

**MASSACHUSETTS TECHNOLOGY COLLABORATIVE**  
**FINAL CLEAN ENERGY CHOICE COMMUNITY MATCHING GRANT AGREEMENT**  
**Program Termination Terms and Conditions**

**WHEREAS**, the Massachusetts Technology Park Corporation, a public instrumentality of the Commonwealth of Massachusetts, doing business as the Massachusetts Technology Collaborative ("MTC") and administrator of the Massachusetts Renewable Energy Trust ("RET") has established the Clean Energy Choice Program (the "CEC");

**WHEREAS**, pursuant to CEC, MTC has applied RET funds (in an aggregate amount for all Massachusetts cities and towns of approximately \$4,000,000) to match customer contributions to MTC and/or payments made to suppliers under CEC with funds to be made available to the customers' city or town (the "CEC Community Match") in the form of grants to be applied towards the cost of approved renewable energy projects ("Eligible Projects").

**WHEREAS**, MTC is terminating the Clean Energy Choice program and will no longer provide additional funding for that program based upon customer usage recorded by meter readings after June 30, 2009.

**WHEREAS**, in order to provide for an efficient and expeditious disbursement of the available CEC Community Matching Funds at the time of CEC termination, MTC will, on or before January 31, 2010, provide final CEC grants to cities and towns in response to completed Final Clean Energy Choice Grant Agreements submitted between August 1 and November 30, 2009.

**WHEREAS**, customers from the \_\_\_\_\_  
*(Town/City Name)*

(the "Grantee") have chosen to participate in CEC and, through June 30, 2009, have been billed for contributions for renewable energy by suppliers under CEC that qualify for the CEC Community Match;

**WHEREAS**, MTC desires to have a contractual mechanism in place to provide for the final transfer of the CEC Community Matching funds to Grantee and to ensure that Grantee utilizes the CEC Community Matching funds for Eligible Projects;

**NOW THEREFORE**, in reliance on the mutual representations, warranties and agreements herein contained, the parties agree as follows:

**ARTICLE I**  
**Performance of Work**

1. Manner of Performance. The Grantee shall utilize the CEC Community Matching funds solely to undertake an Eligible Project for which grantee has requested and received approval from MTC and in accordance with all the terms and provisions of this Grant Agreement.
2. Project Personnel.
  - a) MTC shall designate a Grant Manager and Grantee shall designate a Grantee Representative for purposes of supporting effective communication between MTC and the Grantee and to report on Grantee's progress. The Grant Manager shall be responsible for monitoring compliance with the

terms of the Grant Agreement and the Grantee Representative shall be responsible for reporting to the Grant Manager.

- b) The Grantee is solely responsible for all decisions, the preparation of all plans and specifications, and for executing the Eligible Project. Any comments or suggestions provided by the Grant Manager will be given solely for purposes of monitoring compliance with the terms of the Grant Agreement.
3. Deliverables. Grantee shall provide MTC with a final written report by the deadline indicated in the award letter. The report shall describe its use of the CEC Community Matching funds for the Eligible Project(s), which may include, as applicable, a progress report on outcomes, accomplishments, challenges and action items (the "Final Report").
4. Other Obligations. The Grantee agrees to support MTC's program evaluation activities, and Grantee agrees that its key personnel and contractors will be available at reasonable times with advance notice to be interviewed by MTC or its authorized representatives for purposes of program evaluation or case study development.
5. Term of Grant. The term of this Grant shall commence upon the date of the letter indicating MTC's approval of the release of funds (the "Effective Date"), and shall expire upon submission of the Final Report.

