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OFFICE OF THE ATTORNEY GENERAL

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August 15, 2022

Dear Interested Party:

On behalf of the Maryland Department of Housing and Community Development (“**DHCD**” or, together with its various units and divisions, the “**Department**”), the Office of the Attorney General (the “**OAG**”) is soliciting proposals (“**Proposals**”) from qualified law firms experienced in real estate finance, affordable housing, tax-exempt bond and loan financing, low-income housing tax credits, asset management, commercial loans, loan enforcement, collections, bankruptcy and workouts (the “**Offerors**”) to serve as:

(a) Lender’s counsel (“**Lender’s Counsel**”) to the Department and its units and divisions, including the Community Development Administration (“**CDA**”), the Maryland Housing Fund (“**MHF**”); and the Division of Neighborhood Revitalization (“**DNR**”); and

(b) Loan workout counsel (“**Workout Counsel**”) to the Department.

Six copies of your Proposal should be delivered to the following address: Anne Marculewicz, Senior Transactional Attorney and Assistant Attorney General, 7800 Harkins Road, Lanham, Maryland 20706. **Proposals must be received no later than 4:00 p.m. on September 29, 2022.** The “Technical Proposal” and “Price Proposal”, as described below, must be submitted in separate sealed envelopes. A Proposal may not be submitted by email or telecopier. Any prospective Offeror (each a “**Prospective Offeror**”) who downloads this Request for Proposals (this “**RFP**”) from a public website should immediately contact me by email and provide their name and email address in order that amendments to the RFP, any questions and answers that are provided in connection with this RFP or other communications can be sent to such Prospective Offeror. My email address is anne.marculewicz@maryland.gov.

Questions about this RFP may be submitted to me by email no later than 4:00 p.m. on September 2, 2022. I am the sole point of contact for this request for proposals. A list of the written questions and the answers thereto will be provided to each of those persons who notify me that they have obtained this RFP and may be interested in submitting a Proposal. There will be no pre-proposal conference.

Overview of the Department

General. DHCD is a principal department of the government of the State of Maryland (the “**State**”) organized pursuant to the Housing and Community Development Article of the Annotated Code of Maryland (the “**Act**”). CDA, a unit in the Division of Development Finance of DHCD, is the State’s housing finance agency and is authorized to issue taxable and tax-exempt bonds pursuant to Sections 4-101 through 4-255 of the Act and regulations promulgated thereunder, to raise capital to fund, among other things, affordable multifamily rental housing. In addition, the Department receives appropriations of State general funds, federal funds and funds from other non-governmental sources to facilitate affordable housing and commercial revitalization programs.

DHCD’s Primary Lending Programs. The Department’s primary housing lending programs are summarized below.

Multifamily Bond Program. CDA issues bonds pursuant to Sections 142 and 145 of the Internal Revenue Code, as amended (the “**Code**”) to finance multifamily rental housing projects and to finance group home facilities for persons with special needs. CDA bond-funded loans (“**Bond Loans**”) typically are credit enhanced through one or more financing structures available in the affordable rental housing market. Currently, the principal enhancement structures that are being utilized for new Bond Loans include: the Risk Sharing Program of the Federal Housing Administration (“**FHA**”), the “**MTEB**” program of the Federal National Mortgage Association (“**Fannie Mae**”), the “**Freddie TEL**” program of the Federal Home Loan Mortgage Corporation (“**Freddie Mac**”) and cash collateralized loans made in conjunction with an FHA-insured loan. Bond Loans in CDA’s portfolio include some loans enhanced with securities issued by the Government National Mortgage Association (“**Ginnie Mae**”) and loans wholly or partially insured by MHF. CDA issues its bonds both publicly and privately under either a parity indenture or a stand-alone indenture. Bond Loans generate “automatic” low-income housing tax credits (“**Tax Credits**”) under Section 42 of the Internal Revenue Code, as amended (the “**Code**”) which facilitate equity investment for the projects.

Multifamily State Funded Loans. The Department receives appropriations of general funds from the State to make multifamily rental housing loans (the “**State Loans**”) under several programs, the principal ones of which are set forth below. State Loans are typically made as surplus cash or deferred-payment loans to enable a project to fill a budget gap that commercial lenders are often unwilling to finance.

Rental Housing Program: Funded by the annual State Budget Bill and operated pursuant to Section 4-401 *et seq.* of the Act and regulations promulgated pursuant thereto. Rental Housing Program loans are generally made available in conjunction with competitively awarded Tax Credits.

Partnership Rental Housing Program: Usually funded from State-issued general obligation bonds (“**GO Bonds**”) and operated pursuant to Section 4-1201 *et seq.* of the Act. Partnership Rental Housing Program loans are typically deferred loans and have certain restrictions intended to foster a partnership between the state, the local jurisdiction and the tenants of the community.

Rental Housing Works Initiative: Currently authorized and funded by the annual Budget Bill of the State Legislature but previously funded from the proceeds of GO Bonds and operated pursuant to Section 4-401 *et seq.* of the Act. Rental Housing Works loans are similar to Rental Housing

Program loans but are generally used in conjunction with Bond Loans and the “automatic” Tax Credits generated by the bond financing.

HOME Loan Program. The Department is a participating jurisdiction in the federal HOME Investment Partnerships Program (the “**HOME Program**”). The Department applies a portion of its annual allocation of HOME funds for multifamily loans under the Maryland HOME Program in a manner similar to the Rental Housing Program, typically in conjunction with competitively awarded Tax Credits. The Department also utilizes some HOME funds in conjunction with certain special loans for group homes, transitional facilities for the homeless or other populations with special needs. The Maryland HOME regulations can be found in Title 05, Subtitle 12, Chapter 01 of the Code of Maryland Regulations (“**COMAR**”).

Multifamily Energy Programs. There are a number of smaller programs and initiatives typically funded from external sources which are disbursed to Projects for costs that improve energy efficiency or reduce environmental impact. The Department makes loans using these funds pursuant to statutory authority and/or its general authority set forth in Subtitle 2 of the Act to receive and administer funds from external sources in furtherance of its mission to facilitate affordable housing, encourage and facilitate energy conservation, and community assistance.

Neighborhood Revitalization Loans. DNR administers various programs in furtherance of the Department's mission to promote community development. Some of the principal programs administered by DNR for which the Department may seek Lender's Counsel are described below. Loans for the various DNR programs may be referred to herein as “**DNR Loans**”.

Neighborhood Business Works Program: The Neighborhood Business Works Program (“**NBW**”)(formerly called the Neighborhood Business Development Program) is authorized pursuant to Sections 6-301 *et seq.* of the Act and provides loans to small businesses. NBW loans may be funded by State appropriations or bonds issued by CDA and may be secured by a deed of trust, personal guaranties, and a variety of business assets, such as furniture, fixtures and equipment.

State Small Business Credit Initiative Programs: DNR administers a Venture Debt Program and a Loan Participation Program pursuant to the State Small Business Credit Initiative (“**SSBCI**”), authorized under the Small Business Jobs Act of 2010, 12 U.S.C. §5701 *et seq.*, as amended by the American Rescue Plan Act of 2021. The purpose of the SSBCI program is to provide funding, through loans and equity investments, to small businesses that have been impacted by the pandemic, with an emphasis on assistance to very small businesses with fewer than 10 employees, businesses that are owned and controlled by socially or economically disadvantaged individuals, and community development financial institutions that operate in low-income, high poverty geographic areas that do not receive sufficient access to capital or support for small businesses.

In addition to the Department's current primary loan programs discussed above, there are a host of older and/or smaller loan programs that the Department administers. Old multifamily programs for which the Department still holds loans in its portfolio include the *Maryland Housing Rehabilitation Program* (formerly under Section 4-901 *et seq.* of the Act), *Rental Housing Production Program* (formerly under Section 4-1501 *et seq.* of the Act), *Elderly Rental Housing Program* (formerly under Section 4-401 *et seq.* of the Act). Some of the smaller programs include the *Group Home Financing*

Program (Section 4-601 *et seq.* of the Act) and the *Special Housing Opportunities Program* (COMAR 05.04.11) which programs are designed to finance housing for special needs populations. Additional DNR programs include, among others, the *Community Legacy Program* (Section 6-201 *et seq.*). Each year, additional initiatives are proposed and sometimes adopted to administer funds and programs authorized at the State and federal levels or funds made available to the Department from private and/or non-profit sectors. The Department may seek counsel with respect to the administration of these older, smaller, or yet to be implemented programs.

