



## REQUEST FOR PROPOSALS

### MD-PACE Program Design and Administration

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ISSUED BY:	Maryland Clean Energy Center 5000 College Avenue, Suite 31010 College Park, MD 20740
RELEASE DATE:	August 3, 2021
PRE-QUALIFICATIONS SUBMITTAL CONFERENCE:	N/A
SITE VISITS:	N/A
QUESTIONS DUE:	August 11, 2021
QUALIFICATIONS SUBMITTAL DUE DATE:	August 30, 2021
ANTICIPATED AWARD DATE:	September 26, 2021
PROCUREMENT OFFICER:	Ben Rupert, Energy Project & Procurement Manager Maryland Clean Energy Center Email: <a href="mailto:brupert@mdcleanenergy.org">brupert@mdcleanenergy.org</a> Phone: (301) 314-6064
DIRECT INQUIRIES TO:	Procurement Officer

**Vendors are cautioned not to make changes to any of the terms and conditions in this solicitation. Doing so may render a Vendor's Qualifications Submittal unacceptable and subject to rejection. Questions and inquiries may be addressed as outlined in Section 1.5 of this solicitation. Any exceptions to MCEC terms and conditions are not binding unless they are negotiated and affirmatively deemed mutually agreeable by the Vendor and MCEC in an executed contract. MCEC is not required to negotiate changes to its terms and conditions.**



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## **SECTION I. INTRODUCTION AND BACKGROUND**

### **1.1 Maryland PACE (MD-PACE) Program Overview**

Commercial Property Assessed Clean Energy (C-PACE) programs provide property owners and developers access to low-cost, long-term, fixed-rate financing for energy efficiency, water conservation, resiliency, and renewable energy projects. The measures can be financed with no money down and are repaid as a benefit assessment on the property tax bill, with payback terms matching the useful life of the equipment. As of July 2021, C-PACE enabling legislation is active in 37 states and the District of Columbia.

As enacted in Chapter 472 of the 2014 Law of Maryland, the Maryland C-PACE (MD-PACE) program grants local governments the power to enact a surcharge on a clean energy system owner's property tax bill to recover their costs related to program administration and financing. If adopted by a local governing body, the program allows property owners to opt-in to a renewable energy or eligible energy-efficiency loan program and repay the loan through a surcharge on their property tax bill. The surcharge remains attached to the property upon a change in ownership and is limited to the amount needed to recover costs associated with issuing bonds, financing the loans, and administering the program. The statewide MD-PACE program provides turn-key, low cost, standardized C-PACE services to property owners, capital providers, contractors, and local governments in the state of Maryland.

The MD-PACE Program is administered by the Maryland Clean Energy Center (MCEC), a corporate instrumentality of the state of Maryland which advances the adoption of clean energy and energy efficiency products, services and technologies. MCEC leverages private capital to help homeowners, businesses, and government entities reduce energy costs. Through collaboration with local government, the MD-PACE program offers C-PACE financing to commercial property owners statewide.

Of the twenty-four major jurisdictions in Maryland, sixteen participate in the MD-PACE program, and three are currently working toward passing PACE-enabling legislation at the local level. Over \$57 million in project financing through the MD-PACE program has closed since its launch in 2014. Both Montgomery and Prince George's Counties maintain independent PACE financing programs, operated at the County level, and are therefore not included in the scope of this RFP. For more information about the current program, visit [www.md-pace.com](http://www.md-pace.com)

The MD-PACE program has announced that it will be expanding its scope to include resiliency, environmental remediation, and indoor air and water quality as qualifying measures for C-PACE financing, following the passing of House Bill 517: Clean Energy Loan Program – Remediation and Resiliency. In addition, the program will allow for the refinancing of recently completed C-PACE eligible projects.

Through the new legislation, Maryland commercial property owners will be able to utilize C-PACE capital to finance remediation projects intended to remove environmental and/or health hazards; measures intended to increase a property's ability to withstand natural disasters and the effects of climate change; and projects that promote indoor air and water quality. This includes flood mitigation and storm



water management improvements; remediation for lead, mold, and asbestos; and alternative vehicle charging and energy storage infrastructure. Additionally, the legislation allows property owners to refinance previously completed C-PACE eligible projects. The Offeror selected for this RFP will also be responsible for facilitating updates of locally adopted regulations and policy guidelines to promote utilization of this enhanced program capability.

## **1.2 Maryland Clean Energy Policy Framework**

- 1.2.1 The Maryland Clean Energy and Jobs Act of 2019 significantly increases state requirements for clean and renewable energy generation to 50% of overall electric supply by 2030, with a focus on addressing and reducing or eliminating barriers for clean energy development. It also targets in-state workforce development, and legislation requires that Small, Minority, and Women-Owned Businesses Account receive certain money from the state's Strategic Energy Investment Fund.
- 1.2.2 The Maryland Renewable Energy Portfolio Standard (RPS), enacted in May 2004 and revised numerous times since, requires electricity suppliers (all utilities and competitive retail suppliers) in the state to procure a minimum portion of their electric retail sales by eligible renewable energy sources to facilitate a gradual transition to clean and/or renewable sources of energy. Most recently, and as noted above, the Clean Energy Jobs Act of 2019 increased and extended the requirement from 25% by 2020 to 50% by 2030.
- 1.2.3 Maryland's General Assembly passed the EmPOWER Maryland Energy Efficiency Act of 2008, which established a goal to reduce per capita electricity usage and peak demand 15 percent by 2015. The 2015 goals were met statewide. In 2017, the General Assembly passed legislation that updated the EmPOWER statute to establish a new goal structure and cost-effectiveness requirements for the 2018-2020 and 2021-2023 program cycles. The new goal is an annual energy savings goal of 2% of gross energy sales. As part of their EmPOWER Maryland portfolios, Maryland's five largest electric utilities offer energy efficiency incentive programs for residential and commercial/industrial customers.
- 1.2.4 As of 2017, Maryland has required all new residential and commercial buildings to adhere to the requirements of the latest version of the International Energy Conservation Code (IECC), which outlines energy efficiency standards for heating, ventilating, air conditioning, water heating, and lighting.
- 1.2.5 In 2020, Governor Hogan introduced the "Clean and Renewable Energy Standard" (CARES) legislation, which contains additional requirements in order to ensure that the clean and renewable energy generation investment spurred by the legislation occurs in-state. In addition,



the legislation, as currently written, increases the qualifying energy sources to include nuclear and emerging technologies as approved by the Maryland Energy Administration (MEA).

