

ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VIRGINIA 22201

NOTICE OF AWARD OF CONTRACT

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| TO: CLAMPETT INDUSTRIES LLC | DATE ISSUED: JUNE 10, 2013 |
| D/B/A EMC | |
| 222 SHILLING CIRCLE | CURRENT CONTRACT NO: 613-13 |
| HUNT VALLEY, MARYLAND 21031 | CONTRACT TITLE: FACILITIES ASSESSMENT 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.

The contract term covered by this Notice of Award is effective IMMEDIATELY and expires on MARCH 31, 2023.

The contract documents consist of the terms and conditions of the standard form agreement including any exhibits, attached or amendments thereto.

CONTRACT PRICING:

REFER TO PARAGRAPH 8 (ATTACHED)

EMPLOYEES NOT TO BENEFIT:

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

VENDOR CONTACT: MATT MUNTER


VENDOR PAYMENT TERMS: NET 30 DAYS

COUNTY CONTACT: RICHARD KRUMENACKER

TELEPHONE NO.: 703-228-4395

EMAIL: RKRUMENACKER@ARLINGTONVA.US

CONTRACT AUTHORIZATION


Elizabeth Dooley, CPPO, CPFB
Assistant Purchasing Agent

6/10/13
Date

DISTRIBUTION

VENDOR: 1
BID FOLDER: 2

**ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VA 22201**

AGREEMENT NO. 613-13

THIS AGREEMENT (hereinafter "Agreement" or "Contract") is made, on the date of execution by the County, between Clampett Industries LLC d/b/a EMG, 222 Shilling Circle, Hunt Valley, Maryland 21031 ("Contractor"), a State of Maryland Limited Liability Company, authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia ("County"). The County and the Contractor, for the consideration hereinafter specified, agree as follows:

1. CONTRACT DOCUMENTS

The contract documents consist of this Agreement and Exhibit A (Scope of Work), and Exhibit B (Contract Rates), (collectively the "Contract Documents").

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. The Contract Documents may be referred to herein below as the "Contract" or the "Agreement."

2. SCOPE OF WORK

The Contractor agrees to perform the services described in the Contract Documents (hereinafter "the Work"). The primary purpose of the Work is to provide ASSETCALC™ training and support services, ASSETCALC™ updates and upgrades, and on-site evaluation and assessment of life cycle cost and management needs of various facilities located in Arlington, Virginia. The Scope of Work is more fully described in Exhibit A. 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 services set forth in the Contract Documents and sufficient services 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.

3. REQUIREMENTS CONTRACT (ESTIMATED QUANTITIES)

During the Contract Term, the Contractor will furnish any of the items 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.

4. **STANDARD OF CARE**

In the performance of the Work hereunder, the Contractor and all its agents, shall exercise the degree of skill and care normally accepted as professional practices and procedures by members of the same profession currently practicing under similar conditions in the same locality ("Customary Standard of Care").

5. **RESPONSIBILITY OF THE CONTRACTOR**

The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all materials produced and other services furnished by the Contractor under this Agreement. The Contractor shall, without additional compensation, correct, or revise any errors or deficiencies in the Work as defined in Exhibit A (Scope of Services) or services provided, which are discovered within a twelve-month period of final completion of Work.

6. **RESPONSIBILITY FOR CLAIMS AND LIABILITIES**

The County's review, approval, or acceptance of, or payment for, any services required under this Contract shall not be construed to operate as a waiver by the County of any rights or of any cause of action arising out of the Contract. The Contractor shall be and remains liable to the County for the accuracy and competency of plans, specifications, or other documents, within the Customary Standard of Care.

7. **CONTRACT TERM**

The Work shall commence upon execution of this Agreement, and be completed no later than March 31, 2020 (Contract Term), subject to any modifications as provided for in the Contract Documents for the Contract Term. No Work shall be deemed complete until it is accepted by the Project Officer.

8. **CONTRACT AMOUNT**

The County will pay the Contractor in accordance with the terms of the Payment paragraph below, and Exhibit B for the Contractor's completion of the Work described and required in the Contract Documents and requested by the County Project Officer on an as-needed basis, for an annual amount not to exceed to **\$350,000**. The Contractor agrees that it shall complete the Work for the total amount specified in this section ("Contract Amount") unless such amount is modified as provided in this Agreement.

9. **BILLING RATES ADJUSTMENT**

The billing rates for services shall remain firm until **March 31, 2016**. After March 31, 2016, the Contractor may request a price adjustment, if the County approves such an adjustment, in accordance with the following procedure:

- A. The Contractor may submit a written request for price adjustment to the County not less than ninety (90) days prior to Mach 31st of any given year of the contract ("Anniversary Date").
- B. Requests for adjustment(s) to unit price(s) shall not exceed the percentage increase or decrease of the U.S. Department of Labor, Employment Compensation (Not Seasonally Adjusted): Employment Cost Index, for Total Compensation for all workers (Table 4) the twelve (12) month ended in September of each Contract Year.
- C. Any adjustment(s) to unit price(s) approved by the County as a result of the procedure set forth in A and B above, shall become effective the day after the current Anniversary Date and shall be binding on both parties for the remainder of

the Contract Term unless an adjustment is requested by the Contractor and approved by the County in a subsequent year, as set forth above.