Other Characteristics of the Department's Financing Programs

Complexity. Most of the multifamily loan transactions in which the Department participates (including Bond Loans, State Loans and HOME Program loans) are complex financings involving more than one source of financing from several different lenders. In most instances additional funding is provided through the award of Tax Credits. Such transactions involve negotiation of loan terms, intercreditor and/or subordination agreements and investor partnership documents. Lender's Counsel should be able to understand the various financing structures of CDA and other financing parties and become familiar with the Department's standard policies with respect to due diligence review and document drafting.

Asset Management. The Department's Division of Credit Assurance ("DCA") includes an asset management group that provides loan administration and asset management services for all of the rental housing, special housing facilities and commercial loans in the Department's portfolio, including disposition of troubled loans through civil loan enforcement, loan sales, foreclosures, deeds in lieu of foreclosure, receiverships, and negotiated workouts. Workout Counsel would work closely with the Asset Management staff to address the myriad of issues arising with respect to loans in CDA's portfolio.

Maryland Housing Fund. MHF is a mortgage insurance entity within the Department. It was founded in 1971 and provides mortgage insurance for multifamily housing loans. MHF is housed within DCA and is the State agency that partners with FHA to insure Bond Loans made under the FHA Risk Sharing Program. Lender's Counsel may be asked for advice concerning the issues arising out of the MHF insured loan portfolio.

Low-Income Housing Tax Credits. CDA is the allocating agency in Maryland for Tax Credits pursuant to Section 42 of the Code. The Department has retained separate counsel to advise it with respect to technical aspects of administering Tax Credits. However, Lender's Counsel and Workout Counsel would be expected to have a general understanding of the operation of the Tax Credits as an integral part of a multifamily project's overall financing and organizational structure. Sometimes CDA provides financing to a project solely by providing tax credits ("**Tax Credit Only Financing**"). In certain circumstances, CDA may request Lenders Counsel to provide services as counsel in connection with Tax Credit Only Financing.

Contract Categories

As a result of this RFP, the Attorney General expects to award at least one contract in each of the following categories (the "**Contracts**" and each a "**Contract**"):

(1) **Lender's Counsel** to the Department to assist in closing primarily multifamily loans of the Department's lending programs.

(2) **Workout Counsel** to the Department to assist with managing the existing loan portfolio, including enforcement, workouts, bankruptcies, foreclosures and other legal proceedings for troubled or defaulted multifamily, special housing facility and commercial loans.

These two categories of service are the "**Contract Categories**". An Offeror may submit a proposal for one or both Contract Categories. Lender's Counsel need not serve as Workout Counsel (and vice versa). An Offeror should submit only one Proposal that indicates clearly the Contract Categories to which it is applying.

Scope of Services

A. **Lender's Counsel**. The Contractor will serve as counsel to the Department with respect to those transactions assigned to it. This may include the following as required:

1. Advising on the structuring of loan and other transactions and security therefor, including without limitation the tax aspects thereof;
2. Advising on and assuring compliance with the Act, the Department's regulations, and the Department's procedures for authorizing transactions;
3. Drafting documents, including commitment and financing documents and documents relating to authorization of transactions;
4. Conducting weekly conference calls with the working group involving all parties to a project's financing.
5. Negotiating terms of transactions with counsel for other parties and closing transactions subject to continuing approval by the Department and the OAG, on schedule;
6. Assuring that liens and regulatory encumbrances on collateral are recorded in the proper order of priority or otherwise perfected;
7. Advising on conflicts or other issues that arise between the Department and the other financing agencies and entities;
8. Advising on lender financing issues and due diligence matters that may arise in connection with the Department's loan programs;
9. Advising on federal and State law, and how it impacts the Department and its lending programs;

10. Understanding and advising the legal aspects of various bond financed transactions¹; and

11. Advising on the terms and conditions of existing loans, and post-closing issues and asset management matters in connection with each of the foregoing.

B. **Workout Counsel.** The Contractor may provide advice to the Department Counsel in connection with management of the Department's loan portfolio. This may include the following as required:

1. Providing advice regarding the terms and conditions of existing loans;

2. Representing the Department in workouts of troubled and defaulted loans, including debt collection and enforcement litigation, and providing advice concerning applicable law;

3. Representing the Department in bankruptcies, receiverships and other proceedings for the relief of debtors and providing advice concerning bankruptcy law and other federal and state law concerning creditors' remedies;

4. Representing the Department in foreclosures and other proceedings with respect to collateral and providing advice concerning applicable law; and

5. Advising on federal and State law, and how it impacts the Department and its loan portfolio.

General Conditions

Minimum Qualifications. All Offerors must meet the minimum qualifications set forth in Attachment A, attached hereto.

Disclosure. Proposals shall be subject to disclosure pursuant to the provisions of Maryland's Public Information Act, Section 4-101 *et seq.* of the General Provisions Article of the Annotated Code of Maryland (the "**Public Information Act**"). An Offeror must identify specifically those portions of its Proposal, if any, which it deems to contain trade secrets or confidential or proprietary information and must provide justification why such materials should not, upon request, be disclosed by the State under the Public Information Act. The decision regarding whether or not to release information requested pursuant to the requirements of the Public Information Act remains with the State.

Expenses. The Department, the OAG, the Attorney General and the State are not responsible for direct or indirect expenses that an Offeror may incur in preparing and submitting a Proposal.

Offeror's Affidavits. Each Offeror shall complete and submit the Bid/Proposal Affidavit and the Conflict Affidavit attached hereto as Attachments B-1 and B-2, respectively, with the Offeror's Technical Proposal. A successful Offeror will be required to complete a Contract Affidavit in the form attached hereto

¹ For purposes of clarity, it is not expected that Lender's Counsel would be asked to serve as primary bond counsel to CDA in connection with bond issuances; however, Lender's Counsel would be expected to understand and advise the Department in connection with all financing to be provided to a project in which the Contractor is representing the Department.

as Attachment F at the time of execution of the contract entered into as a result of this RFP. The form of the contract to be entered into as a result of this RFP is attached hereto as Attachment E (the "**Contract**"). An executed Contract Affidavit should not be submitted with an Offeror's Proposal.

Acceptance of Terms and Conditions. By submitting a Proposal (A) the Offeror accepts all of the terms and conditions set forth in this RFP including all attachments; (B) the Offeror, if selected for award, agrees that it will comply with all federal, State, and local laws applicable to its activities and obligations under the Contract; (C) the Offeror shall be deemed to represent that it is not in arrears in the payment of any obligation due and owing the State or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and if selected for award, that it shall not become so in arrears during the term of the Contract; and (D) the Offeror, if selected for award, shall be deemed to have agreed to all terms and conditions set forth in the form of Contract.

Procurement Regulations. This RFP and any Contract entered into as a result hereof is not subject to the provisions of Division II of the State Finance and Procurement Article of the Maryland Annotated Code (the "**Procurement Article**"). Nonetheless, the requirements of the Procurement Article and the State procurement regulations, set forth in COMAR Title 21, as amended, will be applied to this RFP to the extent practicable and consistent with obtaining the best legal counsel for the Department, all as determined in the sole discretion of the Principal Counsel to the Department (the "**Contract Officer**"). The appeal procedures contained in the Procurement Article and in the State procurement regulations will not apply to this solicitation.