## 1.2 Issuing Office; Procurement Officer

Maryland Clean Energy Center  
5000 College Ave  
Suite 31010  
College Park, Maryland 20740  
Procurement Officer: Ben Rupert, Energy Project & Procurement Manger  
Phone: (301) 314-6061  
E-mail: [brupert@mdcleanenergy.org](mailto:brupert@mdcleanenergy.org)

The sole point of contact for purposes of this procurement is the Procurement Officer. The Procurement Officer may designate others to act on her behalf. The MCEC Executive Director may change the Procurement Officer or change the limits of her authority at her discretion.

## 1.3 Schedule of Events

Event	Date
RFP Release Date	Tues. August 3, 2021
Deadline for Receipt of Questions	Wed. August 11, 2021
Notification of Intent to Submit	<del>Wed. Mon.</del> August 18, 2021
Proposal Due Date	Mon. August 30, 2021
Tentative Date of Contract Award	Tues. September 26, 2021

## 1.4 Pre-proposal Conference

A pre-proposal conference will not be held.

## 1.5 Questions and Inquiries

All questions and inquiries should be directed to the Procurement Officer identified in Section 1.2 above. Questions must be submitted in writing by mail or email and received by the Procurement Officer before 4:00 PM Wednesday, August 11<sup>th</sup>, 2021. Oral questions will not be accepted. If a question or inquiry pertains to a specific section of the RFP, the page and section number(s) must be referenced.



**1.6 Submission Deadline**

In order to be eligible for consideration, responses must be submitted via email to the Procurement Officer no later than 4:00 PM Monday, August 30<sup>th</sup>, 2021. Vendors must email responses and confirm receipt. Any response received after the submission deadline, no matter what the reason, will be deemed unacceptable. Proposals or unsolicited amendments to proposals arriving after the closing date and time will not be considered.

**1.7 Duration of Offer**

Proposals submitted in response to this solicitation are irrevocable for 120 days following the closing date. This period may be extended at the Procurement Officer's request only by an Offeror's written agreement.

**1.8 Electronic Distribution**

This RFP is available for distribution by email. Potential Offerors wishing to receive copies of the written document should contact the Procurement Officer.



## **SECTION II. GENERAL INFORMATION**

### **2.0 Terms and Conditions**

Any contract entered into in connection with this solicitation shall be subject to these General Terms and Conditions except as otherwise modified herein.

It shall be the Vendor's sole responsibility to ensure they are compliant with all applicable federal, MCEC, and city laws, rules, ordinances, statutes, etc., that may impact this contract. MCEC shall bear no responsibility for monitoring the Vendor's compliance with legal requirements. If the Vendor fails to maintain legal compliance, MCEC may find Vendor in default.

In the event of conflict between this solicitation and any of the General Terms and Conditions proposed by any Vendor, then, and in such event, the terms and conditions stated herein shall take precedence unless modified in writing by the MCEC.

Any exceptions to MCEC's terms and conditions are not binding unless they are negotiated and deemed mutually agreeable by the Vendor and MCEC. MCEC is not required to negotiate changes to its terms and conditions.

### **2.1 Purpose**

The overall purpose of this RFP is to provide information to Offerors interested in preparing and submitting proposals to meet MCEC's requirements for MD-PACE program design and administration.

### **2.2 Revisions to the RFP**

MCEC reserves the right to amend this RFP at any time prior to the proposal due date and time. If it becomes necessary to revise this RFP, amendments will be provided to all prospective Offerors that were sent this RFP or are otherwise known by the Procurement Officer to have obtained this RFP. Acknowledgment of the receipt of all amendments will be required.

### **2.3 Cancellation of the RFP; Rejection of All Proposals**

MCEC may cancel this RFP, in whole or in part, or may reject all proposals submitted in response, whenever this action is determined to be fiscally advantageous to MCEC or otherwise in the State's best interests.

### **2.4 Proposal Acceptance; Discussions**

MCEC reserves the right to accept or reject any proposals, in whole or in part, received in response to this RFP, to waive or permit cure of minor irregularities, and to conduct discussions with all qualified Offerors in any manner necessary to serve the best interests of MCEC. MCEC also reserves the right, in its sole discretion, to award a Contract based upon the written proposals received without prior discussions or negotiations.



## **2.5 Interviews/Oral Presentation**

MCEC may conduct interviews with qualifying Offerors. In addition, in support of their proposals, Offerors may be required to make an oral presentation. Interviews and oral presentations must be conducted within two calendar weeks after MCEC has requested an Offeror to do so. Failure to meet with MCEC for an interview or to make an oral presentation within this time period may prevent the Offeror's proposal from receiving further consideration. The main point of contact proposed in the Offeror's proposal must be present during these interviews.

## **2.6 Incurred Expenses**

MCEC will not be responsible for any costs incurred by an Offeror in preparing and submitting a proposal in response to this RFP.

## **2.7 Proposal Form**

Proposals should be prepared simply and economically, providing a straightforward, concise description of the Offeror's proposal for meeting the requirements of this procurement. Only electronically transmitted proposals will be accepted and shall be submitted to the Procurement Officer by 4:00 PM August 30, 2021 via email to the following address: [brupert@mdcleanenergy.org](mailto:brupert@mdcleanenergy.org).

## **2.8 Multiple Proposals**

Multiple and Alternate proposals will not be acceptable.

## **2.9 Access to Public Records Act Notice**

An Offeror should give specific attention to the identification of those portions of its proposal that it considers confidential, proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by MCEC under the Public Information Act, General Provisions Article, Title 4, Annotated Code of Maryland. Careful consideration should be given before confidential information is submitted to MCEC as part of your proposal. Review should include whether it is critical for evaluating a proposal, and whether general, non-confidential information, may be adequate for review purposes.

