

Grant Agreement 20-#
between [Grantee]
and the Massachusetts Clean Energy Technology Center

This Grant Agreement **20-#** (the “Agreement”) is effective as of **[Date – Month DD, YYYY]** (the “Effective Date”) by and between the **Massachusetts Clean Energy Technology Center (“MassCEC”)**, an independent public instrumentality of the Commonwealth of Massachusetts with a principal office and place of business at 294 Washington Street, Suite 1150, Boston, MA 02108, and **[Grantee Name]** with a principal office and place of business at **[Grantee Address]** (“Grantee”). Each of MassCEC and Grantee are at times referred to in this Agreement as a “Party,” and together the “Parties”.

Whereas, MassCEC is offering financial assistance in the form of grants to entities that have submitted a request for funding consistent with the requirements of the Commonwealth Hydropower program (the “Program”);

Whereas, Grantee has submitted an application for funding of **[Description of project]** (the “Project”);

Whereas, [provide any details that may be relevant to the Agreement, including why it is being entered into, provide facts about the relationship and goals of the parties, the nature of the contract, and mention other related transactional documents, use as many clauses as necessary]; and

Whereas, MassCEC desires to provide requested funding.

Now therefore, in consideration of the recitals, the mutual promises and covenants contained in this Agreement, and other good and valuable considerations, the receipt, adequacy, and sufficiency of which are hereby acknowledged, MassCEC and Grantee agree as follows:

1. Performance of the Work

- a. Grantee shall complete the Project and provide the deliverables described in the Scope of Work (the “Deliverables”) set forth in Attachment 1 (the “Scope of Work”).
- b. Grantee is solely responsible for all Project decisions, the preparation of all plans and specifications, and completing the Project in accordance with the Scope of Work.
- c. Grantee is solely responsible for selecting and entering into a written contract (or contracts) with contractors as necessary to provide the Deliverables and complete the Scope of Work, and for ensuring that the contractors Grantee retains comply with all applicable provisions of this Agreement. Grantee acknowledges that MassCEC shall have no responsibility for managing such contractors or the relationship between Grantee and its contractors. Further, Grantee shall indemnify and hold harmless MassCEC from any Damages (as defined in Section 16) associated with any disputes occurring between Grantee and its contractors arising from or in relation to the Project.
- d. Grantee acknowledges that MassCEC will have no responsibility for management of the Project, including obtaining all local, state, and federal permits, as applicable.
- e. Grantee shall be responsible for completing all required steps to receive funding from any other entity besides MassCEC, as applicable.

2. Term

The term of this Agreement shall commence on the Effective Date, and shall expire on **[Date – Month DD, YYYY]** (the “Term”) unless otherwise terminated in accordance with Section 10 herein.

3. Grant Amount; Payment; Rescission

- a. *Grant Amount.* In consideration of the various obligations to be undertaken by Grantee pursuant to this Agreement, MassCEC agrees to provide Grantee with funds in an amount not to exceed **[write out amount] Dollars (\$[number])** (the “Grant”). The Parties acknowledge and agree that this is a maximum authorization, and MassCEC is under no obligation to transfer the full amount to Grantee, or any amount, in the event Grantee does not satisfy the requirements under this Agreement. Grantee acknowledges and agrees that receipt of this Grant, or any portion of this Grant, does not create any rights of preferences to receive subsequent funding from MassCEC. In no event shall the Grant exceed the amount specified in this section.
- b. *Payment.* MassCEC will pay Grant funds to Grantee in one installment in accordance with the Scope of Work (the “Grant Installment”). Upon completion of each milestone and submission of all associated Deliverables, Grantee shall submit an invoice by email to MassCEC’s Project Manager(s) listed in Section 6(a) and carbon copy AP@masscec.com. Grantee shall enroll in MassCEC’s Automated Clearinghouse (“ACH”) system to receive payment by completing the ACH enrollment form attached to this Agreement in Attachment 5 and submitting it to AP@masscec.com at or before the submission of their first invoice. Any changes to the information in the ACH form must be submitted to AP@masscec.com through an updated ACH enrollment form within thirty (30) days of any such change. The invoice shall be in the form of a completed and signed Expenditure and Cost Share Certification (Attachment 4) that certifies that the Cost Share requirement has been met. Grant Installment shall be paid within forty-five (45) days of approval of the corresponding invoice.
- c. *Rescission.* If Grantee materially breaches any term of the Agreement, in addition to the ability to terminate as set forth in Section 10(a), MassCEC shall have the right to rescind Grant payments; provided, however, that Grantee shall have the opportunity to cure such breach within thirty (30) days of the breach and if Grantee does so, MassCEC shall not exercise the right to rescind Grant payments. If Grantee becomes insolvent, makes an assignment of rights or property for the benefit of creditors, or files for or has bankruptcy proceedings instituted against it under the federal bankruptcy law of the United States, or if MassCEC reasonably believes that such an event is imminent, MassCEC, acting in its sole discretion, may rescind the remaining undisbursed portion of the Grant.
- d. *Budget Adjustments.* Notwithstanding the foregoing, the Parties acknowledge that the costs listed in the Project Budget in Attachment 3 (“Project Budget”) are estimates. Therefore, within each category identified in the Project Budget, Grantee may shift funds between the line items listed, or from Related Party Labor to subcontractors/consultants.
- e. *Ability to Carry Cash Balance.* Grantee must be financially able to carry the necessary cash balance for the Project during the period between paying its consultants, vendors, or other contractors, and receiving the Grant payment.