Minority Participation. The Attorney General is an equal opportunity employer, committed to diversity in the workplace. Consistent with that commitment, the Attorney General desires that socially and economically disadvantaged individuals and their firms, including certified minority business enterprises ("**MBEs**"), as defined in §14-301 of the Procurement Article, have the maximum practicable opportunity to participate in the Contracts. When permitted or required by law, the Attorney General encourages the use of socially and economically disadvantaged individuals and their firms, including MBEs, for contracting and subcontracting opportunities. Offerors should desire to promote and undertake efforts to reach out to socially and economically disadvantaged individuals and their firms, including MBEs, to maximize their participation in the Contracts. MBEs are encouraged to respond to this RFP.

Multiple Contracts and Assignments. Although it is anticipated that at least one Contract will be awarded for each Contract Category, the Attorney General may elect, in his or her sole discretion, to make an award to more than one Offeror with respect to each Contract Category. The Contract Officer will determine, in the Contract Officer's sole discretion, which Contractor will be retained to provide advice on any particular matter. Furthermore, the Contract Officer may, in his or her sole discretion, request a Contractor whose Contract is designated for one Contract Category to undertake work for the Department in another Contract Category.

No Guarantee of Work. No Contractor is guaranteed any minimum amount of work or compensation. To the extent possible, work within the scope of services described herein is performed by Assistant Attorneys General, and Contractors selected will perform services only as needed and determined by the Contract Officer in his or her sole discretion. If more than one Contractor is selected, the Contract Officer, in his or her sole discretion, will determine which Contractor will be retained for a specific matter. The Attorney General can make no assurances that CDA and the Department will continue to operate its

loan programs in the future, that funds will be appropriated for the State Loan programs or for DNR programs, or that funds will be appropriated and otherwise made available by or to the Department for payment of legal fees. The OAG has no funds for payment under any Contract.

Parties to the Contract. Each Contract entered into as a result of this RFP shall be by and between the successful Offeror (the “**Contractor**”) and the Attorney General.

Documents. The Contract shall consist of the following documents in addition to the Form Contract: this RFP, the Proposal, the Bid/Proposal Affidavit, the Conflict of Interest Affidavit, and the Contract Affidavit, all of which shall be binding.

Contract Term. The Contract term shall commence as of a date to be specified in the Contract and shall end at the later of: (a) four years after the commencement date, or (b) the time that all work which was authorized before the expiration date is completed, unless sooner terminated in accordance with the Contract. At the sole option of the Attorney General, the Contract may be renewed on the same terms and conditions (except for increases in the blended hourly rate of compensation as may be set forth in the Offeror's Price Proposal) for up to two additional one-year terms.

Start-Up. The Contractor shall conduct any necessary due diligence, and familiarize itself with the Department, the Act, and the Department's programs before commencement of the Contract, at no cost to the Department, the Attorney General or the State.

Joint Responses. A joint venture of not more than two parties (a party, for this purpose, meaning a law firm or a lawyer) may submit a Proposal. A joint venture is an “Offeror” and, except when otherwise expressly provided or when the context indicates otherwise, will be treated as one entity. If two persons or firms respond to the solicitation jointly, the specific services to be provided by each firm must be identified. Moreover, the Proposals must indicate in detail how the firms would coordinate their work. Duplication of work by joint ventures will not be permitted.

Amendment or Cancellation of RFP. This RFP may be amended or cancelled. Any amendments or notice of cancellation will be emailed to Prospective Offerors.

Technical Proposal

The Technical Proposal shall include the following information, as applicable, and shall be presented in the following order: (Note: if the Offeror is a joint venture, then information relating to each joint venture should be provided.)

A. **Information on Law Firm and Legal Team.**

1. Legal name and principal place of business of the law firm submitting the Proposal. Please indicate whether the firm is an MBE.

2. The name, mailing address, email address and telephone number of the individual designated as the contact person for purposes of this RFP and any resulting Contract, and of the

individual who will head the team of attorneys and other para-professionals (paralegals, legal assistants, and law clerks) participating in this engagement (collectively, the "**Legal Team**").

3. The following statement, with marks next to the appropriate Contract Categories: Offeror wishes to be considered for award of a contract in the following Contract Categories:

_____ Lender's Counsel
_____ Workout Counsel

4. General information on the areas of law in which the law firm specializes.

5. Information demonstrating compliance with the enclosed Minimum Qualifications described in Attachment A.

6. Name and address of each attorney participating on the Legal Team and his or her respective position in the law firm. For each attorney, please submit a brief resume indicating relevant experience and in what jurisdictions the attorney is admitted to practice. Also, for each attorney, please indicate whether the person is a member of a group defined in the Procurement Article, Section 14-301(j) or (k). Please indicate which member(s) of the Legal Team are members of the Maryland bar.

7. The proposed role of each person who will participate on the Legal Team, and the planned division of responsibilities among the members of the Legal Team.

8. A detailed description of the Offeror's procedure for checking conflicts of interest and whether there are any potential conflicts in representing the Department. (See Attachment C).

9. Offeror should present the case for its selection as the firm to perform the services described in this RFP.

B. Lender's Counsel Experience.

Select no more than four financing transactions which best demonstrate the Offeror's capacity to perform the services required of Lender's Counsel and provide the following information:

1. Description of the financing and date (e.g. multifamily housing, public finance, small business lending, commercial lending);

2. Structure and amounts of financing (i.e. size and priority of each source of debt and the nature of any equity, including equity derived from Tax Credits);

3. The party or parties represented and the level and range of responsibilities, including drafting of documents; and

4. The extent to which the transactions involved working with the programs of HUD, and credit enhancement by government sponsored enterprises.

C. Workout Counsel Experience. Provide a detailed description of the Offeror's experience during the last five years in commercial and real estate workouts, debt collection and enforcement litigation and proceedings, foreclosures, bankruptcies, and other proceedings for relief of debtors in connection with commercial and real estate finance. Describe the nature and depth of the Offeror's experience with federal bankruptcy law. Select not more than four transactions or proceedings which best demonstrate the Offeror's capacity to perform the services required, and provide the following information:

1. Description (workout, bankruptcy, foreclosure, receivership, etc.) and date;
2. Structure and amount of financing (i.e. size and priority of each source of debt and the nature of any equity);
3. Description of the collateral, guarantors and sources of recovery;
4. The party or parties represented and level and range of responsibilities, including drafting of documents; and
5. The outcome with respect to the Offeror's client's interests.

D. Maryland and Other Related Experience.

1. List all State agencies and political subdivisions of the State for which Offeror has served as counsel during the last five years and identify in what capacity.
2. To the extent not covered elsewhere in the Proposal, provide a description of not more than four transactions in which the Offeror has participated in the last five years involving projects in the State. Provide a description of the nature and depth of the Offeror's experience with Maryland law.
3. To the extent not covered elsewhere in the Proposal, provide a brief description of the Offeror's experience in areas of the law related to the Department's programs, including real estate, tax credits, banking, commercial, environmental, insurance, land use, zoning, and public finance. You may attach brief resumes of the lawyers who work in the areas described in above, but only if they will be available to consult with and give advice to the Department during the term of the Contract.

E. References. Provide names and contact information of at least three clients for whom you have provided services similar to those described in this RFP, with a brief description of the work performed. These persons will be considered as references and may be contacted by myself, the Contract Officer or others in the office of the OAG in the evaluation of the Proposal. If possible, include at least one reference from an agency or department of the State for whom you have provided legal counsel in the last five years.

F. Affirmation of Authority. Written affirmation that the person(s) submitting the Proposal is/are authorized to do so on behalf of the Offeror and certification that, to the best of his or her knowledge, the information submitted in the Proposal is accurate, complete, and correct as of the date of the Proposal.

G. Affidavits. Completion of the enclosed Bid/Proposal Affidavit (Attachment B-1) and the Conflict of Interest Affidavit (Attachment B-2).

H. Joint Venture Specific Requirements. A Proposal by a joint venture must specify the division of responsibilities between the entities, including the type and approximate amount of work to be performed by each party, the approximate percentage of time each party expects to devote to performing services for the Department, and how opinions are proposed to be rendered by the Offeror (i.e., whether the joint venture will have one party issue a comprehensive opinion, both parties issue identical comprehensive opinions, or each party issue separate opinions on discrete matters.)

