Termination Costs"). In order to be considered, such request for
Termination Costs, with all supporting documentation, must be submitted to the County Project Officer within fifteen (15) days after the expiration of the Cure Period. The County may accept or reject, in whole or in part, the application for Termination Costs and notify the Contractor of same within a reasonable time thereafter.

If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination shall be immediate after notice from the County to the Contractor (unless the County in its discretion provides for an opportunity to cure) and the Contractor shall not be permitted to seek Termination Costs. Upon any termination pursuant to this section, the Contractor shall be liable to the County for all costs incurred by the County after the effective date of termination, including costs required to be expended by the County to complete the Work covered by the Contract, including costs of delay in completing the Project or the cost of repairing or correcting any unsatisfactory or non-compliant work performed or provided by the Contractor or its subcontractors. Such costs shall be either deducted from any amount due the Contractor or shall be promptly paid by the Contractor to the County upon demand by the County. Additionally, and notwithstanding any provision in this Contract to the contrary, the Contractor is liable to the County, and the County shall be entitled to recover, all damages to which the County is entitled by this Contract or by law, including and without limitation, direct damages, indirect damages, consequential damages, delay damages, replacement costs, refund of all sums paid by the County to the Contractor under the Contract and all attorney fees and costs incurred by the County to enforce any provision of this Contract.

Except as otherwise directed by the County in the notice, the Contractor shall stop work on the date of receipt of notice of the termination or other date specified in the notice, place no further orders or subcontracts for materials, services, or facilities except as are necessary for the completion of such portion of the Work not terminated, and terminate all vendors and subcontracts and settle all outstanding liabilities and claims. Any purchases after the date of termination contained in the notice shall be the sole responsibility of the Contractor.

In the event any termination for cause, default, or breach shall be found to be improper or invalid by any court of competent jurisdiction then such termination shall be deemed to have been a termination for convenience.

18. TERMINATION FOR THE CONVENIENCE OF THE COUNTY
The performance of Work under this Contract may be terminated by the County Purchasing Agent, in whole or in part, whenever the Purchasing Agent shall determine that such termination is in the County's best interest. Any such termination shall be effected by the delivery to the Contractor of a written notice of termination at least fifteen (15) days before the date of termination, specifying the extent to which performance of the work under this Contract is terminated and the date upon which such termination becomes effective. The Contractor will be entitled to receive compensation for all Contract services.
satisfactorily performed by the Contractor and allocable to the Contract and accepted by the County prior to such termination and any other reasonable termination costs as negotiated by the parties, but no amount shall be allowed for anticipatory profits.

After receipt of a notice of termination and except as otherwise directed, the Contractor shall stop all designated work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or subcontracts for materials, services or facilities except as are necessary for the completion of such portion of the work not terminated; immediately transfer all documentation and paperwork for terminated work to the County; and terminate all vendors and subcontracts and settle all outstanding liabilities and claims.

19. **INDEMNIFICATION**
The Contractor covenants for itself, its employees, and subcontractors to save, defend, hold harmless and indemnify the County, and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards, and commissions (collectively the "County" for purposes of this section) from and against any and all claims made by third parties or by the County for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, demands or exposure, however caused, resulting from, arising out of, or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the work called for by the Contract Documents. This duty to save, defend, hold harmless and indemnify shall survive the termination of this Contract. If, after notice by the County, the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor shall be liable for and reimburse the County for any and all expenses, including, but not limited to, reasonable attorneys' fees incurred and any settlements or payments made. The Contractor shall pay such expenses upon demand by the County and failure to do so may result in such amounts being withheld from any amounts due to Contractor under this Contract.

20. **CONFIDENTIAL INFORMATION**
The Contractor, and its employees, agents, and subcontractors, hereby agree to hold as confidential all County information obtained as a result of its Work under this Contract. Confidential information includes, but is not limited to, nonpublic personal information, personally identifiable health information, social security numbers, addresses, dates of birth, other contact information or medical information about a person, information pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans, expertise and any information entrusted to any affiliate of the parties. The Contractor shall take reasonable measures to ensure that all of its employees, agents, and subcontractors are informed of, and abide by, this requirement.
21. ETHICS IN PUBLIC CONTRACTING
This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as any Virginia or federal law related to ethics, conflicts of interest, or bribery, including, by way of illustration and not limitation, the Virginia State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.), and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its offer was made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer, or subcontractor and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

22. COUNTY EMPLOYEES
No employee of the County shall be admitted to any share in any part of this Contract or to any benefit that may arise therefrom which is not available to the general public.

23. FORCE MAJEURE
The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, or an act of God beyond the control of the Contractor and outside the scope of the Contractor’s then-current, by industry standards, disaster plan that make performance impossible or illegal, unless otherwise specified in the Contract.

The County shall not be held responsible for failure to perform its duties and responsibilities imposed by the Contract if such failure is due to fires, riots, rebellions, natural disasters, wars, or an act of God beyond the control of the County that make performance impossible or illegal, unless otherwise specified in the Contract.

