



REQUEST FOR PROPOSAL

**LEAD VENDOR FOR COMMERCIAL SMALL BUSINESS SERVICES
FOR CAPE LIGHT COMPACT**

2016-2018

Issued: October 19, 2015

Proposals Due: November 30, 2015, 2:00 PM ET

Cape Light Compact. P.O. Box 427, Barnstable, MA 02630
www.capelightcompact.org

**LEAD VENDOR (LV) FOR THE
COMMERCIAL SMALL BUSINESS SERVICES (CSBS) PROGRAM 2016-2018**

1	General Information.....	4
1.1	Program Administrator	4
1.2	Commercial Small Business Services Program Design.....	4
1.2.1	Introduction.....	4
2	Products & Services to be Provided.....	6
2.1	Program Management.....	6
2.2	Scheduling/Follow-up/Technical Assistance Services	8
2.3	Small Business Energy Assessments	10
2.4	Efficiency Measures and Customer Incentives.....	11
2.5	Incentive Processing	14
2.6	Loan Administration	14
2.7	Quality Assurance	15
2.8	Data Transfer and Reporting	15
2.9	Marketing Support	16
2.10	Program Goals	17
3	General Conditions Regarding Material Installations.....	18
4	Financial Accounting	19
5	Qualifying Questions/Information	20
6	Summary of Cape Light Compact Responsibilities.....	22
7	Pricing Structure	22
8	Lead Vendor Performance Incentive	23
9	Schedule.....	23
10	Proposal – Number of Copies and Format.....	23
10.1	Bid Due Date.....	24
10.1.1	Interpretation of the RFP	24
10.1.2	Rights to Modify This Specification.....	24
10.2	Proposal Contents	25
10.2.1	Narrative Requirements	25
10.2.2	Pricing Structure	26
10.2.3	Qualification of Bidders.....	26
10.2.4	Sub-Contracts.....	27
10.2.5	Substitutions.....	27
10.2.6	Massachusetts State Sales Tax.....	27
10.2.7	Detailed Bid Information	27
10.3	Acceptance of Proposals and Award of Contract	28
10.3.1	Selection Criteria	28
10.4	Proposal Confidentiality	30
10.4.1	Return of Proposal Materials	30
10.5	Oral Presentations	31
11	Attachments	32

11.1 Data Exchange Overview 32
11.2 Pricing 35
11.3 Bidder’s Submission Statement 36
11.4 Draft Contract 37

1 General Information

1.1 Program Administrator

The Cape Light Compact (Compact) is a governmental aggregator under G. L. c. 164, section 134, providing energy services on Cape Cod and Martha's Vineyard. The Compact administers a regional energy efficiency program and works with the combined buying power of the region's over 200,000 electric consumers to negotiate the best terms and conditions for competitively priced electricity, including a green power offering, and other public benefits. The Compact members include the twenty-one towns in Barnstable and Dukes Counties, as well as the two counties themselves. It is organized through a formal Intergovernmental Agreement under G. L. c. 40, section 4A. The Compact maintains a business office within Barnstable County offices located at the Open Cape Building, 3195 Main Street, Barnstable, MA. Barnstable County serves as the fiscal agent for the Compact.

1.2 Commercial Small Business Services Program Design

1.2.1 Introduction

Cape Light Compact is soliciting proposals from qualified vendors to provide service delivery as the Lead Vendor (LV) for the Commercial Small Business Services (CSBS) Program from January 15, 2016 and continue thru December 31, 2018, at which time, the program and the term of the engagement may be extended for three additional one-year terms. The CSBS program is also known programmatically as the Small Business Program. The overall objective of the Program is to provide comprehensive information, small business energy assessments and energy efficiency incentives in an effort to assist and encourage customers to retrofit their existing small businesses with cost-effective energy efficient measures. The Program is implemented using a fuel-blind approach, meaning that all end uses are examined regardless of heating fuel used. All non-multi-family, commercial Cape Light Compact customers operating in existing properties with 100,000 kWh per year or less will be eligible.

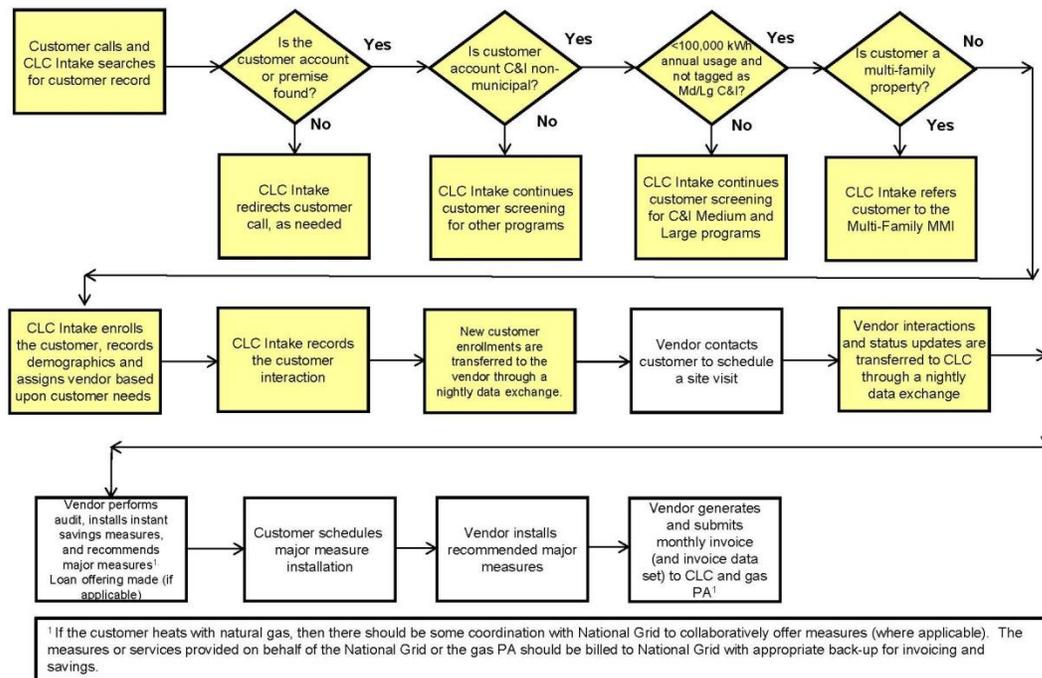
The Program is offered by all Massachusetts electric and gas program administrators (PAs), according to the gas and electric plans filed and approved by the Department of Public Utilities at <http://ma-eeac.org/plans-updates/>.

Cape Light Compact will continue to be a participant in the Commercial Management Committee (CIMC) that includes representatives from Massachusetts electric and gas program administrators and other

stakeholders as well as the Small Business Subcommittee. This allows Cape Light Compact to keep the CSBS Program up-to-date with statewide modifications agreed to by the respective groups.

Program marketing is conducted using several mediums. In order to maximize marketing outreach, the PAs collectively maintain a statewide website (www.MassSave.com) that offers information to customers on applicable incentives and services. Cape Light Compact also does its own outreach to various Chambers of Commerce and the public through events. The chosen LV may also be expected to implement enhanced targeted marketing campaigns or attend local events with booths to provide educational information to the attendees. Marketing is often used in an effort to promote specific energy efficiency enhancements as they relate to overall program goals.

In 2016 and beyond, the Cape Light Compact would like to introduce a new approach to serving small businesses in a comprehensive manner. A flow chart is shown below to show the proposed process:



The LV will have responsibility for administration, customer scheduling, contractor coordination and training, data management, business energy assessments, marketing support, quality assurance and control, data management and reporting, invoicing, payment of contractors, complaint resolution, evaluation coordination, adherence to statewide assumptions as defined in the Massachusetts Digital Technical Reference Library (DTRL), and attendance at meetings. Cape Light Compact may require the

alteration of software algorithms to reflect evaluation recommendations and/or other agreements at the initiative-level.

The LV is welcome to propose direct install measures that are either installed by the LV or a subcontractor. The Compact ideally would like the bidder to incorporate several local (based on Cape Cod or Martha's Vineyard) contractors to serve as options to commercial customers into the bidder's proposal.

The design is subject to adjustments should the evaluation results recommend modifications to support achieving cost effective savings and production goals.

2 Products & Services to be Provided

2.1 Program Management

The LV is responsible for overall management and providing technical assistance to internal field staff and their direct subcontractors. The LV and subcontractors must have applicable licenses for audit and installation work. Cape Light Compact will not compensate the LV for any training costs associated with essential requirements, unless otherwise specified in advance.

Additional coordination with local contractors (if applicable) will require that the LV to manage multiple contractual relationships. In this coordination, the LV must apply the Program requirements and applicable Cape Light Compact terms and conditions.

The LV is responsible for facilitating, scheduling, and coordinating. This includes scheduling for assessments, coordinating work schedules for installation of measures, tracking the intake and recommendations, and tracking the schedules for both assessments and installation.

In addition to the program management activities listed above, LV's responsibilities will include the following: (additional details regarding some responsibilities are included in this document):

- Develop all forms and other printed materials necessary for successful and efficient implementation of the Program. All LV-developed forms must be submitted to Cape Light Compact for approval and finalized prior to Program implementation.

- Maintain a computerized database tracking system that meets all necessary regulatory and PA-specific reporting requirements. The system, interface, or software must be capable of aggregating all information for customer reports/invoices and reporting to Cape Light Compact. Please see Attachment 11.1 for more an overview of the data exchange.
- All internal personnel recruitment, management and training, other than training which has been specified as being provided by Cape Light Compact.
- Procure all equipment and materials necessary for Program implementation for internal responsibilities.
- Use of blower door and infrared camera (as temperature permits) at the time of the assessment is desired. Currently, this is only envisioned where there are cost-effective weatherization opportunities identified.
- Provide storage for all materials to be determined by Cape Light Compact for customer education and implementation.
- Participant recruitment and intake
- Reasonably ensure eligibility of participants (in case customers are assigned incorrectly)
- Maintaining a central calendar for LV and subcontractors, including installers
- Coordinating the resources available through the existing market infrastructure which includes private sector energy product and services vendors
- Maintain a data tracking system capable of tracking recommendations and implementation of work that may be completed over a multi-year period. The use of this tracking system will allow for appropriate follow up with participants.
- Implementing a systematic process for following-up with customers who do not act on recommendations. This process will include reporting on the effectiveness of the strategy.
- Promptly responding to any customer complaints or inquiries and applicable QA/QC or evaluation results.
- Taking appropriate action upon identification of any potential hazards at customer small business (e.g. improperly vented combustion equipment, gas leaks, etc.)
- Collecting all data necessary for continuing Program management, monitoring, and evaluation needs
- Performing quality control functions for internal staff, as well as, subcontractors
- Coordinate with any third-party quality control/quality assurance parties and resolve identified issues that are identified as a result of those visits.
- Performing ongoing Program development and refinement, in conjunction with Cape Light Compact and other PAs

- Submission of monthly implementation and management reports to Cape Light Compact as well as any additional reports deemed necessary by Cape Light Compact
- Complete small business assessments within a reasonable time from date of original customer request (subject to customer availability) unless special circumstances arise. If the LV is unable to meet this request with internal staff; the use of additional energy service providers should be implemented, where applicable.
- Adhere to all applicable state and local regulations and codes
- Toll Free or local hotline maintenance
- Incentive processing
- Propose a process for access to low or no interest loan product(s) for small businesses. The ideal product is zero interest, up to 12 months, and the LV would subtract the loan buy-down from applicable incentives. The loan products would ideally be offered in conjunction with one or more financial institutions. Please describe the product, the terms, and the backstops for loan defaults.
- Invoicing on an at least-monthly basis with invoices due by the 10th of the month

2.2 Scheduling/Follow-up/Technical Assistance Services

The LV will offer continued support throughout participation in the Program. Cape Light Compact staff will be responsible for customer intake. Within customer intake, customers that call the Cape Light Compact Intake Line will be interviewed in order to determine their need and reason for calling. The Customer Service Representative (CSR) will use the interview to determine the most appropriate means of addressing the customer's needs. During customer intake, the CSR will also determine whether the customer can benefit from initiatives not related to energy efficiency, such as services offered through other Vendors, other PAs or other state or federal programs.

In addition to supporting the CLC's telephone numbers, the LV (and staff appropriately) needs to provide a direct line of communication to allow outreach staff to schedule assessments from the field (i.e. a customer's small business) or have a member of their staff call the customer to schedule the appointment based on customer choice. This is intended to expedite the scheduling process and have assessments scheduled when the customer is most motivated. Subcontractors must also be provided with a direct line of communication to the appropriate LV staff.