Price Proposal

A. **Content and Submission:** The Price Proposal shall be submitted in a separate sealed envelope. The Price Proposal should include:

1. Blended fixed hourly rates for the services to be performed during each year of the initial three-year term of the Contract and for each renewal term. It shall include the blended fixed hourly rate for all attorneys, and the blended fixed hourly rate for para-professionals (paralegals, legal assistants and law clerks) rendering services under the Contract. The Price Proposal shall be submitted using the form attached as Attachment D. Price will be an important factor in the selection process but not necessarily the determining factor.

2. Fixed Fees for each of the following categories of loans:

- (a) Bond Loans credit enhanced with the FHA Risk Sharing Program
- (b) Bond Loans credit enhanced with a Freddie TEL structure
- (c) Bond Loans credit enhanced with an MTEB structure
- (d) Bond Loans credit enhanced with cash from a taxable HUD-insured loan
- (e) Multifamily State Loans and HOME Program loans
- (f) Additional Subordinate Loans or Assumptions (defined below)
- (g) Tax Credit Only Financing
- (h) DNR Loans

Often a Contractor may be asked to close two or more Department loans, or document an assumption and modification of an existing loan (an "**Assumption**"), in connection with the same project, with the additional loan(s) having a subordinate lien position (each, a "**Additional Subordinate Loan**"). These may be State Loan, HOME loans or other multifamily program loans. Because of the overlapping due diligence (i.e., title work, corporate documents and resolutions, conference calls, etc.), the Department expects the Fixed Fee for an Additional Subordinate Loan or Assumption to be substantially less than what the Fixed Fee normally would be for that category of loan if the Contractor only was closing one loan in connection with the project. A Subordinate Loan usually will be a State Loan, but may be a loan funded with monies made available to the Department by the federal government or a non-governmental entity.

All expenses, including the preparation of one hard transcript and one electronic transcript per closing, prepared in accordance with Department and OAG policies, must be included in the Fixed Fee.

In the event the Attorney General chooses to enter into a Contract with an Offeror containing a Fixed Fee compensation arrangement, the fee (including transcript preparation) for closing a loan shall be the Fixed Fee for that category of loan, regardless of whether the fee would have been higher or lower based on the hourly rate and actual expenses incurred.

3. In the event the Contractor is being paid at an hourly rate plus expenses, allowable expenses may include:

(a) Travel expenses incurred by the Contractor outside the greater Baltimore-Washington area in the performance of the Contract provided that expenses of transportation, meals and lodging will be reimbursed at no more than the rates set in the State Standard Travel Regulations, as amended from time to time;

(b) Photocopying charges at cost if approved in advance; and

(c) Messenger or overnight delivery services, but only if requested by the Contract Officer or the supervising attorney from the OAG.

Allowable expenses may not include:

(i) Secretarial services whether performed during regular business hours or overtime, except as specifically authorized by the Contract Officer.

(ii) Transportation costs within the Baltimore-Washington area of professionals or para-professionals;

(iii) In-house messenger services;

(iv) Para-professional overtime costs; and

(v) Travel time.

4. **Standard Billing Rates.** The Offeror must submit a list of the current standard billing rate for each attorney, para-professional who is expected to provide services under the Contract.

B. Billing Procedures: The Department requires accountability, cost effectiveness and efficiency in delivery of legal services by outside counsel. The Contractor must comply with procedures of the Contract Officer with respect to billing and compensation. It is expected that each transaction for which a Contractor is engaged will be assigned a budget at the time of engagement. A budget may be increased only with the consent of the Contract Officer. The Contractor is expected to complete each transaction within its assigned budget. Generally, a statement is presented and paid after the transaction is completed.

C. Execution. The Price Proposal shall be executed by a person or persons authorized to bind the Offeror.

Evaluation and Selection

Technical Proposals (and oral presentations, if any) will be evaluated before Price Proposals are opened. They will be evaluated by OAG and Department staff that regularly has contact with Lender's Counsel and Workout Counsel (the "**Evaluation Committee**"). Please note that Offerors whose Technical Proposals do not meet the Minimum Requirements described in Attachment A may be deemed not reasonably susceptible for award and that the Offeror's Price Proposal may not be evaluated. Technical merit will be given more weight than price in determining the Evaluation Committee's final ranking. After reviewing the Price Proposals, there may be additional discussions with the Offerors, including a request for best and final price offers. For the technical evaluation, the Evaluation Committee will take into consideration the following factors listed in the order of importance:

- (1) the proposed Legal Team's demonstrated experience and expertise in representing clients in matters described in the Scope of Services portion of this letter (as reflected in the Technical Proposal and the oral presentation, if any);
- (2) the Price Proposals;
- (3) the Offeror's conflict of interest policy; and
- (4) participation of MBEs and socially and economically disadvantaged individuals, to the extent permitted by law.

Contract awards will be made to the Offeror, or Offerors, who's Proposal contains the combination of those criteria offering the best overall service and value to the Attorney General and the Department. Selection of Proposals will be solely the decision of the Attorney General, with due regard given to the viewpoint of the Evaluation Committee. The Contract Officer reserves the right to reject any and all Proposals, to waive informalities and minor irregularities in Proposals, and to negotiate with any and all Offerors who submit Proposals. Successful Offerors may be selected on the basis of initial Proposals without discussions with Offerors and without requesting a best and final offer, so please take care in submitting your Technical and Price Proposals.

The Evaluation Committee reserves the right to meet with qualified Offerors to discuss this RFP and the Offeror's Proposal and ability to perform the proposed contract. We anticipate meeting qualified Offerors at 7800 Harkins Road, Lanham, Maryland. We anticipate that meetings may last one to two hours, depending on the number of Contract Categories applied for, and will include substantive questions.

Thank you for your interest. The Evaluation Committee looks forward to reviewing your Proposal and meeting with you.

Very truly yours,

Anne W. Marculewicz
Senior Transactional Attorney and
Assistant Attorney General

Attachments:

- A – Minimum Qualifications
- B-1 – Bid/Proposal Affidavit (to be completed and returned with Technical Proposal)
- B-2 – Conflict of Interest Affidavit (to be completed and returned with Technical Proposal)
- C – Conflict of Interest Provisions
- D – Price Proposal Form (to be completed and returned in separate sealed envelope)
- E – Form Contract
- F – Form of Contract Affidavit

ATTACHMENT A

MINIMUM QUALIFICATIONS

The Offeror must meet all of the minimum requirements set forth below to be considered qualified. Capitalized terms used in these attachments shall have the same meaning as set forth in the main RFP document.

1. Legal Team: One or more attorneys on the Legal Team must be admitted to practice in Maryland.
2. Office. The Offeror maintains an office in the State of Maryland or within 50 miles of the Department's headquarters in Lanham, Maryland.
3. Insurance.
 - (i) The Offeror must maintain in full force and effect (during both the term of the Contract and thereafter for the entire period in which the Offeror may incur professional liability in connection with performance or failure to perform under the Contract) professional liability insurance in an aggregate amount of not less than \$5,000,000, which liability insurance shall include coverage for practice in the fields of law related to the Contract.
 - (ii) If the Offeror is a joint venture, and one party to the joint venture does not have such liability insurance, this requirement may be satisfied if the members of the joint venture include in their proposal evidence satisfactory to the Contract Officer, that all members of the joint venture will have such coverage as of the date the Contract commences, either through actual policies or the equivalent.
4. Public Ethics. The negotiation of or entering into the Contract must not give rise to a violation of the Public Ethics Law.
5. Prior Experience. Each Offeror must meet the following qualifications:
 - (i) At least one member of the Contract team for Lender's Counsel must have a minimum of five years of experience with representing borrowers or lenders or both in connection with commercial lending transactions involving real estate or business collateral, and at least one member of the team must have represented a borrower or lender within the last three years in connection with at least one financing transaction involving affordable multifamily rental housing.

