

MIDAMERICAN ENERGY
EFFICIENCY BID[®] PROGRAM
STANDARD PROGRAM AGREEMENT

THIS AGREEMENT (“Agreement”) made this ____ day of _____, 2009, is entered into by and between

MidAmerican Energy Company
One RiverCenter Plaza
106 E Second St.
PO Box 4350
Davenport, IA 52808

an Iowa Corporation, hereinafter referred to as “MidAmerican,” and

hereinafter referred to as “Sponsor.”

WITNESSETH:

WHEREAS, MidAmerican has created the Efficiency Bid program (the “Program”), for the purpose of encouraging Customers of MidAmerican to install certain types of equipment or technologies in facilities or sites approved by MidAmerican for this Program that will result in reducing such Customers’ electric and/or natural gas usage; and

WHEREAS, Sponsor has been selected by MidAmerican to participate in the Program and is eligible to receive payment based on the Energy Reduction verified by MidAmerican for an installed Eligible Measure(s) in Facility or Facilities in which MidAmerican provides retail electrical or natural gas service as more fully described hereto and in the Attachments;

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the parties identified above agree as follows:

I. DEFINITIONS

1. Bid – A proposal to implement energy-savings measures at a Host site, which includes a description of the proposed measures, an estimate of the installed cost of the measures, an estimate of the energy savings achieved, a statement of the assumptions used in developing the estimates of installed cost and energy savings and a statement of the level of incentive required.
2. Bid Amount — The total incentive amount requested by the Sponsor. The bid document must show the derivation of the Bid Amount, by showing the incentive amount requested per kWh and/or per Therm (the Bid Amount Components).
3. Bid Ceiling Price - The maximum recommended bid per kWh and per Therm. A Bid Amount that exceeds the aggregate of these quantities multiplied by the energy savings claimed will score poorly in MidAmerican’s cost-effectiveness tests.

4. Customer — A business that currently purchases its retail electric service and/or retail natural gas service on an industrial rate tariff from MidAmerican in the State of Iowa, with a billed demand of 1 MW or greater. Customers with multiple facilities within MidAmerican Iowa service territory having an aggregate demand of 1 MW or greater are also eligible. Customers that purchase natural gas from a third party and transport the gas on MidAmerican’s system are not eligible for incentives for gas efficiency measures.
5. Eligible Measure — Specific equipment or technology approved by MidAmerican for this Program, which is to be installed by the Sponsor in a Host’s Facility or Facilities pre-approved by MidAmerican. Customers must purchase electricity under a retail electric industrial rate tariff to be eligible to receive incentives for electric measures. Customers must purchase gas under a retail gas industrial rate tariff to be eligible to receive incentives for gas measures. Customers that transport gas over MidAmerican’s system are not eligible for incentives for gas measures.
6. Facility — The Customer’s site at which an Eligible Measure(s) is to be installed. Acceptance of a Facility into this Program shall be done at the sole discretion of MidAmerican.
7. Host – The MidAmerican customer at whose facility the measures are installed is known as the Host.
8. Host Customer Acknowledgement — Document submitted by the Sponsor as part of either a Bid or Pre-Installation Report that must be signed by the Host Customer at the affected Facility or Facilities prior to participation in the Program.
9. Incentive Payment — Payments by MidAmerican to Sponsor. The first incentive payment is made upon verification of project installation. The final incentive payment is made upon verification of savings.
10. Measurement & Verification (M&V) — Activities completed by Sponsors or Hosts with the assistance of MidAmerican or its representative at various stages of the project in order to establish the savings baseline or to verify actual savings.
11. Measure Verification Methodology — The methodology established by MidAmerican to determine the Verified Demand and/or Energy Reduction for the Eligible Measure(s).
12. Post-Installation Report — The documentation that must be submitted by the Sponsor prior to requesting the first Incentive Payment for installing the Eligible Measure(s) at a Customer’s Facility.
13. Pre-Installation Report — The documentation that must be submitted by the Sponsor prior to installing any portion of the Eligible Measure(s) at a Customer’s Facility or Facilities.
14. Program Contractor – The Program Contractor is the contractor retained by MidAmerican to design, implement and administer the Efficiency Bid program.
15. Project — A set of proposed or installed Eligible Measures and all associated improvements that are necessary to produce energy reduction at a Customer’s Facility or Facilities.
16. Sponsor – The Sponsor is the entity that submits a Bid. The Sponsor can be a provider of energy efficiency equipment or services, in which case the Sponsor will be required to identify a Host, or a Host can be a Sponsor.