All customers will be provided with educational materials regarding energy use and efficiency opportunities. The LV will schedule eligible customers for the appropriate small business energy assessment. For those customers that have completed an assessment within the last 12 months,

appropriate follow-up action must be determined by the LV. The LV will be responsible for scheduling the assessment with the customer. The LV will maintain the calendar for all assessments and work.

CSR training and qualifications should include:

- Customer service and telephone experience
- General knowledge of energy efficiency, renewable technology and demand response
- Knowledge of all commercial energy efficiency, demand-side management and program offerings
- Knowledge of information resources available to customers during initial intake

The LV should maintain technical assistance representatives who have a greater degree of technical training.

Technical assistance representatives should possess:

- Extensive knowledge of energy efficiency and applicable renewable technology including but not limited to an CSBS auditing background, comprehensive training, and diagnostic experience (e.g. blower door, infrared technology)
- Additional training in the area of heating system fundamentals for a wide array of systems including high efficiency commercial equipment
- Knowledge of all commercial energy efficiency, demand-side management, renewable energy and demand response program offerings
- Familiarity with a comprehensive building approach
- In-field audit experience

2.3 Small Business Energy Assessments

Cape Light Compact strives to offer a comprehensive building approach to each customer. The small business energy assessment objective is to provide customers with the opportunity to understand the impact of all major energy efficiency measures and improvements that can be implemented in their small business. The vendor will perform an assessment of all applicable energy efficiency opportunities including efficient lighting fixtures, thermal measures, HVAC system efficiency, combustion safety, a screening of the existing refrigerator, cost-effectiveness of major measures, and address all health, safety and indoor air quality issues. The use of a blower door and infrared thermography is desired for cost-effective weatherization opportunities, and the installation of efficient lighting (e.g. CFLs and LEDs), domestic hot water instant savings measures (ISMs) are required during appropriate small business energy assessments. This educational process is meant to motivate customers to implement major measures. The LV is expected to demonstrate that it has both the diagnostic tools, as well as the technical capability necessary to comprehensively assess and address all efficiency opportunities from a whole-facility perspective.

Energy assessments will utilize an approved CSBS Program energy assessment software tool. If a federal standard is implemented or the CSBS program require statewide software, all CSBS service providers will be expected to utilize software that falls into the acceptable category.

Cape Light Compact also requires that the LV be capable of providing customers with an energy assessment report at the time of the assessment. The report should provide the customer with energy efficiency opportunities in an easy to understand and an appealing format. The report must include (at minimum) recommended/installed individual efficiency measures, the estimated costs, and the payback and savings. PAs are in the process of updating consistent collateral to be provided to customers during the assessment. The LV will be expected to produce the agreed upon collateral for distribution. The LV may also be required to provide the customer with a list of Program approved contractors.

Cape Light Compact offers two levels of energy assessments:

- Special Small Business Visit
- Comprehensive Assessment

Cape Light Compact will require the LV to implement Special Small Business Visits (SBV). These visits are designed to assist those customers who have a specific concern rather than a request for comprehensive services. Instant Savings Measures (ISMs) will be made available for installation at this time.

To increase the adoption of major measures, the LV will be required to develop and implement a systematic process for encouraging customers to follow through with actions recommended through the program including:

- a.) Additional diagnostic services;
- b.) Contracts issued for measures directly installed by the LV or subcontractor; and
- c.) Recommendations for measures installed outside of this initiative.

Various communication channels including telephone, mail, email, and chat function may be used.

2.4 Efficiency Measures and Customer Incentives

The small business energy assessments provide customers with a comprehensive review of their small business's energy usage as well as recommendations to improve their small business within program guidelines. Energy efficiency measures will be selected for installation on the basis of cost-effectiveness, appropriateness and customer acceptability. In order to achieve the Program goal of maximum implementation while controlling costs, the LV's approach, protocols, and procedures used will be designed to identify not just the obvious and most cost-effective opportunities, but also more subtle and "niche" energy retrofit opportunities. For many measures, this will involve the use of the audit software.

The software provided by the vendor is intended to guide field staff assessments to determine, while on site, the appropriateness of candidate measures given site-specific circumstances and installation costs.

Current program incentives are listed below. Direct install items must be included in the bid, and the Compact should be alerted to any changes in the product mix. These are subject to change. As the program continues to evolve, incentives may be added or changed. The incentive structure may also change in the future, based on regulatory or evaluation results.

Measures include:

- Refrigeration
 - Refrigerator Recycling – referral to vendor
 - Most Efficient Refrigerators – prescriptive application
 - Vending misers – installed or subcontracted
 - Other controls and motors – prescriptive application or installed
- Pool Pumps – prescriptive application or upstream referral
- Smart Strips – to be installed, where appropriate, at time of assessment
- Motors and Drives – prescriptive application
- Lighting
 - Fluorescent Torchieres – used to replace halogen torchieres – direct installed
 - Lighting systems – installed or subcontracted
 - Screw-based CFLs and LEDs – to replace incandescents – direct installed
 - Freezer/Cooler LEDs – installed or subcontracted
- Envelope
 - Insulation – installed or subcontracted
- HVAC
 - Programmable Thermostat – installed or subcontracted or prescriptive application
 - EMS – installed or subcontracted or prescriptive application
 - Heating systems - installed or subcontracted or prescriptive application
 - Showerheads and Faucet Aerators – direct installed
 - Pipe Wrap – installed or subcontracted
- Custom application – Assistance in evaluating, processing, and inspecting applicable applications.

The LV is expected to promote all available/applicable incentives offered via applicable statewide commercial energy efficiency programs.

To address potential financial barriers, the LV will develop and implement a process to allow for multi-year projects for installing major measures. This addition to the program design seeks to encourage customers to achieve deeper savings.

Electric and gas PAs work together in order to offer all available energy efficiency measures on a fuel-blind basis. The LV will be expected to “piggyback” measures with the other LVs to ensure seamless delivery to the customer. The LV serving as the Cape Light Compact LV will be expected to contract or have a similar arrangement with the gas PA(s) sharing Cape Light Compact gas service territory in order to provide gas incentives for those customers that elect to be served by that vendor.

If applicable, the LV shall provide warranties to participating Cape Light Compact customers covering the materials and labor for a period, which is the greater of one year, or the warranty periods customarily provided by the LV to its customers, commencing on the final date of installation. In addition, all manufacturers and other applicable warranties shall accrue to the benefit of the participating Cape Light Compact customer, and the LV shall provide to such customers documentation relating to such warranties. Such warranties shall render vendors solely responsible for the performance of the products and to respond to all complaints of product malfunctions or failures, or problems caused by, or resulting from, the product installation for the stated period. The LV is expected to require the same level of warranty be provided by all applicable subcontractors. Failure of subcontractors to honor warranties will result in dismissal from participation in the program.

The LV will also be expected to work with Cape Light Compact and any leveraged program that may also enhance the customer experience. Awarded grants in specific areas may require that the assessments have an added element of reporting for enhanced incentives and services (e.g. USDA). Cape Light Compact will work with the LV to ensure that this is also seamless for the customer.

2.5 Incentive Processing

Customers are offered various incentives by Cape Light Compact. The bidder is requested to provide a rebate application processing fee. At this time, the Compact will be examining whether to have the LV process rebate applications or else process these in-house.

The LV will be expected to track incentive information related to payment of subcontractors separately from prescriptive applications. Installed or subcontracted measures and direct installed measures (as indicated above) are meant to be provided instant incentives, meaning that the customer is only responsible for the applicable co-pay. Therefore, the LV will be responsible for timely incentive payment directly to subcontractors for qualified/completed installations.

2.6 Loan Administration

As mentioned above, the Compact would like to see proposals for loan products to assist small business with installation of major measures by providing financing for their co-pays.

The ideal product is zero interest, up to 12 months, and the LV would subtract the loan buy-down from applicable incentives. The loan product would ideally be offered in conjunction with a financial institution. Please describe the product, the terms, and the backstops for loan defaults.

The loan administration would also include:

- Collaboration with the Compact to develop forms, collateral materials, and operational workflow processes.
- Provide approved forms and collateral materials to the customers.
- Provide necessary materials related to the loan program for inclusion on the Mass Save website.
- Provide training on program details and process to all Energy Advisors.
- Support a toll free or local phone line to provide information and support to customers about the program process and requirements.
- Prepare and process loan authorization forms for eligible submissions.
- Follow-up with customers who indicate that they will be applying for the loan, but never do.
- Assist customers in the resolution of any issues relating to the loan program.
- Track workflow process including interactions with customers, job status and required project data.

- Regular monthly reporting to the Compact and additional ad hoc reporting as requested.
- Monthly invoicing to the Compact for services provided.

2.7 Quality Assurance

This section is applicable to energy assessments, direct installed, installed and subcontracted work. Please describe your quality assurance plan for internal staff in order to assure high quality in the programs.

2.8 Data Transfer and Reporting

The LV is required to provide Cape Light Compact with all customer data, assessment information, work order records and other reports in a timely manner. Please see Attachment 11.1 for more information.

PAs also routinely provide updates to the MA Energy Efficiency Advisory Council. LVs must be capable of providing information related to metrics such as, overall savings achieved, time to serve, issues/ratings, etc. All file structures, record layouts, and file indexes will be provided to the vendor. This requirement will apply to the LV (with information from all subcontractors).

Continuous Program activity tracking and monitoring will be the responsibility of the LV. The LV must collect and manage data necessary for its own monitoring and project management, PA oversight of the Program, required reporting to the Compact and for Program evaluations to be conducted by outside evaluation vendors engaged by Cape Light Compact.

Data collection and tracking procedures must be established at Program initiation, and submitted to Cape Light Compact for approval prior to Program delivery. Vendors are required to develop and maintain a computerized data tracking system. Specific data needs may be expanded, at the request of Cape Light Compact. At a minimum, the data tracking system must be able to:

- Monitor Program progress (number of participants, installations, costs, etc.)
- Meet regulatory reporting requirements
- Support Cape Light Compact's ability for early identification of major issues that would jeopardize the ability of the Program to meet its goals
- Support the calculation of energy impacts, by measure and for the Program, using acceptable engineering algorithms
- Lead generation tracking

Such data might include, but not be limited to:

- Participant and non-participant (no shows or customers that decline a visit, contact name, address, building type, owner/renter, etc.)
- Number of site visits made, by whom, when
- Detailed information on all measures recommended and installed, including size, location, number of units, usage, type and model of equipment removed and installed. This should also include current or existing equipment specifications to provide an accurate baseline regardless of whether there is a recommendation or not.
- Information relating to efficiency measures that were recommended to the customer, but were not installed

Periodic and ad hoc electronic transfers of any or all of the aforementioned computerized data tracking systems will be required. The timing, format, and contents of these transfers will be specified by Cape Light Compact and may be changed for any reason at any time at no additional cost to Cape Light Compact.

The LV will be required to upload, at least monthly, a detailed file including all energy efficient measures installed, services provided and an invoice for reconciliation with Cape Light Compact's internal database. Data transfers must be of the highest integrity in order to avoid additional administrative burden and payment requests.

2.9 Marketing Support

With extremely aggressive energy savings goals, the CSBS Program will require marketing support for the Program. Cape Light Compact intends on implementing CSBS specific marketing initiatives. Cape Light Compact welcomes a marketing plan that will help to support participation and installation of measures in the Program.

Program marketing will be conducted in order to maximize CSBS participation. The LV will be required to maintain an open line of communication with the statewide commercial marketing team in order to avoid duplicating outreach channels, thus expanding outreach efforts.

2.10 Program Goals

The Compact estimates approximately the following for energy assessments to take place in each of the years, 2016-2018.

	Number of Assessments
2016	250
2017	500
2018	750

These numbers are included to provide a sense of the magnitude of this Program. Actual participation for 2016 and later years may be significantly different than these estimates.

Cape Light Compact expects bidders to achieve these goals while:

- Achieving maximum level of cost-effective energy savings per dollar spent
- Providing cost and value added services not provided in basic program pricing
- Achieving persistence of energy savings through effective and appropriate choice of energy efficiency measures
- Focusing on cost effective energy efficiency measure installation rather than number of audits completed
- Improving participants comfort, health and safety

Refer to www.ma-eeac.org for a link to the draft Massachusetts 3 year plans and the Statewide Technical Reference Manual.

