

CONTRACT

by and between

BALTIMORE COUNTY, MARYLAND

and

EnerNOC, INC.

TABLE OF CONTENTS

1.	Contractor’s Duties	1
2.	Compensation	2
3.	Term	3
4.	Contractor’s Representations and Warranties	3
5.	Termination	4
	5.1 Termination for Convenience	4
	5.2 Termination for Default	4
	5.3 Termination for Non-Appropriation of Funds	4
6.	Insurance	4
7.	Default	5
	7.1 Representations and Warranties	5
	7.2 Compliance with Covenants and Conditions	5
	7.3 Performance of Contractual Obligations	5
	7.4 Conditions Precedent to Any Disbursement	5
8.	Remedies for Default	5
9.	Remedies Cumulative and Concurrent	6
10.	Confidential Information	6
11.	Conflict of Interest	6
12.	Assignment	7
13.	Delegation of Duties	7
14.	Indemnification	7
15.	Integration and Modification	8
16.	Fee Prohibition	8
17.	No Partnership	8
18.	Waiver of Jury Trial	8
19.	Governing Law	9
20.	Conflicting Terms	9
21.	Severability	9
22.	Time is of the Essence	10
23.	Counterparts	10
24.	Ownership of Goods	10
25.	Discrimination Prohibited	10
26.	Reports / Information/Inspections/and Audits	11
27.	Notice	11
28.	Political Contribution Disclosure Affirmation	12
29.	No Waiver, Etc	12
30.	Survival	12
	Attachment A – Services to be Performed	15
	Contract Affidavit	18

CONTRACT

THIS AGREEMENT made this _____ day of _____, _____, (the "Agreement") is by and between Baltimore County, Maryland, a body corporate and politic, (hereinafter "Entity") and EnerNOC, Inc., 101 Federal Street, Suite 1100, Boston, MA 02110 (hereinafter the "Contractor").

WHEREAS, the Entity is part of a consortium of governmental and non-profit entities (each a "Participating Entity", and, collectively, the "Participating Entities") constituting the Baltimore Regional Cooperative Purchasing Committee ("BRCPC") entering into cooperative agreements with the Contractor for consulting services related to the purchase of electricity, natural gas, and other energy. NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Contractor's Duties.

1.1 The Contractor, in consideration of the payments hereinafter specified and agreed to be made by the Entity, together with the other Participating Entities, hereby covenants and agrees to perform all services, in strict and entire conformity with the Attachment A entitled "Services to be Performed", any Purchase Order subsequently issued, the Request for Proposal No. P-063, and the response dated April 26, 2011, additional submittals dated June 13, 2011 and July 13, 2011, and any amendments or revisions thereto (collectively, the "Bid").

1.2 The Contractor shall be an independent contractor and not an employee of the Entity, and shall be responsible for the reporting and remittance of all state and federal taxes. The Contractor shall perform the services outlined in Attachment A hereto. The Contractor's services will be provided with due care and in a manner satisfactory to the Entity, and in accordance with all applicable professional standards.

1.3 Notwithstanding any other terms or provisions of this Agreement, in the event the Entity is temporarily or permanently prevented, restricted or delayed in the performance of any or all of the duties and obligations imposed upon or assumed by it hereunder, by act of the General Assembly of Maryland or the Entity's legislative authority, by a court of competent jurisdiction or by administrative delay not due to the fault of the Entity (and its members and agents) shall not be liable directly or indirectly for any claims caused to or suffered by the Contractor or any other person in connection with or as a result of such prevention, restriction or delay.

2. Compensation.

2.1 In consideration of the services to be provided by the Contractor, the Contractor shall be paid the combined total sum of Sixteen Thousand One Hundred Seventy Dollars and No Cents (\$16,170.00) per month for electric consulting and Five Thousand Dollars and No Cents (\$5,000.00) per month for natural gas consulting (collectively, the "Fee") during the Initial Term (hereinafter defined). The Entity shall pay a monthly sum (the "Entity Contribution"), which constitutes that portion of the Fee equal to the Entity's percentage of the BRCPC's electricity and natural gas usage. In no event shall the Entity be responsible or liable to the Contractor for more than the Entity Contribution.