## ARTICLE II

### The Grant

6. Grant Amount. In consideration of this Grant Agreement, MTC shall provide Grantee CEC Community Matching funds in amounts based on the amounts CEC customers have been billed by suppliers for usage recorded by meter readings taken through June 30, 2009, less the amount of any earlier CEC grants made to Grantee (herein after referred to as "Final Community Matching Grant Account Balance") to be used in accordance with the Eligible Project(s) (the "Grant").
7. Payments.
  - a) *Eligible Project for Grantees with a Final Community Matching Grant Account Balance of less than \$25,000*: In the event that Grantee has: (i) entered into a binding contract(s) to undertake pre-approved project(s) and (ii) an approved Funding for Pre-Approved Projects Form (Attachment A.1), MTC shall provide Grantee with a grant in the amount of the lesser of the amount of the approved Request for Funding for Pre-Approved Projects or the Grantee's Final Community Matching Grant Account Balance.
  - b) *Eligible Project for Grantees with a Final Community Matching Grant Account Balance of \$25,000 or more*: In the event that Grantee has (i) entered into a binding contract(s) to undertake pre-approved project(s); (ii) an approved Funding for Pre-Approved Projects Form (Attachment A.1), and/or (iii) an approved Proposed Grant Expenditure Plan Form (Attachment A.2), MTC shall provide Grantee with a grant in the amount of the lesser of the amount of: (1) the approved

Request for Funding for Pre-Approved Projects and/or Proposed Grant Expenditure Plan; or (2) the Grantee's Final Community Matching Grant Account Balance.

- c) *Payment Terms.* MTC shall pay the Grantee within sixty (60) days after approval of the Funding for Pre-Approved Projects Form (Attachment A.1) and/or the Proposed Grant Expenditure Plan Form, (Attachment A.2) as set forth in Sections 6(a) and 6(b) above, unless MTC should determine that any such payment or any part thereof is otherwise not properly payable pursuant to the terms of this Agreement.

### ARTICLE III

#### Liability, Damages and Remedies

8. Representations, Warranties and Certifications. Grantee represents, warrants and certifies that (a) it is duly authorized to enter into this Grant Agreement and the execution, delivery and performance thereof will not conflict with any other agreement or contract to which it is a party and will not, to the best of Grantee's knowledge, violate any law, regulation or order by which either is bound.
9. Termination.
- a) This Grant may be terminated by MTC at any time upon breach of any term of the Grant Agreement.
- b) MTC may terminate this Grant in the event upon the loss of availability of sufficient funds for the purposes of this Grant Agreement, or in the event of an unforeseen public emergency or other change of law mandating immediate MTC action inconsistent with making the Grant and/or performing its obligations under the Grant Agreement.
- c) Termination of the Grant under this Section 10 shall be effected by letter sent by the terminating party to the other party setting forth the effective date of termination.
10. Insurance. The Grantee shall maintain insurance coverages in the types and for the amounts generally required to perform the types of services set forth in the Pre-Approved Projects Form (Attachment A.1), and/or (iii) an approved Proposed Grant Expenditure Plan Form (Attachment A.2),. The Grantee shall provide MTC, upon request, with certificates satisfactory to MTC concerning the effectiveness and the terms of the insurance required by this Grant Agreement. Notwithstanding the foregoing provision of this Section 10, in the event the Grantee is a public agency (as defined in Chapter 7, Section 39A of the Massachusetts General Laws), then MTC agrees that Grantee may self insure to the extent permitted by law as though Grantee were the insurer under all insurance required for its activities under this Agreement. Grantee hereby waives all offsets and defenses that it may otherwise have with respect to the insurance required to be maintained hereunder. The grant of the right to self insure is subject to the requirements that (i) the contractors and subcontractors of Grantee carry insurance of the types and levels required for their activities under this Agreement; (ii) that such insurance shall name MTC, and such other entities as MTC may request, as additional insureds, and (iii) no settlement or payment, for any claim or loss, injury or damage or other matter as to which MTC may be charged with an obligation to make any payment or reimbursement, shall be made by the Grantee without the written approval of MTC.

**ARTICLE IV**  
**Assignability**

11. Assignment. The Grantee shall not assign or in any way transfer any interest in this Grant without the prior written consent of MTC.

**ARTICLE V**  
**Access and Use of Project Data and Deliverables**

12. Access and Use. Grantee agrees to license or otherwise make available to MTC in perpetuity, without charge, all materials prepared and produced by the Grantee in its use of the CEC Community Matching funds, including, without limitation, materials developed in connection with the Final Report for MTC's use.