3 General Conditions Regarding Material Installations

1. The LV (including subcontractors) shall not install any materials without prior approval of the customer or landlord.
2. All work shall be performed in a professional manner and be consistent with all applicable safety standards.
3. All installed materials shall be consistent with the application and be sufficiently durable to ensure measure performance.
4. The LV (including subcontractors) shall at all times keep the customer work site free from accumulations of waste material or rubbish caused by performance of the work. Upon completion of the work all rubbish, tools, equipment, surplus material and supplies shall be collected leaving the location free from any debris in "broom clean" condition. Ability to vacuum into original condition desired.

The proper, safe, and lawful disposal of all items used or removed during implementation of the Program including, without limitation any substances considered hazardous and/or toxic under state or federal law or regulation, is the sole responsibility of the LV and its subcontractors. Specifically, any lamps for recycling would ideally be removed at the time of installation for recycling at a central location rather than leaving lamps at the job site for pick up. Upon request, the LV shall advise Cape Light Compact and the applicable customer(s) of the practices, use, storage, treatment, handling and disposal of such hazardous and/or toxic materials, and other material and equipment removed from the customer's location in the course of the work. The LV shall also provide on request, documentation (including without limitation certificates and manifests) evidencing proper use, storage, treatment, transportation, handling, and disposal of such material and associated property and equipment.

4 Financial Accounting

The LV is responsible for the financial management of the Program. Accounting systems must be sufficient to efficiently implement all aspects of the Program, and keep track of all payments made, liabilities incurred, receivables, and material and equipment inventories. The LV is solely responsible for developing compensation systems between itself and subcontractors, as well as with its own staff. Cape Light Compact reserves the right to audit the LV's financial and accounting records pertaining to the Program at any time.

It is anticipated that the LV will submit invoices at least once per month. Cost proposals should make clear the invoicing terms. Cape Light Compact will work with the selected LV to identify the information to be provided on invoices. The LV will be required to propose the final form of invoice and secure Cape Light Compact approval of the format before use.

Duplicates of all invoices, supporting documentation and financial reports submitted shall be kept on file at the LV's place of business.

5 Qualifying Questions/Information

Please provide answers/information/proposals for the following:

1. Detailed description of the proposed approach for implementing all of the requested services
2. List of all currently employed staff proposed to provide the indicated services and summary of their qualifications, including technical training, licensing, etc (e.g. Professional Engineers), provide an organizational chart, if available
3. If Bidder intends to hire additional staff in order to provide proposed services, a description of its approach to hiring and the qualifications it will require of prospective employees should be included
4. Sales training provided to field staff (if none, please provide a plan to provide sales training)
5. Current call center operational capacity including, number of full-time and part-time call center staff, current hours of operation and 2014 call volume
6. Number of small business energy assessments performed in the previous twelve month period
7. Standard procedures used to deal with issues related to potential short and/or long-term health and safety issues (procedures should include those addressed within Program scope and those beyond the immediate scope of the Program)
8. Detailed explanation of how the Bidder proposes to coordinate and develop subcontracting relationships
9. Detailed description of the proposed approach to electronically communicate with Cape Light Compact
10. Detailed description of the proposed approach to ensuring an exceptional customer experience (i.e., initial scheduling, implementation scheduling, backlog management)
11. Detailed description of the tracking and follow up process that will be used to implement major measures over multiple years (include how data will be tracked so as to allow both calendar year reporting of savings and total savings by customer for these multi-year projects)
12. Detailed description of the proposed approach for following-up with customers on recommendations they have not acted on (must include mechanism for assessing the effectiveness of the approach)
13. Complete description of Bidder's technological capabilities in the areas of Information Management Systems hardware and software, electronic data transfer, and rebate processing capabilities
14. LV is required to have/obtain suitable office, dispatch and warehouse facilities and vehicles as necessary, located within easy access to all parts of the Cape Light Compact service territory (Identify the planned facilities and equipment to be used in Program implementation and identify

the extent to which such facilities and equipment are already on hand. If acquisition of facilities and equipment is required a timeline should be made available to Cape Light Compact)

15. List other similar contracts in force in Massachusetts and/or nationally along with the names or references to be contacted regarding performance for programs that are within the size and scope of the CSBS Program
16. Assurances that as the CSBS LV the ability exists to be in the field at the appropriate start up time given the proposed service(s), such that Cape Light Compact's anticipated delivery projections will not be adversely delayed
17. Complete description of Bidder's ability to provide robust marketing support in order to meet Program goals
18. Detailed description of quality control policies and procedures (energy assessment delivery services, measure installations and post-installation inspections)
19. Customer scheduling policies and procedures (describe a proposed approach for allowing assessments to be scheduled from the field)
20. Protocols for resolving customer dissatisfaction, either at the time of the site visit, or after
21. Current warranty policy, if applicable

6 Summary of Cape Light Compact Responsibilities

In general, Cape Light Compact anticipates a limited role in program implementation, preferring that the LV provide virtually “turn-key” program delivery. Broadly, Cape Light Compact responsibilities can be assumed to be:

1. Providing customer information for those likely to be eligible for the Program including names, addresses, account numbers, telephone numbers, and referrals from other programs
2. Ongoing Program development and refinement, in conjunction with PAs and vendors
3. Monitoring and oversight of LV performance, including
 - a. Reviewing and approving any change orders or modifications to program implementation procedures
 - b. Reviewing and approving all forms, program materials, procedures, protocols and software proposed for use by the LV in implementing the Program
 - c. Reviewing all management reports from the LV
 - d. Reviewing the quality and conduct of work performed, including conducting random site inspections through a third-party quality control vendor or by Compact staff (as needed)
 - e. Monitoring and tracking the resolution of customer complaints or inquiries
 - f. Verifying, approving and processing LV invoices
4. Providing a principal Cape Light Compact point of contact
5. Customer intake

7 Pricing Structure

Bidders shall quote a fixed dollar cost per line item. See Attachment 11.2.

8 Lead Vendor Performance Incentive

Cape Light Compact will consider providing performance incentives to the LV for the successful implementation of the CSBS program. Successful implementation will be directly related to meeting established Program savings goals in a cost effective manner. Cape Light Compact requests the bidder to provide a proposal related to LV performance incentives. Cape Light Compact reserves the right to award this contract without acceptance of the proposed performance incentive structure.

9 Schedule

RFP issued: October 19, 2015

Pre-bid conference call: November 16, 2015, 2:00 p.m. ET*

Questions regarding the RFP due: November 16, 2015, 4:00 p.m. ET

All proposals due: November 30, 2015 by 2:00 p.m. ET

Vendor selected: December 15, 2015 (estimated)

Kick-off meeting: January 4, 2016 (tentative)

Implementation: January 15, 2016 – December 31, 2018 with possible extensions.

*Please indicate via e-mail to Margaret Downey (mdowney@barnstablecounty.org) your interest in participating in the call by November 10, 2015.

10 Proposal – Number of Copies and Format

Proposals, to be entitled for consideration, must be submitted in accordance with the following instructions. The Bidder shall be responsible for submitting one (1) electronic, (1) original and four (4) copies of the proposal in such form as set forth below.

Proposals shall be:

- Type written on 8 1/2" x 11" paper;
- The pages numbered; and
- The Proposal must also be signed in longhand in accordance with the instructions as stated in Attachment 11.3, "Bid Submission Page"

Acceptance of any proposals remains in the sole discretion of the Compact. Proposals which in the judgment of the Compact fail to meet the requirements of this RFP or which are incomplete or obscure, or in which errors occur will be rejected.

10.1 Bid Due Date

The bound Proposal must be signed and shall be delivered to The Compact within the time set forth in this RFP. Proposals will be enclosed in sealed envelopes and marked as follows:

RFP Title: CSBS Program Vendor
 Dated:
 Bidder's Name:
 Delivered to: Cape Light Compact
 Open Cape Building
 3195 Main Street
 Barnstable MA, 02630
 Attention: Margaret Downey
mdowney@barnstablecounty.org
 Cape Light Compact Chief Procurement Officer

Bids must be received by November 30, 2015 by 2:00 p.m. EST. Proposals received after this time will not be considered.

10.1.1 Interpretation of the RFP

The Compact is seeking one qualified firm to provide the requested services. Proposals shall be in accordance with all requirements set forth in this request for proposals (RFP). Should a Bidder find any ambiguity, discrepancy or omission in the RFP, the bidder should notify the Compact in writing. Such information must be received by November 16, 2015, 4:00 p.m. ET, to afford The Compact an opportunity to send any instructions or interpretations to other Bidders who have received an Invitation to Bid. The Compact will not be responsible for any oral instructions or interpretations. Please send all inquiries to

Cape Light Compact
 Open Cape Building
 3195 Main Street
 Barnstable MA, 02630 Att: Margaret Downey

10.1.2 Rights to Modify This Specification

The Compact reserves the right to modify any aspect of this RFP if the change will make the *CSBS Program* more cost-effective and customer responsive. Only qualified contractors experienced in providing energy audits and efficiency services are invited to submit proposals.

10.2 Proposal Contents

10.2.1 Narrative Requirements

Bidders must submit a proposal narrative containing the following information. Please note that The Compact reserves the right to reject any proposal, which, in its judgment, is incomplete. Please provide the following:

- a. A brief description of the business nature of the Bidder, its purpose, and its general history. Include a summary of contracts held similar in nature to the services described in this RFP;
- b. A listing of all staff proposed to provide the indicated services and summary of their qualifications, including technical training, licensing, and installation experience. If existing positions are to be used, indicate the percentage of time to be devoted to this project. Include a summary of qualifications and references for each subcontractor. If the Bidder intends to hire additional staff in order to provide the proposed services, a description of its approach to hiring and the qualifications it will require of prospective employees should be included. If licenses are required, Bidder shall provide verification of each license holder;
- c. A detailed description of the proposed approach for implementing all of the proposed services;
- d. A detailed explanation of how the Bidder proposes to coordinate subcontracting relationships;
- e. A detailed description of the proposed approach to electronically communicate with the Compact;
- f. A detailed description of the proposed approach, which affects the delivery of the services to all eligible customer sectors. In particular, scheduling approaches to ensure implementation and customer convenience. Please discuss methods utilized in backlog management and reporting;
- g. A complete description of your company's technological capabilities in the areas of, Information Management Systems hardware and software, electronic data transfer, rebate processing capabilities and CSBS related technology;
- h. The locale or anticipated locale for field operations and describe how this site or sites will help satisfy the requirements of this RFP. Describe the approach for providing service to all areas in the *Cape Light Compact* service area;
- i. A list of other similar contracts in force in Massachusetts and/or nationally along with the names of references to be contacted regarding your company's job performance for programs that are within the size and scope of the *Mass Save Program*;

- j. Assurances that as the *CSBS Program* vendor/contractor, you will be able to be in the field at the appropriate start up time, given the proposed service(s), such that the *Cape Light Compact's* anticipated delivery schedule will not be adversely delayed. Further, describe the company's planned allocation of resources toward timely startup of the *Program* services. Include an implementation schedule and list of startup resources to be utilized;
- k. With regards to your quality control policies and procedures, please describe:
 1. The quality control process for Audit Delivery Services, Measures Installations and Post-Installation Inspections
 2. The corrective measures available to deal with customer problem resolution and quality assurance issues. Describe how The Cape Light Compact will be notified concerning these issues.
 3. Your specific Quality Assurance Plan, including criteria to judge auditor, subcontractor and database performance, percentage of weatherization visits, and the effectiveness of energy Small business Energy measures installed;
- l. Any exceptions to the Field Services Agreement provided as Attachment 11.4.

10.2.2 Pricing Structure

Bidders shall quote a fixed dollar unit cost per line item for direct and indirect costs including all administrative cost, direct labor costs, labor burden, overhead costs, profit and other indirect costs associated with the labor and rebate processing requirements. Bidders shall provide complete documentation and detailed assumptions of the pricing to support projections.

Bidders shall quote a price based upon the estimated minimum number of jobs projected. The Compact makes no representations of the actual number of jobs to be performed.

Any start-up costs, which are nonrecurring or which may be expected to be reduced, over time should be clearly identified. Bidders shall describe how their unit prices would change, if at all, in the event that the actual participation targets for the programs and measures differ from the budget estimates.