2.2 The Contractor shall submit invoices to the Entity monthly. The Contractor's invoices shall reflect the:

- Contractor's name
- Address
- Federal tax identification number
- Order number and line number(s) that correspond with resulting orders
- Services performed during the preceding billing period

Original invoices shall be submitted to the Baltimore County Office of Budget and Finance, Disbursements Division, 400 Washington Avenue, Room 148, Towson, MD 21204 and to the Accounts Payable/Disbursements Department for the other Participating Entities. Invoices in the proper form and approved by the Entity shall be paid by the Entity within thirty (30) days of receipt thereof. The Entity reserves the right to approve such invoices, in its sole discretion, and to request such detail and additional information as the Entity, in its discretion deems appropriate.

2.3 In no event shall the compensation paid to the Contractor exceed the sum of the Entity's approved appropriation for such services in any contract year. If any portion of any Term of this Agreement extends beyond the Entity's current fiscal year, this Agreement is subject to availability and appropriation of funds for that portion of the Term that extends beyond the Entity's current fiscal year.

2.4 Except as may be specifically agreed upon by the parties hereto in writing, the Contractor shall be entitled to no fees, bonuses, contingent payments, or any other amount in connection with the services rendered or to be rendered or materials provided hereunder. The parties hereto further agree that the Entity shall have no obligation to reimburse, pay directly, or otherwise satisfy, any expenses of the Contractor in connection with

the performance of its obligations under this Agreement, including, but not limited to, the cost of any insurance or license fees.

3. Term.

3.1 This Agreement shall be effective when executed by the Entity and shall continue through one (1) year (hereinafter defined as the "Initial Term"), at which time the Entity may exercise its option to renew set forth in Paragraph 3.2 below, unless sooner terminated pursuant to this Agreement.

3.2 The Entity reserves the sole right to renew this Agreement for nine (9) years in one (1) year increments (the "Renewal Term") on the same terms and conditions set forth herein. In the event any other Participating Entity shall withdraw from participation for any reason, so that the Entity Contribution percentage increases by more than twenty percent (20%), the Agreement shall require the written consent to renewal of the Entity. The compensation and manner of payment set forth in Paragraph 2 shall remain as is.

4. Contractor's Representations and Warranties. The Contractor hereby represents the following:

4.1 The Contractor is a corporation, duly formed and validly existing under the laws of the State of Delaware and is qualified to do business and is in good standing in the State of Maryland.

4.2 The Contractor has the power and authority to consummate the obligations and responsibilities contemplated hereby, and has taken all necessary action to authorize the execution, delivery and performance required under this Agreement.

4.3 The person executing this Agreement for the Contractor warrants that he is duly authorized by the Contractor to execute this Agreement on the Contractor's behalf.

4.4 The services to be provided under this Agreement shall be performed competently and with due care and professional standards, and in accordance with all applicable laws, codes, ordinances and regulations and licensing requirements.

4.5 The Contractor has obtained and shall continue to maintain, at its own cost, such licenses and certifications as are necessary to provide the services rendered under this Agreement, and shall present such licenses to the Entity upon its request for the same.

4.6 All representations and warranties made in the Procurement Affidavit and the Bid response remain true and correct in all respects.

5. Termination.

5.1 Termination for Convenience.

5.1.1 The Entity may terminate this Agreement, without cause, by providing written notice thereof to the Contractor at least thirty (30) days prior to the intended date of termination at the address set forth below, or at such other address as may be later designated by the Contractor in writing. The Contractor acknowledges that the absence of a reciprocal right of termination for convenience does not render this Agreement illusory or unenforceable.

5.1.2 In the event of termination, without cause, the Contractor shall be paid for all reasonable costs incurred by the Contractor up to the date of termination set forth in the written notice of termination. Payment shall be made in accordance with the provisions of Paragraph 2 of this Agreement.

5.2 Termination for Default.

5.2.1 The Entity may terminate this Agreement, for default, as set forth in Paragraph 7 hereof, by providing written notice thereof to the Contractor at least seven (7) days prior to the intended date of termination at the address set forth below, or at such other address as may be later designated by the Contractor in writing.