## **2.10 Proposal Opening**

Proposals will not be opened publicly. When the contract is awarded, those portions of the proposal available, pursuant to the Public Information Act, General Provisions Article, Title 4, Annotated Code of Maryland, will be made available upon written request to the Procurement Officer.

## **2.11 Compliance with Laws**

Contractor hereby represents and warrants that:

- (a) It is qualified to do business in the State of Maryland and that it will take such action as, from time to time, may be necessary to remain so qualified;
- (b) It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including, but not limited to,



the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Agreement;

- (c) It shall comply with all federal, State, and local laws applicable to its activities and obligations under this Agreement; and
- (d) It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Agreement.

### **2.12 Arrearages**

By submitting an offer in response to this RFP, the Offeror shall be deemed to represent that it is not in arrears in the payment of any obligation due and owing the State of Maryland or any department or unit thereof, including the payment of taxes and employee benefits, and if selected for award, that it shall not become in arrears during the term of the Contract.

### **2.13 Acceptance of Terms and Conditions**

By submitting an offer in response to this RFP, an Offeror shall be deemed to have accepted all the terms, conditions, and requirements set forth in this RFP unless otherwise clearly noted and explained in its proposal.

### **2.14 Bid/Proposal Affidavit**

A completed Bid/Proposal Affidavit must accompany all proposals submitted by an Offeror. A copy of this affidavit is included as Appendix 2 attached to this RFP.

### **2.15 Contract Affidavit**

All Offerors are advised that if a contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this affidavit is included for informational purposes as Appendix 3 attached to this RFP. This affidavit need not be submitted with an Offeror's proposal.

### **2.16 Order of Precedence**

The Offeror shall perform in accordance with this Contract and Exhibits, which are listed below and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall control. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

1. The contract and contract modifications executed by both parties;
2. This RFP; and
3. Vendor's proposal.

Modifications of the order of precedence provision of this solicitation will not be accepted. If any terms and conditions inconsistent with requirements of the solicitation are proposed, those terms and conditions must be stated in the proposal.



### **2.17 Contract Award**

MCEC anticipates making one award under this solicitation, but is not precluded from selecting a second firm if it is in the best interest of MCEC to do so. It may award a contract based on initial applications without discussion, or following limited discussion, negotiations, or interviews. Each offer should be submitted using the most favorable cost and technical terms. MCEC may request additional data or material to support applications. MCEC expects to notify proposers in approximately thirty (30) days from the proposal due date whether your proposal has been selected to receive an award.

### **2.18 RFP Modifications**

MCEC also reserves the right to correct any arithmetic errors, to change the final due date and time for the proposals, to accept or reject any of the firm's employees assigned to provide services on this project, and to require their replacement at any time, and to reject any proposal containing false or misleading statements or that provides references that do not support an attribute or a condition claimed by the proposer.

### **2.19 Limitation**

This solicitation does not commit MCEC to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. MCEC reserves the right to accept or reject any or all proposals received, to negotiate with all qualified sources, or to cancel in part or in its entirety the solicitation when it is in MCEC's best interest.

### **2.20 Performance of Services**

The Offeror shall perform the services within the limits prescribed by MCEC in a manner consistent with that level of care and skill ordinarily exercised by other independent public financial advisors under similar circumstances at the time the services are performed.

### **2.21 Contract Period and Renewal**

A contract to be awarded pursuant to the RFP shall begin on the date that the contract for this RFP is signed by both parties and shall continue for a period of four (4) years, with three (3) two (2) year options to renew with no cost extension. Program evaluation, including, but not limited to, the reporting metrics described in Sections 3 and 4 of this RFP, shall occur on a biennial basis, in alignment with the contract period.

### **2.22 Insurance Requirements**

Contractor shall maintain at all times during the performance of this Agreement, a commercial general liability insurance policy with a minimum occurrence coverage in the amount of \$1,000,000; an automobile liability insurance policy in the minimum amount of \$500,000, and workers' compensations insurance for employees in the State. All insurance policies shall:

- (a) Provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said policies except upon thirty (30) days written notice to MCEC;



- (b) Be evidenced by the original Certificate of Insurance, specifying the required coverage and the insurance carrier's standard additional insured form endorsement, which shall be updated as necessary; and
- (c) Be approved as to form and sufficiency by the MCEC.

If the commercial general liability insurance referred to above is written on a Claims Made Form then, following termination of this Agreement, coverage shall survive for a period of not less than five years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this Agreement.

### **2.23 Non-Discrimination in Employment**

Contractor shall operate under this Agreement so that no person, otherwise qualified, is denied employment or other benefits on the basis of: (a) race, color, creed, national origin, or marital status; (b) sex or age, except when sex or age constitutes a bona fide occupational qualification; or (c) the physical or mental disability of a qualified individual with a disability. Except in subcontracts for standard commercial supplies or raw materials, Contractor shall include a clause similar to this clause in all subcontracts. Contractor shall provide actual notice of the foregoing to employees and applicants for employment.



### **SECTION III. SCOPE OF SERVICES AND REQUIREMENTS**

#### **3.1 General Information**

MCEC is a State-public corporation and an instrumentality of the State of Maryland that has been authorized to: 1) Promote economic development and jobs in the clean energy industry sector in the State; 2) Promote the deployment of clean energy technology in the State; 3) Serve as an incubator for the development of clean energy industry in the State; 4) Collect, analyze, and disseminate industry data; and, 5) Provide outreach and technical support to further the clean energy industry in the State. MCEC's program priorities range from providing clean energy initiative funding, technology commercialization and business incubation, and workforce development and training.

MCEC is governed by a Board of Directors that consists of 9 individuals that bring a wide range of perspectives and experience to MCEC's operations. MCEC employs a small staff and the Attorney General's Office provides legal services to the organization.

#### **3.2 RFP Objectives and Services Sought**

MCEC seeks proposals to administer the MD-PACE Program in compliance with all applicable state codes, and incorporating nationally-recognized best policies and practices. The purpose of the Program is to provide increased access to C-PACE financing to assist in achievement of the objectives contained in the clean energy policy framework outlined in Section 1.1. The Program will expand and improve long-term financing opportunities for clean energy and climate resilience projects for both existing buildings and new construction, with an emphasis on projects that serve historically economically disadvantaged communities.