- f. *Grant Expenditure.* All costs incurred by Grantee before the Effective Date are incurred voluntarily, at the Grantee's risk and upon its own credit and expense. Grantee shall not incur any costs to be charged against Grant funds prior to the Effective Date.

4. Cost Share and Allowable Expenses

- a. *Cost Share.* Grantee agrees to meet and maintain a minimum **ten percent (10%) / twenty percent (20%) NOTE – 10% FOR PUBLIC ENTITIES AND 20% FOR PRIVATE ENTITIES** cost share for the Project ("Cost Share"). MassCEC and Grantee will share in any cost savings that result from Project expenses that are less than the amount identified in the Project Budget by maintaining the minimum Cost Share. Grantee agrees and acknowledges that its Cost Share for either phase may be cash, documented grants from other parties (such as other state or federal agencies or charitable organizations), or a combination thereof, but that consultants or subcontractors performing work on the Project shall not provide any of the Cost Share.
- b. *Allowable Expenses.* Grantee's expenses uniquely associated with the Project and incurred directly in the completion of Milestones set forth in the Scope of Work and identified in the Project Budget (the "Allowable Expenses"), shall be eligible for Cost Share or reimbursement from Grant funds. For the avoidance of doubt, Allowable Expenses shall not include general administration, overhead, mark-ups, travel (by Grantee, Related Parties, or subcontractors to Grantee), or general purpose facilities, equipment, materials, or software. If direct labor or Related Party Labor (as defined below), are included, only gross wages, employer-contributed Federal Insurance Contributions Act taxes, state unemployment insurance, Federal Unemployment Tax Act taxes, and the Paid Family and Medical Leave Act may be included for such labor; fringe benefits on direct labor or Related Party Labor shall not be included.
- c. *Related Parties.* Grantee shall notify MassCEC if it intends to or has entered into an agreement for goods or services for the Project with an entity that shares any common ownership with Grantee (a "Related Party"). To the extent such goods or services ("Related Party Expenses") are properly identified in the Project Budget and MassCEC approves such Related Party Expenses in writing in advance, Grantee may use the Grant to pay for such goods or services, but under no circumstances may Related Party Expenses exceed fifteen percent (15%) of Allowable Expenses for any Milestone set forth in the Scope of Work.
- d. *Commercially Reasonable Procurement.* Grantee shall procure services from contractors using commercially reasonable procurement mechanisms, and to the greatest extent practicable, using competitive procurement procedures.

5. Deliverables and Schedule

- a. *Deliverables.* Grantee shall provide the Deliverables to MassCEC's Project Manager(s) (as defined below) electronically.
- b. *Schedule.* The Parties acknowledge that the dates listed in the Schedule and Deliverables Table in the Scope of Work (Attachment 1) are deadlines. At MassCEC's sole discretion, any extensions to the schedule must be approved by the MassCEC Project Manager(s) in writing in advance (email acceptable), and may be accepted without need for a written amendment to this Agreement; provided that such extensions shall not exceed the Term.