II. IT IS MUTUALLY AGREED:

1. **Time is of the Essence.** Time is of the essence under this Agreement. Any failure of the Sponsor to abide by dates listed herein may be considered a breach of this Agreement.
2. **Host Customer Acknowledgement.** Sponsor will tender and obtain the legal, authorized signature of each Host Customer(s) on the “Host Customer Acknowledgement” form required in the Pre-Installation Report (unless the Host Customer Acknowledgement has already been submitted and approved as part of an approved Bid contained in Attachment A), for each Facility where Eligible Measures are to be installed. A separate Host Customer Acknowledgement form must be executed by the Host Customer for each Facility

and approved by MidAmerican prior to the implementation or installation of the Eligible Measure(s) at said Facility. In the event a Host Customer Acknowledgement form is not signed by the Host Customer and approved by MidAmerican, said Facility will not be eligible to participate in this Program.

3. **Project Identification.**

Pre-Installation Report. Prior to installation of the Eligible Measure(s) at a Host Customer's Facility, Sponsor shall provide a completed Pre-Installation Report.

Approval of Pre-Installation Report. MidAmerican will review the Pre-Installation Report, identify a Measure Verification Methodology as described in the Program Manual, and conduct pre-installation inspection and Measure Verification activities (as necessary), at MidAmerican's expense. MidAmerican will make an effort to accommodate the Sponsor's schedule. MidAmerican will either approve the Pre-Installation Report or notify the Sponsor that the report was not approved within thirty (30) days from the date the Pre-Installation Report was received by MidAmerican. If the report is rejected, the Sponsor will have five (5) business days to submit a revised report. MidAmerican will approve or reject the revised report within five (5) business days.

Installation Prior to Approval. The Eligible Measure(s) must not be implemented or installed prior to MidAmerican approval of the Pre-Installation Report. If it is determined by MidAmerican that implementation or installation of an Eligible Measure has begun at a Facility prior to Sponsor receiving approval from MidAmerican to proceed, the installation of the Eligible Measure in said Facility shall be excluded from participating in this Program.

4. **Project Installation.**

Installation Responsibility. Sponsor will furnish all necessary engineering, labor, supervision, equipment, tools and materials to install the Eligible Measure(s).

Legal Requirements. Sponsor will meet all requirements of federal, state and local statutes, laws, regulations and ordinances, including but not limited to those regarding the handling of hazardous or toxic substances.

Power Quality Requirements. Sponsor will insure Eligible Measure(s) are operating within MidAmerican's applicable power quality standards.

IES Standards. Where appropriate, Sponsor will adhere to Illuminating Engineering Society of North America (IES) illuminating design standards.

Eligible Measures. Sponsor will install Eligible Measure(s). Should Sponsor desire to revise the equipment previously approved by MidAmerican as an Eligible Measure(s), MidAmerican has the sole right to reject or approve the equipment proposed by Sponsor for this Program.

Post-Installation Report. Sponsor will submit to MidAmerican a completed Post-Installation Report for each Project.

Approval of Post-Installation Report. MidAmerican will review the report and conduct a post-installation inspection and Measure Verification activities (as necessary), at MidAmerican's expense. MidAmerican will make an effort to accommodate the Sponsor's schedule. MidAmerican will either approve the Post-Inspection Report or notify the Sponsor that the report was not approved within thirty (30) days from the date the Post-Installation Report was received by MidAmerican. If the report is rejected, the Sponsor will have five (5) business days to submit a revised report. MidAmerican will approve or reject the revised report within five (5) business days. If MidAmerican deems it necessary, it will conduct a follow-up inspection.

Post-Installation Report Deadline. All Projects must be installed and all Post-Installation Reports must be submitted by the Post-Installation Report Deadline. MidAmerican is under no obligation to make the

Project Installation Payment or Project Performance Payments for Projects installed after the Post-Installation Report Deadline, and under no obligation to make Performance Payments for Projects for which Post-Installation Reports are submitted after the Post-Installation Report Deadline.

5. **Installation Payment.** As part of approval of a Post-Installation Report, MidAmerican will issue an approval of the Installation Payment. The Installation Payment will be equal to fifty percent (50%) of the total bid incentive, based on the project's estimated savings, as shown in the following equation:

$$\text{Installation payment} = 50\% \times \{[\text{estimated electric energy savings (kWh)} \times \text{bid price (\$/kWh)}] + [\text{estimated gas savings (therms)} \times \text{bid price (\$/therm)}]\}$$

6. **Measure Verification.** MidAmerican will conduct Measure Verification activities, at MidAmerican's expense, following approval of Post-Installation Report. MidAmerican will prepare a Project Measure Verification Report summarizing the results and the Verified Energy Reduction. Sponsor will have an opportunity to review the report and refute Verified Energy Reduction. All reports will be completed within thirty (30) days of final data collection on site, following approval of the Post-Installation Report. Sponsor will assist MidAmerican as required in its efforts to determine the Verified Energy Reduction of the Eligible Measure(s) at the Customer's Facility.
7. **Performance Payment.** The Project Performance Payment will be based on the Verified Energy Reduction. The Project Performance Payment will be made by MidAmerican to Sponsor within sixty (60) days of completion of the Project Measure Verification Report.