5.2.2 In the event of termination for default, the Entity shall have the rights and remedies hereinafter set forth.

5.3 Termination for Non-Appropriation of Funds.

5.3.1 The failure of the Entity to appropriate sufficient funds in any future fiscal year to provide funds for this Agreement shall entitle the Entity to terminate this Agreement without prior notice to the Contractor.

6. Insurance.

The Contractor shall be required to provide insurance required by the Entity pursuant to the attached insurance requirements in the form and in amounts acceptable to the Entity. The Contractor shall maintain the insurance coverages required by the Entity while this Agreement is in force, and provide documentation of such insurance in a form satisfactory to the Entity. Such documentation may, in the discretion of the Entity, be in the form of binders or declarations from the insurance company. In the event of a conflict between the provisions of the attached insurance requirements and this Agreement, the provisions of this Agreement shall prevail.

7. Default. The term "Default" as used in this Agreement shall mean the occurrence or happening, from time to time, of any one or more of the following:

7.1 Representations and Warranties. If any representation or warranty, expressed or implied, contained in this Agreement, and if applicable, the Bid shall prove at any time to be incorrect or misleading in any material respect either on the date when made or on the date when reaffirmed.

7.2 Compliance with Covenants and Conditions. If the Contractor shall fail to comply with the terms of any covenant, condition, agreement or any express or implied warranty contained in this Agreement.

7.3 Performance of Contractual Obligations. If the services hereunder are not performed in good faith and in accordance with the provisions of this Agreement.

7.4 Conditions Precedent to Any Disbursement. If the Contractor shall be unable to satisfy any condition precedent to its right to receive a disbursement.

8. Remedies for Default.

8.1 The Entity shall have the right upon the happening of any Default, without providing notice to the Contractor:

a. In addition to other available rights and remedies, to terminate this Agreement immediately, in whole or in part;

b. To suspend the Contractor's authority to receive any undisbursed funds; and/or

c. To proceed at any time or from time to time to protect and enforce all rights and remedies available to the Entity, by suit or any other appropriate proceedings, whether for specific performance of any covenant, term or condition set forth in this Agreement, or for damages or other relief, or proceed to take any action authorized or permitted under applicable law or regulations.

8.2 Upon termination of this Agreement for default, the Entity may elect to pay the Contractor for services provided up to the date of termination, less the amount of damages caused by the default, all as determined by the Entity in its sole discretion. If the damages exceed the undisbursed sums available for compensation, the Entity shall not be obligated to make any further disbursements hereunder.

9. Remedies Cumulative and Concurrent.

No remedy herein conferred upon or reserved to the Entity is intended to be exclusive of any other remedies provided for in this Agreement, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder, or under this Agreement, or now or hereafter existing at law or in equity or by statute. Every right,

power and remedy given to the Entity shall be concurrent and may be pursued separately, successively or together against the Contractor, and every right, power and remedy given to the Entity may be exercised from time to time as often as may be deemed expedient by the Entity.

10. Confidential Information.

10.1 The Contractor shall not disclose any documentation and information disclosed to the Contractor in the course of its performance of duties hereunder with respect to the past, present and future Entity business, services and clients without the express written consent of the Entity.

10.2 Notwithstanding anything herein to the contrary, any analytical models created, and any models used, by the Contractor, such as financial or economic spreadsheet models, are confidential and proprietary to the Contractor, unless they are created specifically for the Participating Entity or Entities. Such confidential and proprietary models may not be transmitted to the Entity unless the Contractor elects to do so. In the case that the Contractor uses such confidential and proprietary models, the Contractor shall provide to the Entity sufficient data or output from the models that will allow the Entity to conduct a thorough review of the output from such models.

10.3. Except as may be required by law, or by any lawful order of a court, the Entity will not disclose information provided to it by the Contractor that is deemed to be confidential commercial or financial information and is exempt from disclosure as such under the Maryland Public Information Act. The Contractor will clearly identify and mark any information or documents provided to the Entity that it believes to be exempt from disclosure and will defend and hold the Entity harmless against any and all costs the Entity may incur if any information is not released at the request of the Contractor.