- (ii) At least one member of the Contract team for Workout Counsel must have a minimum of five years of experience with representing borrowers or lenders in connection with bankruptcies, foreclosures, receiverships, workouts and other proceedings concerning complex commercial and real estate financings.

ATTACHMENT B-1
BID/PROPOSAL AFFIDAVIT

A. Authority

I HEREBY AFFIRM THAT:

I (print name) _____ possess the legal authority to make this Affidavit on behalf of (name of law firm) _____ (the “**Offeror**”).

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned Offeror hereby certifies and agrees that the following information is correct: In preparing its proposal (the “**Proposal**”) on this Request for Proposal (“**RFP**”), the 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, genetic information or an individual’s refusal to submit to a genetic test or make available the results of a genetic test, 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 RFP, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the Proposal submitted by the Offeror on this RFP, and terminate any contract awarded based on the Proposal. As part of its Proposal, the Offeror herewith submits a list, attached hereto, of all instances (if any) within the past four years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the 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. 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 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 or 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 or 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 or proposal.

Without limiting any other provision of this RFP or the State Minority Business Enterprise Law, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the Proposal submitted by the Offeror on this RFP, and terminate any contract awarded based on the Proposal.

B-2. Certification Regarding Veteran-Owned Small Business Enterprises.

The undersigned Offeror hereby certifies and agrees that it has fully complied with the State Veteran-Owned Small Business Enterprise Participation requirements set forth in 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 article;
- (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 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 affidavit.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the Offeror, 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):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the Offeror, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the Offeror'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 or 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 or 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) §7206, 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 Commit Offense or to Defraud the United States;

(11) Been convicted of a violation of Maryland State tax laws under 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) of this affidavit 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):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the Offeror, 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).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The Offeror 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):

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

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

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

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or 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 Offer is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the Offeror 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, 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 Offeror 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 Offeror, 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, that neither the Offeror or any of its officers or partners, :

(a) Is 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) Is 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 Offeror 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 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 or 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 Offeror 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: _____

Offeror's Law Firm Name: _____

By: _____ (print name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

ATTACHMENT B-2

CONFLICT OF INTEREST AFFIDAVIT

CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

- A. **“Conflict of interest”** means that because of other activities or relationships with other persons, (i) a person is unable or potentially unable to render impartial assistance or advice to the State, (ii) the person’s objectivity in performing the contract work is or might be otherwise impaired, or (iii) a person has an unfair competitive advantage.

- B. **“Person”** has the meaning stated in COMAR 21.01.02.01B(64) and includes a bidder, offeror, contractor, consultant, or subcontractor or subconsultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.

- C. The Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

- D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain detail—attach additional sheets if necessary):

- E. The Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Offeror shall immediately make a full disclosure in writing to the Contract Officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the Contract has been awarded and performance of the Contract has begun, the contractor shall continue performance until notified by the Contract Officer of any contrary action to be taken.

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: _____
(Authorized Representative and Affiant)

ATTACHMENT C

CONFLICT OF INTEREST PROVISIONS

1. General. If a conflict of interest arises, the Offeror must be willing to continue to represent the Department and the OAG and be in a position to inform other existing or potential clients that they must find representation elsewhere in particular situations. The Attorney General reserves the right, in his or her sole discretion, to select another firm to represent the Department and the OAG if a conflict is not resolved to his or her satisfaction.

Conflicts may arise not only from attorneys named on the Contract but also from representation of parties to transactions involving the Department and/or the OAG by any member of the firm, regardless of whether that attorney is in the same office or a branch office. For purposes of determining whether or not there is a conflict, the Offeror is understood to have a conflict if, for example:

- (a) any attorney in the firm represents a broker-dealer, underwriter, investment provider, borrower, lender, trustee, bond purchaser, credit enhancement provider, investor or any other party to a loan or bond issuance by the Department; or
 - (b) any attorney in the firm represents a party suing or being sued by the Department or the OAG.
2. Conflict Check System. The Offeror shall describe in detail its existing system for identifying conflicts of interest in undertaking new representation. The description shall include information about who maintains the central records, how often information is updated, and at what stage of representation the check is made. The Offeror shall provide a copy of its written conflicts policy or explain in detail why there is no written policy.
3. Potential Conflicts. Prior to entering into a contract, the Contractor shall provide assurances that potential conflicts have been discussed with other existing clients of the Contractor who might be requested to engage other counsel for a specific transaction, and that those existing clients are amenable to such an inconvenience.
4. Resolving Conflicts. The Offeror shall identify any conflicts of interest which may arise if the Offeror serves as counsel to the Department and shall describe how it proposes to avoid such conflicts. The Contract will require the Contractor to notify the Contract Officer immediately of any potential conflicts of interest and to undertake immediate action to eliminate the source of the potential conflict. The Contract Officer, the Department and the OAG reserve the right to make the Contractor aware of situations which may present a conflict of interest and require the Contractor to promptly remedy the situation to the satisfaction of the Contract Officer.

ATTACHMENT D

PRICE PROPOSAL

Name of Offeror: _____

In response to the Request for Proposals for Lender’s Counsel and/or Workout Counsel for the Department of Housing and Community Development, we hereby submit the following bids:

Fixed Fees for Loan Closings (Lender’s Counsel Only):

- Bond Loans credit enhanced by the FHA Risk Sharing Program: \$ _____
- Bond Loans credit enhanced with a Freddie TEL structure \$ _____
- Bond Loans credit enhanced with an MTEB Structure \$ _____
- Bond Loans credit enhanced with cash derived from a HUD-insured loan \$ _____
- Multifamily State Loans & HOME Program Loans*: \$ _____
- Additional Subordinate Loans or Assumptions**: \$ _____
- Tax Credit Only Financing \$ _____
- DNR Loans: \$ _____

* State the flat fee for such a loan in instances when it is the senior CDA loan on the project.

** See the defined terms for “Additional Subordinate Loan” and “Assumption” set forth in the RFP. State the flat fee for an Additional Subordinate Loan closing simultaneously with a senior Bond Loan or other State or HOME loan.

Blended Hourly Rates (Lender’s Counsel and Workout Counsel):

For the First-Year Contract Term, the blended fixed hourly rate for all attorneys rendering services under this Contract:

\$ _____ per hour (Attorney Rate)

For the First-Year Contract Term, the blended fixed hourly rate for all para-professionals rendering services under this Contract:

\$ _____ per hour (Para-professional Rate)

For the Second-Year Contract Term, the blended fixed hourly rate for all attorneys rendering services under this Contract:

\$ _____ per hour (Attorney Rate)

For the Second-Year Contract Term, the blended fixed hourly rate for all para-professionals rendering services under this Contract:

\$_____ per hour (Para-professional Rate)

For the Third-Year Contract Term, the blended fixed hourly rate for all attorneys rendering services under this Contract:

\$_____ per hour (Attorney Rate)

For the Third-Year Contract Term, the blended fixed hourly rate for all para-professionals rendering services under this Contract:

\$_____ per hour (Para-professional Rate)

For the Fourth-Year Contract Term, the blended fixed hourly rate for all attorneys rendering services under this Contract:

\$_____ per hour (Attorney Rate)

For the Fourth-Year Contract Term, the blended fixed hourly rate for all para-professionals rendering services under this Contract:

\$_____ per hour (Para-professional Rate)

For the First Renewal Term, if any, the blended fixed hourly rate for all attorneys rendering services under this Contract:

\$_____ per hour (Attorney Rate)

For the First Renewal Term, if any, the blended fixed hourly rate for all para-professionals rendering services under this Contract:

\$_____ per hour (Para-professional Rate)

For the Second Renewal Term, if any, the blended fixed hourly rate for all attorneys rendering services under this Contract:

\$_____ per hour (Attorney Rate)

For the Second Renewal Term, if any, the blended fixed hourly rate for all para-professionals rendering services under this Contract:

\$_____ per hour (Para-professional Rate)

Suggested methodology for negotiated increases to fixed fees or new loan structures during each year of the Contract:

The undersigned certifies for the Offeror that he or she is authorized to sign this Price Proposal and, to the best of his or her knowledge, the information submitted in this Price Proposal is accurate, complete, and correct as of the date set forth below.