The Performance Payment will be calculated as shown in the following equation:

$$\text{Performance Payment} = [\text{verified electric energy savings (kWh)} \times \text{bid price (\$/kWh)}] + [\text{verified gas savings (therms)} \times \text{bid price (\$/therm)}] - \text{Installation Payment (\$)}$$

This performance payment formula is valid for verified energy savings of up to 125% of original bid estimated savings. Under no circumstances will MidAmerican make award payments for verified energy savings in excess of 125% of a project sponsor's total contracted savings amount. In no event will incentives be awarded that exceed the project cost.

8. **Determination of Eligible Measures and Verified Energy Savings.** MidAmerican has the sole right to determine the Eligible Measure(s) acceptable under the terms of this Agreement and to measure, interpret, calculate and determine the Verified Energy Savings. MidAmerican will not be obligated to provide any payment for any Eligible Measure(s) that fail(s) to meet the terms and conditions of this Agreement.
9. **Insurance Requirement.** Upon execution of this Agreement and prior to commencing the implementation or installation of any Eligible Measure for this Program, Sponsor shall obtain, pay the applicable premium, and maintain during the term of this Agreement the types of insurance reasonably satisfactory to MidAmerican, including, but not limited to, workers' compensation insurance (statutory limits), irrespective of the number of employees engaged in the implementation or installation of the Eligible Measure(s), including Sponsor, if an individual or working partner; comprehensive general liability insurance with a minimum limit of \$1,000,000 per occurrence and aggregate; and automobile liability insurance with minimum limits of \$1,000,000 per occurrence. The comprehensive general liability insurance shall cover damages arising from injuries, including death, sustained by persons other than employees of Sponsor and damages to property arising from work done or services performed by Sponsor pursuant to the implementation or installation of the Eligible Measure(s). The automobile liability insurance shall include, without limitation, the operation of any vehicle or equipment controlled by Sponsor. Sponsor shall require any subcontractor to obtain the same types of insurance with the same limits that Sponsor shall obtain hereunder. Sponsor's obtaining the insurance required herein shall not lessen nor affect its obligations set forth elsewhere in this Agreement. Sponsor shall not commence the implementation or installation of the Eligible Measure(s) nor permit any subcontractor to commence the implementation or installation of the Eligible Measure(s) until the Sponsor or subcontractor(s) have

obtained the insurance required herein. Sponsor and subcontractor(s) shall furnish to MidAmerican certificates of insurance as required herein, each certificate to contain a provision requiring thirty (30) days prior notice of cancellation to be given to MidAmerican's representative and should any material change occur, Sponsor shall notify MidAmerican, in writing, within thirty (30) days of such change. Sponsor shall require its general liability insurer to add MidAmerican as additional insured. All insurance required shall contain provisions wherein all rights of subrogation or recovery of any kind against MidAmerican, its agents, employees, officers, successors and assigns are specifically waived by the insuring entity.

10. **Warranty.** Sponsor warrants to MidAmerican that all work associated with the implementation and installation of the Eligible Measure(s) will conform to the terms and conditions of this Agreement and its Attachments and that the implementation and installation of said Eligible Measure(s) will be carried out by qualified personnel in accordance with the best accepted practices applicable to the work. Sponsor shall provide MidAmerican with a copy of the final design and specifying documentation when required. MidAmerican does not warrant the equipment or installation or the operation of the Eligible Measure(s) in any way.

11. **Indemnity and Liability.**

Hazardous or Toxic Substances. Sponsor shall hold harmless, defend and indemnify MidAmerican for any claims or causes of action arising from the improper handling, storage, disposal and exposure of substances currently or hereinafter characterized as hazardous or toxic in connection with any actions taken by Sponsor or its agents in connection with this Agreement.

Property Damage, Injury, or Death. MidAmerican shall not be liable for damage to property or injury or death of any person or persons in any way connected with or arising from actions of Sponsor or its agents under this Agreement. Sponsor shall hold harmless, defend and indemnify MidAmerican as to any such claims.

Consequential Damages. MidAmerican is not liable for incidental, indirect or consequential damages, or anticipated loss of profits or revenues resulting from the work to be performed.

Eligible Measures. MidAmerican's review, comment, failure to comment, or approval of any plans for the design, construction, operation, modification, or maintenance of the Eligible Measures and equipment or any other aspect of the Sponsor's or the Host Customer's facilities, shall not render MidAmerican, its officials, employees, or contractors responsible for the design, construction, operation, modification, maintenance, adequacy, compatibility, technical or economic performance of the Eligible Measures and equipment at any of the Sponsor's or Host Customer's facilities.