- D. If the Contractor and the County do not agree on the requested adjustment using the procedure set forth in A and B above by the thirtieth (30th) calendar day prior to the Anniversary Date, the County may in its sole discretion terminate the Contract.

10. PAYMENT

The Contractor will be paid monthly, within thirty (30) days following submission of a complete invoice, satisfactory to the Project Officer that meets the requirements of this section.

Within ten (10) days after the last day of each month the Contractor shall submit, for approval by the Project Officer, an invoice describing the total work completed, by Task, during the preceding month. The Project Officer shall either approve the invoice or require corrections.

The Contractor shall submit invoices containing the names of personnel who performed Work, the tasks they were assigned to work on, the contract rate of pay, and the hours that the staff worked on each task. Totals for each individual, each task, and grand totals shall be provided. The number of the County Purchase Order pursuant to which authority services performed shall appear on all invoices. All invoices shall show funds invoiced and received prior, funds invoiced and not received prior, funds invoiced on the current request, and the balance remaining on the current Purchase Order.

11. 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 this Contract. 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.

12. ADJUSTMENTS FOR CHANGE IN SCOPE

The County may order changes in the Work within the general scope of the Work consisting of additions, deletions or other revisions. No claim may be made by the Contractor that the scope of the work or that the Contractor's services have been changed requiring adjustments to the amount of compensation due the Contractor unless such adjustments have been made by a written amendment to the Contract signed by the County and the Contractor. If the Contractor believes that any particular work is not within the scope of the Work or is a material change or otherwise will call for more compensation to the Contractor, the Contractor must immediately notify the Project Officer after the change or event occurs and within ten (10) calendar days thereafter must provide written notice to the Project Officer. The Contractor's notice must provide to the Project Officer the amount of additional compensation claimed, together with the basis therefore and documentation supporting the claimed amount. The Contractor will not be compensated for performing any work unless a proposal complying with this paragraph has been submitted in the time specified above and a written Contract amendment has been signed by the County and the Contractor and a County purchase order is issued covering the cost of the services to be provided pursuant to the amendment.

13. ADDITIONAL SERVICES

The Contractor shall not be compensated for any goods or services provided except those included in Exhibit A and included in the Contract Amount unless those goods or services are covered by a written amendment to this Contract signed by the County and the Contractor, and a County Purchase Order is issued covering the expected cost of such services.

Additional services agreed upon by the parties will be billed at the rates set forth in Exhibit B unless otherwise agreed by the parties in writing.

14. REIMBURSABLE EXPENSES

No reimbursable expenses except those that are identified in Exhibit B of this contract as project related costs are allowed under this Contract.

15. 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) 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.

There shall be no markups on subcontractor time, materials, equipment, and any other subcontractor expenses.

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 with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the above provisions 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.

16. NON-APPROPRIATION

All funds for payments by the County under 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.

17. 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 expense.

18. PROJECT STAFF

The County will, throughout the Initial Contract Term and any Subsequent Contract Term, have the right of reasonable rejection and approval of staff or subcontractors assigned to the project by the Contractor. If the County reasonably rejects staff or subcontractors pursuant to this section, the Contractor must provide replacement staff or subcontractors satisfactory to the County in a timely manner and at no additional cost to the County. The day-to-day supervision and control of the Contractor's employees, and employees of any of its subcontractors, shall be the sole responsibility of the Contractor.

19. SUPERVISION BY CONTRACTOR

The Contractor shall at all times enforce strict discipline and good order among the workers performing under this Contract, and shall not employ on the work any person not reasonably proficient in the work assigned.

20. 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 state law related 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.
- 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, so that the provisions will be binding upon each subcontractor or vendor.

21. **EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED**

In accordance with §2.2-4311.1 of the Virginia Code, the Contractor acknowledges that it does not, and shall not during the performance of this Contract for goods and/or services in the Commonwealth, knowingly employ an unauthorized alien as that term is defined in the federal Immigration Reform and Control Act of 1986.

22. **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 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 of over \$10,000, 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 in accordance with the Arlington County Purchasing Resolution, the employees of which contractor 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.

23. **SAFETY**

The Contractor shall comply with, and ensure that the Contractor's employees and subcontractors comply with, all current applicable local, state and federal policies, regulations and standards relating to safety and health, including, by way of illustration and not limitation, the standards of the Virginia Occupational Safety and Health program of the Department of Labor and Industry for General Industry and for the Construction Industry, the Federal Environmental Protection Agency standards and the applicable standards of the Virginia Department of Environmental Quality.