Date

Signature

Printed Name

Title

ATTACHMENT E
FORM CONTRACT

LENDER’S COUNSEL AND WORKOUT COUNSEL CONTRACT

MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

This contract (this “**Contract**”), dated as of the ____ day of _____, 2022, is made by and between the Attorney General of the State of Maryland (the “**Attorney General**” or the “**OAG**”) on behalf of the Maryland Department of Housing and Community Development (“the **Department**”) of the State of Maryland (the “**State**”), and _____, whose Federal Tax Identification Number is _____ (the “**Contractor**”).

1. Contract.

1.1 Contract Documents. This Contract consists of the matters identified in this Section 1.1 (the “**Contract Documents**”), all of which are part of this Contract as if fully set forth herein (all as amended from time to time):

- A. This Contract and all Exhibits thereto (the “**Standard Contract**”);
- B. Attachment A: Request for Proposals for Lender’s Counsel and Workout Counsel dated _____, 2022 (the “**RFP**”);
- C. Attachment B: Contractor’s Technical Proposal and Price Proposal dated _____, 2022 (collectively, the “**Proposal**”; the RFP and the Proposal being referred to as the “**Solicitation Documents**”); and
- D. Attachment C: Contract Affidavit (the “**Affidavit**”).

The obligations, representations, terms and conditions set forth in the Solicitation Documents and the Affidavit are provisions of this Contract and are supplemental to the provisions set forth in the Standard Contract.

If there are any inconsistencies between or among the Standard Contract or Attachments A, B, or C, the Contract Documents shall control in the following order of priority: Standard Contract, then Attachment A, then Attachment B, then Attachment C.

1.2 Contract Term. This Contract shall commence on _____ (the “**Commencement Date**”) and shall expire on the later of (a) four years after the Commencement Date (the “**Expiration Date**”), or (b) upon completion of all work authorized on or before the Expiration Date, unless renewed or sooner terminated in accordance with this Contract. At the option of the Attorney General, this Contract may be renewed for up to two additional one-year terms. The Contractor shall be notified prior to the end of the initial term whether the Contract will be renewed and what the length of the renewal term (if any) will be. The blended fixed

hourly rates of compensation specified in Section 3.1C(ii) of this Contract shall apply to such renewal term.

2. Scope of Services.

2.1 The general scope of work for this Contract is set forth in the Contract Documents. The Contractor shall provide these services in accordance with the terms and conditions of this Contract. The Attorney General shall have the unilateral right to require changes in the scope of services, provided such changes are within the general scope of the work to be performed.

2.2. The Contractor shall serve as [Lender's Counsel][Workout Counsel] to the Attorney General and the Department. Subject to the terms and conditions of this Contract the Contractor shall provide the services set forth in the RFP (Attachment A to this Contract) pertaining to the [Lender's Counsel contract category] [Workout Counsel contract category]. In addition, the Contractor shall perform and be bound by any and all obligations set forth in the RFP and the Proposal (Attachment A and Attachment B to this Contract).

2.3 All legal services are to be provided only at the request of the Contract Officer (as defined in Section 4) or his or her designees. The Contractor may not devote time to any or all of the services to be performed, or incur expenses, absent the prior authorization of the Contract Officer or the Contract Officer's designees. The Attorney General does not promise or guarantee any minimum level or hours of work or compensation during the term of the Contract. All advice is to be provided directly to the Contract Officer or individuals identified by the Contract Officer. The Contractor is not authorized generally to enter into discussions with either the Department or its customers, clients, or other advisors.

2.4 The Contractor shall familiarize itself with the Department's programs without cost to the Department, the Attorney General, or the State.

3. Compensation and Method of Payment.

3.1 The Contractor will be paid for services rendered under this Contract as follows:

A. The Contractor will be paid either (a) after the closing of each loan for which services were performed, out of the financing proceeds for the project receiving the loan, or directly or indirectly by the Department; or (b) for services unrelated to a specific loan, from time to time, but not more often than monthly, out of the funds, if any, that may be appropriated or may otherwise be made available for such payment.

B. Payments to the Contractor will be based upon (a) a fixed fee based on the fee schedule set forth below in 3.1C; or (b) a reasonable number of actual hours expended by the Contractor's attorneys and para-professionals in the performance of the services, as approved by the Contract Officer or his or her designee and the Department. The Contractor shall submit detailed invoices setting forth the name of the attorney or para-professional providing services, the date of such services, a full description of the services performed, the hourly rate being

charged, and the hours or fractional hours worked. The approved number of hours will be multiplied by the blended fixed hourly rates of compensation listed in Section 3.1.D below.

C. Fixed fees for Loan Closings shall be as follows:

- Bond Loans credit enhanced by the FHA Risk Sharing Program: \$_____
- Bond Loans credit enhanced with a Freddie TEL structure: \$_____
- Bond Loans credit enhanced with an MTEB Structure: \$_____
- Bond Loans credit enhanced with cash from Taxable HUD-insured loan: \$_____
- Multifamily State Loans & HOME Program Loans*: \$_____
- Additional Subordinate Loans or Assumptions***: \$_____
- Tax Credit Only Financing: \$_____
- DNR Loans: \$_____

* This is the fixed fee for such a loan in instances when it is the senior CDA loan on the project.

** This fee would apply to each additional state loan (an “Additional Subordinate Loan”) or an assumption or modification of an existing loan (an “Assumption”) closing simultaneously with a senior Bond Loan or other State or HOME loan.

D. The blended hourly rates under this Contract shall be as follows:

(i) The blended fixed hourly rate of compensation for each attorney performing services under the first year of this Contract shall be \$_____ per hour and the blended fixed hourly rate of compensation for each para-professional performing services under the first year of this Contract shall be \$_____ per hour.

(ii) The blended fixed hourly rate of compensation for each attorney performing services under the second year of this Contract shall be \$_____ per hour and the blended fixed hourly rate of compensation for each para-professional performing services under the second year of this Contract shall be \$_____ per hour.

(iii) The blended fixed hourly rate of compensation for each attorney performing services under the third year of this Contract shall be \$_____ per hour and the blended fixed hourly rate of compensation for each para-professional performing services under the third year of this Contract shall be \$_____ per hour.

(iv) The blended fixed hourly rate of compensation for each attorney performing services under the fourth year of this Contract shall be \$_____ per hour and

the blended fixed hourly rate of compensation for each para-professional performing services under the fourth year of this Contract shall be \$_____ per hour.

(v) The blended fixed hourly rate of compensation for each attorney performing services under the first renewal term, if any, of this Contract shall be \$_____ per hour and the blended fixed hourly rate of compensation for each para-professional performing services under the first renewal term, if any, of this Contract shall be \$_____ per hour.

(vi) The blended fixed hourly rate of compensation for each attorney performing services under the second renewal term, if any, of this Contract shall be \$_____ per hour and the blended fixed hourly rate of compensation for each para-professional performing services under the second renewal term, if any, of this Contract shall be \$_____ per hour.

3.2 The Contractor will:

A. be reimbursed for all reasonable, allowable and allocable direct costs and expenses incurred by the Contractor in the performance of this Contract, subject to the terms and conditions set forth in the RFP, the approval of the Contract Officer, and the rates set forth in the State's standard travel regulations, as amended from time to time;

B. not be reimbursed for indirect costs such as secretarial services, employee overtime costs (including para-professional overtime costs), preparation and review of billings, in-house messenger services, or telephone or copying charges, subject to the terms and conditions set forth in the RFP, unless approved in advance by the Attorney General; and

C. maintain records relating to the costs and expenses incurred by the Contractor in the performance of this Contract for a period of three years from the date of final payment under this Contract.

3.3 The Contractor shall submit invoices to the Contract Officer or his or her designee at the times or for the periods required by the Contract Officer or his or her designee, for costs and expenses incurred, itemized in a manner satisfactory to the Contract Officer or his or her designee and in accordance with Section 3.1B. Each invoice shall indicate the Contractor's Federal Tax Identification Number.