24. AUTHORITY TO TRANSACT BUSINESS
The Contractor shall, pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the Initial Term and any Subsequent Contract Term(s) of this Contract. A contract entered into by a Contractor in violation of this requirement is voidable, without cost or expense, at the sole option of the County.
25. **RELATION TO THE COUNTY**
The Contractor is an independent contractor, and neither the Contractor nor its employees or subcontractors will, under any circumstances, be considered employees, servants or agents of the County. The County will not be legally responsible for any negligence or other wrongdoing by the Contractor, its employees, servants or agents. The County will not withhold from payments to the Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor or its employees, servants or agents. Furthermore, the County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation, normally provided by the County for its employees.

26. **ANTITRUST**
By entering into this Contract, the Contractor conveys, sells, assigns and transfers to the County all rights, title, and interest in and to all causes of action the Contractor may now have or hereafter acquire under the antitrust laws of the United States or the Commonwealth of Virginia, relating to the goods purchased or acquired by the County under this Contract.

27. **AUDIT**
The Contractor agrees to retain all books, records and other documents related to this Contract for at least five (5) years after final payment. The County or its authorized agents shall have full access to and the right to examine any of the above documents during this period and during the Initial Contract Term and any Subsequent Contract Term. If the Contractor wishes to destroy or dispose of records (including confidential records to which the County does not have ready access) within five (5) years after final payment, the Contractor shall notify the County at least thirty (30) days prior to such disposal, and if the County objects, shall not dispose of the records.

28. **ASSIGNMENT**
The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award, or any or all of its rights, obligations, or interests under this Contract, without the prior written consent of the County.

29. **AMENDMENTS**
Unless otherwise specified herein, this Contract shall not be amended except by written amendment executed by persons duly authorized to bind the Contractor and the County.

30. **ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES**
Notwithstanding any provision to the contrary herein, no provision of the Arlington County Purchasing Resolution or any applicable County policy is waived in whole or in part.

31. **DISPUTE RESOLUTION**
All disputes arising under this Agreement, or its interpretation, whether involving law or fact, extra work or extra compensation or time, and all claims for alleged breach of Contract shall be submitted in writing to the Project Officer for decision at the time of the
occurrence or beginning of the work upon which the claim is based, whichever occurs first. Any such claims shall state the facts surrounding it in sufficient detail to identify it together with its character and scope. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than sixty (60) days after final payment. The time limit for final written decision by the County Manager in the event of a contractual dispute, as that term is defined in the Arlington County Purchasing Resolution, is fifteen (15) days. Procedures for considering contractual claims, disputes, administrative appeals, and protests are contained in the Purchasing Resolution, which is incorporated herein by reference. A copy of the Arlington County Purchasing Resolution is available upon request from the Office of the Purchasing Agent. The Contractor shall not cause a delay in the Work pending a decision of the Project Officer, County Manager, County Board, or a court.

32. **APPLICABLE LAW, FORUM, VENUE, AND JURISDICTION**

This Contract and the work performed hereunder shall be governed in all respects by the laws of the Commonwealth of Virginia, and the jurisdiction, forum, and venue for any litigation with respect hereto shall be in the Circuit Court for Arlington County, Virginia, and in no other court. In performing its work under this Contract, the Contractor shall comply with applicable federal, state, and local laws, ordinances and regulations.

33. **ARBITRATION**

It is expressly agreed that nothing under the Contract shall be subject to arbitration, and that any references to arbitration are expressly deleted from the Contract.

34. **NONEXCLUSIVITY OF REMEDIES**

All remedies available to the County under this Contract are cumulative, and no such remedy shall be exclusive of any other remedy available to the County at law or in equity.

35. **NO WAIVER**

The failure of either party to exercise in any respect a right provided for in this Contract shall not be deemed to be a subsequent waiver of the same right or any other right.

36. **SEVERABILITY**

The sections, paragraphs, sentences, clauses and phrases of this Contract are severable, and if any phrase, clause, sentence, paragraph or section of this Contract shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Contract.

37. **NO WAIVER OF SOVEREIGN IMMUNITY**

Notwithstanding any other provision of this Contract, nothing in this Contract or any action taken by the County pursuant to this Contract shall constitute or be construed as a waiver of either the sovereign or
governmental immunity of the County. The parties intend for this provision to be read as broadly as possible.

38. SURVIVAL OF TERMS
In addition to the numbered section in this Agreement which specifically state that the term or paragraph survives the expiration of termination of this Contract, the following sections if included in this Contract also survive: INDEMNIFICATION; RELATION TO COUNTY; AUDIT; WARRANTY; AND CONFIDENTIAL INFORMATION.

39. HEADINGS
The section headings in this Contract are inserted only for convenience and are not to be construed as part of this Contract or a limitation on the scope of the particular section to which the heading precedes.

40. AMBIGUITIES
Each party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

41. NOTICES
Unless otherwise provided herein, all notices and other communications required by this Contract shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered to an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

TO THE CONTRACTOR:
Ernie Hostetler, VP
M&E Services, Inc.
212 South 15th Avenue
Hopewell, VA 23860

TO THE COUNTY:
Johnette Hill, Project Officer
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, VA 22201

AND

Richard D. Warren, Jr., Purchasing Agent
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201
42. **NON-DISCRIMINATION NOTICE**
Arlington County does not discriminate against faith-based organizations.

