



Building Electrification and Transformation Accelerator (BETA): Project Planning* Participant Agreement

Posted: November 1, 2023

The following Participant Agreement ("Agreement") is issued by the Massachusetts Clean Energy Technology Center ("MassCEC"), as part of the Building Electrification and Transformation Accelerator (BETA): Project Planning ("Pilot"). Any changes or electronic alterations to the official version of this form shall be void. By signing below, the commercial building owner who has applied and been selected to receive decarbonization assessment and planning services under the Pilot ("Participant") acknowledges and agrees that they have read and understand all the terms and conditions of this Agreement and the Pilot Program Manual ("Program Manual") and specifically agrees to be bound by the contents of this Agreement and the Program Manual upon the signing and submission of the Agreement. This Agreement shall become effective upon the date of execution of this Agreement. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Program Manual.

The Pilot is working to establish technical building retrofit best practices for electrification and decarbonization of existing commercial buildings, including large multi-family buildings ("Project Sites"). The Pilot will explore and demonstrate in-depth building audit and energy modeling methods ("Decarbonization Assessment") to support Participants in planning electrification and decarbonization retrofits of their selected Project Site ("Decarbonization Plan").

1. Eligibility. The Participant represents that they satisfy all eligibility requirements set forth in the Program Manual and that they will comply with all terms and conditions set forth herein and in the Program Manual and all related Pilot Documents (as defined in the Program Manual).
2. Noncompliance. MassCEC reserves the right, acting in the sole exercise of its discretion, to review, amend, rescind, or otherwise modify the Participant selection in the event of noncompliance with this Agreement, the Program Manual, or other Pilot Documents.
3. Project Completion. For purposes of the Agreement, "Project Completion" shall mean that, in accordance with the Program Manual, the Participant has worked with the Pilot's Lead Technical Consultant, Slipstream Group, Inc., and its subcontractors (collectively, the "Consultant") to complete a Decarbonization Assessment and generate a Decarbonization Plan, and to review recommendations, financing mechanisms, rebate programs and other relevant decarbonization planning topics.
4. Indemnification.
 - a. To the fullest extent permitted by law, the Participant shall indemnify and hold harmless the

*Formerly known as the Building Electrification and Transformation Accelerator (BETA): Commercial Buildings Pilot.
Building Electrification and Transformation Accelerator: Project Planning
Participant Agreement



Commonwealth, MassCEC, and each of their respective agents, officers, directors, assigns, and employees (together with the Commonwealth and MassCEC, the "Covered Persons") from and against any and all liability, loss, claims, damages, fines, penalties, costs and expenses (including reasonable attorney's fees), judgments and awards (collectively, "Damages") sustained, incurred or suffered by or imposed upon any Covered Person resulting from (i) the Participant's breach of any of the terms of this Agreement or any false representation of the Participant under this Agreement and/or the Application, or (ii) any negligent acts or omissions or reckless or intentional misconduct of the Participant or any of the Participant's agents, officers, directors, employees, assigns, contractors, or subcontractors. Without limiting the foregoing, the Participant, shall indemnify and hold harmless each Covered Person against any and all Damages that may directly or indirectly arise out of or may be imposed because of the failure to comply with the provisions of applicable law, individually, or any of its agents, officers, directors, employees, assigns, contractors, or subcontractors.

- b. In no event shall any Covered Persons or Participant be liable for any indirect, incidental, special, punitive, or consequential damages whatsoever (including, but not limited to, lost profits or interruption of business) arising out of or related to Participants, its employees', agents', or assigns' performance of the Project under this Agreement.
- c. The Parties acknowledge that the Consultant is an independent contractor and in no event shall any Covered Person be liable to Participant or any other party for any Damages sustained, incurred, or suffered by or imposed upon the Participant or any of its officers, directors, employees, agents, subcontractors, or assigns associated with the Consultant's actions, omissions, negligence, or misconduct in relation to the Project. Further, except to the extent such Damages are determined to have resulted from the willful misconduct or fraudulent behavior of the Consultant, the Consultant shall not be liable for any Damages sustained, incurred, or suffered by or imposed upon the Participant or any of its officers, directors, employees, agents, subcontractors, or assigns, associated with the Consultant's actions, omissions, negligence, or misconduct in relation to the Project.