10.2.3 Qualification of Bidders

The competency and responsibility of Bidders and of any proposed Sub-Contractors will be considered in making the award. The Compact expressly reserves the right to reject any or all Proposals (either generally or in a particular instance and either retroactively or prospectively) and to waive any informalities or irregularities in Proposals, and to accept that Proposal whether it be the lowest bid or not, which in the unilateral judgment of the Compact best serves the Compact's purpose and intent provided,

that, no course of dealing or delay or omission on the part of the Compact in exercising such right shall operate as a waiver thereof.

10.2.4 Sub-Contracts

The Bidder shall submit with its Proposal the names and addresses of any Sub-Contractors proposed for principal parts of the Work and their price. The Compact encourages the utilization of Cape Light Compact territory based contractors. The cost of Work proposed by each said Sub-Contractor shall be included in this information. The Compact reserves the right to substitute other Subcontractors to provide like services or materials.

10.2.5 Substitutions

Unless otherwise stated in the RFP, any material or computer hardware mentioned by its trade name or identified by the name of the Manufacturer in the specifications is to be regarded as merely indicating a standard or the type desired. Articles of other manufacturers may be used, provided they are equal or better in material, design and workmanship to those named, and such substitutions are approved by The Compact in writing. The Bidder shall attach to its Proposal a list showing manufacturer and type of all material or computer hardware it proposes to substitute for that specified by name in the various specifications. If there is no attachment, it will be assumed by The Compact that the Bidder intends to use material and computer hardware as specified and no substitution will be allowed at a later date. In all cases, Cape Light Compact shall have the right to request samples, descriptive literature and/or design calculations and data on substitute materials before granting an approval. No substitutions of Sub-contractors are allowed unless approved by The Compact in writing.

10.2.6 Massachusetts State Sales Tax

Massachusetts Sales Tax on materials and equipment rentals or any other taxable items for use in the completion of lump sum or guaranteed price contracts will be paid by the *Program* Contractor who is considered the consumer and not billed to the Cape Light Compact or its customers. Said Massachusetts Sales Tax shall be incorporated into the cost prices used in determining the bids submitted. Any amounts owing, due, claimed or paid with regard to such taxes shall be subject to the indemnification provisions of the contract.

10.2.7 Detailed Bid Information

Where specific information (such as names, addresses, and prices of any Sub-contractor; number of working days and/or calendar days required to complete the Work; or other data) requested in the written Proposal is omitted, the Bidder may be automatically eliminated from consideration for the Contract at the discretion of The Compact.

10.3 Acceptance of Proposals and Award of Contract

The Compact, at its sole discretion, may accept entire proposals submitted by a Bidder, or accept portions of proposals submitted by a Bidder, or reject proposals in whole or in part.

Screening Proposals for Compliance with Submission Requirements and Minimum Evaluation Criteria will include utilizing the proposal submission requirements and the minimum criteria incorporated herein. The Selection Committee, to be designated by the Chief Procurement Officer, shall screen proposals as to their responsiveness, and identify those which are responsive. Any proposal, which in the opinion of the Evaluation Committee, fails to include the information or documentation specified in the submission requirements shall be determined to be non-responsive and shall be rejected. Any bidder who fails to meet any of the standards set forth as minimum criteria shall be determined to be non-responsive and shall be rejected. All other proposals meeting both the submission requirements and minimum evaluation criteria shall be considered qualifying proposals.

Cape Light Compact reserves the right to waive portions of the RFP for all bidders and to waive minor informalities as defined by Chapter 30B, or allow the bidder to correct them. The remaining responsive proposals shall be evaluated using the comparative evaluation criteria incorporated herein.

Each proposal shall be assigned: a) a separate rating for each comparative evaluation criterion; and b) a composite rating. Proposal ratings and accompanying written explanations shall be forwarded to the Chief Procurement Officer.

Methodology for Determining Best Price

Taking into consideration price and the evaluations of the Evaluation Committee, the Chief Procurement Officer shall determine the most advantageous proposal. Award of the contract is subject to the approval of the Barnstable County Commissioners.

10.3.1 Selection Criteria

The final selection of a consultant shall be based on the following sets of criteria:

Minimum Evaluation Criteria

- a. Submission of all required documentation and certifications detailed in Proposal Contents.

- b. Demonstrated capacity to provide a full range of services to address the issues facing the Cape Light Compact energy efficiency program.
- c. Demonstrated understanding of the Massachusetts Department of Public Utilities and the Department of Energy Resources Data reporting requirements.
- d. Demonstrated understanding of electric utility restructuring issues.
- e. A minimum of five (5) years related experience in the delivery of commercial energy efficiency programs
- f. Submitted proposal responds to the issues identified in the RFP.

Comparative Evaluation Criteria

1. Experience of Program Management and Field Staff in Delivery of Commercial Programs in Massachusetts

a. Highly Advantageous: The bidder has demonstrated an exceptional background and greater than five years of experience within Massachusetts in commercial program management and delivery

b. Advantageous: The bidder has demonstrated an adequate background and greater than three years of experience with Massachusetts in commercial program management and delivery

2. Experience and Knowledge in Implementation of Commercial Small business Energy installations and educational services

a. Highly Advantageous: The bidder has extensive knowledge and greater than three years experience in working with Commercial Small Business Energy installations and educational services

b. Advantageous: The bidder has adequate knowledge and greater than one year of experience in working with Commercial Small business Energy installations and educational services

3. Experience of Project Team with Barnstable and Dukes County Issues

- a. Highly Advantageous: The bidder has experience working with more than one town in Barnstable or Dukes County on energy policy, energy efficiency or other energy related issues.
- b. Advantageous: The bidder has experience working with one town in Barnstable or Dukes County or other Massachusetts municipality on energy policy, energy efficiency or other energy related issues.

Contract negotiations will commence in order to complete a signed contract within 15 days of contract award. All contracts will incorporate the general terms and conditions included with the bid package and the written documents provided by the Bidder in its bid.

If a contract is not executed by the chosen Vendor by **January 29, 2016**. Cape Light Compact reserves the right to negotiate with an alternative Bidder in order to execute a contract by **February 29, 2016**. All exceptions to the contract must be noted in writing and included within the body of the proposal.

10.4 Proposal Confidentiality

All proposals will become the property of The Cape Light Compact. As a public entity it may become necessary to supply price information to regulatory agencies for review. Cape Light Compact will request that all such information be treated confidentially by the regulatory agencies and Cape Light Compact will furnish such information when required. If any proprietary information is contained in the Proposal, it should be clearly identified and will be treated as such provided that neither the Cape Light Compact, Barnstable County officers, employees shall be liable for any action taken, or omitted to be taken, in good faith by it or them hereunder or be responsible for the consequences of any oversight or error in judgment thereof except for direct losses due to its or their willful misconduct or gross negligence.

10.4.1 Return of Proposal Materials

Proposal materials will not be returned to Bidders. All costs incurred by Bidders in the preparation and submission of a proposal and/or oral presentation shall be the sole responsibility of Bidders.

10.5 Oral Presentations

Bidders whose Proposals are deemed as highly advantageous may be required, upon request, to make an oral presentation. The location of the presentation will be stated on the invitation; presentations will be limited to two (2) hours. The first half hour will be allocated to a formal presentation by the Bidder. The balance of the presentation period will be devoted to questions by and discussion with Cape Light Compact's representatives.

The oral presentation will be arranged through Cape Light Compact. Bidders will receive at least 48 hours notice to prepare for the presentation. Attendance must include the Bidder's proposed Project Manager. Cape Light Compact may disqualify a Bidder on the basis of its refusal to honor its request for an oral presentation.

Results of the oral presentations will be used in part to arrive at ranking the finalist(s) and may result in adjustments to the final rankings assigned. In addition to, or as an alternative to additional technical data provided in a written or oral format, Cape Light Compact reserves the right to request a "best and final offer" from said Bidders in order to arrive at a final selection.

Based upon all information, Cape Light Compact will select a finalist with which contract negotiations will commence.

11 Attachments

11.1 Data Exchange Overview

The Compact's contracted vendor, ESG, will provide the Compact with a data management, tracking and reporting system called EECP starting in 2016. The information below provides a high level overview of the Compact's requirements for data exchange between EECP and the bidder.

Imports

- EECP's typical import file type is Comma Separated Values ("CSV"). The system also supports Extensible Markup Language ("XML").
- Can be automated (i.e. job the watcCSBS a Secure File Transfer Protocol ("SFTP") folder and imports as files are delivered) or manually initiated
- Field layout is controlled in part by system configuration (i.e. as field options are added to enrollments, those fields are then exposed in the import file layout)

Exports

- EECP typically handles exporting data using SQL Server Reporting Services ("SSRS reports")
- Export file types are selected by the user (for SSRS reports) and can be Excel, CSV, Tab, pipe delimited. The most common are Excel and CSV
- Files can be delivered to SFTP sites and/or emailed
- Custom code based exports can be created if necessary

New Customer Enrollments from the Compact to the Trade Ally

- There is no current export for this data
- The current plan would use an SSRS report for this export.
- We can use the fields specified in below in the enrollment file contents section.
- It can be made to export to CSV for pipe delimited.
- It can be emailed/and or delivered to an SFTP site

Customer Enrollment Status Updates from the Trade Ally to the Compact

- Use existing EECP enrollment upload process/templates
- EECP provides a template for uploading enrollments that is unique to each program – based on the program configuration
- Can be CSV (typical) or XML
- Different files for each type of update (i.e. enrollments, measures, invoices, etc.)
- The files are "zipped" into a single file for transport and upload
- Upload performed manually by an EECP user

Trade Ally Invoice Data Upload from the Trade Ally to the Compact

- See Enrollment Upload

Enrollment File Contents

It is expected that the bidder will receive a daily automatic, electronic data transfer of new customer enrollment and updates on this customer. These new customer requests are expected to be imported into the vendor's information system.

To generate this file, the Compact's information system is examined for enrollments assigned to the bidder since the last data transfer date. This information is posted to and transferred to the SFTP site. Each data transfer file has a unique name.

The contents of the file include:

Field Name	Data Type	Value / Comments
Enrollment ID	Character	Compact internal tracking number
Request Date	Date	YYYY/MM/DD format
Enrollment Type	Character	See Enrollment Types below
Account Number	Character	
First Name	Character	
Last Name	Character	
Service Street Number	Character	
Service Street Name	Character	
Service Apartment	Character	
Service City	Character	
Service State	Character	
Service Zip Code	Character	
Mailing Address	Character	
Mailing City	Character	
Mailing State	Character	
Mailing Zip Code	Character	
Small business Phone	Character	
Work Phone	Character	
Contact Phone	Character	
Email Address	Character	
Owner/Renter	Character	Blank, O, R
Dwelling Type	Character	Blank, SF, MF
SIC Code	Character	
Small business Age	Character	Blank 10 yrs or less 10 – 30 yrs More than 30 yrs
Units	Numeric	0 – 9999
Small business Size	Character	Blank Less than 1000 sq ft 1000 – 2000 sq ft 2000 – 5000 sq ft 5000 – 8000 sq ft More than 8000 sq ft
Primary Heat Fuel	Character	Blank, Electric, Gas, Oil, Propane, Wood, Coal, Other
Annual Heating Cost	Character	Blank Less than \$500 \$500 - \$1500 More than \$1500
Central AC	Character	Blank, Y or N
Primary DHW Fuel	Character	Blank, Electric, Gas, Oil, Propane, Wood, Coal, Solar, Other
Prior Audit	Character	Blank, Y or N
New Windows	Character	Blank, Y or N
New Heating System	Character	Blank, Y or N

New Insulation	Character	Blank, Y or N
Drafty or Cold	Character	Blank, Y or N
Notes	Character	Enrollment Notes

In return, the bidder is expected to generate a daily automatic, electronic data transfer of customer enrollment status updates and interactions. These updates are imported into the Compact's information system.

The vendor update information is transferred to the SFTP site. Each data transfer file has a unique name.