The Contractor shall provide, or cause to be provided, all technical expertise, qualified personnel, equipment, tools and material to safely accomplish the work specified to be performed by the Contractor and subcontractor(s).

The Contractor shall identify to the County Project Officer at least one (1) on-site person who is the Contractor's competent, qualified, and authorized person on the worksite and who is, by training or experience, familiar with and trained in policies, regulations and standards applicable to the work being performed. The competent, qualified and authorized person must be capable of identifying existing and predictable hazards in the

surroundings or working conditions which are unsanitary, hazardous or dangerous to employees, shall be capable of ensuring that applicable safety regulations are complied with, and shall have the authority and responsibility to take prompt corrective measures, which may include removal of the Contractor's personnel from the work site.

The Contractor shall provide to the County, at the County's request, a copy of the Contractor's written safety policies and safety procedures applicable to the scope of work. Failure to provide this information within seven (7) days of the County's request may result in cancellation of this Contract.

24. 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 of 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 Work 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.

25. TERMINATION FOR THE CONVENIENCE OF THE COUNTY

The performance of work under this Contract may be terminated by the County's 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.

26. 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 its 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.

27. INTELLECTUAL PROPERTY INDEMNIFICATION

The Contractor warrants and guarantees that no intellectual property rights (including, but not limited to, copyright, patent, mask rights and trademark) of third parties are infringed or in any manner involved in or related to the services provided hereunder.

The Contractor further covenants for itself, its employees, and subcontractors to save, defend, hold harmless, and indemnify the County, and all of its officers, officials, departments, agencies, agents, and employees from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, for or on account of any trademark, copyright, patented or unpatented invention, process, or article manufactured or used in the performance of this Contract, including its use by the County. If the Contractor, or any of its employees or subcontractors, uses any design, device, work, or materials covered by letters patent or copyright, it is mutually agreed and understood, without exception, that the Contract Amount includes all royalties, licensing fees, and any other costs arising from the use of such design, device, work, or materials in any way involved with the Work. 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.

28. COPYRIGHT

The Contractor hereby irrevocably transfers, assigns, sets over and conveys to the County all right, title and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this Contract. The Contractor further agrees to execute such documents as the County may request to effect such transfer or assignment.

Further, the Contractor agrees that the rights granted to the County by this paragraph are irrevocable. Notwithstanding anything else in this Contract, the Contractor's remedy in the event of termination of or dispute over the terms of this Contract shall not include any right to rescind, terminate or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this paragraph. Similarly, no termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating the rights acquired pursuant to the provisions of this "Copyright" paragraph.

The use of subcontractors or third parties in developing or creating input into any copyrightable materials produced as a part of this Contract is prohibited unless the County approves the use of such subcontractors or third parties in advance and such subcontractors or third parties agree to include the provisions of this paragraph as part of any contract they enter into with the Contractor for work related to work pursuant to this Contract.

29. OWNERSHIP AND RETURN OF RECORDS

This Contract confers no ownership rights to the Contractor nor any rights or interests to use or disclose the County's data or inputs.

The Contractor agrees that all drawings, specifications, blueprints, data, information, findings, memoranda, correspondence, documents or records of any type, whether written or oral or electronic, and all documents generated by the Contractor or its subcontractors as a result of the County's request for services under this Contract, are the exclusive property of the County ("Record" or "Records"), and all such Records shall be provided to and/or returned to County upon completion, termination, or cancellation of this Contract. The Contractor shall not use, willingly allow, or cause such materials to be used for any other purpose other than performance of all obligations under the Contract without the written consent of the County. Additionally, the Contractor agrees that the Records are confidential records and neither the Records nor their contents shall be released by the Contractor, its subcontractors, or other third parties; nor shall their contents be disclosed to any person other than the Project Officer or his or her designee. The Contractor agrees that all oral or written inquiries from any person or entity regarding the status of any Record generated as a result of the existence of this Contract shall be referred to the Project Officer or his or her designee for response. At the County's request, the Contractor shall deliver all Records to the Project Officer, including "hard copies" of computer records, and at the County's request, shall destroy all computer records created as a result of the County's request for services pursuant to this Contract.

The Contractor agrees to include the provisions of this section as part of any contract or agreement the Contractor enters into with subcontractors or other third parties for work related to work pursuant to this Contract.

No termination of this Contract shall have the effect of rescinding, terminating or otherwise invalidating this section of the Contract.

30. ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as any state or federal law related to ethics, conflicts of interest, or bribery, including by way of illustration and not limitation, the 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 offeror, 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.

31. COUNTY EMPLOYEES

No employee of Arlington County, Virginia, 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.

32. 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 control of the Contractor, and outside and beyond 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 control of the County that make performance impossible or illegal, unless otherwise specified in the Contract.