43. **INSURANCE REQUIREMENTS**
The Contractor shall provide to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force the coverage below prior to the start of any Work under this Contract and upon any contract extension. The Contractor agrees to maintain such insurance until the completion of this Contract or as otherwise stated in the Contract Documents. All required insurance coverages must be acquired from insurers authorized to do business in the Commonwealth of Virginia, with a rating of "A-" or better and a financial size of "Class VII" or better in the latest edition of the A.M. Best Co. Guides, and acceptable to the County. The minimum insurance coverage shall be:

a. Workers Compensation - Virginia Statutory Workers Compensation (W/C) coverage including Virginia benefits and employers liability with limits of $100,000/100,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.

b. Commercial General Liability - $1,000,000 combined single limit coverage with $2,000,000 general aggregate covering all premises and operations and including Personal Injury, Completed Operations, Contractual Liability, Independent Contractors, and Products Liability. The general aggregate limit shall apply to this Contract. Evidence of Contractual Liability coverage shall be typed on the certificate.

c. Business Automobile Liability - $1,000,000 Combined Single Limit (Owned, non-owned and hired).

d. The Contractor shall carry Errors and Omissions or Professional Liability insurance which will pay for injuries arising out of errors or omissions in the rendering, or failure to render services or perform Work under the contract, in the amount of $1,000,000.

e. Additional Insured - Arlington County, and its officers, elected and appointed officials, employees, and agents shall be named as an additional insured on all policies except Workers Compensation and Auto and Professional Liability; and evidence of the Additional Insured endorsement shall be typed on the certificate.
f. Cancellation - If there is a material change or reduction in coverage the Contractor shall notify the Purchasing Agent immediately upon Contractor's notification from the insurer. It is the Contractor's responsibility to notify the County upon receipt of a notice indicating that the policy will not be renewed or will be materially changed. Any policy on which the Contractor has received notification from an insurer that the policy has or will be cancelled or materially changed or reduced must be replaced with another policy consistent with the terms of this Contract, and the County notified of the replacement, in such a manner that there is no lapse in coverage. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.

g. Any insurance coverage that is placed as a "claims made" policy must remain valid and in force, or the Contractor must obtain an extended reporting endorsement consistent with the terms of this Contract, until the applicable statute of limitations has expired, such date as determined to begin running from the date of the Contractor's receipt of final payment.

h. Contract Identification - The insurance certificate shall state this Contract's number and title.

The Contractor must disclose the amount of any deductible or self-insurance component applicable to the General Liability, Automobile Liability, Professional Liability, Intellectual Property or any other policies required herein, if any. The County reserves the right to request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible. Thereafter, at its option, the County may require a lower deductible, funds equal to the deductible be placed in escrow, a certificate of self-insurance, collateral, or other mechanism in the amount of the deductible to ensure protection for the County.

The Contractor shall require all subcontractors to maintain during the term of this Contract, Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation insurance in the same form and manner as specified for the Contractor. The Contractor shall furnish subcontractors' certificates of insurance to the County immediately upon request by the County.

No acceptance or approval of any insurance by the County shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon the Contractor by the provisions of the Contract Documents.

The Contractor shall be responsible for the work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any description used in connection with the work. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the Work contracted for, and of all damage or injury to any person or property wherever located, resulting
from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work.

The Contractor shall be as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

Notwithstanding any of the above, the Contractor may satisfy its obligations under this section by means of self insurance for all or any part of the insurance required, provided that the Contractor can demonstrate financial capacity and the alternative coverages are submitted to and acceptable to the County. The Contractor must also provide its most recent actuarial report and provide a copy of its self insurance resolution to determine the adequacy of the insurance funding.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

AUTHORIZED SIGNATURE:

On Behalf of:
NAME AND RICHARD D. WARREN, JR.
TITLE: PURCHASING AGENT
DATE: 2/19/14

M&E Services, Inc.

AUTHORIZED SIGNATURE:

NAME AND Ernie Hostetler
TITLE: V President
DATE: 2-12-14
CONTRACT MODIFICATION

COUNTY CONTRACT NAME: Exercise Equipment Maintenance and Repair Services
COUNTY CONTRACT NUMBER: 12094QA4
MODIFICATION DATE: September 12, 2013
MODIFICATION NUMBER: 2

The Contract is hereby modified as follows:

1. The above referenced contract is hereby extended for a period of one (1) year commencing December 2, 2013 and shall terminate December 1, 2014.

2. Schedule of Prices for Year 3 shall prevail.

Except as noted herein, all other provisions and pricing remain unchanged.

PRINCE WILLIAM COUNTY REQUESTING AGENCY:
Public Works Buildings and Grounds Division
Robert M. Weiss, Division Chief

AGENCY'S AUTHORIZED SIGNATURE AND DATE:
Thomas Bruun, Director of Public Works 10/25/13

CONTRACTOR'S BUSINESS NAME AND ADDRESS:
M&E Services Inc. dba FitRepairs
9217 Placid Street
Manassas, VA 20110

CONTRACTOR'S AUTHORIZED SIGNATURE AND DATE:

CONTRACTOR'S NAME AND TITLE: Ernie Hostetler
U. PRESIDENT 10-8-13

Purchasing Manager's Signature And Date:
Adam Manne, Purchasing Manager 10-22-13
CONTRACT: 12094QA4

SUBJECT: Exercise Equipment Maintenance & Repair Services

Between:

PRINCE WILLIAM COUNTY
1 COUNTY COMPLEX COURT (MC460)
PRINCE WILLIAM, VA 22192-9201
(703) 792-6770 METRO 631-1703 EXT 6770

And the Contractor:

M & E Services, Inc.
dba FitRepairs
9217 Placid Street
Manassas, Virginia 20110

This Contract is entered into this ___ day of November, 2011, by and between the Board of County Supervisors of Prince William County, Virginia, or its authorized agents, and the Contractor identified above for services identified herein, on the following terms and conditions. This Contract is prepared in accordance with the Purchasing Regulations of Prince William County, which are incorporated herein by reference.