**ARTICLE VI**  
**Compliance with Certain Laws**

13. No Violation. Grantee certifies that the Grant will be used only for an Eligible Project and that such use of the Grant will not place Grantee in violation of, or be contrary to, the terms of any statute, regulation, order, contract, agreement or instrument by which the Grantee is bound including, without limitation, any financing agreement or arrangement for the Project.
14. Nondiscrimination. The Grantee shall not discriminate against any qualified employee or applicant for employment, or deny services to any individual because of race, color, national origin, ancestry, age, sex, religion, physical or mental handicap, or sexual orientation. The Grantee agrees to comply with all applicable Federal and State statutes, rules and regulations prohibiting discrimination in employment.
15. Audit. At any time period prior to the completion of the Project and as otherwise provided in this Section, MTC will have the right to audit Grantee's or its other agents' records to confirm the use of the Grant proceeds. If such audit reveals that any portion of the Grant was utilized for purposes not permitted under this Grant Agreement, then Grantee shall refund to MTC the amount determined by such audit within thirty (30) days of Grantee's receipt of such audit and demand. Grantee shall maintain books, records, and other compilations of data pertaining to the Grant payments made under this Grant Agreement to the extent and in such detail as shall 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 this Grant 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 therefrom, or until the end of the Retention Period, whichever is later. MTC 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 the books, records, and other compilations of data of the Grantee which pertain to the provisions and requirements of this Grant. Such access may include on-site audits, review and copying of records.

16. Conflict of Interest. No officer, employee or consultant of MTC shall participate in any official action relating to this Grant Agreement which affects his/her personal financial interest or that of any corporation, partnership, or association in which (s)he is an employee, officer or trustee without prior written disclosure of the relevant facts to MTC's General Counsel. No officer, employee or consultant of MTC shall have any financial interest, direct or indirect, in this Grant Agreement or the proceeds thereof.
17. Lobbying. No Grant funds may be used for any activities to influence any matter pending before the Massachusetts General Court or for activities covered by the law and regulations governing "legislative agent" or "executive agent" set forth in the Massachusetts Lobbying Law, M.G.L. c.3, §39.
18. Public Records. As a public entity, MTC is subject to the Massachusetts Public Records Law and thus documents and other materials made or received by its employees are subject to public disclosure. All information received by MTC shall be deemed to be subject to public disclosure, except as otherwise provided in the procedures set forth in Attachment C hereto. By signing this Agreement, Grantee acknowledges, understands and agrees that the procedures set forth in Attachment C are applicable to any documents submitted by Grantee to MTC, including but not limited to any acknowledgements set forth therein, and that Grantee shall be bound by these procedures.

**ARTICLE VII**  
**General Clauses**

19. Choice of Law. This Grant Agreement shall be construed under, and governed by, the laws of the Commonwealth of Massachusetts without giving effect to its conflict of laws principles. The Grantee agrees to bring any Federal or State legal proceedings arising under this Grant in which the Commonwealth or MTC is a party in a court of competent jurisdiction within the Commonwealth of Massachusetts. This Section shall not be construed to limit any other legal rights of the parties.
20. Publicity.
  - a) The Grantee shall collaborate with MTC to prepare any press release and to plan for any news announcement concerning the CEC Community Match.
  - b) Grantee will not represent that positions taken or advanced by the Grantee represent the opinion or position of MTC.
  - c) The Grantee agrees that MTC shall have the right to make use of and disseminate, in whole or in part, all work products, reports, and other information produced and provided to MTC in the course of Grantee's use of the CEC Community Match, and to use the information therein contained to produce summaries, case studies or similar information resources.
21. Waivers. All conditions, covenants, duties and obligations contained in this Grant Agreement can be waived only by written agreement between the parties hereto. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the remedies available to that party.