33. 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 any cost or expense, at the option of the County.

34. RELATION TO COUNTY

The Contractor will be legally considered as 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 payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor. 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.

35. 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 or services purchased or acquired by the County under this Contract.

36. REPORT STANDARDS

Reports or written material prepared by the Contractor in response to the requirements of this Contract or a request of the Project Officer shall, unless otherwise provided for in the Contract, meet standards of professional writing established for the type of report or written material provided, shall be thoroughly researched for accuracy of content, shall be grammatically correct and not contain spelling errors, shall be submitted in a format approved in advance by the Project Officer, and shall be submitted for advance review and comment by the Project Officer. The cost of correcting grammatical errors, correcting report data, or other revisions required to bring the report or written material into compliance with these requirements shall be borne by the Contractor.

When submitting documents to the County, the Contractor shall comply with the following guidelines:

- All submittals and copies shall be printed on at least thirty percent (30%) recycled-content and/or tree-free paper;
- All copies shall be double-sided;
- Report covers or binders shall be recyclable, made from recycled materials, and/or easily removable to allow for recycling of report pages (reports with glued bindings that meet all other requirements are acceptable);
- The use of plastic covers or dividers should be avoided; and
- Unnecessary attachments or documents not specifically asked for should not be submitted, and superfluous use of paper (e.g. separate title sheets or chapter dividers) should be avoided.

37. **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.
38. **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.
39. **AMENDMENTS**
This Contract shall not be amended except by written amendment executed by persons duly authorized to bind the Contractor and the County.
40. **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.
41. **DISPUTE RESOLUTION**
All disputes arising under this Agreement, or its interpretation, whether involving law or fact, or extra work, or extra compensation or time, and all claims for alleged breach of Contract shall be submitted 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. 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 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, incorporated herein by reference, and 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.
42. **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 thereto shall be in the Circuit Court for Arlington County, Virginia, and in no other court. In performing the Work under this Contract, the Contractor shall comply with applicable federal, state, and local laws, ordinances and regulations.
43. **ARBITRATION**
It is expressly agreed that nothing under the Contract shall be subject to arbitration, and any references to arbitration are expressly deleted from the Contract.
44. **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.

45. **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.

46. **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.

47. **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.

48. **SURVIVAL OF TERMS**

In addition to any numbered section in this Agreement which specifically state that the term or paragraph survives the expiration or termination of this Contract, the following sections if included in this Contract also survive: INDEMNIFICATION; RELATION TO COUNTY; OWNERSHIP AND RETURN OF RECORDS; AUDIT; COPYRIGHT; INTELLECTUAL PROPERTY INDEMNIFICATION; WARRANTY; CONFIDENTIAL INFORMATION; AND DATA SECURITY.

49. **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.

50. **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:

Matthew S. Munter
EMG
222 Schilling Circle, Suite 275
Hunt Valley, MD 21031

TO THE COUNTY:

Richard Krumenacker, the County Project Officer
DES, Facilities' Maintenance Bureau
1400 North Uhle Street, Suite 601
Arlington, VA 22201

AND

Richard D. Warren, Jr., Purchasing Agent
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201

51. **NON-DISCRIMINATION NOTICE**

Arlington County does not discriminate against faith-based organizations.

52. **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, rating of "A-" or better and a financial size of "Class VII" or better in the latest edition of A.M. Best Co., 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 - All insurance policies required by this Contract shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation or non-renewal until thirty (30) days prior written notice has been given to the Purchasing Agent, Arlington County, Virginia." 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. 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.

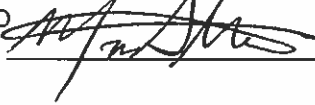
Notwithstanding any of the above, the Contractor may satisfy its obligations under this section by means of self insurance for all or any part of the insurance required, provided that the Contractor can demonstrate financial capacity and the alternative coverages are submitted to and acceptable to the 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

CLAMPETT INDUSTRIES, LLC
d/b/a EMG

AUTHORIZED
SIGNATURE: 

AUTHORIZED
SIGNATURE: 

Dr
NAME: RICHARD D. WARREN, JR.
TITLE: PURCHASING AGENT

NAME AND
TITLE: Matthew Muntea, SVP

DATE: 3/26/13

DATE: 3/21/2013

AGREEMENT NO. 613-13
EXHIBIT A

SCOPE OF WORK

GENREAL REQUIREMENTS

The Contractor shall provide facility assessments and asset management database modifications and improvements services to the County on an as-needed basis.

SERVICE REQUESTS PROCEDURES

The following shall be the procedure for any work performed under this Contract:

1. The County will contact the Contractor, providing detailed scope of work, and other relevant information.
2. Thereafter, the Contractor shall within five (5) County business days submit to the County, a proposal with a firm schedule and lump sum costs (derived from the rates contained in Exhibit B).
3. The County will review the proposal and either approve or provide comments to the Contractor within five (5) County business days of receipt of the proposal. If the proposal is approved, the County will proceed to request a Purchase Order (PO). If comments are provided, the Contractor shall provide a revised proposal to the County within three (3) County business days following the receipt of County comments.