For specific sample files, please see the following links:

<http://www.capelightcompact.org/wp-content/uploads/2014/07/EECP-User-Guide-Compressed-File-Enrollment-Upload.pdf>

<http://www.capelightcompact.org/wp-content/uploads/2014/07/EECP-Compressed-Import-Specifications-1.7.xlsx>

11.2 Pricing

Pricing Request

Service	Unit	Price	Additional Details
Call Center Services (scheduling included)	Monthly		Fixed monthly cost
Management Fee	Monthly		Bidder may wish to provide a cost range
Loan Administration	Monthly		Bidder may wish to provide a cost range dependent on number of Loans processed
Comprehensive Assessment	Per Assessment		Fixed Assessment Cost
Special Small Business Visit	Per Visit		Fixed Visit Cost
Rebate Processing Fee	Per Rebate		Bidder may wish to provide cost based on rebate type
Combustion Safety Test Visit	Per Visit		Fixed Visit Cost
Efficient Lighting Install Fee	Per Bulb		Fixed Cost for Direct Installation
Marketing Support	Per Hour		Bidder may wish to provide hourly cost for multiple designated resources

For installed or subcontracted measures in Section 2.4, please indicate whether these are proposed to be installed by the LV or subcontracted in addition to the unit price and labor fee. Please indicate assumptions on pricing.

11.3 Bidder's Submission Statement

Bidder's Submission Statement

The following must be completed and included in each Bidder's proposal:

The undersigned Bidder hereby offers to perform the Services as described in the Request For Proposal (RFP) dated October 19, 2015, prepared by Cape Light Compact, in accordance with the Proposal attached hereto. This bid offer is firm and shall remain in effect for a period of sixty (60) days after receipt thereof by Cape Light Compact.

In connection with such offer, the undersigned represents and warrants to Cape Light Compact that it has carefully and thoroughly reviewed the entire RFP and that it possesses the special experience, skills, and abilities necessary to perform the Services bid on in accordance with the specifications detailed in the RFP.

Name of Bidding Firm

Signature

Name of Signatory (print or type)

Position with (print or type)

11.4 Draft Contract

FIELD SERVICES AGREEMENT

This FIELD SERVICES AGREEMENT (“Agreement”) is made by and between the Cape Light Compact, an inter-governmental association and aggregator formed pursuant to Massachusetts law, together with its fiscal agent, Barnstable County (collectively, the “Compact”), and [insert] (“Vendor”). The Compact and Vendor may be referred to herein collectively as the “Parties,” or either singularly as a “Party.” This Agreement is effective as of [insert].

WHEREAS, pursuant to G.L. c. 40, §4A, the towns of Aquinnah, Barnstable, Bourne, Brewster, Chatham, Chilmark, Dennis, Edgartown, Eastham, Falmouth, Harwich, Mashpee, Oak Bluffs, Orleans, Provincetown, Sandwich, Tisbury, Truro, West Tisbury, Wellfleet, and Yarmouth, and the counties of Barnstable and Dukes County (the “Member Municipalities”), entered into an inter-governmental agreement, as amended from time to time, to act together as the Compact;

WHEREAS, the purposes of the Compact include protecting and advancing the interests of commercial, commercial and industrial customers in a competitive electric supply market, and promoting energy efficiency and the reduction of energy bills;

WHEREAS, the Compact is operating an Energy Efficiency Plan approved by the Massachusetts Department of Public Utilities on January 31, 2013, DPU 12-107, for plan years [2013 through 2015];

WHEREAS, Barnstable County (the “County”) provides fiscal and administrative services to the Compact, pursuant to an Administrative Field Services Agreement dated April, 2000, as amended from time to time;

WHEREAS, the Compact seeks to enter into a contract with Vendor for certain services which are defined in Section 2.1 in connection with the energy efficiency programs that it will operate under the Energy Efficiency Plan; and

WHEREAS, Vendor has the expertise required to provide the Compact with the Installation Services required pursuant to this Agreement.

NOW THEREFORE, in consideration of the promises and mutual covenants set forth herein, Vendor and the Compact do hereby agree as follows:

SECTION 1 TERM OF AGREEMENT AND TERMINATION

1.1 **Term.** This Agreement is effective as of the date set forth above and shall continue in force and effect until [insert], unless this Agreement is terminated before such date under the provisions of Section 1.2. In addition, the Compact may, in its sole discretion, extend the term of this Agreement for an additional [insert] year(s).

1.2 **Termination.** The Compact shall have the right to terminate or suspend this Agreement for any reason or for convenience. Vendor may terminate this Agreement only if the Compact materially breacCSBS its obligations under this Agreement. The terminating Party shall provide written notice to the other Party of any such termination or suspension, specifying the effective date thereof. If the terminating Party is the Compact, such notice shall be given at least fifteen (15) calendar days before such effective date; if the terminating Party is Vendor, such notice shall be given at least ninety (90) calendar days before such effective date. In addition, if the Compact terminates this Agreement for cause, the Compact shall be entitled to deduct and/or be reimbursed any costs of cure and transition costs (including reasonable attorneys' fees) that it incurs related to engagement of a substitute Vendor.

1.3 **Termination or Suspension Due to Changes in Funding.** This Agreement is subject to the receipt of funds from various sources to support the Energy Efficiency Plan. If for any reason such funding is terminated, suspended, or restricted, this Agreement will become null and void, effective immediately upon notice to Vendor. The Compact shall provide written notice of such termination or suspension to Vendor. In the event of such termination or suspension, Vendor shall be paid for all authorized, satisfactory (in the reasonable discretion of the Compact) Installation Services performed up to and including the date of termination or suspension.

1.4 **Obligations upon Termination.** Following termination of this Agreement, the Parties shall each discharge by performance all obligations due to the other Party that arose up to the date of termination of the Agreement.

SECTION 2 SCOPE OF SERVICES AND RELATED MATTERS

2.1 **Installation Services.** Vendor agrees to provide the expertise, labor, materials and supplies necessary to perform the services and deliverables described on Exhibit A attached hereto from time to time and such other services as may be specifically requested by the Compact from time to time (the "Installation Services"). All such Installation Services and deliverables shall be designed to achieve the anticipated outcomes specified in the description of Installation Services and shall be provided in accordance with the terms and conditions of this Agreement.

2.2 **Changes.** The Compact may, from time to time, require changes in the scope of the Installation Services to be performed hereunder. Such changes must be evidenced in written amendments to this Agreement. Any Installation Services performed or

proposed by Vendor shall not be reimbursed unless they are approved in writing by the Compact prior to their rendering.

2.3 Timing of Performance. Vendor shall commence and complete the Installation Services in accordance with the project milestone schedule incorporated into Exhibit A. If no schedule is incorporated, Vendor shall begin to render Installation Services on the effective date of this Agreement and shall continue to render the Installation Services in a prompt and timely manner.

2.4 Staffing; Background Check Requirements. The Compact may require Vendor to remove from the its project team such employees of Vendor or subcontractors of Vendor as the Compact, in its reasonable discretion, deems objectionable, or whose continued employment in connection with the Installation Services is deemed by the Compact, in its reasonable discretion, to be contrary to the best interests of the Compact. Vendors' employees having contact with Compact customers or program participants must comply with the Compact's background check requirements set forth in Exhibit C.

2.5 Conflicts of Interest. Vendor covenants that it presently has no interest, and shall not acquire any interest, directly or indirectly that would conflict in any manner or degree with the performance of the Installation Services. Vendor agrees to diligently serve and endeavor to further the best interests of the Compact, as known or made known to Vendor. Vendor further agrees not to undertake activities that conflict, or are not in accordance with, the best interests of the Compact, and will disclose any other employment or engagements that could conflict with its obligations under this Agreement. Vendor further covenants that it shall comply with all relevant provisions of G.L. c. 268A.

2.6 Points of Contact. Vendor names [insert], as the day-to-day point of contact for the Compact for all issues arising under this Agreement and the person responsible for ensuring over the entire term of this Agreement that the Installation Services are performed and completed in a manner satisfactory to the Compact and in accordance with the terms of this Agreement. The Compact names [insert] to be the day-to-day point of contact for Vendor for all issues arising under this Agreement.

2.7 Safety. To the fullest extent allowed by law, Vendor shall assume responsibility for the general and overall safety of the work site, including the safety of any employee, client, guest, representative, contractor or subcontractor of Vendor, the Compact, Compact customer, or program participant. Systems that have been disabled or otherwise affected in the course of performance of the Installation Services will be left in a safe condition. Out of service systems will be tagged by Vendor in a manner accepted by OSHA, state and local authorities, and the Compact. Vendor shall at all times exercise reasonable precautions for the safety of its employees, subcontractors and the general public and will be responsible for the performance and maintenance of

any appropriate safety procedures pursuant to which it, its subcontractors and its employees shall act. Further, Vendor shall operate in complete compliance with OSHA regulations, as well as any and all applicable local, state or federal safety laws, regulations, or requirements.

Imminent danger situations created by Vendor must be corrected immediately. The Compact reserves the right, but without obligation, to take corrective action and pass the costs associated with the same back to Vendor.

Vendor shall immediately notify the Compact of any accident or damage to persons or property and, within forty-eight (48) hours, file a written report of the accident with the Compact. If Vendor encounters any asbestos or other hazardous substances in the course of the Installation Services, Vendor shall immediately notify the Compact and any agency required by state or federal law, and shall stop any Installation Services that may disturb, damage or cause a release of asbestos or hazardous substances until Vendor receives written instruction from the Compact. If any hazardous substances are to be handled in the execution of the Installation Services, Vendor shall assume any and all liabilities associated with such handling and must AT ALL TIMES, provide proper storage and disposal of such hazardous substances. Hazardous substances will be handled and disposed of in compliance with governing federal, state, and local laws and/or codes as originally written or subsequently modified. UNDER NO CIRCUMSTANCES WILL THE COMPACT BE LIABLE FOR ANY INJURY TO a) VENDOR, b) ANY EMPLOYEE, CLIENT, GUEST, REPRESENTATIVE, CONTRACTOR, OR SUBCONTRACTOR OF VENDOR, c) ANY CUSTOMER, ANY EMPLOYEE, CLIENT, GUEST, REPRESENTATIVE, CONTRACTOR, OR SUBCONTRACTOR OF ANY CUSTOMER, OR d) ANY THIRD PERSON, THAT IS THE RESULT OF ANY SUCH PERSON'S EXPOSURE TO HAZARDOUS MATERIALS OR THAT IS OTHERWISE CAUSED BY A RELEASE OR THREAT OF RELEASE OF HAZARDOUS MATERIALS.

2.8 Storage and Clean-up. Vendor shall, at the end of each work day or job site, leave the work area in a clean and safe condition, and shall comply promptly with any instructions from the Compact relating thereto. As the Installation Services covered by this Agreement are completed, Vendor shall remove from the work sites, to the Compact's satisfaction, all of Vendor's rubbish, debris, materials, tools and equipment, and if Vendor fails to do so promptly, the Compact may remove the same to any place of storage, or any dumping ground, at Vendor's risk and expense and without incurring any responsibility to Vendor for loss, damage or theft. All storage and removal costs thus incurred by the Compact shall be deducted from any payment or balance due to Vendor, and any excess shall be immediately due from Vendor to the Compact.

SECTION 3 COMPENSATION AND RELATED MATTERS

3.1 Rates of Compensation; Prevailing Wage. Vendor shall be compensated by the Compact for the Installation Services in accordance with the terms and rates set

forth in Exhibit B hereto. The Compact may reject any invoices using billing rates that are not consistent with Exhibit B, unless the Compact has previously accepted such substitute rates in a written amendment to this Agreement. To the extent that it applies to the Installation Services (e.g., in the implementation of energy efficiency services that result in physical alterations to public buildings), Vendor shall comply with the requirements of G.L. c. 149, §§26-27H, as well as any and all other applicable local, state and federal wage laws. When the Installation Services are performed under prevailing wage rates, Vendor is required to submit Statements of Compliance and certified payrolls using appropriate state forms or, if a federal project, U.S. Department of Labor Form WH-347 and WH-348 (or similar), for each payroll period. If these forms are not submitted with each invoice, payment will not be made. Vendor shall keep an accurate record showing the name, craft or trade, and actual hourly rate of wages paid to each worker employed by it in connection with the Installation Services, and such records shall be preserved at least two (2) years from the date of payment.

3.2 Invoicing and Payment. Vendor shall submit monthly invoices to the Compact by the 10th day of each month, unless otherwise authorized in writing by the Compact. The Compact will remit payment within forty-five (45) calendar days of the Compact's receipt of each monthly invoice. Payment may be contingent upon final inspection and/or acceptance of the Installation Services. Upon request, Vendor shall provide to the Compact all backup documentation required to establish the value of the Installation Services in place as represented by Vendor's monthly invoices.