6. Project Managers

- a. MassCEC and Grantee have designated the following persons to serve as Project Managers to support effective communication between MassCEC and Grantee and to report on the Project’s progress (the “Project Managers”).

For MassCEC

[Name, title, phone number, email address]

For Grantee:

[Name, title, phone number, email address]

- b. Grantee shall be required to obtain prior written approval from MassCEC to make any change to its Project Manager(s). For the avoidance of doubt, MassCEC may update its Project Manager(s) listed without amending this Agreement, if done in compliance with the notice provisions of Section 7.

7. Notice

Any notice in this Agreement shall be in writing and shall be sent either by (i) facsimile, email, or other electronic transmission, (ii) courier, or (iii) first class mail, postage prepaid, addressed to the Project Manager(s) listed in Section 6(a) at the address indicated in the preamble of this Agreement (or to such other address as a Party may provide by notice to the Party pursuant to this section), and shall be effective (x) at dispatch, if sent by facsimile, email, or other electronic transmission, (y) if sent by courier, upon receipt as recorded by courier, or (z) if sent by first class mail, five (5) days after its date of posting.

8. Publicity; Use of Name

- a. Grantee shall collaborate directly with MassCEC to prepare any public statement, media strategy, or announcement relating to or bearing on the work performed or data collected under this Agreement or to prepare any press release or for any news conference in which MassCEC is concerned or discussed, including, but not limited to, any media pitches, interviews, embargoed materials, photo opportunities, blogs, guest columns, media events, or editorial boards which relate to this Agreement or MassCEC (each, a “Public Statement”) and shall in no event be permitted to publish, release, or otherwise disseminate any such Public Statement without MassCEC’s prior written consent.
- b. Grantee agrees that MassCEC shall have the right to make use of and disseminate, in whole or in part, all work products, reports, Deliverables, and other information produced in the course of the Project's completion, and to use the information in such materials contained to produce summaries, case studies, or similar information resources.

9. Other Requirements

- a. *Program Evaluation.* Grantee agrees to support MassCEC's program evaluation activities, and MassCEC's dissemination of information regarding Grantee's experiences. To this end, Grantee agrees that its key personnel and contractors working on the Project will be available at reasonable times with advance notice to be interviewed by MassCEC or its authorized representatives for purposes of Program evaluation or case study development. Further, upon MassCEC's reasonable request, Grantee shall provide MassCEC information including, but not limited to, (a) actual total cost for the Project, (b) details on usefulness of services, (c) information on performance of consultant(s), (d) details ease of interaction with MassCEC, and (e) role of the Project in determining overall feasibility.
- b. *Project Alteration or Non-Viability of Project.*
 - i. Grantee agrees and acknowledges that MassCEC shall have the right to reduce or rescind the Grant if, as determined by MassCEC in its sole discretion, Grantee materially changes the purpose or scope of the Project without prior approval of the MassCEC Project Manager(s).
 - ii. Grantee shall promptly notify MassCEC if Grantee or its consultants determine that the Project encompasses flaws that would preclude construction or achievement of operation. Upon such notification, MassCEC will determine the appropriate documentation to be submitted and equitable reimbursement for work performed prior to the notification date, and Grantee shall forfeit the remainder of the Grant.
- c. *Standard of Care.* Grantee shall perform all work related to this Agreement in a competent, complete, and professional manner with due diligence and in accordance with the highest industry standards of professionalism and competence, and shall require any and all contractors it engages to perform all work related to this Agreement in the same manner and in accordance with the same standards.

10. Termination

- a. MassCEC may terminate this Agreement at any time if Grantee has materially breached any term of the Agreement and fails to cure such breach as provided in Section 3(c).
- b. MassCEC may terminate this Agreement in the event of loss of availability of sufficient funds for the purposes of this Agreement or in the event of an unforeseen public emergency or other change of law mandating immediate MassCEC action inconsistent with MassCEC performing its obligations under this Agreement.
- c. Except as otherwise provided in the Agreement, the rights and obligations of each of the Parties under Sections: 7, 8(b), 9(b), 10, 12, 13, 16, 17, 20, 21, 23, 24, 26, 28 and 29 of this Agreement shall survive and remain in effect after the termination or expiration of this Agreement.