AssetCALC™

The County owns the asset management database entitled AssetCALC™ which, is currently being hosted by the Contractor and is accessible to the County via a secured internet connection using a standard web browser. The Contractor shall submit to the County the holder license for the AssetCALC™, upon the execution of this Agreement.

1. HOSTING SERVICES

The Contractor shall continue to host AssetCALC™ at no cost to the County for the first eighteen (18) months of the Contract Term. After the first eighteen (18) months, the County may continue to have AssetCALC™ hosted by the Contractor at the Contract Rate indicated in Exhibit B or may bring hosting services in house.

The Contractor shall provide the following hosting service through the first eighteen months of the Contract Term and any additional years of hosting services at the request of the County.

- A. AssetCALC™ improvements/upgrades/updates automatically provided
- B. All necessary server hardware.
- C. Available twenty four (24) hours a day, seven (7) days a week, with a guaranteed 99% uptime during standard business hours (weekdays, excluding holidays, 8:00 a.m. – 8:00 p.m. Eastern Time). Contractor shall notify the County at least twenty four (24) hours before any scheduled maintenance is performed. Scheduled maintenance shall not be performed during standard business hours.
- D. Storage for facility assessment related data.

- E. User authentication based on individual user names and passwords for each user.
- F. Back-up entire database and export to disk every night. At least two (2) of the most previous database backups shall available for restoration.

2. ADDITIONAL SERVICES

On an as-needed basis at the request of the County, the Contactor shall provide modifications, upgrades, updates, training and support services associated with AssetCALC™. These services shall include the following:

- A. Interface changes to the new database; basic reporting;
- B. Working sessions/tweaking during development;
- C. Facility customized library of project tasks with costs associated;
- D. Training and support to users;
- E. Modifying and/or upgrading features and database capabilities/options per County request.

FACILITY ASSESSMENTS SERVICES

The Contractor shall provide written evaluation and property condition assessments of life cycle cost and management needs ("Facility Condition Assessment Report") of the County facilities on an as-needed basis. The assessments shall be provided per the following:

1. PLAN

The Contractor shall thoroughly survey, inventory, and assess all facility systems and components to identify deficient conditions, forecast component replacements, and accurately estimate the cost to correct each deficiency. The Contractor shall provide draft reports to the County Staff for review and comment on process, format, and conclusions. Once draft comments have been addressed a final report shall be submitted

Based upon Contractor observations, research, and judgment, along with consulting commonly accepted empirical estimated useful life (EUL) tables, the Contractor shall provide their professional opinion as to when a system or component will most probably necessitate replacement. Exposure to weather elements, initial system quality and installation, extent of use (EU), quality, and amount of preventive maintenance exercised are all factors the Contractor shall analyze when determining the effective age of a system or component.

- A. The Contractor shall evaluate all County facilities and facility components and make appropriate remedial recommendations and or corrective measures ranked by one of the following six (6) Priority assessment Classes. All work recommended shall be performed by third party contractor(s) procured directly by the County.

1) Priority 1: Currently Critical (Immediate)

In this category of assessment, the Contractor shall review and assess each facility and shall submit recommendations for remedial and or corrective measures for facilities and or facility components that require immediate

action, at a minimum the following shall be provided as part of the recommendation:

- a) Return the facility or facility component to normal level operation.
- b) Stop accelerated deterioration.
- c) Replace items that have reached or exceeded their useful service life.
- d) Correct a cited safety hazard.

2) Priority 2: Potentially Critical (Year 1-2)

The Contractor shall provide assessment recommendation for the following:

- a) Return the facility component to normal operation.
- b) Stop rapid deterioration.
- c) Correct potential life safety issues and/or code hazards.
- d) Correct facility components that are experiencing intermittent operations.

3) Priority 3: Necessary – Not Yet Critical (Year 3-5)

Under this category of assessments the Contractor shall assess each facility and shall provide appropriate recommendation to address predictable deterioration, potential downtime, additional damage, and the real cost of remediation, if deferred further.

4) Priority 4: Recommended (Years 6 -10)

This assessment category represents sensible recommendations for improvement of facilities and or facility components. These recommendations are given to optimize and or increase the value and life expectancy of the facilities and or facility components. Contractor's input shall emphasize the benefit of the improvements recommended and how the recommended improvements will expand overall usability and/or reduce long-term maintenance costs.

5) Priority 5: Recommended (Years 11 -20)

This assessment category represents anticipated required capital expenditures due to Estimated Useful Life (EUL) only. These systems are generally in good operational condition, but will require replacement due to system(s) finite life expectancy.