11. Conflict of Interest.

The Contractor represents and warrants that there exists no actual or potential conflict of interest between its performance under this Agreement and its engagement or involvement in any other personal or professional activities. In the event such conflict or potential conflict arises during the term of this Agreement, or any extension thereof, the Contractor shall immediately advise the Entity thereof.

(THIS PROVISION PERTAINS TO HOWARD COUNTY ONLY) The Contractor certifies that the officer of the corporation who is executing this Agreement has read and understand the provisions of Section 901(a) of the Howard County Charter dealing with conflicts of interest and Section 22.204 of the Howard County Code dealing with conflicts of interest.

12. Assignment.

12.1 Neither the Entity nor the Contractor shall assign, sublet or transfer its interest or obligations under this Agreement to any third party, without the written consent of the other. The Contractor further agrees to provide a minimum of ninety (90) days' written notice to the Entity prior to entering into any merger or consolidation where the surviving entity will be unwilling or unable to accept the Contractor's obligations hereunder, to enable the Entity to procure the goods or services elsewhere. In the event the cost of procuring such alternate goods or services increases the cost to the Entity, and/or delays delivery time of any product, in addition to any other remedies available to the Entity, the Contractor shall pay to the Entity, as damages, any additional costs incurred.

12.2 Nothing herein shall be construed to create any personal or individual liability upon any employee, officer or elected official of the Entity, nor shall this Agreement be construed to create any rights hereunder in any person or entity other than the parties of this Agreement.

13. Delegation of Duties.

The Contractor shall not delegate the Contractor's duties under this Agreement without the prior written consent of the Entity.

14. Indemnification.

14.1 The Contractor shall indemnify and hold harmless the Entity, its employees, agents and officials from any and all claims, suits, or demands including attorney fees which may be made against the Entity, its employees, agents or officials resulting from any act or omission committed in the performance of the duties imposed by and performed under the terms of this Agreement by the Contractor or anyone under agreement with the Contractor to perform duties under this Agreement. The Contractor shall not be responsible for acts of gross negligence or willful misconduct committed by the Entity.

14.2 The Contractor shall also defend, indemnify and hold Entity harmless against all liability to any third party arising from the alleged violation of any third parties' trade secrets, proprietary information, trademark, copyright, patent rights, or intellectual property rights in connection with the Contractor's work under this Agreement.

14.3 If a claim is made by a third party that uses any work product or services provided by the Contractor hereunder, or any portion thereof, infringes a U.S. patent, copyright or trade secret, upon receipt of Entity's written notice of such claim, the Contractor shall indemnify, defend and hold harmless Entity against claims by any such third party that the

Contractor's work product or services a portion thereof infringes a U.S. Patent, copyright or trade secret.

15. Integration and Modification.

This Agreement sets forth the entire agreement between the parties relative to the subject matter hereof. No representation, promise or condition, whether oral or written, not incorporated herein shall be binding upon either party to this Agreement. No waiver, modification or amendment of the terms of this Agreement shall be effective unless made in writing and signed by an authorized representative(s) of the party sought to be bound thereby.

16. Fee Prohibition.

The Contractor warrants and represents that it has not employed or engaged any person or entity to solicit or secure this Agreement, and that it has not paid, or agreed to pay any person or entity a fee or any other consideration contingent on the making of this Agreement. If any suit, claim, or demand shall arise concerning such a fee, the Contractor agrees to indemnify and hold harmless the Entity, from all such claims, suits or demands.

17. No Partnership.

Nothing contained in this Agreement shall be construed in any manner to create any relationship between the Contractor and the Entity other than expressly specified herein and the Contractor and the Entity shall not be considered partners or co-venturers for any purpose on account of this Agreement.