C-PACE is a straightforward concept and mechanism; however, due to the public-private partnerships and complex financial transactions involved, administering a C-PACE program involves many interwoven tasks and processes. Accordingly, the scope of services sought here may include, but are not limited to, the following:

- Program Administration
- Marketing, Outreach and Training
- Website Management and Maintenance
- Project Technical Review and Compliance
- Data Management and Reporting



### 3.2.1 Program Administration

Tasks associated with program administration are varied and can be far-reaching, but at a minimum, key activities shall include: upholding minimum qualification standards for program participants, such as capital providers and contractors; ensuring that property owners, lenders, and localities execute all necessary contractual and financial documents; and recording liens as required by local governments.

Program administration also requires maintaining and updating program documents, as applicable, including the Program Guidelines, template county ordinance, and template legal documents. Selected vendors will be expected to immediately assist MCEC in implementing the expanded C-PACE program eligibility requirements to include remediation projects, resiliency projects, and projects that promote indoor air and water quality. The administrator shall ensure C-PACE assessment payments are made on a timely basis and shall be responsible for overseeing the billing/collecting of C-PACE assessments by participating counties.

### 3.2.2 Marketing, Outreach and Training

Program marketing, outreach and training tasks may include, but not be limited to: promoting the existing MD-PACE brand and program; maintaining regular contact; and raising awareness with key market participants (local and state government representatives and elected officials, building/property owners, lenders and capital providers, project developers and contractors in relevant trades); and providing in-person or online training on Program policies and procedures for capital providers/lenders and contractors as a component of their qualification to participate. Offerors will also be required to assist MCEC with development and execution of marketing strategies and initiatives to increase program uptake.

### 3.2.3 Website Development and Maintenance

The Program website will serve as a critical information platform, informing the public and prospective participants about the Program as well as providing a point of submission for inquiries. Vendor should also make available a secure, password-protected portal for participants to submit necessary application and compliance documents to the administrator.

### 3.2.4 Project Application, Technical Review and Compliance

The Offeror shall ensure that all projects meet Program requirements, beginning with an application that screens for eligibility on specific criteria, including owner property eligibility and owner financial fitness. Technical review may be conducted in-house by the administrator or by contracted third-parties, and shall include determination that energy audits and/or feasibility or engineering studies are developed by appropriately-credentialed personnel in the project development phase, and that the proposed project meets Program criteria. Although a positive ( $\geq 1.0$ ) Savings-to-Investment Ratio will not be a prescriptive requirement for all projects, review shall include determining that project development team has accurately projected repayment sources, such as utility bill savings and renewable energy credits, relative to the total cost of the proposed measures to be installed. Proposals should also address how project evaluation measures could be implemented to assess project alignment with the State of Maryland's commitment to energy equity and environmental justice by, for example,



maximizing the economic and environmental benefits to underserved communities and conducting targeted community involvement.

### 3.2.7 Data Management and Reporting

The Offeror shall develop and maintain a secure database to house all data associated with the Program. The timing and nature of reporting is described in more detail in Section 4.1, but a general goal should be providing reliable information on number of closed projects and project pipeline, reductions in energy use, GHG emissions, renewable energy system production capacity, and framing the Program's role in accelerating clean energy market transformation in Maryland. All data and materials generated shall be the property of MCEC, as noted in section 4.01.14, and should be transferable to a successor administrator if this should be the case.

### **3.3 Maryland C-PACE Program Requirements**

3.3.1: MCEC requests proposed Program designs that would address as many of the objectives listed as possible in Section 3.2, RFP Objectives and Scope of Services Sought; that supports Section 1.2, MD-PACE Policy Guidelines; and that is compliant with each of the sources of authority cited in Section 1.1, Maryland PACE (MD-PACE) Program Overview.

3.3.2: The proposed program must be structured to use private lenders and capital providers to ensure that each project participating in the Program is financed such that the project underwriting stands on its own and will not impact the general obligation or credit of the State of Maryland. Proposals shall describe how the Program and administrator will coordinate necessary stakeholders (local governments, property owners and lender/capital providers) to originate, underwrite, document, close and service C-PACE projects and financing, and enforce timely repayment and/or collection.

3.3.3: Proposals shall describe how the Program and Offeror will manage contractors and key relationships, with duties including: Contacting and raising awareness with key market participants (local and state government representatives and elected officials, building/property owners, lenders and capital providers, project developers and contractors in relevant trades); and providing in-person or online training on Program policies and procedures for capital providers/lenders and contractors as a component of their qualification to participate.

3.3.4: Proposals shall describe how the Program and Offeror will achieve economies of scale and maintain low administrative costs to provide financing that is affordable and attractive to a variety of property owners and building configurations while maximizing the economic and environmental benefit of the Program to underserved communities.

3.3.5: Proposals shall describe and provide representative examples (as applicable) of the following:



- 3.3.5.1 - Types of measures and equipment that will be eligible for Program funding as well as financial characteristics of projects that will be eligible for financing (e.g., minimum transaction size);
- 3.3.5.2 - Program application process and procedures, including approval criteria;
- 3.3.5.3 - The way in which other capital sources (e.g., from private lenders, utilities, any future green banks) will be leveraged, including how credits such as tax credits or renewable energy credits will be monetized in the transaction;
- 3.3.5.4 - The way in which C-PACE may provide important “gap financing” for projects that may not be served by traditional financing; and
- 3.3.5.5 - The estimated growth rate and potential size of the Program as well as the potential size of the overall C-PACE market in Maryland, given the currently existing programs sponsored by local governments.

3.3.6: MCEC seeks proposals that would employ independent third parties with relevant experience to monitor for compliance. Proposals should specify how program revenue from fees will be generated to pay the costs of third-party quality assurance oversight.

3.3.7: MCEC seeks proposals that will use Maryland-based organizations to deliver and administer Program services to the extent practicable. Teaming arrangements that will assist in providing needed capacity to serve a statewide market are encouraged.

3.3.8: Offerors should describe how the administrator will work with MCEC to efficiently obtain input from the organization in the administration of the Program.