22. Notice. All communications to MTC shall be mailed or delivered to the following address:

Massachusetts Technology Collaborative  
75 North Drive  
Westborough, MA 01581  
(508) 870-0312 x1254 (phone)  
Attn: Martha Broad (broad@masstech.org)  
With copy to: Matthew L. Schemmel, Associate General Counsel ([schemmel@masstech.org](mailto:schemmel@masstech.org))

All communications to the Grantee shall be mailed or delivered to the following address, or sent by facsimile to the following number with confirmation of receipt by voice, or sent by electronic mail with confirmation of receipt, to:

Town/City Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Attn: \_\_\_\_\_

23. Amendments, Entire Agreement and Attachments. All conditions, covenants, duties and obligations contained in the Grant Agreement may be amended only through a written amendment signed by the Grantee and MTC. The parties understand and agree that this Grant Agreement supersedes all other verbal and written agreements and negotiations by the parties regarding the matters contained herein. The following are attached and incorporated into this Grant Agreement:

- i. Attachment A –Final Clean Energy Choice Community Matching Grant Agreement and Instructions
- ii. Attachment A.1 – Funding for Pre-Approved Projects Request Form
- iii. Attachment A.2 –Proposed Grant Expenditure Plan Form
- iv. Attachment B - MTC's Sensitive Information Procedures

\_\_\_\_\_  
(Town/City Name)

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Attachment A

### Final Clean Energy Choice Grant Agreement and Instructions

In order for your community to receive its Final Community Matching Grant Account Balance from MRET, a duly authorized representative of your municipality (i.e. your Mayor or the Chairman of your Select Board) must sign and submit the Final Clean Energy Choice Grant Agreement. The balance will be posted to [www.cleanenergychoice.org](http://www.cleanenergychoice.org) by August 1, 2009. A city or town may submit only one Final Clean Energy Choice Grant Agreement and it must be received with the original signature between August 1 and the final deadline of November 30, 2009.

Note that it is the sole responsibility of the cities and towns that are the recipient of Clean Energy Choice matching funds to ensure that their use of such funds in any procurement implemented by them is consistent and compliant with Massachusetts general Laws, Chapter 30B.

#### Components of a Complete Grant Agreement

**A) For Towns with less than \$25,000, a complete Grant Agreement for an Eligible Project consists of:**

1. A copy of the Final Clean Energy Choice Community Matching Grant Agreement signed by a duly authorized municipal representative.
2. A fully completed Funding for Pre-Approved Projects Request Form (**Attachment A.1**)

To complete Attachment A.1, select the type and quantity and estimated cost of items the town wishes to purchase and indicate the total amount requested. IMPORTANT: The municipality must also provide cost estimates from the appropriate vendor for each item to be purchased. Upon approval, the Trust will provide the town with a grant in the amount of the lesser of the amount of the approved Request for Funding for Pre-Approved Projects or the Grantee's Final Community Matching Grant Account Balance.

**B) For Towns with \$25,000 or more, a complete Grant Agreement for an Eligible Project consists of:**

1. A copy of the Final Clean Energy Choice Community Matching Grant Agreement signed by a duly authorized municipal representative.
2. **One or both of the following:**

- A fully completed Funding for Pre-Approved Projects Request Form (**Attachment A.1**)

To complete Attachment A.1, select the type and quantity and estimated cost of items the town wishes to purchase and indicate the total amount requested. IMPORTANT: The municipality must also provide cost estimates from the appropriate vendor for each item to be purchased.

- A fully completed Proposed Grant Expenditure Plan Form (**Attachment A.2**)

To complete Attachment A.2, provide a summary description of the proposed expenditures and, if appropriate, provide detail regarding costs of time and materials.

*Clean Energy Choice Community Matching Grant Agreement*

Upon approval of either or both the Request for Funding for Pre-Approved Projects or the Proposed Grant Expenditure Plan, the Trust will provide the town with a grant in the amount of the lesser of the amount of: (1) the approved Request for Funding for Pre-Approved Projects and/or Proposed Grant Expenditure Plan; or (2) the Grantee's Final Community Matching Grant Account Balance.

Clean Energy Choice Matching Grants Request

Attachment A.1: Funding for Pre-Approved Projects Request Form

Please indicate the type and quantities of pre-approved projects the town would like to fund.