18. Waiver of Jury Trial. THIS PARAGRAPH DOES NOT APPLY TO BALTIMORE CITY OR BALTIMORE COUNTY.

THE CONTRACTOR AND THE ENTITY HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH THE ENTITY AND/OR THE CONTRACTOR ARE PARTIES ARISING OUT OF OR IN ANY WAY PERTAINING TO THIS AGREEMENT. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS AGREEMENT. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY THE ENTITY AND THE CONTRACTOR AND THE ENTITY AND THE CONTRACTOR HEREBY REPRESENT AND WARRANT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY AN INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THE ENTITY AND THE CONTRACTOR FURTHER REPRESENT AND WARRANT THAT THEY HAVE BEEN REPRESENTED OR

HAVE HAD THE OPPORTUNITY TO BE REPRESENTED, IN THE SIGNING OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER, BY LEGAL COUNSEL, SELECTED OF THEIR OWN FREE WILL, AND THAT THEY HAVE HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

19. Governing Law.

This Agreement shall be governed and construed in accordance with the laws of the State of Maryland. Any suit to enforce the terms hereof or for remedy for breach or threatened breach hereof shall be brought exclusively in the courts of the State of Maryland for Entity and the parties expressly consent to the jurisdiction thereof and waive any right that they may otherwise have to bring, transfer or remove such suit in or to the courts of any other jurisdiction.

20. Conflicting Terms.

20.1 The Contractor acknowledges that any Purchase Order issued on or after the effective date of this Agreement is hereby integrated and made a part of this Agreement, provided, however that if a conflict arises between the provisions of this Agreement and the Purchase Order, the provisions of this Agreement shall prevail.

20.2 In the event of a conflict between the Bid and this Agreement, the provisions of this Agreement (without the conflicting terms in the Bid) shall prevail.

21. Severability.

If any of the provisions in this Agreement are declared by a court or other lawful authority to be unenforceable or invalid for any reason the remaining provisions hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by law.

22. Time is of the Essence.

Time is of the essence with respect to performance of the terms and conditions of this Agreement.

23. Counterparts.

This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.

24. Ownership of Goods.

Except as expressly provided in Paragraph 10.2 hereof, all finished or unfinished work, reports, or goods that are the subject of this Agreement including any licenses or consents acquired by the Contractor for performance hereunder, shall be and shall remain the property of the Entity.

25. Discrimination Prohibited.

25.1 In the execution of the obligations and responsibilities hereunder, including, but not limited to, hiring or employment made possible by or relating to this Agreement, the Contractor shall not:

a. Fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or because of the individual's refusal to submit to a genetic test or make available the results of a genetic test;

b. Limit, segregate, or classify its employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or because of the individual's refusal to submit to a genetic test or make available the results of a genetic test; or

c. Request or require genetic tests or genetic information as a condition for hiring or determining benefits.

25.2 All solicitations or advertisements for employees shall state that the Contractor is an equal opportunity employer.

THIS PROVISION PERTAINS TO HOWARD COUNTY AND HARFORD COUNTY ONLY:

25.1 In the execution of the obligations and responsibilities hereunder, including, but not limited to, hiring or employment made possible by or relating to this Agreement, the Contractor shall not: discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, because of such individual's race,

creed, color, sex, national origin, ancestry, age, occupation, marital status, political opinion, political opinion, personal appearance, mental or physical disability or familial status

25.2 All solicitations or advertisements for employees shall state that the Contractor is an equal opportunity employer.

26. Reports / Information/Inspections/and Audits.

26.1 At any time during normal business hours and as often as the Entity may deem necessary, the Contractor shall make available to and permit inspection and copying by the Entity, its employees or agents, of all records, information and documentation of the Contractor related to the subject matter of this Agreement, including, but not limited to, all contracts, invoices, payroll, and financial audits.

26.2 The Entity may request the Contractor, at the expense of the Contractor, to have performed an independent audit of the Contractor's financial information including, but not limited to, balance sheets, statement of revenue and expenses, and receipts and disbursements. The independent auditor selected shall be subject to the approval of the Entity.

26.3 The Contractor shall provide monthly comprehensive reports of its activities and the status of its objectives to the person designated by the Entity to receive such reports. The Contractor shall maintain, in a neat and orderly manner, all documents and records relating to work performed pursuant to this Agreement and shall, upon the request of the Entity, turn over to the Entity all information, data, documents, records, reports, drawings and the like, prepared in the course of work under this Agreement.