3.4 The Department shall not withhold federal, State, and local taxes and FICA taxes, if any, from payments made pursuant to this Contract.

4. Contract Officer. The Contract Officer for this Contract is the Counsel to the Department, and his or her successors.

5. Contract Modification. This Contract including the Attachments constitutes the entire agreement between the parties and any other communications between the parties before the execution of this Contract, whether written or oral, with reference to the subject matter of this

Contract, are superseded by the agreements contained herein. This Contract may not be modified, amended, changed, or altered except by written instrument executed by the parties hereto and approved by the Contract Officer.

6. Governing Law. This Contract shall be governed by the laws of the State of Maryland.

7. Nondiscrimination. The Contractor agrees (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry genetic information or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent to as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

8. Contractor Responsibilities. The Contractor shall assume sole responsibility for all work to be performed under this Contract. The Contractor shall perform the services with the standard of care, skill, and diligence normally provided by nationally recognized lender's and workout counsel in the performance of services similar to the services to be performed hereunder. The Contractor shall not make any changes in the composition of the Legal Team as defined in the RFP and specified by the Contractor pursuant to the RFP without the prior written consent of the Contract Officer or his or her designee. Any change to the composition of the Legal Team without the prior written consent of the Contract Officer or his or her designee may be deemed an event of default by the Contractor under this Contract. The Contractor confirms by its signature that it is thoroughly qualified and familiar with all required duties and responsibilities and will discharge the same diligently, fully, and properly, on an independent contractor basis, and in accordance with all ethical and professional duties and obligations.

9. Subcontracting. The Contractor shall not subcontract, in whole or in part, for any of the services to be performed under this Contract, without the prior written consent of the Attorney General and the Contract Officer.

10. Assignment of Contract. The Contractor shall not assign, transfer, convey or otherwise dispose of this Contract or any rights created hereunder to any person, firm, partnership, company, corporation or other entity without the prior written consent of the Attorney General and the Contract Officer.

11. Dissemination of Information. During the term of this Contract, the Contractor, without the prior written consent of the Contract Officer, (a) shall not (and shall not permit its agents or employees to) release, disseminate, publish, distribute or circulate, in any manner whatsoever any information, data, document or materials related to the services or performance of the services under this Contract or to this Contract, and (b) shall not publish any final reports or documents related to this Contract or the services provided hereunder. The products of the

efforts of the Contractor shall become and remain property of the Attorney General, and the Contractor will, at all times, keep the Contract Officer informed of efforts and progress made in the performance of its duties, or any other such duties as may be assigned.

12. Contingent Fee Prohibition. The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Contract. For breach or violation of this warranty, the Attorney General shall have the right to deduct from this Contract, such price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

13. Itemization of Expenses and Retention of Records.

A. The Contractor shall maintain, for each individual attorney and para-professional performing services on behalf of the Contractor under this Contract, complete time records pertaining to and documenting the Contract services. A summary of the time records (and any coding symbols necessary to interpret the records) indicating the name of the attorney or para-professional, the services rendered, the hourly rate being charged, and the amount of time spent by each such individual performing such work shall be available to the Contract Officer or his or her designee, the Department or the OAG, and any auditors acting on their behalf, at all reasonable times during the term of this Contract and for a period of three years after the termination of this Contract.

B. The Contractor shall retain and maintain all records and documents relating to this Contract for three years after final payment hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Contract Officer or his or her designee, at all reasonable times.

14. Financial Disclosure. The Contractor shall comply with Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases or other agreements with the State or its agencies and receives in the aggregate \$200,000 or more during a calendar year shall, within 30 days of the time when the \$200,000 amount is reached, file with the Secretary of State certain specified information to include disclosure of beneficial ownership of the business.

15. Professional Liability and Insurance. The Contractor shall maintain in full force and effect during the term of this Contract professional liability insurance in an aggregate amount of not less than \$5,000,000, which liability insurance shall include coverage for practice in the fields of tax and securities law. The Contractor agrees that thereafter it shall maintain for the entire period in which it and each of the attorneys on the Legal Team (subject to any applicable statute of limitations) may incur professional liability in connection with the performance or failure to perform services under this Contract, professional liability insurance in the aggregate amount of not less than \$5,000,000, which liability shall include coverage for practice in the fields of tax and securities law. However, if the Contractor is a joint venture, and

provided that one venturing entity maintains the required insurance policy, the requirement of the Contractor to maintain insurance shall be satisfied if both joint venturers submit evidence to the Contract Officer (for prior written approval in the Contract Officer's sole discretion) that all members of the joint venture will have such coverage either through actual insurance policies or the equivalent.

16. Conflicts.

A. The Contractor agrees that during the term of this Contract it will not represent, or provide any service for, any parties whose interests are in conflict with the interests of the Department and/or the OAG without a waiver of the conflict signed by the Contract Officer and the Department. To avoid potential conflicts of interest which may arise from the Contractor's simultaneous representation of the Department and parties participating in transactions with the Department and/or the OAG and/or engaged in litigation with the Department and/or the OAG, the Contractor agrees to examine its client/matter listings carefully on a periodic basis, to notify the Contract Officer or his or her designee immediately of any potential conflict of interest and, if requested, to undertake immediate action to eliminate the source of the potential conflict of interest to the satisfaction of the Contract Officer or his or her designee.

B. The Contractor shall not permit the occurrence or continuance of a violation of Title 5 of the General Provisions Article of the Annotated Code of Maryland (the "**Public Ethics Law**") in connection with this Contract.

C. The Department and/or the Contract Officer or his or her designee reserve the right to make the Contractor aware of situations in which they believe the Contractor is involved which may present a conflict of interest or violation of the Public Ethics Law and to request that the Contractor promptly remedy the situation.

D. By executing this Contract, the Contractor hereby acknowledges and agrees that, upon request of the Attorney General and the Contract Officer or his or her designee, the Contractor, to the extent permitted by the Lawyers' Rules of Professional Conduct, will withdraw from representation of parties whose interests are adverse to the interests of the Department and/or the OAG. In the event the Contractor is unable to perform any service or provide any legal representation or legal advice requested by the Department or the OAG during the term hereof because of a conflict of interest, the Contractor, at the request of the Attorney General in his or her sole discretion, may be asked to subcontract or assign the specific request for legal service, legal representation or legal advice to other legal counsel and, in such event, the other legal counsel shall be subject to the prior approval of the Attorney General and to all terms and conditions under this Contract. The Contractor hereby further acknowledges that the Attorney General reserves the right, in his or her sole discretion, to select another law firm as bond counsel to represent the Department and/or OAG in a particular matter if the conflict of interest is not resolved to the satisfaction of the Attorney General.

17. Compliance with Law. The Contractor hereby represents and warrants that:

A. It is qualified to do business in the State 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 moneys due and owing the State, 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 Contract.

C. It shall comply with all federal, State and local laws, ordinances, rules, and regulations applicable to its activities and obligations under this Contract.

D. It shall obtain and maintain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

18. Non-Hiring of State Officials or Employees. No official or employee of the State, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the party or parties hereby contracting with the State, or any entity that is a subcontractor under this Contract.

19. Termination of Contract for Default. If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provisions of this Contract, the Attorney General may terminate this Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied on as cause for termination. All finished or unfinished services provided by the Contractor, shall, at the Attorney General's option, become the property of the Attorney General. The Department shall pay the Contractor (a) fair and equitable compensation (based upon the rates of compensation described in Section 3 hereof) for satisfactory performance prior to receipt of notice of termination,, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the Attorney General or the Department can affirmatively collect damages.

20. Termination of Contract for Convenience. The performance of work under this Contract may be terminated by the Attorney General in accordance with this clause in whole, or from time to time in part, whenever the Attorney General shall determine that such termination is in the best interest of the Attorney General, the Department, or the State. The Department will pay the Contractor (a) compensation for services satisfactorily performed prior to the date of termination based upon the rates set forth in Section 3 hereof, and (b) all reasonable expenses incurred by the Contractor prior to such date of termination.