3.3 Effect of Payment. The Compact shall not be deemed to have accepted any improper Installation Services, materials or performance by virtue of any payment made to Vendor. Payments shall be deemed advances and are subject to adjustment for errors, overpayments, or the Compact's good faith determination that the remaining balance of payments may be insufficient to ensure completion of the Installation Services. Vendor shall not be entitled to any payment for any partial performance except for progress payments made in accordance with this Agreement. Vendor understands that the Compact is contracting for nothing less than full, complete and timely performance of the Installation Services, and with the express agreement that the Compact shall be obliged only upon final completion of the Installation Services.

3.4 Withholding. The Compact may withhold a payment of all or a part of any invoice to the extent as may be necessary to protect itself from loss caused by: (i) defective Installation Services not remedied; (ii) claims filed or reasonable evidence indicating probable filing of claims by other parties against Vendor or the Compact in connection with the Installation Services; (iii) failure of Vendor to make payments properly to subcontractors for materials, labor or equipment; (iv) unsatisfactory performance of the Installation Services; (v) a failure of the Vendor to pay any amounts due to the Compact; or (vi) Vendor's failure to perform any of its obligations under this Agreement. In addition, if the Compact has a reasonable indication that the unpaid balance will be insufficient to cover the cost to complete the Installation Services or that

the Installation Services will not be completed within the project milestone schedule (if any), the Compact may withhold a payment of all or a part of any invoice to the extent as may be necessary to protect itself from such anticipated losses. The Compact shall notify Vendor of the grounds for any withholding. When Vendor provides performance assurance satisfactory to the Compact that will protect the Compact for the amount withheld, payment will be made. When deemed reasonable by the Compact, the Compact may use such withheld funds to undertake remedial measures.

3.5 Credits. Vendor may not claim any governmental or other energy efficiency credits, tax credits, forward capacity payments, carbon offsets, rebates or incentives of any kind as a result of or in connection with the Installation Services performed under this Agreement (collectively, the "Credits") without the written consent of the Compact in its sole discretion. To the extent any Credits are allocated to the Compact (or any other Compact project or program participant) by operation of law or regulation, Vendor shall, upon request and without charge, cooperate fully with the Compact to disclaim any rights to such Credits and to assign or allocate all such Credits, and the value thereof to the party designated by the Compact.

3.6 Bonds. Upon request by the Compact, Vendor shall provide performance and payment bonds from a surety company in amounts, form and substance acceptable to the Compact, naming the Compact as a direct beneficiary of the surety's obligations under such bonds. Such bonds shall fully protect the Compact against any and all breaches by Vendor, including, but not limited to, payments of salaries, withholdings, union welfare funds and any other union or employee benefits. Performance and payment bonds shall cover the Installation Services and the warranty period described below. Failure to provide the requested bonds, prior to the commencement of the Installation Services or cancellation of requested bonds during the course of the Installation Services or the warranty period, shall entitle the Compact to terminate this Agreement without recourse by Vendor.

Performance Bond	<input type="checkbox"/>	required	<input type="checkbox"/>	not required
Payment Bond	<input type="checkbox"/>	required	<input type="checkbox"/>	not required

Premium(s) for requested bond(s) may be added to the Agreement price through a written request seeking approval from the Compact without additional markup by Vendor (except as specifically approved, in writing, by the Compact in advance of the Installation Services). Vendor must present to the Compact a copy of the invoice for the bonds signed by the agent with power of attorney for the bonding company. The Compact reserves the right to refuse any exception to the bond requirements if it determines that the exception is not in the best interest of the Compact. Vendor's surety companies are to be licensed as "admitted" carriers in Massachusetts with minimum acceptable A.M. Best ratings of "A" and size Class VIII, or as otherwise acceptable to the Compact, in its discretion. The Compact reserves the right of final approval of Vendor's surety companies.

3.7 County's Role as Fiscal Agent. Vendor understands and agrees that the County is executing this Agreement as the Compact's fiscal agent. Should the Compact terminate the County's fiscal agent services, the Compact may, at its sole discretion, substitute a successor fiscal agent upon written notice to Vendor. Vendor agrees that the validity and/or enforceability of this Agreement shall not be affected by such termination or substitution.

SECTION 4 PERFORMANCE STANDARDS

4.1 General Performance Standard and Warranty. Vendor assumes professional and technical responsibility for the performance of the Installation Services in accordance with the terms of this Agreement and the higCSBSt professional standards and practices, and any additional guarantee or warranty specified in the description of Installation Services. If, during the performance of the Installation Services or within one (1) year following completion thereof, such Installation Services fail to meet such standards, Vendor shall promptly and timely (no more than five business days) furnish all remedial services and materials necessary to correct such deficiencies at Vendor's sole cost and expense. Vendor shall also be responsible for reimbursement of the Compact's losses related to such defective Services during warranty period.

4.2 Representations, Warranties and Continuing Covenants. In performing its obligations hereunder during the term of this Agreement, Vendor represents and warrants that it shall: (i) exercise reasonable care to assure that its operations are prudently and efficiently managed; (ii) employ an adequate number of competently trained and experienced personnel to carry out the Installation Services; (iii) spend such time in performing the Installation Services as is reasonable and necessary to fulfill effectively its obligations under this Agreement; (iv) comply with all relevant industry standards and practices for the delivery of Installation Services to the Compact; (v) comply with applicable laws and professional licensing requirements; and (vi) ensure that it validly owns or licenses all intellectual property used in the performance of the Installation Services, with a right to sublicense to the extent necessary, and that such licenses are maintained at all times during the term of this Agreement.

4.3 Correction of the Installation Services. Vendor is required to correct in a prompt and timely fashion any Installation Services rejected by the Compact. Vendor shall correct at its own cost and bear the expense of additional services performed to correct non-conforming Installation Services. If Vendor fails to cure the default or produce a plan acceptable to the Compact (in its reasonable discretion) to cure the default in a prompt and timely fashion, the Compact may take over the Installation Services or any separable part thereof, and complete the same or have the same completed at Vendor's expense. In taking over, the Compact shall have the right, for the purpose of completing the Installation Services, to take possession of all equipment, supplies and materials belonging to Vendor and purchased or leased for the

performance of the Installation Services. For such purpose, this Agreement shall be construed as an assignment by Vendor to the Compact of said equipment, supplies and materials.

4.4 Periodic Reporting. Upon the request of the Compact, the Vendor shall promptly submit a report detailing the status of the Installation Services including the progress toward achieving completion of any deliverables or project milestones.

SECTION 5 INTELLECTUAL PROPERTY MATTERS

5.1 Intellectual Property Rights; Work for Hire. Vendor agrees that any work of authorship created or developed by Vendor during performance or delivery of services to the Compact, either individually or jointly with others, in the course of the rendering the Services to the Compact shall be deemed a “work for hire,” and the exclusive property of the Compact. To the extent not deemed a “work for hire” by operation of law, with respect to any invention, trade secret, or work of authorship created or developed in the course of the rendition of services to the Compact, Vendor hereby irrevocably assigns, transfers, and conveys to the Compact all of Vendor’s right, title and interest in such property, including but not limited to, all rights of patent, copyright, trade secret or other proprietary right in such property. Further, Vendor agrees to execute any documents or take any action reasonably requested by the Compact to perfect the Compact’s ownership of any such property. Vendor further agrees that, to the best of its knowledge, all work created or developed by Vendor will be original and non-infringing.

5.2 Dissemination of Information. Vendor shall not disseminate any information, reports, information, data, etc., created, prepared, assembled or obtained in performance or delivery of Installation Services to any third-party without the prior written consent of the Compact. Vendor shall not issue publicity, advertising, news releases, grant press interviews or create or distribute social media regarding the Installation Services or the Compact during or after the performance or delivery of the Installation Services without the prior written consent of the Compact.

SECTION 6 INSURANCE

Vendor shall, at its sole expense, procure and maintain, the following insurance:

(a) Until completion of the Installation Services:

i. Workers' Compensation and Employers' Liability Insurance covering *each and every worker employed in, about or upon the Installation Services*, as provided for in each and every statute applicable to the Workers' Compensation and Employers' Liability Insurance.

ii. Commercial General Liability Insurance, written on an occurrence form including coverages for Bodily Injury, Broad Form Property Damage, Personal Injury, Products/Completed Operations, Liability arising out of Subcontractors, Contractual Liability (to specifically include coverage for the indemnification clause of this Agreement), and so-called Explosion, Collapse and Underground Hazards, with minimum limits of \$1,000,000 per occurrence/\$2,000,000 per project general aggregate; \$1,000,000 aggregate for products and completed operations.

iii. Automobile Liability Insurance covering all owned, non-owned and/or hired motor vehicles to be used in connection with the Installation Services with a minimum combined single limit of \$1,000,000 bodily injury and property damage, including Form MCS-90 and Broadened Pollution Coverage via ISO form CA9948 or its equivalent.

iv. Umbrella Liability Insurance covering over underlying General Liability, Auto Liability and Employers' Liability Insurance with a minimum limit of \$5,000,000.

v. Professional Liability Insurance covering Vendor's errors and omissions relating to the Installation Services if the Installation Services involves rendering of professional advice or consultation, including designs, surveys, drawings, approval of maps, etc. Such insurance shall be provided at a limit of at least \$1,000,000. Such insurance may be maintained on a "claims made" basis but in such case it shall always be subject to a retroactive date that is effective prior to the effective date of this Agreement.

(b) After the Installation Services are complete:

i. Products and Completed Operations for limits of \$1,000,000/occurrence;

\$1,000,000 aggregate as provided by the Commercial General Liability Insurance form for three years.

ii. Professional Liability Insurance if the Installation Services involves rendering of professional advice or consultation, including designs, surveys, drawings, approval of maps, etc. with a limit of at least \$1,000,000 for three years.

The Compact reserves the right to refuse any exception to the standard limits and coverages if it is determined that the exception is not in the best interest of the Compact. Vendor's insurance companies are to be licensed as "admitted" carriers in Massachusetts with minimum acceptable A.M. Best ratings of "A" and size Class VIII, or as otherwise acceptable to the Compact, in its discretion. The Compact reserves the right of final approval of Vendor's insurance companies.

Vendor agrees to waive any rights of subrogation against the Compact, the Compact's customers, Member Municipalities, and their respective employees, subcontractors, engineers, workers and agents. Vendor shall name the Compact and its officials and employees as additional insureds on its commercial general liability insurance, automobile liability insurance and umbrella liability insurance policies.

Vendor shall not begin rendering Installation Services without first submitting to the Compact the insurance certificate(s) that indicate the coverages required by this Agreement. The insurance certificate(s) shall provide that there will be no cancellation or reduction of coverage without thirty (30) days prior written notice to Vendor and Vendor shall in turn provide at least (thirty) 30 days advance notice of cancellation to the Compact. If the policy expires prior to completion of the Installation Services, Vendor must submit replacement insurance certificate(s) prior to the policy expiration date. Failure to submit new certificates shall result in withholding payments and/or may lead to the termination of this Agreement. Vendor shall be solely responsible for tracking and reporting to the Compact the expiration of the policies shown on the insurance certificate(s) provided.

Vendor shall be solely responsible for any damage to or loss to its equipment or materials regardless of its insurance coverage.

SECTION 7 INDEMNIFICATION BY VENDOR¹ AND DAMAGES FOR BREACH

7.1 Indemnification. To the fullest extent allowed by law, Vendor (and its officers, directors, employees, servants, agents, representatives, attorneys, designated volunteers, independent contractors, successors and assigns) shall indemnify, defend,

¹ Note to Vendor: In accordance with guidance received from the Massachusetts Office of Attorney General, the Compact cannot indemnify private parties.

and hold harmless the Compact, the County, the individual Member Municipalities (and all of the respective officials, officers, directors, employees, servants, agents, representatives, attorneys, designated volunteers, independent contractors, successors and assigns of the Compact, the County, and each individual Member Municipality), and all Compact customers from and against any and all costs, claims, liabilities, damages, expenses (including reasonable attorneys' fees and expenses), causes of action, suits, and/or judgments caused by, arising out of, or related to any act or failure to act of Vendor (and/or its officers, directors, employees, servants, agents, representatives, attorneys, designated volunteers, independent contractors, successors and assigns) related to this Agreement, including, but not limited to, any failure on the part of Vendor (and/or its officers, directors, employees, servants, agents, representatives, attorneys, designated volunteers, independent contractors, successors and assigns) to perform or comply with any of the covenants, agreements, terms, or conditions contained in this Agreement on its part to be performed or complied with. Vendor's indemnification obligation includes claims related to the unauthorized use of any trade secrets, patent infringement, or trademark or copyright violation. Vendor's indemnification obligation is not limited in any way by the amount or type of damages or compensation payable by the Compact. Vendor agrees to pay all costs relating to indemnification claims, including reasonable attorneys' fees incurred in investigating and responding to claims, within thirty (30) days of receipt.