3.3.9: Offerors should describe the content and nature of reporting to MCEC, which is to be no less than quarterly in frequency. Reports shall satisfy the minimum requirements of any terms and conditions established by contract. Financial and program metrics reporting is required and should be comprehensive enough to characterize the progress and status of Program and participating projects. Reporting shall include basic program metrics and successes in formats which facilitate occasional presentations and any public information appropriate for display on the Program website. Offerors should provide detailed information on how projected energy savings and GHG reductions will be estimated during the project design/engineering phase for purposes of Program reporting.

3.3.10: Offerors shall describe how the administrator will produce, update, maintain, host or arrange for hosting, and pay for all costs of a website or web pages, and how offeror will provide access to Program information, such as contact information, forms, document templates, program guidelines, FAQs and other materials necessary to administer the Program.



3.3.11: Offerors shall describe the types and amounts of fees and all other revenues that will be produced by the proposed Program, and explain how all fees and other revenues will be transparently disclosed, collected, reported to MCEC. Offerors may wish to factor a percentage of revenue for MCEC into proposed fee structures, or propose how program investment could be structured as an equity partnership.

3.3.12: Offerors shall provide proof of sufficient financial resources to design, promote and cover expenses associated with administering the Program successfully with the budget provided. The offeror must provide financial statements for the prior two years, if available. If financial statements are not available, other information, such as copies of tax returns, may be required.

3.3.13: Proposals shall describe a marketing and communications plan and should include experience that the offeror's team has in driving demand for C-PACE programs, tactics and strategies that will be employed, potential partners who will assist, and how the offeror would work in coordination with MCEC and other stakeholders.

3.3.14: Proposals shall describe how offerors will engage Women-owned and Minority and Business Enterprise (MBE) businesses in providing program services or project work. Specifically, offerors shall:

- (a) Identify specific work categories within the scope of the procurement appropriate for subcontracting;
- (b) Solicit certified MBEs in writing at least 10 days before bids or proposals are due, describing the identified work categories and providing instructions on how to bid on the subcontracts;
- (c) Attempt to make personal contact with the certified MBEs solicited and to document these attempts;
- (d) Assist certified MBEs to fulfill, or to seek waiver of, bonding requirements; and
- (e) Attend pre-bid or other meetings the procurement agency schedules to publicize contracting opportunities to certified MBEs.

3.3.15: An overall MBE subcontract participation goal of \_\_\_\_\_ percent of the total contract dollar amount, including all renewal option terms, if any, has been established for this procurement. By submitting a response to this solicitation, the bidder or offeror acknowledges the overall MBE subcontractor participation goal and commits to achieving the goal by utilizing certified minority business enterprises or requests a full or partial waiver of the goal.

3.3.16: Minority business enterprises are encouraged to respond to this solicitation.



## **SECTION IV. PROPOSAL REQUIREMENTS**

**Proposals must be submitted in two parts as set forth in Sections 5.3 and 5.4 below.** Each part must be complete, so that it can be evaluated independently.

A proposal should not be excessively long or submitted in an elaborate format that includes expensive binders or graphics. The Technical Proposal (See Section 5.3 below) should be limited to not more than fifteen (15) pages, plus attachments. Unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective response will not influence the evaluation of the proposal. Each page of the proposal should state the name of the proposer and the page number.

### **4.1 Management Qualifications and Eligibility**

4.1.1. Describe your organizational structure.

4.1.2. Describe any technical knowledge or related expertise which may be of benefit to Program Administrators. Provide a project organization and management description that describes the unique capabilities of your firm and the individuals assigned as consultants related to the proposed Scope of Work.

4.1.3. Provide the names of personnel in the firm who will be assigned to MCEC's account and their experience in performing services similar to those requested in this RFP. Include resumes for employees proposed to be involved on MCEC's account. Include a description of each employee's function in the company, title, office address, and number of years of service with the firm and other relevant past experience. Describe the availability of the lead person(s) for consultation with Program Administrators, including his or her ability to meet with Program Administrators. (Resumes may be included as an appendix.)

4.1.4. Describe your firm's experience and expertise working with public entities and local municipalities, particularly agencies, authorities, and instrumentalities of the State of Maryland.

4.1.5. Briefly describe the services you expect to provide to MCEC. Indicate whether your firm is prepared to render the services enumerated in this RFP using its own resources. Discuss the approach your firm would take to meet the requirements of this RFP, including: a specific time line of milestones for measurable outcomes; expectations for MCEC staff, stakeholder engagement, and plans for graphic presentation in delivery of reports.

4.1.6. Identify any litigation or administrative proceedings to which you are a party and which would either materially impair your ability to perform the services enumerated herein and for which this RFP was issued or, if decided in an adverse manner, materially adversely affect the financial condition of your firm.



4.1.7. Identify the employees that have been the subject of any investigation or disciplinary action by any Maryland ethical or regulatory authority. Describe briefly how any matter was resolved or whether it remains unresolved.

4.1.8. Identify if your firm or any employee has ever been disbarred or suspended by any agency of the U.S. Government or the State of Maryland.

4.1.9. Indicate if your firm is a minority and / or woman-owned business enterprise and provide the appropriate certification. If your firm is not a minority and / or woman-owned business enterprise, please provide an explanation of how your firm, if selected, would help MCEC further its policy of promoting participation of minorities and women in the provision of services to it, including services in support of this program.

4.1.10. Indicate the address of the office through which MCEC's account will be primarily serviced, and any anticipated travel or other such costs.

4.1.11. Provide three client references. The list must include references related to projects: (i) On which the proposed principal consultant played a lead role; and (ii) For which the services provided were similar to the services expected to be provided under this RFP. MCEC reserves the right to contact any previous client whether or not provided as a reference.

4.1.12. Provide any other information that you believe would make your firm's representation of MCEC superior to other firms' representation, including descriptions of your firm's role in recommending innovative or unique ideas or concepts.

4.1.13. Ownership of all Materials: Ownership of all data, materials and documentation originated and prepared for MCEC pursuant to the RFP shall belong exclusively to MCEC and be subject to public inspection in accordance with the Maryland's Public Information Act.