An Equal Opportunity Employer
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>SECTION</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>I.1 Definitions</td>
<td>1</td>
</tr>
<tr>
<td>I.2 Incorporation of Documents</td>
<td>1</td>
</tr>
<tr>
<td>I.3 Contract Period</td>
<td>1</td>
</tr>
<tr>
<td>I.4 Provision of Services</td>
<td>1</td>
</tr>
<tr>
<td>I.5 Contract Amount</td>
<td>2</td>
</tr>
<tr>
<td>I.7 Time of the Essence and Completion</td>
<td>2</td>
</tr>
<tr>
<td>I.8 Inspection and Acceptance</td>
<td>2</td>
</tr>
<tr>
<td>I.9 Placement of Orders</td>
<td>2</td>
</tr>
<tr>
<td>I.10 Insurance</td>
<td>2</td>
</tr>
<tr>
<td>I.11 Tax Exemption</td>
<td>2</td>
</tr>
<tr>
<td>I.12 Law Compliance</td>
<td>2</td>
</tr>
<tr>
<td>II.1 Assignability of Contract</td>
<td>3</td>
</tr>
<tr>
<td>II.2 Modifications or Changes to the Contract</td>
<td>3</td>
</tr>
<tr>
<td>II.3 Employment Discrimination for Contracts Over $10,000</td>
<td>3</td>
</tr>
<tr>
<td>II.4 Drug-free Workplace to be Maintained by Contractor for Contracts over $10,000.00</td>
<td>4</td>
</tr>
<tr>
<td>II.5 Claims/Disputes</td>
<td>4</td>
</tr>
<tr>
<td>II.6 Termination for Convenience of the County</td>
<td>5</td>
</tr>
<tr>
<td>II.7 Termination for Default</td>
<td>6</td>
</tr>
<tr>
<td>II.8 Termination for Non-Appropriation of Funds</td>
<td>6</td>
</tr>
<tr>
<td>II.9 Payments to Subcontractors</td>
<td>6</td>
</tr>
<tr>
<td>II.10 Examination of Records</td>
<td>7</td>
</tr>
<tr>
<td>II.11 Ethics in Public Contracting</td>
<td>7</td>
</tr>
<tr>
<td>II.12 Governing Law and Choice of Forum</td>
<td>7</td>
</tr>
<tr>
<td>II.13 Integration</td>
<td>7</td>
</tr>
<tr>
<td>II.14 Immigration Reform and Control Act of 1986</td>
<td>8</td>
</tr>
<tr>
<td>II.15 Virginia State Corporation Commission Requirement</td>
<td>8</td>
</tr>
<tr>
<td>II.16 Hold Harmless</td>
<td>8</td>
</tr>
<tr>
<td>ATTACHMENT A</td>
<td>1</td>
</tr>
<tr>
<td>SCOPE OF WORK</td>
<td>1</td>
</tr>
<tr>
<td>ATTACHMENT B</td>
<td>1</td>
</tr>
<tr>
<td>Pricing Schedule</td>
<td>1</td>
</tr>
</tbody>
</table>
SECTION I
SPECIAL PROVISIONS

1.1 Definitions

"County" shall mean the Board of County Supervisors of Prince William County, Virginia, or the using department identified below and authorized by the Purchasing Regulations or other law to enter into Contracts.

"Requesting Agency" for the purpose of this Contract shall mean Public Works- Buildings & Grounds Division.

"Contract Administrator" assigned to administer this Contract for the County is, Donald H. Flory.

"Contractor" shall mean:

M & E Services, Inc. dba FitRepairs
9217 Placid Street
Manassas, Virginia 20110

whose authorized representative is Ernie Hostetler, Vice President, who is responsible for the performance obligation of the Contractor under this Contract.

1.2 Incorporation of Documents

The following documents are hereby incorporated by reference into this Contract:


2. County's RFQ No. RFQ120013 entitled Exercise Equipment Maintenance & Repair Services.

This Contract shall take precedence over all the documents referenced above.

1.3 Contract Period

The Contract Period shall be for one (1) Year from award date. The County shall have the option to renew the Contract for four (4) additional one (1) Year periods, contingent upon availability of funds for the purpose and the needs of the County.

The County shall give the Contractor reasonable written notice of intent to renew prior to the expiration date of the current contract. In the absence of any notification to renew, the contract shall automatically terminate on the expiration date specified in the contract. Agreement to extend the contract term shall not be final until the Contractor provides written acknowledgement of the extension.

1.4 Provision of Services

The Contractor hereby agrees to provide Underground Utility Locating Services to the County as described herein and further outlined in Attachment A, Scope of Work. This Contract shall take precedence over the documents set forth in Provision 1.2, Incorporation of Documents, in the event of inconsistency.
I.5 Contract Amount

In return for the services identified above, and subject to the "Termination for Non-Appropriation of Funds" clause herein, the County shall compensate the Contractor in accordance with Contract Pricing Schedule as set forth in Attachment B. The total compensation under this contract shall not exceed $49,999.99 for the entire contract period including all renewal options.