**IMPORTANT: The town must also provide cost estimates from the appropriate vendor for each item to be purchased (please attach to this page).**

Item	Qty	Estimated Cost	Brief Description (please attach copies of vendor estimates to this form)
<b>Renewable Energy Educational Books</b>			
<b>Science Kits for School Labs</b>			
<b>Membership Fees</b> for municipality to join organizations that assist municipalities with climate change management plans and sustainable practices.			
<b>Solar Harvester:</b> Power audio visual equipment, power tools, computers, pumps, lights and more with a mobile plug and play set up that runs on solar energy.			
<b>Solar Powered Trash Compactors:</b> Meant to replace traditional outdoor trash containers, a solar powered trash compactor automatically compresses trash to reduce the number of collection trips and eliminate trash overflow.			
<b>Solar Powered Lighting System:</b> Illuminate a monument, flagpole, or small sitting area with a solar lighting system and introduce the community to clean, renewable solar electricity.			
<b>Public Outreach Materials:</b> Spread the word about the benefits of clean energy in your community! Clean Energy Choice matching grants can be used for printing fliers and brochures, or other costs associated with putting on local outreach events such as clean energy/sustainability fairs.			
<b>Renewable Energy Education:</b> Matching grants can cover the cost of books, publications, field trips and other educational materials that help teachers implement clean energy related curriculums. Costs associated with teacher development conferences and workshops are covered as well.			

**Clean Energy Choice Community Matching Grant Agreement**

Item	Qty	Estimated Cost	Brief Description (please attach copies of vendor estimates to this form)
<p><b>Photovoltaic Installation:</b> Installing a solar energy system on municipal buildings reduces energy costs and helps to educate residents about the power of clean energy technologies.</p>			<p>Please indicate anticipated PV installation completion date (month/year): ____/____</p>
<p><b>Salaries</b> for consultants or employees that assist the municipality in increasing its use of renewable energy (note: please provide a description of the position and indicate hourly rate, number of hours and overhead rate on an attached sheet).</p>			
<p><b>Total Funding Requested:</b></p>			

**Clean Energy Choice Matching Grants Request**

**Attachment A.2: Proposed Grant Expenditure Plan Form**

Please note this Form may be submitted only by a city or town with a Final Community Matching Grant Account Balance of \$25,000 or more (Cities/towns with less than \$25,000 must submit only the Funding for Pre-Approved Projects Request Form, Attachment A.1).

Please provide a description and estimated cost for the proposed activities below and provide additional information regarding labor, materials, etc. if appropriate. **IMPORTANT: The town must also provide cost estimates from the appropriate vendor for each item to be purchased (please attach to this page).**

Description of Activity Related to Renewable Energy Installations, Studies or Public Education Activities*:	Estimated Cost (\$)
1.	\$
2.	\$
3.	\$
4.	\$
<b>Total</b>	<b>\$</b>

\*Municipality may add additional activities to this table as warranted

**Attachment B**

**Clean Energy Choice Matching Grants Request**

**THE MASSACHUSETTS TECHNOLOGY COLLABORATIVE  
POLICY AND PROCEDURES REGARDING SUBMISSION OF "SENSITIVE INFORMATION"**

The Massachusetts Technology Collaborative, the Massachusetts Renewable Energy Trust, the John Adams Innovation Institute, the Massachusetts e-Health Institute and the Massachusetts Broadband Institute (collectively referred to herein as "MTC") are subject to the requirements concerning disclosure of public records under the Massachusetts Public Records Act, M.G.L. c. 66 (the "Public Records Act"), which governs the retention, disposition and archiving of public records. For purposes of the Public Records Act, "public records" include all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by MTC. As a result, any information submitted to MTC by a grant applicant, recipient grantee, respondent to a request for response (including, but not limited to an RFQ, RFP and RFI), contractor, or any other party (collectively the "Submitting Party") is subject to public disclosure as set forth in the Public Records Act.

The foregoing notwithstanding, "public records" do not include certain materials or data which fall within one of the specifically enumerated exemptions set forth in the Public Records Act or in other statutes, including MTC's enabling act, M.G.L. Chapter 40J. One such exemption that may be applicable to documents submitted by a Submitting Party is for any documentary materials or data made or received by MTC that consists of trade secrets or commercial or financial information regarding the operation of any business conducted by the Submitting Party, or regarding the competitive position of such Submitting Party in a particular field of endeavor (the "Trade Secrets Exemption").