4.1.14. Proprietary Information: Trade secrets or proprietary information submitted by Offeror shall not be subject to public disclosure, per the terms of the Maryland Public Information Act. However, the offeror must notify MCEC, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected, including the section of the proposal in which it is contained, the page numbers, and state the reasons why protection is necessary. The classification of an entire proposal document, line-item prices and/or total proposal prices as proprietary or trade secrets is not acceptable. If, after being given reasonable time, the offeror refuses to withdraw such a classification designation, the proposal will be rejected.

## **4.2 Cost**

4.2.1. Delineate all costs anticipated to be associated with this work. The rates will include all expenses. Fees will be applicable for the term of the contract between MCEC and the winning Offeror, and all extensions of the contract.



4.2.2. State any special considerations with respect to billing or payment of fees and expenses that your firm offers and that you believe would differentiate you from other proposers and make your firm's services more cost effective for MCEC.



## **SECTION V. PROPOSAL FORMAT**

### **5.1 Transmittal Letter**

A brief transmittal letter prepared on the Offeror's business stationery should accompany the original and required copies of the two-part proposal. The letter must be signed by an individual authorized to bind the Offeror to all statements, including services and prices, contained in the proposal. The transmittal letter should also indicate that, if selected, the Offeror will execute a contract with MCEC.

### **5.2 Two -Part Submission**

The selection procedure for this procurement requires that the initial technical evaluation(s) of each portion of the proposal be completed before consideration of an Offeror's pricing proposal. Consequently, each proposal must be submitted in two parts as indicated below.

### **5.3 Part I - Technical Proposal**

This part shall be labeled " *MD-PACE Program Design and Administration – Technical Proposal* ". This part shall contain a completed proposal affidavit (see *Appendix 2-Bid Proposal Affidavit*). It should be prepared in a clear and concise manner, be no more than 15 pages in length (excluding appendices), and should address all of the subsections of Sections 3.2 and 4.1 above. In addition, this part should contain:

- (a) Name of firm.
- (b) Mailing address of the office from which the proposal is being submitted.
- (c) Name of individual who will represent firm as primary contact person on matters relating to the proposal
- (d) Telephone number, fax number, and E-mail address, if applicable.

### **5.4 Part II - Pricing Proposal**

This part shall be labeled " *MD-PACE Program Design and Administration – Pricing Proposal* ". Offeror shall provide the hourly rates for no more than four classes of personnel: principal, professional, para-professional, and staff. The rates will include all expenses.

As part of a pricing proposal, Offeror shall define a timeline for deliverables and a schedule of payments associated with the completion of deliverables described in the timeline.



## **SECTION VI. PROPOSAL EVALUATION**

Proposals meeting the RFP requirements will be evaluated as follows:

A selection committee consisting of MCEC staff and outside subject matter experts will review the Technical Proposals to determine if they each meet the requirements of this RFP. Following this initial review, the selection committee will review all Price Proposals. Following this review, MCEC may develop a short list of Offerors who will be eligible for further consideration and will be asked to interview with and/or make oral presentations to the selection committee as set forth in Section 2.5 above. Following any presentations or, if the selection committee believes that it has sufficient information based upon its review of the Proposals without presentations, the selection committee will recommend an Offeror to the MCEC Board of Directors for approval. The selection committee's recommendation, and any final Board approval, will be based upon the determination of the selection committee and the Board, in their sole judgment, as to which Proposal would provide MCEC with the most advantageous and comprehensive combination of technical expertise, reputation, and price, while also assessing the minority business enterprise goals of MCEC.

## **SECTION VII. APPENDICES**

### Appendices

Appendix 1	Form of Contract
Appendix 2	Bid/Proposal Affidavit
Appendix 3	Contract Affidavit

**PROCUREMENT CONTRACT  
BETWEEN  
MARYLAND CLEAN ENERGY CENTER  
AND**

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**THIS AGREEMENT** (this “Agreement”), is made as of the \_\_\_\_ day of \_\_\_\_\_, 201\_, between the **MARYLAND CLEAN ENERGY CENTER** (“MCEC”), a body politic and corporate and a public instrumentality of the State of Maryland, whose address 5000 College Avenue, Suite 31010, College Park, MD 20740, and \_\_\_\_\_ (“Contractor”), whose \_\_\_\_\_ address \_\_\_\_\_ is \_\_\_\_\_ and whose FEIN is \_\_\_\_\_.

MCEC and Contractor do mutually agree as follows:

1. Services to be Provided.

(a) MCEC shall purchase Contractor’s services, and Contractor shall \_\_\_\_\_, in accordance with Contractor’s Proposal dated \_\_\_\_\_, 200\_) (the “Proposal”), attached as Exhibit A and incorporated herein, to the extent that the Proposal is consistent with this Agreement.

(b) MCEC retains the unilateral right to require changes in the services to be rendered, so long as the changes are within the general scope of work to be performed hereunder.

2. Term of Agreement. Performance under this Agreement commences on \_\_\_\_\_, 200\_, and continues until agreed upon services are completed, but in any case no later than \_\_\_\_\_, 200\_.

3. Compensation and Method of Payment.

(a) Compensation. MCEC shall compensate Contractor for services satisfactorily performed at the rates set forth in Exhibit A. The total cost to MCEC for the services to be provided by Contractor under this Agreement may not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

(b) Method of Payment. MCEC shall pay Contractor no later than thirty days after MCEC receives a proper invoice from Contractor, which invoices shall be tendered at monthly intervals. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, State Finance and Procurement Article, Maryland Code, are prohibited.

4. Contract Officer. MCEC designates \_\_\_\_\_ to serve as Contract Officer for this Agreement. All contact between MCEC and Contractor regarding all matters relative to this Agreement shall be coordinated through the Contract Officer.

5. Responsibility of Contractor. Contractor shall perform the services with that standard of care, skill, and diligence normally provided in the performance of similar services.

6. Disputes. This Agreement shall be deemed subject to Title 15, Subtitle 2 (Dispute Resolution), State Finance and Procurement Article, Maryland Code and to COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, Contractor must proceed diligently with the performance of the Agreement in accordance with the Contract Officer's decision. Unless a lesser period is provided by law, Contractor must file a written notice of claim with the Contract Officer within thirty days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty days of the filing of a notice of claim, but no later than the date of final payment under the Agreement, Contractor must submit to the Contract Officer its written claim containing the information specified in COMAR 21.10.04.02.