I.6 Emergency Procurements

In the event of a County emergency the County reserves the right to procure the contracted goods and/or services from other sources that can proved the goods and/or services sooner than the Contractor in order to meet the County’s emergency needs. Emergency procurements are as defined in the County Purchasing Regulations.

I.7 Time of the Essence and Completion

Time shall be of the essence in providing services under this contract.

I.8 Inspection and Acceptance

All tasks and or reports shall be conducted and completed in accordance with recognized and customarily accepted industry practices, and shall be considered complete when the deliverables are approved as acceptable by the Contract Administrator in writing. In the event of rejection of any report or deliverable, the Contractor shall be notified in writing and shall have three (3) calendar days from date of issuance of notification to correct the deficiencies and resubmit the report/deliverable. Failure to submit acceptable work within three (3) calendar days shall constitute a breach of the contract for which the Contractor may be held in default.

I.9 Placement of Orders

A County Purchase Order, which may be accompanied by a Task Order or a Work Order, shall be issued to the Contractor to provide the goods and/or services identified in the Contract. The Purchase Order indicates sufficient funds are budgeted and appropriated.

I.10 Insurance

Contractor shall maintain insurance in an amount and for set forth in RFQ120013

I.11 Tax Exemption

Prince William County Government is exempt from the payment of any Federal excise or Virginia sales tax. However, when under established trade practice any such tax is included in bidder’s list price, the bidder shall bid the list price and shall show separately the amount of tax as a flat sum that will not be paid by the County.

I.12 Law Compliance

The Contractor shall be solely responsible for complying with all applicable federal, state and municipal laws, codes and regulations relating to this procurement.
SECTION II
GENERAL PROVISIONS

II.1 Assignability of Contract

Neither this Contract, nor any part hereof, may be assigned by the Contractor to any other party without the express written permission of the County.

II.2 Modifications or Changes to the Contract

All modifications and changes to the Contract shall be in writing.

The head of the Using Department of this Contract, with the concurrence of the Purchasing Manager (except as otherwise provided by the Purchasing Regulations), shall, without notice to any sureties, have the authority to order changes in this Contract which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a "Change Order." Such orders shall be limited to reasonable changes in the services to be performed or the time of performance; provided that the Contractor shall not be excused from performance under the changed Contract by failure to agree to such changes, and it is the express purpose of this provision to permit unilateral changes in the Contract subject to the conditions and limitations herein.

The Contractor need not perform any work described in any change order unless it has received a certification from the County that there are funds budgeted and appropriated sufficient to cover the cost of such changes.

The Contractor shall make a demand for payment for completed changed work within 30 days of receipt of a change order, unless such time period is extended in writing, or unless the Purchasing Manager requires submission of a cost proposal prior to the initiation of any changed work or supplies. Later notification shall not bar the honoring of such claim or demand unless the County is prejudiced by such delay.

No claim for changes ordered hereunder shall be considered if made after final payment in accordance with the Contract.

II.3 Employment Discrimination for Contracts Over $10,000

1. During the performance of this Contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

c. Notices, advertisements, and solicitations placed in accordance with Federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
2. The Contractor will include the provisions of the foregoing paragraphs a, b, and c in every Subcontract or purchase order over $10,000.00, so that the provisions will be binding upon each Subcontractor or Contractor.

II.4 Drug-free Workplace to be Maintained by Contractor for Contracts over $10,000.00

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every Subcontract or purchase order over $10,000.00, so that the provisions will be binding upon each Subcontractor or Contractor.

For the purpose of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific Contract awarded to a Contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of any controlled substance or marijuana during the performance of this Contract.

II.5 Claims/Disputes

In accordance with Section 2.2-4363, VA Code Ann., this provision shall be followed for consideration and handling of all claims by the Contractor under this contract. Section 2.2-4365, VA Code Ann., is not applicable to this Contract, and under no circumstances is this paragraph to be construed as an administrative appeals procedure governed by Section 2.2-4365, VA Code Ann.

Notice of the intent to submit a claim setting forth the basis for any claim shall be submitted in writing within ten (10) days after the occurrence of the event giving rise to the claim, or within ten (10) days of discovering the condition giving rise to the claim, whichever is later. In no event, shall any claim arising out of this Contract be filed after the submission of the request for Final Payment by the Contractor.

Claims by the Contractor with respect to this Contract shall be submitted in writing in the first instance for consideration by the Contract Administrator. The decision of the Contract Administrator shall be rendered in writing within forty-five (45) days from the receipt of the claim from the Contractor. If the Contractor is not satisfied with the decision or resolution of the Contract Administrator, the Contractor may file a formal dispute with regards to the claim with the Prince William County Director of Finance, which claim shall be received within thirty (30) days of the date of decision of the Contract Administrator. The Director of Finance shall reduce his or her decision to writing and shall mail or otherwise furnish a copy of this decision to the Contractor within forty-five (45) days of the receipt of the claim from the Contractor. The decision of the Director of Finance shall be final on behalf of Prince William County unless the Contractor submits the claim to the County Executive within thirty (30) days of the Director of Finance's decision. The Contractor may submit the claim to the County Executive by mailing or otherwise furnishing the Purchasing Manager a copy of the claim and a request for the County Executive's determination.