21. Delays and Extensions of Time

A. The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

B. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

22. Indemnification.

A. The Contractor, within the limitations of the Lawyers' Rules of Professional Conduct, shall indemnify, hold harmless and, upon request, defend, the Attorney General, the Department, the State, and their respective officers, members, agents and employees (the "**Indemnitees**") from and against all claims, suits, judgments, expenses, actions, damages, and costs (including reasonable attorney's fees) of every name and description, arising out of or resulting from the performance of or failure to perform the services of the Contractor under this Contract or a breach of any or all of the Contractor's obligations under this Contract.

B. The Indemnitees have no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim, or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.

C. The Indemnitees have no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.

D. The Indemnitees shall not assume any obligation to indemnify, hold harmless, or pay attorney's fees that may arise from or in any way be associated with any claim against the Contractor with respect to the performance or operation of this Contract.

E. The Contractor shall immediately notify the Contract Officer or his or her designee of any claim or suit made or filed against the Contractor or its subcontractors resulting from or relating to the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the Indemnitees in the defense or investigation of any claim, suit, or action made or filed against the State as a result of or relating to the Contractor's performance under this Contract.

23. Correction of Errors, Defects and Omissions. The Contractor, upon request, agrees to perform work as may be necessary to correct errors, defects, and omissions in the services required under this Contract, without undue delay and without cost to the Department or the OAG. The acceptance of the work set forth herein by the Contract Officer or his or her designee, shall not relieve the Contractor of the responsibility of subsequent correction of such errors.

24. Political Contribution Disclosure. The Contractor shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a contract with the State, a county, or a municipal corporation, or other political subdivision of the State during a calendar year in which the Contractor receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections a statement 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 contribution 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: (1) before execution of a contract by the State, a county, municipality municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (2) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before (a) May 31, to cover the six month period ending April 30; and (b) November 30, to cover the six month period ending October 31. Additional information is available on the State Board of Election website: http://www.elections.state.md.us/campaign_finance/index.html.

25. Multi-Year Contracts Contingent Upon Appropriations. If the General Assembly fails to appropriate funds or if funds are not otherwise made available for the continued performance of this Contract at any time during the Contract term, this Contract shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, this will not affect either the Attorney General's rights or the Contractor's rights under any other termination clause of this Contract. The effect of termination of this Contract pursuant to this Section will be to discharge the Contractor, the Attorney General, and the Department from future performance of this Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be paid (a) compensation for services satisfactorily performed prior to the date of termination based upon the rates set forth in Section 3 hereof, and (b) all reasonable expenses incurred by the Contractor prior to such date of termination. The Attorney General shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

26. Ownership of Documents and Materials.

A. The Contractor agrees that all documents and materials (in any formats or media whatsoever) in the Contractor's possession or control, including but not limited to all bond documents, loan documents, program documents, official statements, certificates, and other documents related thereto, and drafts of and forms for such documents, prepared by or for the Contractor under the terms of this Contract (collectively, the "**Files**") shall at any time during the performance of the services be made available to the Attorney General upon request by the Attorney General or the Contract Officer or his or her designee and shall become and remain the property of the Attorney General upon expiration of this Contract or completion of the services from time to time. The Attorney General shall have the right to use the Files without restriction or limitation and without compensation to the Contractor other than that provided in this Contract.

B. Immediately upon termination or expiration of this Contract, upon request, the Contractor shall deliver the Files to the Contract Officer or his or her designee or to a location within the State designated by the Contract Officer or his or her designee. The Contractor shall have the right to retain copies of those portions of the Files which the Contractor reasonably requires for professional liability purposes.

27. Procurement Regulations. This Contract is not subject to the provisions of Division II of the State Finance and Procurement Article of the Annotated Code of Maryland or State procurement regulations as set forth in COMAR Title 21 (collectively the “**Procurement Law**”). Nonetheless, the requirements of the Procurement Law will be applied to this Contract to the extent practicable and consistent with obtaining the best legal counsel for the State, all as determined in the Contract Officer’s sole discretion. The dispute resolution and appeal procedures contained in the Procurement Law will not apply to this Contract.

28. No Assurance of Work. The Contractor acknowledges that the Attorney General may award additional contracts for [Lender’s Counsel][Workout Counsel] for the Department. The Contractor further acknowledges that it has received no assurances of any minimum amount or type of work under this Contract. The Contract Officer, or his or her designee, shall have the sole discretion to determine which contractor shall be assigned to handle a particular transaction and shall have the further right to assign a particular transaction to another contractor if the Contract Officer or his or her designees determines such action to be in the best interest of the Department.

29. Contract Affidavit. Attached to this Contract as Attachment C is the Contract Affidavit which has been completed and signed on behalf of the Contractor and which contains certifications of the Contractor with regard to corporate registration, tax payment and other matters.

30. Notices. Service of any notice under this Contract shall be complete upon receipt of such notice, delivered through the United States mail, postage prepaid, by reputedly private delivery company or by hand delivery.

Notice to the Contract Officer shall be addressed to:

Office of the Attorney General
Maryland Department of Housing and Community Development
7800 Harkins Road, Lanham, Maryland, 20706
Attention: Counsel.

Notice to the Contractor shall be addressed to:

Attention: _____

31. Cost and Price Certification. The Contractor has submitted cost or price information and certifies that, to the best of its knowledge, the information submitted is accurate, complete and current as of the Commencement Date. The prices under this Contract or any Contract modification, including profit or fee, shall exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the Commencement Date, was inaccurate, incomplete or not current.

32. Commercial Nondiscrimination.

A. As a condition of entering into this Contract, Contractor represents and warrants that it will comply 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. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability, or otherwise unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

B. As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

33. Waiver. The waiver by either party hereto of a breach of any provision of this Contract shall not operate or be construed as a waiver of any subsequent breach by either party.

34. Suspension of Work. The Contract Officer unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as the Contract Officer may determine to be appropriate for the convenience of the State.

35. Effective Date. This Contract shall take effect upon approval and execution by the Attorney General, provided it has first been duly executed by the Contractor.

WITNESS the following signatures and seals:

WITNESS:

CONTRACTOR:

By:

(Typed Name)

(Typed Title)

(Date)

(Taxpayer Identification Number)

WITNESS:

**THE ATTORNEY GENERAL OF
THE STATE OF MARYLAND**

By:

Brian E. Frosh

(Date)

Approved for form and legal sufficiency:

Assistant Attorney General

(Date)

REVIEWED AND ACKNOWLEDGED – FUNDING AVAILABLE

MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

By: _____

Kenneth C. Holt
Secretary

Date

ATTACHMENT F
CONTRACT AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, (print name) _____, possess the legal authority to make this Affidavit on behalf of (print law firm or business name) _____ (the “Contractor”).

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 items):

- (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 Contractor 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. If not organized in Maryland, the name and address of its resident agent, filed with the State Department of Assessments and Taxation is:

Name: _____

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 the true name and address of the principal or owner as:

Name: _____

Department ID Number: _____

Address: _____

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the Contractor will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require the business to file with the Secretary of State of Maryland certain specified information, including disclosure of beneficial ownership of the business, within 30 days of the date the aggregate value of the contracts, leases, or other agreements that the business enters into with the State of Maryland or its agencies during a calendar year reaches \$200,000.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the Contractor will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract, leases, or other agreements with the State of Maryland, a county, 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 \$200,000 or more shall file with the State Board of Elections a statement 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 (i) May 31, to cover the six month period ending April 30; and (ii) November 30, to cover the six month period ending October 31.

E. DRUG AND ALCOHOL FREE WORKPLACE

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 bid or offer, 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's 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 Contract 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) through (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 acknowledgments contained in that certain Bid/Proposal Affidavit dated _____, 2022, 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: _____
(print name of Authorized Representative and Affiant)

(signature of Authorized Representative and Affiant)