5. Participant Responsibilities

- a. The Participant will allow the Consultant to enter their Project Site, including tenant spaces if applicable, for around four (4) to eight (8) hours to conduct a Decarbonization Assessment of the Project Site. Up to two (2) site visits may be required. Prior to and during the Decarbonization Assessment, the Participant will share relevant Project Site operational information (as described in the Program Manual).
- b. The Participant will work with the Consultant to finalize a Decarbonization Plan for the Participant's Project Site within three (3) months after the Decarbonization Assessment. The Participant will engage with the Consultant to review recommendations, financing mechanisms, rebate programs, and other relevant decarbonization planning topics covered in the Decarbonization Plan.
- c. Participant agrees to participate, upon MassCEC's request, in other information gathering



activities required to prepare case studies, monitoring, and evaluation studies, or other educational materials that may be beneficial to MassCEC or the public to disseminate knowledge gained as a result of the Pilot. Notwithstanding the foregoing, Participant shall enter into a Utility Release Form for electrical utility, gas utility, and/or heating fuel consumption data in the format provided to Participant as a condition of participation in the Pilot.

6. Disclaimer: MassCEC expressly disclaims any duty to investigate any company, product, service, process, procedure, design, or other matter regarding the installation of decarbonization measures recommended by the Consultant. The selection of a Participant does not constitute an endorsement, warranty, or guaranty of any kind or circumstance by MassCEC of any company, product, service, process, procedure, design, or other matter regarding the installation of decarbonization measures by the decarbonization measure vendors, equipment vendor(s), and/or subcontractors of decarbonization measure vendors. The entire risk of use of any decarbonization measure vendor(s), equipment vendor(s), subcontractors, product, service, process, procedure, or design is assumed by the Participant as part of its obligations under this Agreement, and Participant agrees to hold harmless all Covered Persons from all Damages arising out of or otherwise in connection with decarbonization measure vendors' activities in relation to the Pilot, including, without limitation, any decarbonization measure vendors that Participant learns of through MassCEC or the Consultant.
7. Public Disclosure: As a public entity, MassCEC is subject to Massachusetts' Public Records Law, codified at Chapter 66 of the Massachusetts General Laws ("Public Records Law"). Applicants acknowledge and agree that any documentary material, data, or other information submitted to MassCEC are presumed to be public records. An exemption to the Public Records Law may apply to certain records, including materials that fall under certain categories under a statutory or common law exemption, including the limited exemption at Massachusetts General Laws Chapter 23J, Section 2(k) regarding certain types of confidential information submitted to MassCEC by an applicant for any form of assistance. Applicants acknowledge and agree that MassCEC, in its sole discretion, shall determine whether any particular document, material, data or other information is exempt from or subject to public disclosure. Thus, MassCEC urges Applicants to carefully consider what documents, materials, data and other information is submitted to MassCEC in connection with this Pilot.

In line with Public Records Law requirements, MassCEC generally considers the following types of information as exempt:

- Personal email addresses
 - Personal cell phone numbers
 - Account numbers and other sensitive financial information from utility bills
8. Governing Law; Arbitration: This Agreement and the rights and obligations of the Parties shall be governed by and construed in accordance with the laws of the Commonwealth, without giving effect to its conflict of laws principles. Any dispute arising out of or relating to this Agreement or its



breach, termination, or invalidity, whether before or after termination of this Agreement, if not resolved by negotiation among the Parties within thirty (30) days after such dispute is raised by either Party in writing, will be settled by binding arbitration by a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction over this Agreement. Any such arbitration will be conducted in or near Boston, Massachusetts. The prevailing Party shall be entitled to receive from the other Party its reasonable attorney's fees and costs incurred in connection with any action, proceeding, or arbitration under this subsection.

[Remainder of Page Intentionally Blank]



Signature and Acceptance Form

Authorized Signatory. The undersigned represents and warrants that they are fully authorized and empowered to enter into this Agreement, be it on their own behalf or on behalf of an entity.

Participant Agreement Terms and Conditions. The undersigned agrees to all of the contract terms and conditions of this Participant Agreement and the Program Manual, and acknowledges that by signing below, the undersigned shall be bound by the terms and conditions contained therein.

Participant Signature	
Project Site Address	
Printed Name of Participant (including Name and Title of Signatory, if Participant is an entity)	
Signature of Participant*	
Date	

*Signatures cannot be typed.