The County Executive's decision on the claim shall be rendered in writing to the Contractor within forty-five (45) days of the Purchasing Manager's receipt of the request from the Contractor, and shall be final and binding on behalf of Prince William County, unless the Contractor submits the claim for determination by the Board of County Supervisors by mailing or otherwise furnishing the Purchasing Manager a copy of the claim, along with a request for determination by the Board within thirty (30) days of the County Executive's decision. The Board shall consider the claim and render a decision within forty-five (45) days of the date on which the Board hears the claim in open meeting. The Board's procedure in
considering claims under this Contract shall be the same as that for other decisions of the Board on claims made under Section 15.2-1245 et seq., VA Code Ann. The decision of the Board shall be final.

Should any decision-maker designated under this procedure fail to make a decision within the time period specified, then the claim is deemed to have been denied by the decision-maker.

Pending a final determination of a claim, the Contractor shall proceed diligently with the performance of the Work under the Contract.

In accordance with the provisions of Section 2.2-4363, VA Code Ann., full compliance with this procedure set forth in the provision shall be a precondition to the filing of any lawsuit by the Contractor against the Board of County Supervisors of Prince William County arising out of this Contract.

II.6 Termination for Convenience of the County

The parties agree that the County may terminate this Contract, or any work or delivery required hereunder, from time to time either in whole or in part, whenever the County Executive of Prince William County shall determine that such termination is in the best interests of the County.

Termination, in whole or in part, shall be effected by delivery of a Notice of Termination signed by the County Executive or his designee, mailed or delivered to the Contractor, and specifically setting forth the effective date of termination.

Upon receipt of such Notice, the Contractor shall:

1. Cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;

2. Place no further orders with any subcontractors except as may be necessary to perform that portion of this Contract not subject to the Notice;

3. Terminate all subcontracts except those made with respect to Contract performance not subject to the Notice;

4. Settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Purchasing Manager of Prince William County; and

5. Use its best efforts to mitigate any damages which may be sustained by it as a consequence of termination under this clause.

After complying with the foregoing provisions, the Contractor shall submit a termination claim, in no event later than six (6) months after the effective date of its termination, unless an extension is granted by the Purchasing Manager.

The Purchasing Manager, with the approval of the County's signatory to this Contract, shall pay from the using department's budget reasonable costs of termination, including a reasonable amount for profit on supplies or services delivered or completed. In no event shall this amount be greater than the original Contract price, reduced by any payments made prior to Notice of Termination and further reduced by the price of the supplies not delivered, or the services not provided. This Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

In the event that the parties cannot agree on the whole amount to be paid to the Contractor by reason of termination under this clause, the Purchasing Manager shall pay to the Contractor the amounts determined as follows, without duplicating any amounts which may have already been paid under the preceding paragraph of this clause:
1. With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:

   a. Cost of work performed or supplies delivered;

   b. The cost of settling and paying any reasonable claims as provided in subparagraph (4), above;

   c. A sum as profit on (a) determined by the Purchasing Manager to be fair and reasonable.

2. The total sum to be paid under (a) above shall not exceed the Contract price, as reduced by the amount of payments otherwise made, and as further reduced by the Contract price of work or supplies not provided.

In the event that the Contractor is not satisfied with any payments which the Purchasing Manager shall determine to be due under this clause, the Contractor may appeal any claim to the Board of County Supervisors in accordance with the "Claims/Disputes" clause of this Contract.

The Contractor shall include similar provisions in any subcontract, and shall specifically include a requirement that subcontractors make all reasonable efforts to mitigate damages which may be suffered. Failure to include such provisions shall bar the Contractor from any recovery from the County whatsoever of loss or damage sustained by a subcontractor as a consequence of termination for convenience.

II.7 Termination for Default

Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein.

II.8 Termination for Non-Appropriation of Funds

If funds are not appropriated for any succeeding fiscal year subsequent to the one in which this Contract is entered into, for the purposes of this Contract, then the County may terminate this Contract upon thirty (30) days prior written notice to the Contractor. Should termination be accomplished in accordance with this Section, the County shall be liable only for payments due through the date of termination.

II.9 Payments to Subcontractors

In the event that the Contractor utilizes a subcontractor for any portion of the work under this Contract, the Contractor hereby agrees to:

1. The Contractor shall take one (1) of the two (2) following actions within seven (7) days after receipt of amounts paid to the Contractor by the County for work performed by a subcontractor under the Contract.

   a. Pay a subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by that subcontractor under the Contract; or

   b. Notify the agency and any subcontractors, in writing, of its intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
2. The Contractor shall be obligated to pay interest to a subcontractor on all monies owed by the Contractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the County for work performed by a subcontractor under the Contract, except for amounts withheld under Subsection 1 b. of this section. The Contractor’s obligation to pay an interest charge to a subcontractor pursuant to the provisions of this section may not be construed to be an obligation by the County. A contract modification may not be made for the purpose of providing reimbursement for any such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

3. Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month.

4. The Contractor is hereby required to include in each of its subcontracts a provision requiring each subcontractor to otherwise be subject to the same payment and interest requirements set forth in subsection 2. and 3. of this section with respect to each lower-tier subcontractor.

II.10 Examination of Records

The Contractor agrees that the County, or any duly authorized representative, shall, until the expiration of five (5) years after final payment hereunder, have access to and the right to examine and copy any directly pertinent books, documents, papers and records of the Contractor involving transactions related to this Contract.