27. Notice.

Any notice required to be delivered shall be deemed to have been received when the notice has been sent by certified mail, return receipt, overnight carrier, or hand delivered to the following address and individual or at such other address and/or such other individual a party may identify in writing to the other party:

FOR THE ENTITY: Edward Adams, Director, Department of Public Works, 111 W. Chesapeake Avenue, Towson, MD 21204, 410-887-3306.

FOR THE CONTRACTOR: Laurie Harrison, Deputy General Counsel, EnerNOC, Inc., 101 Federal Street, Suite 1100, Boston, MA 02110, 617-224-9900.

28. Political Contribution Disclosure Affirmation.

The Contractor affirms that it is aware of, and will comply with, the provisions of Sections 14-101 through 14-108 of the Election Law Article of the Annotated Code of Maryland, which require that every person who makes, during any 12-month period, one or more contracts, with one or more Maryland governmental entities involving cumulative consideration, or at least \$100,000.00, shall file with the State Board of Elections certain specified information to include disclosure of attributable political contributions in excess of \$500 during defined reporting periods.

29. No Waiver, Etc.

No failure or delay by the Entity to insist upon the strict performance of any term, condition or covenant of this Agreement, or to exercise any right, power, or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, condition, or covenant or of any such breach, or preclude the Entity from exercising any such right, power, or remedy at any later time or times.

30. Survival.

The provisions of paragraphs 4 (Contractor's Representations and Warranties), 10 (Confidential Information), and 14 (Indemnification) shall survive termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

WITNESS:

ENERNOC, INC.

Federal Identification No. 87-0698303

By: _____(SEAL)

Laurie Harrison

Deputy General Counsel

[Signatures continued on next page]

WITNESS:

BALTIMORE COUNTY, MARYLAND, a body corporate and politic

By: _____ Date
Fred Homan
Administrative Officer

APPROVED FOR LEGAL FORM AND SUFFICIENCY*

(Subject to Execution by A Duly Authorized County Administrative Official and County Council, if Indicated)

OFFICE OF THE COUNTY ATTORNEY

*Approval of Legal Form and Sufficiency Does Not Convey.
Approval or Disapproval of Substantive Nature of Transaction.
Approval is Based Upon Typeset Document. All Modifications Require Re-Approval.

REVIEWED AND APPROVED:

Edward Adams, Director
Department of Public Works

BALTIMORE COUNTY COUNCIL

By: _____ Date
Chairman

ATTACHMENT A

SERVICES TO BE PERFORMED

The Contractor shall act as consultant to the Entity, together with the other Participating Entities, to provide the following services to the Entity:

- The Contractor shall furnish and Baltimore County, along with the other Participating Entities, shall purchase energy consulting services for electricity and natural gas procurements covered by this Agreement which Baltimore County and the other Participating Entities may require during the period of time specified. Baltimore County and other Participating Entities may require other energy consulting services during the term of this Agreement.
- The following entities are participating in this procurement for the following energy commodities, as members of the BRCPC purchasing consortium. Each entity will be contracting with the Contractor separately as a result of the award of contract by Baltimore County Purchasing Division, the lead jurisdiction. New entities can be added to the BRCPC consortium if approved by the current members.

- Electricity: Estimated 3750 Accounts

Anne Arundel County Government	Carroll County Government
Anne Arundel County Public Schools	City of Aberdeen
Anne Arundel County Community College	City of Annapolis
Baltimore City Government	City of Bowie
Baltimore City Public Schools	Harford County Community College
Housing Authority of Baltimore City	Harford County Government
Baltimore County Government	Harford County Public Schools
Baltimore County Libraries	Howard County Government
Baltimore County Public Schools	Howard County Public Schools
Community College of Baltimore County	Howard County Community College
Baltimore Museum of Art	Walters Art Museum
Baltimore County Revenue Authority	