7.2 Duty to Mitigate. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

7.3 Limitations. NO PARTY HERETO SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT. Notwithstanding the foregoing, Vendor acknowledges that the preceding sentence shall not limit the Compact's rights to seek indemnification from Vendor for consequential, punitive, or incidental damages or other such losses claimed by third-parties.

7.4 No Cap on Vendor's Liability². Vendor's liability under this Agreement shall not be limited to the value of the Installation Services rendered under this Agreement; further, its liability shall not be limited by the availability of its insurance coverage.

SECTION 8 CHOICE OF LAW AND DISPUTE RESOLUTION

² Note to Vendor: The Compact does not accept liability caps as a matter of public policy, and the constitutional prohibition on providing private parties with indemnification rights may also apply to such caps.

This Agreement shall be construed under and governed by the laws of the Commonwealth of Massachusetts, without regard to its rules regarding choice of laws. Any dispute that arises regarding this Agreement that cannot be resolved by informal negotiations shall be submitted to nonbinding mediation. If the parties cannot agree upon a mediator, the Parties shall request that the American Arbitration Association, Boston, Massachusetts, appoint a mediator. Each Party shall bear its own mediation costs. Injunctive relief may be sought by either Party without resorting to mediation to prevent irreparable harm. Exclusive venue for any judicial proceeding involving a dispute arising from this Agreement shall be Barnstable County Superior Court, Massachusetts. In any judicial action, the “Prevailing Party” shall be entitled to payment from the opposing party of its reasonable costs and fees, including, but not limited to, attorneys’ fees arising from the civil action. “Prevailing Party” means the Party who most substantially prevails in its claims or defenses in the civil action. Vendor shall diligently carry on the Installation Services and maintain the project milestone schedule during any dispute resolution proceedings, unless otherwise agreed to by the Compact in writing.

SECTION 9 ASSIGNMENT AND SUBCONTRACTING

Except as expressly permitted in Exhibit D, none of the Installation Services shall be subcontracted or assigned, in whole or in part, without the prior written approval of the Compact, in its sole discretion. No subcontract or assignment shall relieve or discharge Vendor from any obligation or liability under this Agreement except as specifically set forth in the instrument of approval. Vendor shall provide prompt notice to the Compact of any such permitted proposed subcontract or assignment, together with the name and address of the assignee, and a copy of the subcontract or assignment instrument.

SECTION 10 CONFIDENTIALITY AND CUSTOMER INFORMATION

10.1 Confidentiality. Through the term of this Agreement, the Parties may share certain confidential or proprietary information with each other. The Parties agree not to use this information for any purposes other than as needed to meet their respective obligations under this Agreement and to protect such information to the same standards as each Party holds its own confidential or proprietary information. The disclosure and use of such information shall also be governed by the Non-Disclosure Agreement entered into by the Compact and the Commonwealth Electric Company d/b/a NSTAR Electric dated May 10, 2001, and acknowledged by Vendor on [insert] and any subsequent non-disclosure agreements in which the Compact is a party and that involves the Installation Services or obligations under this Agreement.

10.2 Customer Information. To the extent Vendor (or its subcontractors or any other party acting by or on behalf of Vendor) is provided or has access to Compact customer information, the following provisions apply: Vendor warrants and represents that the

Vendor and its subcontractors and all other persons or entities having access to the Compact customer information by or through the Vendor have the appropriate safeguards in place to prevent the disclosure or use of any customer information received from the Compact or its customers, and further agrees to use such information solely for the purpose of performing Installation Services for the Compact under this Agreement. Such safeguards shall include, without limitation, security policies, tools and processes restricting access to such customer information to persons on a need-to-know basis, adequately training and notifying its employees and contractors of the restrictions associated with such information, identifying and correcting any impermissible use or disclosure, and immediately reporting any such use or disclosure. Vendor also agrees to comply with all applicable state, federal and local laws, regulations, codes and policies regarding the protection of customer information, and the avoidance of theft or fraud through the improper use or disclosure of such information, including, without limitation, G.L. c. 93H and the regulations promulgated thereunder (including, without limitation, the maintenance of a Written Information Security Program in accordance with 201 C.M.R. 17.00 et seq.). Upon the request of the Compact, the Vendor shall provide the Compact with detailed information and documentation regarding such safeguards, and with certifications regarding the same by an authorized officer of the Vendor, and the Compact shall have the right to monitor and audit the compliance of the Vendor at any time with the requirements of this provision. All such customer information shall be returned to the Compact upon the Compact's request (or destroyed if so directed by the Compact), and the Vendor shall retain no copy or other record thereof. Vendor shall give immediate notice to the Compact of any incident that may cause such customer information to be disclosed or otherwise used in an unauthorized manner. Such notice shall set forth all relevant information regarding the incident, including the specific nature and extent of the disclosure/use, the measures taken and to be taken to retrieve and restore the customer information and/or to otherwise prevent the unauthorized use or disclosure of the customer information. Vendor shall, at its sole cost, cooperate fully with the Compact and, as necessary, any law enforcement, regulatory authority, insurance carrier, auditors, attorneys and other parties in the investigation and evaluation of such incident, and shall implement at its sole cost any remedial measures recommended by any such parties as approved by the Compact. The Compact customer information shall remain confidential in all circumstances.

SECTION 11 MISCELLANEOUS

11.1 Notices. All notices, demands, requests, consents or other communications required or permitted to be given or made under this Agreement shall be in writing and

if to Vendor to:

[insert]

if to the Compact to:

Margaret T. Downey
Compact Administrator
P.O. Box 427
Barnstable, MA 02630
mdowney@barnstablecounty.org (email)

Except for any notice required by law to be given in another manner, all notices, waivers, demands, or other communications required or permitted by this Agreement to be effective shall be in writing, properly addressed, and shall be given by: (i) personal delivery; (ii) established overnight commercial courier delivery service with charges prepaid or duly charged by the sender; or (iii) registered or certified mail, return receipt requested, first class, postage prepaid. Notices given hereunder shall be deemed sufficiently given on: (i) the date of personal delivery if so delivered; (ii) the day after sending if sent by established overnight commercial courier delivery service; or (iii) the fifth day after sending if sent by registered or certified mail. Either Party may additionally provide notice by electronic mail, facsimile, or telephone communication, but this shall not relieve the Party of the obligation to provide notice as specified above.

11.2 Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. To the extent any of the exhibits to this Agreement contain terms that conflict with the terms set forth in the main body of this Agreement, the language in the exhibits shall be disregarded. This Agreement may only be amended or modified by a written instrument signed by both Parties hereto.

11.3 No Joint Venture. Vendor will perform all Installation Services under this Agreement as an independent contractor. Nothing herein contained shall be deemed to constitute either Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Compact and Vendor hereunder are individual and neither collective nor joint in nature.

11.4 Joint Workproduct; Independent Counsel. This Agreement shall be considered the workproduct of both Parties hereto. Each Party acknowledges that it has been represented by independent counsel or has had the opportunity to seek counsel in connection with this Agreement and all matters pertinent to it, and each Party waives the benefit of the rules of construction providing that an agreement should be construed against its drafter.

11.5 Waiver. No waiver by either Party hereto of any one or more defaults by the other Party in the performance of any provision of this Agreement shall operate or be

construed as a waiver of any future default, whether of like or different character. No failure on the part of either Party hereto to complain of any action or non-action on the part of the other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party so failing. A waiver of any of the provisions of this Agreement shall only be effective if made in writing and signed by the Party who is making such waiver.

11.6 Records; Audit. Vendor shall maintain books, records, and other compilations of data pertaining to the requirements of this Agreement to the extent and in such detail as shall properly substantiate claims for payment under this Agreement. Vendor agrees that the Compact may audit Vendor's books, records, and other compilations of data associated with the performance of this Agreement to ascertain that the payments requested by Vendor represent the value of the Installation Services. All records shall be kept for a period of six (6) years commencing on the first day after final payment under this Agreement. 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 the completion of the action and resolution of all issues resulting therefrom, or until the end of the retention period, whichever is later.

11.7 Solicitation. Vendor shall not solicit work from a Compact customer for two (2) years following termination of this Agreement for any reason, unless Vendor can provide prove that it has a pre-existing relationship with such customer. For purposes of this subsection, "pre-existing relationship" means a relationship pursuant to which Vendor performed services for the customer prior to performing services for that customer under an energy efficiency services program run by the Compact, the Commonwealth Electric Company d/b/a Eversource Energy, or any other utility. Vendor may directly perform services for a customer if such customer has solicited Vendor. Vendor shall not engage in targeted solicitations using Compact customer information obtained as a result of its performance of the Installation Services or otherwise related to this Agreement. The prohibitions in this subsection shall not apply to general marketing campaigns of Vendor.

11.8 Headings and Captions. The headings and captions appearing in this Agreement are intended for reference only, and are not to be considered in construing this Agreement.

11.9 Political Activity Prohibited. None of the services to be provided by Vendor hereunder shall be used for any partisan political activity, to further the election or defeat of any candidate for public office, or in connection with any referendum question or legislative or grass-roots lobbying activities.

11.10 Anti-Boycott Warranty. Vendor hereby warrants that, during the term of this Agreement, neither it nor any "affiliate of the Vendor," as hereafter defined, shall participate in or cooperate with an international boycott, as defined in 26 U.S.C.A. § 999

(b) (3) and (4), or engage in conduct declared unlawful by G.L. c. 151E, § 2. An “affiliate of the Vendor” shall be any business entity of which at least 51% of the ownership interests are directly or indirectly owned by Vendor, or by a person or persons or business entity or entities that directly or indirectly own at least 51% of the ownership interests of Vendor.

11.11 Non-Discrimination in Employment and Affirmative Action. Vendor shall take affirmative action to ensure that its employees, and any member of the public eligible for service under the Energy Efficiency Plan, are treated without regard to race, color, sex, marital status, sexual orientation, age, religion, national origin, ancestry, handicap, disability, or veteran status. Vendor agrees to comply with all applicable federal, state, and local laws, rules, and regulations prohibiting discrimination in employment and in public accommodations.

11.12 Procurement Requirements. If this Agreement was procured under G.L. c. 30B, Vendor represents that it has executed all certifications required by such statute, or will provide them concurrently with execution of this Agreement.

11.13 Third-Party Beneficiaries. The County and each individual Member Municipality is an intended third-party beneficiary of this Agreement, entitled to the full rights of this Agreement.

11.14 Savings Clause. If any section, sentence, clause, or other portion of this Agreement is for any reason held invalid or unconstitutional by any court, federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

11.15 Survival of Obligations. Termination of this Agreement for any reason shall not relieve either Party of any obligation accrued or accruing prior to such termination. In addition, the terms of Section 7 (Indemnification) and Section 8 (Dispute Resolution) and any other term that by its nature should survive, shall survive the expiration of termination of this Agreement.

11.16 Counterpart Execution; Scanned Copy. This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument. The Parties agree that a scanned or electronically reproduced copy or image of this Agreement bearing the signatures of the Parties hereto shall be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of the execution, terms and existence of this Agreement notwithstanding the failure or inability to produce or tender an original, executed counterpart of this Agreement and without

the requirement that the unavailability of such original, executed counterpart of this Agreement first be proven.

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

VENDOR

CAPE LIGHT COMPACT

Signature	Signature
Print Name: _____	Margaret T. Downey
_____	Compact Administrator/Chief Procurement
Officer	

Date	Date

BARNSTABLE COUNTY, as *Fiscal Agent for the Cape Light Compact*.

Sheila Lyons
Chair

Mary Pat Flynn
Vice Chair

Leo G. Cakounes
Commissioner

Date: _____

LIST OF EXHIBITS

- Exhibit A - Field Services Vendor Scope of Work
- Exhibit B - Compensation
- Exhibit C - Background Check Policy
- Exhibit D - Pre-approved Contractors
- Exhibit E - Non-Disclosure Agreement

EXHIBIT A

FIELD SERVICES VENDOR SCOPE OF WORK

EXHIBIT B

COMPENSATION

EXHIBIT C

REQUIREMENTS FOR INSTALLER EMPLOYEE AND SUBCONTRACTOR
BACKGROUND CHECKS

The requirements set forth below shall apply to any services to be performed by Installer under the Agreement. The individuals who will perform the services under the Agreement, including employees, principals, and subcontractors are referred to herein as "Installer Employees."