11. Tax Forms and Grant Taxability

- a. Grantee shall provide MassCEC with a properly completed United States Internal Revenue Service ("IRS") Form W-9 (the "W-9"). Failure to provide the W-9 shall be grounds for withholding all Grant Installments until such W-9 is received. W-9s shall be emailed to AP@masscec.com.
- b. Grants may be considered taxable income by the IRS and the Massachusetts Department of Revenue. Grantee is solely responsible for any failure to timely consult with a tax professional to

determine the federal and/or state tax implications of this Agreement. MassCEC will issue an IRS Form 1099 to each Grantee. For all tax-exempt entities (including government entities), a tax-exemption certificate or IRS tax-exemption determination letter must be emailed to AP@masscec.com.

12. Access and Use

Grantee agrees to license or otherwise make available to MassCEC in perpetuity, without charge, Grantee's interest in and copyright (if any) to all non-confidential materials prepared and produced in relation to the Project, including, without limitation, all plans, specifications, and analyses developed in connection with the Project and specified as being for MassCEC's use and public dissemination; provided, however, that any and all inventions that are conceived or first reduced to use during the course of the Project shall be the sole property of Grantee (except that if jointly invented, title shall flow in accordance with United States patent law), and any licensing requests for such inventions shall be subject to good faith negotiations between the Parties. Grantee represents and warrants that Deliverables will not infringe on any copyright, right of privacy, or personal or proprietary rights of others.

13. Audit

At any time prior to the completion of the Project and as otherwise provided in this section, MassCEC shall have the right to audit Grantee's or its other agents' records to confirm the use of the Grant awarded under this Agreement. If such audit reveals that any portion of such funds was used for purposes not permitted under the Agreement (a "Nonconformance Event"), then Grantee shall refund to MassCEC the amount determined by such audit to have been improperly used within thirty (30) days of Grantee's receipt of such audit and demand. In the event such audit reveals a Nonconformance Event, MassCEC shall be entitled to immediately terminate this Agreement and discontinue disbursing Grant Installments to Grantee from the date the audit is completed, subject to any limitations set forth by Section 10. Grantee shall maintain books, records, and other compilations of data pertaining to the funds paid pursuant to this Agreement to the extent and in such detail as to properly substantiate use of such payments. All such records shall be kept for a period of seven (7) years, starting on the first day after final payment under the Agreement (the "Retention Period"). If any litigation, claim, negotiation, audit, or other action involving the records is commenced prior to the expiration of the Retention Period, all records shall be retained until completion of the audit or other action and resolution of all issues resulting from audit or other action, or until the end of the Retention Period, whichever is later. MassCEC or the Commonwealth or any of their duly authorized representatives shall have the right at reasonable times and upon reasonable notice, to examine and copy at reasonable expense, the books, records, and other compilations of data of Grantee which pertain to the provisions and requirements of this Agreement. Such access may include on-site audits, review, and copying of records.

14. Assignment and Subcontracting

Grantee shall not assign or in any way transfer any interest in Grant funds without the prior written consent of MassCEC, nor shall Grantee subcontract any of its obligations hereunder without the prior written consent of MassCEC; provided, however, that any subcontract entered into by Grantee pursuant to this Section 14 shall not relieve Grantee from any of its obligations pursuant to this Agreement, any act or omission by a subcontractor of Grantee shall be deemed an act or omission by Grantee, and Grantee shall be responsible for each of its subcontractors complying with all obligations of Grantee pursuant to this Agreement.

15. Compliance with Laws

Grantee agrees to comply with all applicable federal, state, and local statutes, rules, regulations, and permitting requirements, including, but not limited to, all laws promoting fair employment practices or prohibiting employment discrimination and unfair labor practices, and shall not discriminate in the hiring of any applicant for employment nor shall any qualified employee be demoted, discharged, or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits, or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation, gender identity, or for exercising any rights afforded by law.