- Natural Gas: Estimated 1058 Accounts

Anne Arundel Community College	Baltimore County Revenue Authority
Anne Arundel County Government	Community College of Baltimore County
City of Annapolis	Carroll County Government
City of Bowie	Harford County Community College
Baltimore City Government	Harford County Government
Housing Authority of Baltimore City	Harford County Public Schools
Baltimore County Government	Howard County Government
Baltimore County Libraries	Howard County Public Schools
Baltimore County Public Schools	Howard Community College
Baltimore City Public Schools	

- The Contractor shall provide the following services to assist the Participating Entities in their procurement of electricity and natural gas:
 - Energy Procurement strategy development and implementation
 - Gather market data and prepare all necessary market analysis to assist in the development of the energy procurement strategy.
 - Identifying risk profiles, time frames, and cost targets.
 - Procurement of retail supplier to purchase electricity and natural gas on the wholesale markets.
 - Data Collection: Historical electricity data for all of the accounts must be collected, checked for accuracy, compiled, analyzed and placed into a format that can be easily provided to all potential suppliers.
 - Identify and Qualify Retail Suppliers: Identify all viable suppliers and put them through a pre-qualification process. This process will consider financial stability, ability to serve, review of existing arrangements/contracts, credit issues, day ahead purchasing capability/flexibility, contract terms and conditions and other criteria.
 - Contracting and Implementation: Analysis, evaluating and recommendation to assist in selecting the supplier of choice.
 - Provide ongoing advice on energy commodity strategy and execution as the BRCPC Entities purchase electricity and natural gas directly in the wholesale markets.
 - Contract Performance Tracking and account reconciliation
 - Contract Performance Monitoring: Monitor actual contract performance versus expected performance, impact of fixed price contracts and/or provider of last resort pricing. This will include analysis and monitoring of local distribution rates for impact on contract performance.
 - Reporting: Provide quarterly reports for overall energy strategy performance and recommendations for any adjustments to energy procurement policy and strategy. Annual performance reporting shall be provided on a fiscal year basis. Reports shall be provided in electronic and hard copy.
 - Budget Projections: Provide forecast price and cost data and advise the BRCPC Entities the impact of hedging energy prices

with fixed cost purchases. Prepare annual budgets and mid-year update.

- Energy Market Reports and Reporting: Submit current energy market information available via the web and also through a more customized reporting process. Preparation and presentation of a customized energy report package for the BRCPC meetings. The report package shall include current forward market prices, comparisons to local utility default rates and market cost estimates for the electric and natural gas accounts.
- The Contractor shall attend all meetings requested by the Participating Entities as a group or individually. The Contractor shall also provide all information and reports as requested by the Participating Entities or by each entity individually. The Contractor shall also attend the Participating Energy Board meeting once a month and present a report on the portfolio performance and activity for each energy being procured by the Participating Entities.
- In the future, Baltimore County and the other Participating Entities may request that the Contractor provide energy consulting services for other energy commodities such as vehicle fuels, heating oil, and similar products as an addition to the original contract scope of work. Other energy consulting services may include, but not be limited to, any services related to demand load response programs, energy conservation, energy best practices, and any services related to energy demand and energy supply. Any and all energy consulting services may be included and provided under this Agreement. Baltimore County and the other Participating Entities, and the Contractor shall negotiate the additional scope of work and the pricing structure and shall enter into an amendment to this Agreement.

THE ABOVE ARE IN ADDITION TO ANY OTHER SERVICES AS SET FORTH IN REQUEST FOR PROPOSAL NO. P-063.

CONTRACT AFFIDAVIT

A. AUTHORIZED REPRESENTATIVE

I HEREBY AFFIRM THAT:

I am the Deputy General Counsel and the duly authorized representative of EnerNOC, Inc. (the "Business") and that I possess the legal authority to make this Affidavit on behalf of myself and the business for which I am acting.

B. BID/PROPOSAL AFFIDAVIT 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 Procurement Affidavit, dated April 26, 2011, and executed by (me) (Laurie Harrison) 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: _____

Name: Laurie Harrison
Title: Deputy General Counsel
(Authorized Representative and Affiant)