6) Priority 6: Recommended (Years 21 and beyond)

This assessment category represents systems or components present in the facility that have been included as part of the Comprehensive Facility Condition Assessment.

B. As part of the assessment, the Contractor shall survey the prime facility system components listed below. The results of the surveys shall be populated in the AssetCALC and in the Facility Condition Assessment Report.

1) Infrastructure/Site

The Contractor shall populate the data for this report in AssetCALC™ with the components listed below:

- a) Topography: Observe the general topography and note any unusual or problematic features or conditions observed.
 - b) Ingress and Egress: Identify the major means of access and egress at the subject property. Note the locations of the major means of access and egress, and note any unusual or restraining conditions observed or reported.
 - c) Paving, Curbing, and Parking: Identify the material types of paving and curbing systems at the subject property. Observe general conditions and note any physical deficiencies identified or any unusual items or conditions observed.
 - d) Flatwork: Identify the material flatwork at the subject property (sidewalks, plazas, patios). Observe the general conditions and note any physical deficiencies identified or any unusual items or conditions observed or reported.
 - e) Landscaping and Appurtenances: Identify the material landscaping features, material types of landscaping (fences, retaining walls) and site appurtenances (irrigation systems, fountains, lighting, signage, ponds). Observe general conditions and note any physical deficiencies identified or unusual conditions observed or reported.
 - f) Utilities: Identify the type and provider of the material utilities provided to the property (water, electricity, natural gas). Observe general conditions and note any physical deficiencies observed or material problems or system inadequacies reported.
- 2) Structural Frame and Facility Envelope
 The Contractor shall populate the data for this report in AssetCALC™ with the components listed below:
- a) Identify material elements of the structural frame and facility envelope, including the foundation system, floor framing system, roof framing system, facade or curtain-wall system, glazing system, exterior sealant, exterior balconies, doors, and stairways.
 - b) Observe general conditions and note any physical deficiencies identified or any unusual items or conditions observed. Observations may be subject to grade, accessible balconies, and rooftop vantage points.
 - c) Visually inspect observable areas for cracking and moisture infiltration as well as areas of apparent foundation settlement and displacement.
 - d) The Contractor shall notify the County in writing should there be a need for any specialty type testing that is outside of the Contractor's scope of responsibility. The Contractor notification shall contain the specific test, the necessity for such test, the estimated amount, and other information necessary for the County to make a decision to approve such test. If the County concurs that the test is necessary, the County will contract with a third party for the performance of the recommended test.

3) Wall Evaluation

The Contractor shall populate the data for this report in AssetCALC™ with the components listed below:

- Photograph elevations and details both from internal and external vantage points, as well as from adjacent structures where possible.
- Observe representative operable and fixed panels on all facades operate a representative sample of units to assess hardware, and visually inspect exterior conditions and the condition of waterproofing seals.
- Assess exterior wall conditions to determine water infiltration, damage, caulk degradation, metal panel degradation, stone degradation and anchoring, and other related curtain wall issues.

4) Roofing (Non-Invasive Visual)

The Contractor shall populate the data for this report in AssetCALC™ with the components listed below:

- Identify material roof systems including roof type, reported age, slope, drainage, etc. Also identify any unusual roofing conditions or rooftop equipment.
- Observe general conditions of the roof system such as membranes, attachment methods, flashings, counter flashings, pitch pans, gravel stops, parapets, miscellaneous appurtenances, insulation, etc.
- Observe evidence of material repairs, significant ponding, or evidence of material roof leaks. Note if a roof warranty is in effect. Note any physical deficiencies identified or any unusual items observed or reported.
- Identify material rooftop equipment or accessories including antennas, lightning protection, HVAC equipment, solar equipment, etc. Include any material problems reported.

5) Plumbing

The Contractor shall populate the data for this report in AssetCALC™ with the components listed below:

- Identify material plumbing systems at the subject property including domestic water supply, domestic hot water production, sanitary sewer, or any special or unusual plumbing systems (water features, grease traps, fuel systems, and gas systems).
- Identify the type and condition of restroom fixtures, drinking fountains, and/or other miscellaneous plumbing equipment.
- Observe general conditions and note any physical deficiencies identified or any unusual items or conditions observed. Include any reported material system inadequacies.

6) Heating

The Contractor shall populate the data for this report in AssetCALC™ with the components listed below:

- Identify material heat generating systems at the subject property.
- Observe general conditions, identify reported age of the equipment, note past material component replacements/upgrades, note apparent level of maintenance, and identify if a maintenance contract is in place; if heating equipment is not operational at the time of the walk-through survey, provide an opinion of the condition to the extent reasonably possible.
- Observe general conditions and note physical deficiencies identified or unusual items or conditions observed or reported; additionally, include any reported material system inadequacies or operating deficiencies.
- Identify and observe any special or unusual heating systems or equipment present (fireplaces, solar heat) and note any reported material problems or inadequacies.