16. Indemnification

- a. To the fullest extent permitted by law, Grantee shall indemnify and hold harmless the Commonwealth, MassCEC, and each of their respective agents, officers, directors, 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) any breach of this Agreement or false representation of Grantee, its officers, directors, employees, agents, subcontractors, or assigns under this Agreement, or (ii) any negligent acts or omissions or reckless misconduct of Grantee, its officers, directors, employees, agents, subcontractors, or assigns. Without limiting the foregoing, Grantee shall indemnify and hold harmless each Covered Person against any and all Damages that may arise out of or are imposed due to the failure to comply with the provisions of applicable law by Grantee or any of its agents, officers, directors, employees, subcontractors, or assigns.
- b. In no event shall either Party 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 Grantee's, its officers', directors', employees', agents', subcontractors', or assigns' performance of the Project under this Agreement, regardless of the form of action, whether in contract, tort (including negligence), strict liability, or otherwise.

Liability [use for public entities in place of Indemnification section above ONLY if requested by Grantee]

- a. Each Party shall assume full liability for its own acts of negligence or willful misconduct in the performance of its obligations under this Agreement, and shall assume full financial and legal liability for all expenses, including reasonable attorneys' fees, resulting from or attributable to any such negligence or omission of its employees, officers, directors, and agents with respect to their failure to adhere to the terms of this Agreement.
- b. In no event shall either Party be liable for any indirect, incidental, special, or consequential damages whatsoever (including, but not limited to, lost profits or interruption of business) arising out of or related to Grantee's performance of the Project under this Agreement.

17. Public Records and CTHRU

As a public entity, MassCEC is subject to the Commonwealth's Public Records Law, codified at M.G.L. c. 66 (the "Public Records Law"). Grantee acknowledges and agrees 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 set forth in M.G.L. c. 23J, Section 2(k) regarding certain types of confidential information submitted to MassCEC by an applicant for any form of assistance. Grantee shall be solely responsible for considering what documents, materials, data, and other information are submitted to MassCEC in connection with this Agreement.

In accordance with the Public Records Law, MassCEC generally considers the following types of information to be confidential:

- The financial terms contained in leases, power or REC purchase agreements, or service contracts with other parties;
- Project pro-formas and statements regarding financial thresholds;
- Personal information (Social Security numbers should NOT be provided to MassCEC); and
- Trade secrets.

Grantee agrees and acknowledges that MassCEC shall have the right to disclose the name of Grantee and/or payee, the amount of the payment pursuant to this Agreement, and any other information it may deem reasonably necessary on CTHRU, the Commonwealth's online database of state spending, or any other applicable state spending website.

18. Insurance

Grantee certifies that appropriate insurance coverage for all activities under this Agreement has been obtained and shall be maintained in effect through the Term of this Agreement. GRANTEE ACKNOWLEDGES THE SUFFICIENCY OF THE TYPES AND AMOUNTS OF INSURANCE COVERAGE MAINTAINED AND THE APPROPRIATENESS OF THOSE COVERAGES FOR THE DURATION OF THE TERM. At MassCEC's request, Grantee will provide MassCEC with copies of the certificates of insurance evidencing such coverage. The insurance requirements for the Project and pursuant to this Agreement are solely Grantee's responsibility and shall not relieve Grantee of any responsibility to MassCEC.

19. Conflict of Interest

Grantee acknowledges that all MassCEC employees are subject to the Commonwealth's Conflict of Interest statute, codified at M.G.L. c. 268A.

20. Lobbying

No funds awarded by this Agreement may be used to pay for or otherwise support any activities intended to influence any matter pending before the Massachusetts General Court or for activities covered by the law and regulations governing "legislative agents" or "executive agents" set forth in the Commonwealth's Lobbying Law, codified at M.G.L. c. 3, Section 39.

21. Choice of Law and Forum; Arbitration; Equitable Relief

- a. 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.
- b. This section shall not be construed to limit any other legal rights of the Parties. Each Party acknowledges and agrees that any breach or threatened breach of this Agreement by the other Party may result in substantial, continuing, and irreparable damage to the first Party. Therefore, before or during any arbitration, either Party may apply to a court having jurisdiction for a temporary restraining order or preliminary injunction, where such relief is necessary to protect its interests pending completion of the arbitration proceedings.