The Contractor further agrees to include in any subcontract for more than $10,000 entered into as a result of this Contract, a provision to the effect that the subcontractor agrees that the County or any duly authorized representative shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and copy any directly pertinent books, documents, papers and records of such Contractor involved in transactions related to such subcontract, or this Contract. The term "subcontract" as used herein shall exclude subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public. The period of access provided herein for records, books, documents and papers which may relate to any arbitration, litigation, or the settlement of claims arising out of the performance of this Contract or any subcontract shall continue until any appeals, arbitration, litigation or claims shall have been finally disposed of.

II.11 Ethics in Public Contracting

The Contractor hereby certifies that it has familiarized itself with Article 6 of Title 2.2 of the Virginia Public Procurement Act, Sections 2.2-4367 through 2.2-4377, VA Code Ann., and that all amounts received by it, pursuant to this Procurement, are proper and in accordance therewith.

II.12 Governing Law and Choice of Forum

This Contract and any disputes hereunder shall be governed by the laws of the Commonwealth of Virginia. It is further agreed that all disputes and matters whatsoever arising under, in connection with or incident to this Contract, shall be litigated, if at all, in and before a state Court located in the County of Prince William in the Commonwealth of Virginia or a federal Court located in the Eastern District of Virginia, and any appropriate appellate Court thereof, to the exclusion of the courts of any other state, territory, country or other jurisdiction.

II.13 Integration

This Contract shall constitute the whole agreement between the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or agreements, written or verbal, between the parties hereto.
II.14 Immigration Reform and Control Act of 1986

The Contractor certifies that it does not and will not during the performance of this contract violate the provisions of the Federal Immigration Reform and Control Act of 1986 which prohibits employment of illegal aliens. The Contractor agrees that its employment of any person without legal status may subject it to termination of this contract for default and agrees to include a similar provision in any subcontract.

II.15 Virginia State Corporation Commission Requirement

The Contractor shall maintain a valid certificate of authority or registration to transact business in Virginia with the Virginia State Corporation Commission as required by Sections 13.1 or Title 50 of the Code of Virginia, during the term of the Contract or any Contract renewal. The Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth to be revoked or cancelled at any time during the term of the contract. If the Contractor fails to remain in compliance with the provisions of this section, the contract shall become void.

II.16 Hold Harmless

The Contractor hereby agrees to indemnify and hold harmless Prince William County, Virginia, its officers, agents and all employees and volunteers, from any and all injuries, damages and losses however or by whomever sustained, including cost of investigation, all reasonable attorneys fees, and the cost of appeals arising out of any such claims or suits, because of any and all acts of omission or commission of the Contractor, including its agents, Subcontractors, employees and volunteers, in connection with work under this Contract.

It is understood and agreed that the Contractor is at all times herein acting as an independent Contractor.

*****************************************************************************

Page 8 of 9
BOARD OF COUNTY SUPERVISORS OF PRINCE WILLIAM COUNTY, VIRGINIA

County Representative

Title

M&E Services, Inc. dba FitRepairs

Contractor Representative

Title

ATTEST:

Purchasing Manager
ATTACHMENT A

SCOPE OF WORK

I. Description of Services. The Contractor shall provide all management, tools, supplies, equipment and labor necessary to maintain and repair County owned exercise equipment located in the Development Services Building, 5 County Complex Court, Prince William, VA 22192. Service maintenance and repair tasks shall be in accordance with the procedures recommended by the respective equipment manufacturer specifications. Below is the list of equipment to be maintained and serviced.

<table>
<thead>
<tr>
<th>Type</th>
<th>Model</th>
<th>Serial Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Treadmill</td>
<td>Landice L7</td>
<td>L7-93159</td>
</tr>
<tr>
<td>Treadmill</td>
<td>Landice L7</td>
<td>L7-93160</td>
</tr>
<tr>
<td>Elliptical</td>
<td>Octane Fitness Pro3700</td>
<td>F11051405501-03</td>
</tr>
<tr>
<td>Elliptical</td>
<td>Octane Fitness Pro3700</td>
<td>F11051405503-03</td>
</tr>
<tr>
<td>Semi-Recumbent Bike</td>
<td>Vision R2750</td>
<td>RB8707100 0060</td>
</tr>
<tr>
<td>Upright Bike</td>
<td>Vision E3700</td>
<td>CSSS0710000094</td>
</tr>
<tr>
<td>Leg Prs/Calf</td>
<td>Vision ST760</td>
<td>ST7607</td>
</tr>
<tr>
<td>Leg Ext/Crl</td>
<td>Vision ST750</td>
<td>ST7507</td>
</tr>
<tr>
<td>Multi Press</td>
<td>Vision ST720</td>
<td>ST7207</td>
</tr>
<tr>
<td>Multi-Lat</td>
<td>Vision ST730</td>
<td>ST7307</td>
</tr>
<tr>
<td>AB-Low Back</td>
<td>Vision ST740</td>
<td>ST7407</td>
</tr>
<tr>
<td>Functional Trainer (1of2)</td>
<td>Vision ST700</td>
<td>ST7007</td>
</tr>
<tr>
<td>Functional Trainer (2of2)</td>
<td>Vision ST700</td>
<td>ST7007</td>
</tr>
<tr>
<td>Adjustable Bench (1of2)</td>
<td>Vision ST780</td>
<td>ST7807</td>
</tr>
<tr>
<td>Adjustable Bench (2of2)</td>
<td>Vision ST780</td>
<td>ST7807</td>
</tr>
<tr>
<td>Dip/Chinn Assist</td>
<td>Matrix G2-S60</td>
<td>N/A</td>
</tr>
</tbody>
</table>