7) Air-Conditioning & Ventilation

The Contractor shall populate the data for this report in AssetCALC™ with the components listed below:

- Identify material air-conditioning and ventilation systems at the subject property; include material equipment such as cooling towers, chillers (include type of refrigerant used), package units, split systems, air handlers, thermal storage equipment, etc.
- Identify material distribution systems (supply and return, make-up air, exhaust) at the subject property; note reported tenant-owned equipment/systems not included in this review.
- Observe general conditions, identify reported age of equipment, note past material component upgrades/replacements, note apparent level of maintenance, and identify if a maintenance contract is in place (and the name of the contractor). If air-conditioning and ventilation systems are not operational at the time of the walk-through survey, provide an opinion of the condition to the extent reasonably possible.
- Observe general conditions and note any physical deficiencies identified or any unusual items or conditions observed. Additionally, include any material reported system inadequacies or operating deficiencies.
- Identify and observe any special or unusual air conditioning and ventilation systems or equipment (ice skating rinks, cold storage systems, special computer cooling equipment) and note any material reported problems or system inadequacies.

8) Electrical

The Contractor shall populate the data for this report in AssetCALC™ with the components listed below:

- Identify the electrical service and distribution system provided at the subject property; include material switchgear disconnects, circuit breakers, transformers, meters, emergency generators, general lighting systems, and other such equipment or systems.

- Observe general electrical items such as distribution panels, type of wiring, energy management systems (EMS), emergency power, lightning protection, etc.
- Observe general conditions and note physical deficiencies identified or unusual items or conditions observed, the presence of any special or unusual electrical equipment, systems, or devices at the subject property, and include reported material problems or system inadequacies.

9) Vertical Transportation

The Contractor shall populate the data for this report in AssetCALC™ with the components listed below:

- Identify vertical transportation systems at the subject property; include the equipment manufacturer, equipment type, location, number, capacity, etc.
- Observe elevator cabs, finishes, call and communication equipment, etc.; identify the company that provides elevator/escalator maintenance at the subject property; observe general conditions and note physical deficiencies identified or unusual items or conditions observed or reported, including any reported material system inadequacies.
- Review inspection, testing and calibration data, maintenance and repair histories; and interview facility personnel.
- Identify the condition of traveling cables, controllers, control systems, hydraulic jack units, pump units, guiderails, operating devices, independent and fire service functions, car frame, car platform, and handicap accessibility.

10) Life Safety/Fire Protection

The Contractor shall identify the material life safety/fire protection systems at the subject property, including sprinklers and stand pipes (wet or dry), fire hydrants, fire alarm systems, water storage, smoke detectors, fire extinguishers, emergency lighting, stairwell pressurization, smoke evacuation, etc. The Contractor shall also observe general conditions and note any material physical deficiencies identified or unusual items or conditions observed or reported including any reported system inadequacies. The results of the surveys shall be populated in the AssetCALC and in the Facility Condition Assessment Report.

11) Interior Elements

The Contractor shall identify facility standard finishes, including flooring, ceilings, and walls. Furnishings, Fixtures, and Equipment (FF&E) shall be reviewed, quantified, and included in the cost estimate tables for replacements. Additionally, the Contractor shall identify material facility amenities or special features. The Contractor shall observe general conditions and note any physical deficiencies identified or any unusual items

or conditions observed or reported. The results of the surveys shall be populated in the AssetCALC and in the Facility Condition Assessment Report

12) Accessibility Compliance

The Contractor shall provide a general statement of the subject facility's compliance to the 2010 Americans with Disabilities Act to help identify whether the County may be exposed to issues and whether there is the need for further review. The results of the surveys shall be populated in the AssetCALC and in the Facility Condition Assessment Report

13) Code Compliance

The Contractor shall make appropriate inquiries of municipal officials regarding the existence of pending unresolved facility, zoning, or fire code violations on file to determine the current zoning category, flood plain zone, and seismic zone. The results of the surveys shall be populated in the AssetCALC and in the Facility Condition Assessment Report

14) Mold

The Contractor shall perform visual observations to provide a limited assessment of accessible areas of the facility(s) for the presence of mold, conditions conducive to mold growth, and/or evidence of moisture. The Contractor shall interview County personnel regarding the presence of any known or suspected mold, elevated relative humidity, water intrusion, or mildew-like odors. Potentially affected areas shall be photographed. The County will address mold conditions in County facilities through the use of an existing County contract; the Contractor shall be responsible for notification of the County if such conditions were observed during the inspection.

2. COST ESTIMATING

In the Facility Condition Assessment Report, the Contractor shall submit cost estimates for all recommended repairs and remedial/improvement work for each facility and or facility components. The narrative for the cost estimates shall have recommendation for various options for suggested repairs and remedial/improvement work for each facility and or facility components, and shall include a summary of the description of each facility or facility component, age and estimated remaining useful life (RUL), timeline recommendation for repair or replacement, the cost estimate shall include design fees, project management, and the actual remedial work. The County will use the cost estimates data for planning and budgeting purposes. The management and procurement of all related services (design, construction and or equipment replacement) will be managed and procured by the County.