22. Registration

Grantee represents and warrants that Grantee is registered and will maintain good standing with the Secretary of State's Office of the Commonwealth of Massachusetts for the duration of the Term.

23. Severability

Each provision of this Agreement shall be treated as a separate and independent clause and any decision from a court of competent jurisdiction to the effect that any clause or provision of this Agreement is null or unenforceable shall in no way impair the validity, power, or enforceability of any other clause or provision of this Agreement.

24. Amendments and Waivers

MassCEC may amend Section 17 (without any action by Grantee) to reflect changes in law or MassCEC policies and shall promptly deliver any and all such amendments to Grantee in the manner provided in Section 7. Except as provided in the immediately preceding sentence, no amendments to or modifications of this Agreement, and no waiver of any provision of this Agreement, shall be effective unless the same shall be in writing and shall be signed by each of the Parties. Any waiver by MassCEC of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of such provision or any other provision of this Agreement. Forbearance or indulgence in any form or manner by a Party shall not be construed as a waiver, or in any way limit the remedies available to that Party.

25. Force Majeure

Neither Party shall be liable or responsible to the other Party, nor be deemed to have breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the impacted Party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) actions, embargoes, or blockades in effect on or after the date of this Agreement; (e) national or regional emergency; and (f) strikes, labor stoppages or slowdowns. The Impacted Party shall give notice within two (2) days of the Force Majeure Event to the other Party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of ten (10) days following written notice given by it under this section, the other Party may thereafter terminate this Agreement upon fifteen (15) days' written notice.

26. Independent Status

Nothing in this Agreement will be construed or deemed to create a relationship of employer and employee, partner, joint venturer, or principal and agent between MassCEC and Grantee, its officers, directors, employees, agents, or assigns.

27. Counterparts

This Agreement may be executed in two (2) or more counterparts, and by the Parties on separate counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

28. Headings; Interpretation

The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement. For purposes of this Agreement, (a) the words "include," "includes," and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references in this Agreement: (x) to sections, subsections, schedules, and exhibits mean the sections of, the subsections of, and schedules and exhibits attached to, this Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions of such agreement, instrument, or other document; and (z) to a statute means such statute as amended from time to time and includes any successor legislation to such statute and any regulations promulgated under such statute. Whenever the singular is used in this Agreement, the same shall include the plural, and whenever the plural is used in this Agreement, the same shall include the singular, where appropriate. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. This Agreement is the result of negotiations between, and has been reviewed by, the Parties and their respective legal counsel.

29. Binding Effect; Entire Agreement

This Agreement shall be binding on the Parties and their respective successors and permitted assigns, and shall inure to the benefit of the Parties and their respective successors and permitted assigns. Except as provided in the immediately preceding sentence, nothing in this Agreement shall be construed to create any rights or obligations except between the Parties, and no person shall be regarded as a third party beneficiary of this Agreement. This Agreement embodies the entire understanding and agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior oral or written agreements and understandings relating to such subject matter. No statement, representation, warranty, covenant, or agreement of any kind not set forth in this Agreement will affect, or be used to interpret, change, or restrict, the express terms and provisions of this Agreement. Furthermore, neither Grantee's nor any of its subcontractors' provision of services under this Agreement implies, establishes or otherwise creates any rights or expectations of additional contracts with the MassCEC, whether related or unrelated to the subject matter of this Agreement. The following (together with all exhibits, schedules, and attachments) are hereby incorporated into this Agreement by reference:

- a. Attachment 1—Scope of Work
- b. Attachment 2—Feasibility Study Outline
- c. Attachment 3—Project Budget
- d. Attachment 4—Expenditure and Cost-Share Certification Statement
- e. Attachment 5 – ACH Enrollment Form

[Remainder of Page Intentionally Blank]

In witness whereof, the Parties have caused this Agreement to be executed as a document under seal as of the Effective Date set forth in the first paragraph hereof.

Massachusetts Clean Energy Technology Center

[Grantee's full legal entity name]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Federal Tax ID No.:

Attachment 1 SCOPE OF WORK

Project Summary

[description of the project]

Schedule and Deliverables Table

The following table summarizes the Milestone deadlines and associated Grant Installments. Please refer to the Project Deliverable Requirements by Milestone for a detailed description of deliverables to be submitted to demonstrate completion of each Milestone.