1.2 Preventive Maintenance. At a minimum, the following tasks shall be performed at each preventive maintenance visit:

TREADMILLS
CLEAN AND INSPECT
CLEAN, INSPECT REAR BRACE & WELDS
ALIGN RUNNING BELT-CLEAN AND LUBE IF APPLICABLE
VACUUM, CLEAN UNIT THROUGHOUT
INSPECT LOWER ELECTRONICS, CLEAN AND ADJUST WHEN NECESSARY
CLEAN DRIVE MOTOR AIR INTAKES AND FANS
INSPECT DRIVE BELT FOR WEAR AND PROPER TENSION
CHECK LIFT CALIBRATION
DIAGNOSTIC TEST

CROSS TRAINERS
CHECK ALL RESISTANCE COMPONENTS
CHECK ALL ELECTRONIC COMPONENTS
INSPECT ALL BEARINGS, BOLTS AND MISCELLANEOUS HARDWARE
CLEAN OVERALL INTERIOR AND EXTERIOR OF UNIT
DIAGNOSTIC TEST
The Contractor shall complete preventative tasks and return equipment to good working conditions, clean and free of defects. The Contractor shall minimize disruptions and inconveniences to users.

After the preventive maintenance has been completed, each unit will be tested to assure the overall performance and integrity of the equipment under this Agreement. Written notification will be provided of concerns or issues, if any, discovered during service work described herein. Information shall be provided in a Preventive Maintenance Visit summary report within three working days of the visit.

1.3 Repairs. Repair work requests will occur when equipment malfunctions or fails to operate properly. Should any repairs be required, the Contractor shall provide a price proposal for the repairs utilizing the time and material rates submitted herein. The County reserves the right to accomplish the repairs utilizing County staff without prejudicing this Preventive Maintenance agreement.

1.3.1 Repair Work Request Procedures:

The following procedures shall apply for all repair Work Request pertaining to this Agreement:

(1) The Project Manager shall contact the contractor to notify the contractor of the equipment malfunction.

(2) The Contractor shall submit a price proposal to the Project Manager. Approval will be done in writing. All oral approvals will be followed up in writing.

(3) The Project Manager shall:

   (a) Promptly review the Repair Work Request for technical acceptability and reasonableness of the price.

   (b) Verify that the proposed work is required, appropriate, and is not covered under the Preventive Maintenance line items(s).

   (c) Verify that the funding is available for the Repair Work Request.
ATTACHMENT B

PRICING SCHEDULE

Year 1

1. Cost per Preventive Maintenance Visit: $337.00 times 4 visits/year = $1,348.00

2. Repair Labor Hourly Rate (on site labor): $75.00/hour times 10 hrs = $750.00

3. Materials percentage discount from MSRP
   $2,000.00 in materials times discount 0% = $2,000.00

Total $4,098.00

Year 2

1. Cost per Preventive Maintenance Visit: $337.00 times 4 visits/year = $1,348.00

2. Repair Labor Hourly Rate (on site labor): $75.00/hour times 10 hrs = $750.00

3. Materials percentage discount from MSRP
   $2,000.00 in materials times discount 0% = $2,000.00

Total $4,098.00

Year 3

1. Cost per Preventive Maintenance Visit: $347.00 times 4 visits/year = $1,348.00

2. Repair Labor Hourly Rate (on site labor): $75.00/hour times 10 hrs = $750.00

3. Materials percentage discount from MSRP
   $2,000.00 in materials times discount 0% = $2,000.00

Total $4,138.00
Year 4

1. Cost per Preventive Maintenance Visit: $353.00 times 4 visits/year = $1,412.00

2. Repair Labor Hourly Rate (on site labor): $77.00/hour times 10 hrs = $770.00

3. Materials percentage discount from MSRP
   $2,000.00 in materials times discount 0% = $2,000.00

Total $4,182.00

Year 5

1. Cost per Preventive Maintenance Visit: $361.00 times 4 visits/year = $1,440.00

2. Repair Labor Hourly Rate (on site labor): $770.00/hour times 10 hrs = $2,000.00

3. Materials percentage discount from MSRP
   $2,000.00 in materials times discount 0% = $2,000.00

Total $4,210.00

<table>
<thead>
<tr>
<th>Item</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>(4) Preventive Maintenance Visits</td>
<td>$1,348.00</td>
<td>$1,348.00</td>
<td>$1,388.00</td>
<td>$1,412.00</td>
<td>$1,440.00</td>
</tr>
<tr>
<td>(10) Repair Labor Hours</td>
<td>$750.00</td>
<td>$750.00</td>
<td>$750.00</td>
<td>$770.00</td>
<td>$770.00</td>
</tr>
<tr>
<td>Materials Discount</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Total</td>
<td>$4,098.00</td>
<td>$4,098.00</td>
<td>$4,138.00</td>
<td>$4,182.00</td>
<td>$4,210.00</td>
</tr>
</tbody>
</table>