The Contractor shall use the Unifomat system and the RS Means model as the base of its cost estimating unless directed otherwise by the County. The Contractor shall maintain and update the cost estimating system with information received from the field. The Contractor through construction monitoring work shall have current cost data from in-progress construction and rehabilitation projects to allow them to project costs based on local conditions and trends in the local construction market.

3. DELIVERABLES

A. FACILITY CONDITION ASSESSMENT REPORTS

The Contractor shall provide a written analysis for each facility within ten (10) County business days after the facility/site survey. The County will review the report within ten (10) business days and provide feedback and comments for any necessary revisions. The Contractor shall finalize and resubmit the final draft of the report to the County within five (5) County business days. The Contractor shall submit the final draft of the report electronically in PDF format and submit three (3) bound hardcopies of the document to the County Project Officer. At the minimum, each report shall identify the covered facility and shall include the following:

- 1) A narrative description of all facility systems and components;
- 2) AssetCALC™ generated cost tables;
- 3) Digital photos of all major systems and components including interior; elements, and photos of all deficiencies identified;
- 4) Estimate the RUL and cost to repair/replace that equipment.
- 5) Discussion of current, anticipated repairs, deficiencies, and a discussion of any applicable options for repair or maintenance of facility; components;
- 6) FF&E inventory including serial numbers, models and make of all building systems equipment;
- 7) Supplemental information provided including floor plans, customer surveys, and GIS maps of the site.

B. ASSET MANAGEMENT DATABASE UPDATES

- 1) The Contractor shall populate data into AssetCALC™, showing the exact year that the replacement shall be required and grouping deficiencies into major priority categories. All capital needs analysis and deficiency repair estimates shall be derived from the AssetCALC™ cost database. The AssetCALC™ database shall include a cost database sorted by facility system and ranked by priority for repair. The format of the database shall allow for the customization of reporting by facility, system, or priority for repair, and a year-by-year analysis of capital needs. All reports, including Facility Condition Index (FCI) shall be generated by AssetCALC™.
- 2) The Contractor shall generate AssetCALC Replacement Reserves Table for each facility assessed that includes discussion of recommended repairs and component life cycle replacements.

QUALITY ASSURANCE/QUALITY CONTROL

Quality control is vital to the success of this Contract and of the Contractor's performance of the Work. The Contractor shall submit a high quality, clear and accurate work product in the final form. It is the Contractor's responsibility to ensure the quality of the work product by means of having sound quality control procedures, guidelines and checklists and to ensure their staffs are following these procedures to provide the County with professional quality product.

The Contractor shall provide ongoing support, documentation, and coordination with the County to ensure that all reports and submittal are prepared in accordance with the Customary Standard of Care, as defined in paragraph no. 4 (Standard of Care) in the Agreement, and the recommendations are based on the real market research and sound analysis.

TRANSFER OF KNOWLEDGE/SUSTAINABILITY

During the Contract Term, Contractor shall be responsible for ensuring that the County and its staff are able to understand and manipulate AssetCALC™ application. The Contractor shall also be responsible for documentation of processes as requested by the County.

AGREEMENT NO. 613-13

EXHIBIT B

CONTRACT RATES

HOURLY LABOR RATES

Hourly rates are fully burdened and include the provision of all things necessary for performing the work, including but not limited to, labor, tools, transportation to, from and between jobs, parking, tools-of-the-trade, means for access, and consumable supplies.

| Program Principal | Program Manager | Project Engineer/ Manager | IT/ Developer | Tech Support | Admin |
|-------------------|-----------------|---------------------------|---------------|--------------|---------|
| \$150.00 | \$125.00 | \$105.00 | \$105.00 | \$50.00 | \$50.00 |

NOTE: The billing rates for services shall remain firm until March 31, 2016. All subsequent billing rates adjustments shall be in accordance with the procedure set forth in paragraph 9 (BILLING RATES ADJUSTMENT).

ASSETCALC™ HOSTING

The hosting charge is \$4,000 per year and will not adjust throughout the Contract Term. The hosting services for the first eighteen months of the Contract Term shall be at no cost to the County.

In the event that the hosted service is unavailable for any more than three (3) County business hours during a month, the County may request an hour by hour credit for outages exceeding three (3) hours. Credits do not apply for any problem caused by the County, the County's data, non-Contractor service providers (e.g. the County's internet connection), scheduled maintenance, or any other circumstance beyond the Contractor's reasonable control. In order to receive credits, the County will notify the Contractor's help desk by sending an email to help@emgcorp.com within three (3) business days of the outage.