**IT IS MTC'S EXPECTATION AND BELIEF THAT THE OVERWHELMING PERCENTAGE OF DOCUMENTS IT RECEIVES FROM A SUBMITTING PARTY DOES NOT CONTAIN ANY INFORMATION THAT WOULD WARRANT AN ASSERTION BY MTC OF AN EXEMPTION FROM THE PUBLIC RECORDS ACT. SUBMITTING PARTIES SHOULD THEREFORE TAKE CARE IN DETERMINING WHICH DOCUMENTS THEY SUBMIT TO MTC, AND SHOULD ASSUME THAT ALL DOCUMENTS SUBMITTED TO MTC ARE SUBJECT TO PUBLIC DISCLOSURE WITHOUT ANY PRIOR NOTICE TO THE SUBMITTING PARTY AND WITHOUT RESORT TO ANY FORMAL PUBLIC RECORDS REQUEST.**

In the event that a Submitting Party wishes to submit certain documents to MTC and believes such a document or documents may be proprietary in nature and may fall within the parameters of the Trade Secrets Exemption and/or some other applicable exemption, the following procedures shall apply:

1. At the time of the Submitting Party's initial submission of documents to MTC, the Submitting Party must provide a cover letter, addressed to MTC's General Counsel, indicating that it is submitting documents which it believes are exempt from public disclosure, including a description of the specific exemption(s) that the Submitting Party contends is/are applicable to the submitted materials, a precise description of the type and magnitude of harm that would result in the event of the documents' disclosure, and a specific start date and end date within which the claimed exemption applies. If different exemptions, harms and/or dates apply to different documents, it is the Submitting Party's responsibility and obligation to provide detailed explanations for each such document.
2. At the time of the Submitting Party's initial submission of documents to MTC, the Submitting Party must also clearly and unambiguously identify each and every such document that it contends is subject to an exemption from public disclosure as "Sensitive Information." It is the Submitting Party's responsibility and obligation to ensure that all such documents are sufficiently identified as "Sensitive Information," and Submitting Party's designation must be placed in a prominent location on the face of each and every document that it contends is exempt from disclosure under the Public Records Act.

**INFORMATION SUBMITTED TO MTC IN ANY FORM OTHER THAN A HARD COPY DOCUMENT WILL NOT BE SUBJECT TO THE PROCEDURES SET FORTH IN THIS POLICY. FOR EXAMPLE, INFORMATION SUBMITTED BY E-MAIL, FACSIMILE AND/OR VERBALLY WILL NOT BE SUBJECT TO THESE PROCEDURES AND MAY BE DISCLOSED AT ANY TIME WITHOUT NOTICE TO THE SUBMITTING PARTY.**

3. Documents that are not accompanied by the written notification to MTC's General Counsel or are not properly identified by the Submitting Party as "Sensitive Information" at the time of their initial submission to MTC are presumptively subject to disclosure under the Public Records Act, and the procedures for providing the Submitting Party with notice of any formal public records request for documents, as set forth below, shall be inapplicable.
4. At the time MTC receives documents from the Submitting Party, any such documents designated by Submitting Party as "Sensitive Information" shall be segregated and stored in a secure filing area when not being utilized by appropriate MTC staff. By submitting a grant Agreement, request for response, or any other act that involves the submission of information to MTC, the Submitting Party certifies, acknowledges and agrees that (a) MTC's receipt, segregation and storage of documents designated by Submitting Party as "Sensitive Information" does not represent a finding by MTC that such documents fall within the Trade Secrets Exemption or any other exemption to the Public Records Act, or that the documents are otherwise exempt from disclosure under the Public Records Act, and (b) MTC is not liable under any circumstances for the subsequent disclosure of any information submitted to MTC by the Submitting Party, whether or not such documents are designated as "Sensitive Information" or MTC was negligent in disclosing such documents.
5. In the event that MTC receives an inquiry or request for information submitted by a Submitting Party, MTC shall produce all responsive information without notice to the Submitting Party. In the event that the inquiry or request entails documents that the Submitting Party has previously designated as "Sensitive Information" in strict accordance with this Policy, the inquiring party shall be notified in writing that one or more of the documents it has requested has been designated by the Submitting Party as "Sensitive Information", and, if not already submitted, that a formal, written public records request must be submitted by the requesting party to MTC's General Counsel for a determination of whether the subject documents are exempt from disclosure.
6. Upon the General Counsel's receipt of a formal, written public records request for information that encompass documents previously designated by Submitting Party as "Sensitive Information", the Submitting Party shall be notified in writing of MTC's receipt of the public records request, and MTC may, but shall not be required to provide Submitting Party an opportunity to present MTC with information and/or legal arguments concerning the applicability of the Trade Secrets Exemption or some other exemption to the subject documents.
7. The General Counsel shall review the subject documents, the Public Records Act and the exemption(s) claimed by the Submitting Party in making a determination concerning their potential disclosure.