7. Termination for Convenience. MCEC may terminate the performance of work under this Agreement in whole, or, from time to time, in part, whenever MCEC determines that such termination is in the best interest of MCEC. MCEC shall pay all reasonable costs associated with this Agreement that Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the Agreement. MCEC may not reimburse Contractor for any anticipatory profits that have not been earned up to the date of termination.

8. Termination for Default. If Contractor fails to fulfill its obligations under this Agreement properly and on time, or otherwise violates any provision of the Agreement, MCEC may terminate the Agreement by written notice to Contractor. The notice must specify the acts or omissions relied on as cause for termination. All finished or unfinished supplies and services provided by Contractor shall, at MCEC's option, become MCEC's property.

9. Set-Off, Etc. MCEC may deduct from and set off against any amounts due and payable to Contractor any back-charges, penalties, or damages sustained by MCEC, by virtue of any breach of this Agreement by Contractor. Nothing herein shall be construed to relieve Contractor of any liability for additional costs resulting from a failure to satisfactorily perform the services. Upon receipt and acceptance of the final payment due under this Agreement in accordance with its original terms or with an early termination by MCEC, the Contractor waives any and all rights or claims arising under this Agreement, unless otherwise agreed in writing by MCEC.

10. Contingent Upon Funds. If MCEC does not have funds available for continued performance for any period of this Agreement, this Agreement must be canceled automatically as of the beginning of the period for which funds were not available. Cancellation does not affect either MCEC's rights or Contractor's rights under any termination clause in this Agreement. The effect of cancellation of the Agreement hereunder will be to discharge both Contractor and MCEC from future performance of the Agreement, but not from their rights and obligations existing at the time of termination. MCEC shall reimburse Contractor for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Agreement. MCEC shall notify Contractor as soon as it has knowledge that funds may not be available for the continuation of this Agreement.

11. Dissemination of Information. Contractor shall not release any information related to the services or performance of the services under this Agreement, nor publish any final reports or documents, without the prior written approval of MCEC, or unless such release is otherwise required by law or reasonably necessary to be disclosed in judicial proceedings. Contractor shall treat all information obtained by, or on behalf of, MCEC in connection with services performed under this Agreement as confidential and shall not disclose such information except as required by law.

12. Ownership of Documents, Equipment, and Materials. (a) Ownership. Contractor agrees and shall ensure that all documents, equipment, and materials including but not limited to reports, drawings, studies, specifications, estimates, maps, software, photographs, designs, graphics, mechanicals,

artwork, and computations prepared by or for, or purchased by or for, Contractor in connection with the performance of this Agreement shall at any time during the term of this Agreement be available to MCEC and shall become and remain the exclusive property of MCEC upon termination or completion of the services. MCEC shall have the right to use same without restriction and without compensation to Contractor or others other than that provided in this Agreement. MCEC shall be the owner for purposes of copyright, patent or trademark registration, and Contractor hereby transfers to MCEC any rights it may have in the work produced pursuant to this Agreement. Contractor agrees that at all times during the term of this Agreement and thereafter, the works created and services performed shall be “works made for hire” as that term is interpreted under copyright law. To the extent that any products created under this Agreement are not MCEC works for hire, Contractor hereby transfers and assigns to MCEC all of its rights, title and interest (including all intellectual property rights) to all such products created under this Agreement, and will cooperate reasonably with MCEC in effectuating and registering any necessary assignments. (b) Third party; Indemnification. If Contractor obtains or uses for purposes of this Agreement any design, device, material, process, or work covered by patent, copyright, or trademark, Contractor shall ensure MCEC that it is licensed to possess and to use such design, device, material, process, or work. Contractor shall indemnify MCEC, its officials, agents and employees with respect to any claim, action, cost or judgment for patent, trademark or copyright infringement by Contractor arising out of the possession or use of any design, device, material, process, supplies, equipment, services or other work covered by this Agreement.

13. Retention of Records. Contractor shall retain and maintain all records and documents relating to this Agreement for three years after final payment by MCEC hereunder or any applicable statute of limitations, whichever is longer. Contractor shall make such records and documents available for inspection and audit by authorized representatives of MCEC, including the Contract Officer or designees, at all reasonable times.

14. Responsibility for Claims and Liability. MCEC is not liable in any action of tort, contract, or otherwise for any actions of Contractor arising out of this Agreement. Contractor shall be responsible for all damage to life and property due to its activities or those of its agents or employees. Contractor shall indemnify and absolve MCEC, the State, their officials, agents, and employees from and against all claims, suits, judgments, expenses, actions, damages and costs of every name and description, including reasonable attorney's fees, arising out of or resulting from the goods provided or Contractor's performance of services under this Agreement.

15. Compliance with Laws. Contractor hereby represents and warrants that:

(a) It is qualified to do business in the State of Maryland and that it will take such action as, from time to time, may be necessary to remain so qualified;

(b) It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including, but not limited to, the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Agreement;

(c) It shall comply with all federal, State, and local laws applicable to its activities and obligations under this Agreement; and

(d) It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Agreement.

16. Non-Discrimination in Employment. Contractor shall operate under this Agreement so that no person, otherwise qualified, is denied employment or other benefits on the basis of: (a) race,

color, creed, national origin, or marital status; (b) sex or age, except when sex or age constitutes a bona fide occupational qualification; or (c) the physical or mental disability of a qualified individual with a disability. Except in subcontracts for standard commercial supplies or raw materials, Contractor shall include a clause similar to this clause in all subcontracts. Contractor shall provide actual notice of the foregoing to employees and applicants for employment.

17. Subcontracting; Assignment. Contractor may not, during the term of this Agreement or any renewals or extensions of the Agreement, assign any of its rights hereunder nor delegate or subcontract all or any part of its duties hereunder without the prior written approval of the Contract Officer. Any approved subcontract or assignment is subject to all terms and conditions that MCEC deems necessary. MCEC is not responsible for Contractor's obligations to its subcontractors.