[If included as part of RFP: *SAMPLE – will be customized for each Project; Applicants should refer to Solicitation for further details*]

Milestone	Due	Maximum Grant Installment
Kick-Off Meeting	Scheduled upon execution of Grant Agreement	0%
Draft final feasibility study submitted to MassCEC	12 months from effective date of Grant Agreement	0%
Final feasibility study submitted to MassCEC	15 months from effective date of Grant Agreement	100%

Note: MassCEC shall have the right at its sole discretion to allow for additional time for the completion of Milestones/Deliverables without need to amend this Agreement. If Grantee cannot satisfy a Completion Date, it shall seek MassCEC’s prior written approval, email acceptable, of a later Completion Date and provide reasoning for its request. MassCEC shall approve or deny Grantee’s request, email acceptable, within a reasonable time period. Deliverables and invoices may be submitted earlier and will be reviewed when received.

Attachment 2
FEASIBILITY STUDY OUTLINE for <Project Name>

Note: It is the responsibility of the Applicant/Grantee to ensure that all topics relevant to their particular project are included. Draft Final version must be submitted as an editable Word document to facilitate comment by MassCEC.

**Attachment 3
PROJECT BUDGET**

**Attachment 4
EXPENDITURE AND COST SHARE CERTIFICATION**

Grantee Name: _____

Grant Agreement Number: _____

Payment Mailing Address: _____

Date Submitted: _____

Grant Milestone: **Final Feasibility Study**

Requested Amount: \$ _____

This Expenditure and Cost Share Certification is subject to the Agreement, by and between Grantee and MassCEC. By signing below, the undersigned certifies that:

1. S/he is authorized to sign on behalf of Grantee;
2. MassCEC, pursuant to Section 13 of the Agreement, has the right to audit records to confirm the use of funds is consistent with the Grant requirements and may do so at any time in compliance with the terms of the Agreement;
3. Exhibit A* attached here sets forth a complete and accurate detailed summary of the Allowable Expenses incurred in connection with Grantee's completion of the Grant Milestone;
4. Exhibit A, including, but not limited to, the calculation of the amount payable to Grantee, complies in all respects with the Cost Share requirements set forth in Section 4(a) of the Agreement; and
5. Grantee has used and/or will use all Grant funds for the Project.

Signature: _____

Printed Name: _____

Title: _____

*** Please complete Exhibit A, Expenditure and Cost Share Summary, and attach to this certification for submission.**

Attachment 5 – ACH Enrollment Form
Please submit completed form to AP@masscec.com

Part I: Reason for Submission		
<input type="checkbox"/> New Enrollment	<input type="checkbox"/> Change Enrollment	<input type="checkbox"/> Cancel Enrollment
Document Included		
<input type="checkbox"/> Voided Check	<input type="checkbox"/> Bank Letter	

Part II: Account Holder Information
Account Holder Legal Name
dba Name
Legal Address Number, Street, Apartment/Suite Number
City, State, Zip Code
Account Holder Tax Identification Number Employer Identification Number (EIN) Social Security Number (SSN)

Part III: Financial Institution Information		
Financial Institution Name		
Routing Number	Account Number	Account Type <input type="checkbox"/> Checking <input type="checkbox"/> Savings
If this is an Enrollment Modification, you must include your old financial institution information or your request will be returned.		
Old Financial Institution Name		
Old Routing Number	Old Account Number	Old Account Type <input type="checkbox"/> Checking <input type="checkbox"/> Savings

Part IV: Vendor/Customer Information	
This is the person we will contact for any questions regarding this ACH Authorization	
Contact Person's Name	Contact Person's Title
Contact Person's Phone	Contact Person's Email

Exhibit A
ACTUAL EXPENDITURE AND COST SHARE SUMMARY

Instructions to Grantee: Fill in the table below with actual allowable expenses incurred.

Contractor/Consultant Expenses Incurred	\$
Direct Costs Incurred	\$
Grand Total	\$
Payment Request	\$
Grantee Cost Share (Minimum XX%)	%
MassCEC Cost Share	%