**THE GENERAL COUNSEL IS THE SOLE AUTHORITY WITHIN MTC FOR MAKING DETERMINATIONS ON THE APPLICABILITY AND/OR ASSERTION OF AN EXEMPTION TO THE PUBLIC RECORDS ACT. NO EMPLOYEE OF MTC OTHER THAN THE GENERAL COUNSEL HAS ANY AUTHORITY TO ADDRESS ISSUES CONCERNING THE STATUS OF "SENSITIVE INFORMATION" OR TO BIND MTC IN ANY MANNER CONCERNING MTC'S TREATMENT AND DISCLOSURE OF SUCH DOCUMENTS.**

**FURTHERMORE, THE POTENTIAL APPLICABILITY OF AN EXEMPTION TO THE DISCLOSURE OF DOCUMENTS DESIGNATED BY THE SUBMITTING PARTY AS "SENSITIVE INFORMATION" SHALL NOT REQUIRE MTC TO ASSERT SUCH AN EXEMPTION. MTC'S GENERAL COUNSEL RETAINS THE SOLE DISCRETION AND AUTHORITY TO ASSERT AN EXEMPTION, AND HE MAY DECLINE TO EXERT SUCH AN EXEMPTION IF, WITHIN HIS DISCRETION, THE PUBLIC INTEREST IS SERVED BY THE DISCLOSURE OF ANY DOCUMENTS SUBMITTED BY THE SUBMITTING PARTY.**

8. MTC shall provide the requesting party and Submitting Party with written notice of its determination that the subject documents are either exempt or not exempt from disclosure.
9. In the event that MTC determines that the subject documents are exempt from disclosure, the requesting party may seek review of MTC's determination before the Supervisor of Public Records, and MTC shall notify the Submitting Party in writing in the event that the requesting party pursues a review of MTC's determination.

10. In the event the requesting party pursues a review of MTC's determination that the documents are exempt from disclosure and the Supervisor of Public Records concludes that the subject documents are not exempt from disclosure and orders MTC to disclose such documents to the requester, MTC shall notify the Submitting Party in writing prior to the disclosure of any such documents, and Submitting Party may pursue injunctive relief or any other course of action in its discretion.
11. In the event that MTC determines that the subject documents are not exempt from disclosure or the General Counsel determines that, under the circumstances and in his discretion, MTC shall not assert an exemption, MTC shall notify the Submitting Party in writing prior to the disclosure of any such documents, and Submitting Party may pursue injunctive relief or any other course of action in its discretion.

**THE SUBMITTING PARTY'S SUBMISSION OF DOCUMENTATION TO MTC SHALL REQUIRE A SIGNED CERTIFICATION THAT SUBMITTING PARTY ACKNOWLEDGES, UNDERSTANDS AND AGREES WITH THE APPLICABILITY OF THE FOREGOING PROCEDURES TO ANY DOCUMENTS SUBMITTED TO MTC BY SUBMITTING PARTY AT ANY TIME, INCLUDING BUT NOT LIMITED TO THE ACKNOWLEDGEMENTS SET FORTH HEREIN, AND THAT SUBMITTING PARTY SHALL BE BOUND BY THESE PROCEDURES.**

All documents submitted by Submitting Party, whether designated as "Sensitive Information" or not, are not returnable to Submitting Party.