18. Insurance: Contractor shall maintain at all times during the performance of this Agreement, a commercial general liability insurance policy with a minimum occurrence coverage in the amount of \$1,000,000; an automobile liability insurance policy in the minimum amount of \$500,000, and workers' compensations insurance for employees in the State. All insurance policies shall:

(a) Provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said policies except upon thirty (30) days written notice to MCEC;

(b) Be evidenced by the original Certificate of Insurance, specifying the required coverage and the insurance carrier's standard additional insured form endorsement, which shall be updated as necessary; and

(c) Be approved as to form and sufficiency by the MCEC.

If the commercial general liability insurance referred to above is written on a Claims Made Form then, following termination of this Agreement, coverage shall survive for a period of not less than five years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of this Agreement.

19. Agreement Modification. Except as provided in section 1(b) above, this Agreement may be amended only as MCEC and Contractor mutually agree in writing. Except for the specific provision of the Agreement which is amended, the Agreement remains in full force and effect after such amendment and is subject to the same laws, obligations, conditions, provisions, rules, and regulations, as it was before the amendment.

20. Maryland Law. This Agreement shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

21. Entire Agreement. This Agreement, together with any Exhibits incorporated by reference, represents the complete and final understanding of the parties. No other understanding or representations, oral or written, regarding the subject matter of this Agreement, may be deemed to exist or to bind the parties at the time of execution.

The contract between the parties will be embodied in the contract documents which will consist of the following, listed in their order of precedence:

1. The contract and contract modifications executed by both parties;
2. This RFP; and

3. Vendor's proposal.

Modifications of the order of precedence provision of this solicitation will not be accepted. If any terms and conditions inconsistent with requirements of the solicitation are proposed, those terms and conditions must be stated in the proposal.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on or before the date first set forth herein.

**WITNESS/ATTEST:**

\_\_\_\_\_

**CONTRACTOR:**

By: \_\_\_\_\_  
Name : \_\_\_\_\_  
Title: \_\_\_\_\_

**WITNESS:**

\_\_\_\_\_

**MARYLAND CLEAN ENERGY CENTER:**

By: \_\_\_\_\_  
Name: I. Katherine Magruder  
Title: Executive Director

Attachment: Exhibit A: Contractor's Proposal

## APPENDIX II – BID/PROPOSAL AFFIDAVIT

### A. AUTHORITY

I hereby affirm that I, \_\_\_\_\_ (name of affiant) am the \_\_\_\_\_ (title) and duly authorized representative of \_\_\_\_\_ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

### B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned Bidder/Offeror hereby certifies and agrees that the following information is correct: In preparing its Bid/Proposal on this project, the Bidder/Offeror has considered all Proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland.

"Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, sexual identity, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the Bid/Proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/Proposal. As part of its Bid/Proposal, the Bidder/Offeror herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the Bidder/Offeror discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder/Offeror agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

#### B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, § 14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a Bid/Proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority Proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the Bid/Proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the Bid/Proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the Bid/Proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/Proposal.

## B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES.

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that a person may not:

- (1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;
- (2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a Bid/Proposal preference or a procurement contract;
- (3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1)-(5) of this regulation.

## C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

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D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

(1) Been convicted under state or federal statute of:

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of Bids/Proposals for a public or private contract;

(4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;

(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of Bids/Proposals for a public or private contract;

(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;

(9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:

(a) §7201, Attempt to Evade or Defeat Tax;

(b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,

(c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information,

(d) §7205, Fraud and False Statements, or

(e) §7207, Fraudulent Returns, Statements, or Other Documents;

(10) Been convicted of a violation of 18 U.S.C. §286, Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;

(11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;

(12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review;

(13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review;

(14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:

(a) A court:

(i) Made the finding; and

(ii) Decision became final; or

(b) The finding was:

(i) Made in a contested case under the Maryland Administrative Procedure Act; and

(ii) Not overturned on judicial review; or

(15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(14) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

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#### E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

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#### F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

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#### G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

#### H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Bid/Proposal that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/Proposal price of the Bidder/Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Bid/Proposal is submitted.

#### I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

#### J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

(1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:

(a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and

(b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.

2. The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities: \_\_\_\_\_

L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)

I FURTHER AFFIRM THAT:

The business has complied with the provisions of State Finance and Procurement Article, §14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

M. I FURTHER AFFIRM THAT:

Any claims of environmental attributes made relating to a product or service included in the Bid or Proposal are consistent with the Federal Trade Commission's Guides for the Use of Environmental Marketing Claims as provided in 16 CFR §260, that apply to claims about the environmental attributes of a product, package, or service in connection with the marketing, offering for sale, or sale of such item or service.

N. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this Bid/Proposal shall be

construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_

By: \_\_\_\_\_ (print name of Authorized Representative and Affiant)

\_\_\_\_\_ (signature of Authorized Representative and Affiant)

**APPENDIX III: CONTRACT AFFIDAVIT**

**A. AUTHORITY**

I hereby affirm that I, \_\_\_\_\_ (name of affiant) am the \_\_\_\_\_ (title) and duly authorized representative of \_\_\_\_\_ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

**B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION**

I FURTHER AFFIRM THAT:

The business named above is a (check applicable box):

- (1) Corporation —  domestic or  foreign;
- (2) Limited Liability Company —  domestic or  foreign;
- (3) Partnership —  domestic or  foreign;
- (4) Statutory Trust —  domestic or  foreign;
- (5)  Sole Proprietorship.

and is registered or qualified as required under Maryland Law. I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

*Name and Department ID*  
Number: \_\_\_\_\_ Address: \_\_\_\_\_

*and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:*

*Name and Department ID*  
Number: \_\_\_\_\_ Address: \_\_\_\_\_

**C. FINANCIAL DISCLOSURE AFFIRMATION**

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

#### D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a contract for a procurement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31.

#### E. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its Proposal, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

- (i) The dangers of drug and alcohol abuse in the workplace;
- (ii) The business's policy of maintaining a drug and alcohol free workplace;
- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;

(h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:

- (i) Abide by the terms of the statement; and
- (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

- (i) Take appropriate personnel action against an employee, up to and including termination; or
- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

- (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

## F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Proposal Affidavit dated \_\_\_\_\_, 201\_\_\_\_, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_

By: \_\_\_\_\_ (printed name of Authorized Representative and Affiant)

\_\_\_\_\_ (signature of Authorized Representative and Affiant)