12. **Term.** This Agreement begins as of the date above first written and shall terminate when Sponsor receives all approved Performance Payments for all Verified Energy Reductions.
13. **Termination by MidAmerican.** At MidAmerican's option, in addition to any other rights and remedies which MidAmerican may have at law or in equity, MidAmerican may terminate this Agreement by written notice upon Sponsor, if:
 - (a) Any petition is filed, a receiver is appointed for Sponsor's properties, or any proceeding is commenced by or against Sponsor for relief under any bankruptcy or insolvency laws.
 - (b) Sponsor is in breach of any material term or condition of this Agreement, MidAmerican has notified Sponsor of the breach, and Sponsor has not cured the breach within ten (10) days. Sponsor's failure to deliver all of the Bid Target Energy Reduction set forth in Attachment shall not put Sponsor in breach of this Agreement, but will affect payment made to Sponsor under this agreement.
 - (c) Sponsor suspends or abandons the operation of all or a substantial portion of Sponsor's business.

14. **Termination by Sponsor.** At Sponsor's option, in addition to any other rights and remedies that Sponsor may have at law or in equity, Sponsor may terminate this Agreement by written notice upon MidAmerican, if:
- (a) Any petition is filed, a receiver is appointed for MidAmerican's properties, or any proceeding is commenced by or against MidAmerican for relief under any bankruptcy or insolvency laws.
 - (b) MidAmerican is in breach of any material term or condition of this Agreement, Sponsor has notified MidAmerican of the breach, and MidAmerican has not cured the breach within ten (10) days.
 - (c) MidAmerican suspends or abandons the operation of all or a substantial portion of MidAmerican's business.
15. **Force Majeure.** Neither party shall be considered in default in the performance of their obligations under this Agreement to the extent that performance is delayed or prevented due to Force Majeure, defined as flood, tornado, fire and similar acts of God which are beyond the control of and without the fault or negligence of the party claiming Force Majeure. The non-performing party, as soon as practicable but in any event no more than two (2) weeks after the occurrence of the Force Majeure, shall give the other party written notice describing the particulars of the occurrence, and its anticipated duration. The following conditions shall not be considered as Force Majeure:
- (a) lack of or unavailability of personnel to install the Eligible Measure(s) at a Customer's Facility.
 - (b) unavailability of the Eligible Measures or other equipment from the manufacturer or supplier.
16. **Sole Agreement.** This Agreement in writing constitutes the sole agreement between the parties concerning the subject matter herein and all prior negotiations, representations, understanding or agreements concerning the subject matter herein are hereby cancelled.
17. **Assignment.** This Agreement is binding upon, and inures to the benefit of, the successors and assigns of the parties. This Agreement may be assigned by Sponsor only upon the written consent of MidAmerican. Notwithstanding the foregoing, Sponsor may assign, without obtaining the consent of MidAmerican, its rights for payments under this Agreement to any financial institution, lender or investor in connection with a leasing or financing arrangement for the work performed by Sponsor under this Agreement. Sponsor may elect to use subcontractors in meeting its obligations hereunder. MidAmerican may assign this Agreement to a MidAmerican subsidiary or affiliate, or by merger, consolidation, reorganization or sale of substantially all of its assets without the consent of the Sponsor.
18. **Governing Laws.** The laws of the State of Iowa shall govern this Agreement and any action brought with respect to this Agreement shall be in Des Moines, Iowa.
19. **Sponsor Performance.** Failure of MidAmerican to insist upon strict performance of any of the provisions of this Agreement, or failure or delay of MidAmerican in exercising any rights or remedies provided herein or by law, or the acceptance or approval of, or payment for, any part of or all of the work hereunder, shall not release Sponsor from any of its obligations under this Agreement and shall not be deemed a waiver of any rights of MidAmerican to insist upon strict performance of Sponsor's obligations or be deemed a waiver of any of MidAmerican's legal rights or remedies under this Agreement. Any waiver shall be effective only if in writing and signed by MidAmerican's authorized representative.
20. **Notice.** Any notice or other communication to either party hereto pursuant to any provision of this Agreement shall be effective only if in writing and delivered personally or mailed by certified mail, to the following addresses:

If to MidAmerican, address to:
Efficiency Bid Product Manager
MidAmerican Energy Company
3500 104th St.
Urbandale, IA 50322

If to Sponsor, address to:

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date above first written.

MIDAMERICAN ENERGY COMPANY.

By: _____ Date: _____

Name _____

Title _____

SPONSOR:

By: _____ Date: _____

Name _____

Title _____

Attachment A
Bid Proposal(s)