These requirements for background checks represent the minimum requirements for Installer, to be undertaken at Installer' expense, excluding the cost of IICs and HPCs background checks. Additional requirements may be deemed appropriate by the Compact or Installer, or may be required by law, regulation, or other bodies having jurisdiction over the services or Installer. Installer must comply with any such additional requirements as are known or should reasonably be known by it.

To the extent Installer finds that any background check requirements are in conflict with State or Federal statutes, collective bargaining agreements, or other issues that would prohibit compliance, Installer should notify the Compact so that Installer and the Compact may discuss appropriate resolution of the issue.

Installer must complete a background check before any Installer Employee begins work under the Agreement, whether brought on at the outset of the Agreement or at any other point in the Agreement term. An Installer Employee may only begin work under the Agreement in advance of the completion of background checks with the written approval of the Compact setting forth the number of calendar days for such allowance.

Installer must be able to evidence that it has verified the identification of all Installer Employees working for the Compact and that all such individuals are legally eligible to work in the country where the services are to be performed.

Installer must ensure that all Installer Employees working under the Agreement are subjected to a criminal history background check. Such checks must be conducted on all names, including alias names that are provided or developed, and include County, State and Federal checks based on jurisdictions of work and residence for the past 7 years, as well as international jurisdictions, if available. All checks must include both misdemeanors and felonies. If the Installer has had a pre-employment criminal history check process in place and can provide documented evidence to the Compact that Installer Employees working under the Agreement have been subjected to equivalent criminal history check, then additional checks are not necessary. If Installer Employee has a felony or misdemeanor criminal record, the Compact reserves the right, in accordance with Section 2.4 (Staffing; Background Checks) of the Agreement, to require Installer to remove such Installer Employee from the work site. If at any time during the term of the Agreement, Installer becomes aware of information concerning a criminal conviction of Installer Employee that would fit the above criteria for reporting to

the Compact, Installer shall forward this information to the Compact and the Compact shall determine whether to remove the Installer Employee from the work site.

All Installer Employees required to operate a motor vehicle in conjunction with services provided to the Compact must be legally licensed and hold a valid driver's license appropriate to the vehicle being driven. This requirement applies to both Installer-owned or leased vehicles and the Compact's owned/leased vehicles. If applicable, a motor vehicle driving record check to include a commercial driver license search must be annually conducted by Installer to validate this requirement.

Installer must maintain a record of all background checks completed in accordance with these requirements and correspondence with the Compact regarding background checks performed during the term of the Agreement and shall make all such records available to the Compact upon reasonable notice.

If it is determined at any time during the term of the Agreement that Installer Employee performing services for the Compact does not meet the background qualifications set forth above, or has falsified a document that is or was part of the background check, Installer shall immediately notify the Compact. The Compact will determine if the Installer Employee should be removed from the work site.

In the event Installer would like to utilize Installer Employee to provide services under the Agreement despite adverse findings from any background check performed in accordance with these requirements, Installer must submit a request in writing to the Compact, or its designee. The Compact shall evaluate all relevant background information and, in its sole discretion, shall make a determination whether the Installer Employee should be allowed to perform services under the Agreement, and shall provide its determination in writing to Installer.

The Compact reserves the right to perform, at its sole cost, audits of Installer's background check program and records for any Installer Employee performing services under the Agreement.

The Compact reserves the right to revise these requirements at any time during the term of the Agreement, which Installer must comply with. Any revisions to these requirements will be provided in writing to Installer.

Upon written request of Installer, the Compact, in its sole discretion, may provide Installer with a written modification or waiver of any of any of the background check requirements marked above.

EXHIBIT D

PRE-APPROVED CONTRACTORS

Exhibit E

NON-DISCLOSURE AGREEMENT**CONFIDENTIALITY AGREEMENT**

between

THE CAPE LIGHT COMPACT

and

_____ **[Company]**

This CONFIDENTIALITY AGREEMENT ("Agreement") is entered into by and between the Cape Light Compact and _____, a _____ **[insert jurisdiction and state of organization]** (the "Company"), and is effective as of the date of execution by the Company as set forth below.

WHEREAS, pursuant to G. L. c. 40, § 4A, the towns of Aquinnah, Barnstable, Bourne, Brewster, Chatham, Chilmark, Dennis, Edgartown, Eastham, Falmouth, Harwich, Mashpee, Oak Bluffs, Orleans, Provincetown, Sandwich, Tisbury, Truro, West Tisbury, Wellfleet, and Yarmouth, and the counties of Barnstable and Dukes County (collectively, the "Members") entered into an inter-governmental agreement to act together as the Cape Light Compact (the "Compact");

WHEREAS, the Compact, through its agent, Barnstable County, issued a request for proposals [insert project description] (the "RFP");

WHEREAS, the Compact, for itself and for its Members, desires to supply certain confidential information to the Company so that the Company may submit a proposal in response to the RFP;

WHEREAS, the Company may also disclose certain confidential information in its proposal; and

WHEREAS, the parties desire to maintain the confidentiality of such information to the greatest extent allowed by law.

NOW THEREFORE, the parties hereby agree and state as follows:

1. *Confidential Information.* The term "Confidential Information" means all trade secrets or confidential, competitively sensitive or other proprietary information provided **[NOTE - This language mirrors the statutory language contained in the new "trade secrets" exemption to the public records definition]** by either party in connection with the RFP and/or the execution or performance of the **[INSERT ACTIVITY DESCRIPTION]** that the parties may enter into (the "Energy Activity"), whether disclosed directly or indirectly, in writing or orally, and which, if in tangible form, is marked by the disclosing party with the words "Confidential" or "Proprietary" or marking of similar import, or if disclosed orally, is identified as confidential at the time of disclosure and in a written notice delivered to the nondisclosing party promptly following disclosure. Confidential Information does not include:

- (i) information already in the possession of the nondisclosing party at the time of disclosure by the disclosing party, as long as such information was not provided by the disclosing party;
- (ii) information that is now or later becomes publicly available, unless such information becomes publicly available as a result of any action or inaction on the part of the nondisclosing party;
- (iii) information received by the nondisclosing party from a third party, unless such third party was under a duty of confidentiality with respect to such information;
- (iv) information for which disclosure is required under the Massachusetts Public Records Act, including without limitation, G. L. c. 4, §7, cl. 26 and G. L. c. 66, §10; or
- (v) information that is not designated or identified by the disclosing party as “Confidential” or “Proprietary” at the time of its initial submission. Such information shall be presumptively subject to disclosure under the Public Records Act.

2. *Use of Confidential Information.* The parties shall use the Confidential Information exclusively in connection with the Energy Activity. Each party shall receive all Confidential Information in strict confidence and shall protect the Confidential Information against disclosure using the same degree of care, but no less than a reasonable degree of care, that each party uses to protect its own confidential information.

3. *Disclosure to Third Parties.* The nondisclosing party agrees that it will not disclose any Confidential Information to any third party without the prior written consent of the disclosing party. After having obtained the written consent of the disclosing party, the nondisclosing party agree(s) that it will: (i) advise the third party of the terms of this Agreement; (ii) advise such party that it will be bound by the terms of this Agreement; and (iii) have such party execute a Non-Disclosure Certificate in the form attached to this Agreement as Exhibit A. The nondisclosing party may disclose Confidential Information only to consultants and contractors and other agents of the nondisclosing party who execute Non-Disclosure Certificates.

4. *Ownership of Confidential Information; No Implied License or Warranty.* Each party acknowledges that it has no ownership or proprietary rights in the disclosing party’s Confidential Information, and that the Confidential Information is the sole property of the disclosing party. Nothing in this Agreement will be construed as granting as rights to the receiving party by license or otherwise, to any of the disclosing party’s Confidential Information, except as specifically stated in this Agreement. Neither party makes any warranty or guaranty as to the accuracy of Confidential Information disclosed hereunder, nor is any assurance provided that Confidential Information is fit for any particular intended use or purpose. Each party shall rely on Confidential Information only at its own risk.

5. *Notes, Copies and Abstracts.* To the extent necessary to carry out the Energy Activity, the receiving party may make notes, copies or abstracts of the Confidential Information,

provided that all such notes, copies and abstracts themselves are marked as confidential and provided that the receiving party maintains a written record of the distribution of all such copies and abstracts.

6. *Return of Confidential Information.* Within fourteen days of receiving notice that it is not the winning bidder, the Company will return to the Compact all copies of Confidential Information, and will destroy all notes, copies, abstracts, documents, computer files and other media that contain Confidential Information, and will provide to the Compact a written certification of an officer of the receiving party that it has done so. If the Company is the winning bidder, within fourteen (14) days after the Company has ceased to provide services to the Compact, the Company will return to the Compact all copies of Confidential Information, and will destroy all notes, copies, abstracts, documents, computer files and other media that contain Confidential Information, and will provide to the Compact a written certification of an officer of the receiving party that it has done so. If requested in writing, the Compact will return any Confidential Information received from any bidder (including the winning bidder), upon expiration of the relevant document retention period under Massachusetts Law. **[NOTE- The current municipal retention obligation for Contracts and Bids for Contracts is SEVEN years after fulfillment of the Contract. This provision cannot be mutual due to the requirements of the Public Records Law. The Compact may have to compel return of Confidential Information by the Company because the Compact may be providing CI that it has received from another party (such as NStar).]** Each party agrees that upon the return of the Confidential Information, it shall continue to be bound by the terms of this Agreement.

7. *Scope of Agreement.* This Agreement is binding upon the employees, officers, directors, agents, representatives, attorneys, contractors and consultants and affiliates of each party. The Company understands and agrees that certain Confidential Information disclosed by the Compact may be owned by its Members and that the Compact is disclosing such information in its role as agent for the Members. The Company understands and agrees that such information shall be entitled be treated as Confidential Information under this Agreement.

8. *Consent of the Disclosing Party.* As to any instance under this Agreement whereby the nondisclosing party is required to obtain the consent of the disclosing party prior to taking certain actions, the disclosing party reserves the right to withhold consent for any reason.

9. *Term.* This Agreement shall become effective when executed by both parties and shall continue in effect until either: (i) in the event that the Company is the successful bidder, two (2) years after the Company has ceased to provide services to the Compact, or until sooner terminated by the written agreement of both parties hereto, or (ii) the event that the Company is not the successful bidder, two years after termination of the solicitation process. The obligations of confidentiality contained herein shall survive and continue following the expiration or termination of this Agreement, unless otherwise agreed to in writing by both parties hereto.

10. *Required Disclosures.* Anything in this Agreement to the contrary notwithstanding, the nondisclosing party may disclose Confidential Information to the extent that it is required to do so by law, a court, or other governmental or regulatory authorities; provided, however, that the nondisclosing party shall give the disclosing party written notice of such a required disclosure prior to making such disclosure so that the disclosing party may seek a protective order or other relief with respect to such Confidential Information, and shall limit the disclosure to the minimum required to comply with the law, court order, or governmental or regulatory

authority. Supplier acknowledges that the Compact and its Members are subject to public records laws, including without limitation, G. L. c. 4, §7, cl. 26 and G. L. c. 66, §10.

11. *Representations and Warranties.* The Compact hereby represents and warrants to the Company as follows: (i) the Compact shall use the Confidential Information only in connection with the Energy Activity; (ii) this Agreement constitutes the legal, valid and binding obligation of the Compact enforceable in accordance with its terms; and (iii) the Compact has taken all necessary action to authorize and approve the execution and delivery of this Agreement and the performance of the obligations hereunder. The Company hereby represents and warrants to the Compact as follows: (i) the Company shall use the Confidential Information only in connection with the Energy Activity; (ii) this Agreement constitutes the legal, valid and binding obligation of the Company enforceable in accordance with its terms; and (iii) the Company has taken all necessary action to authorize and approve the execution and delivery of this Agreement and the performance of the obligations hereunder. The representations and warranties contained in this Agreement shall survive execution and delivery of this Agreement.

12. *Governing Law; Enforcement.* The validity, construction and performance of this Agreement shall be governed by the laws of the Commonwealth of Massachusetts without regard to its choice of law rules. The parties agree that venue for judicial enforcement of this Agreement shall be Barnstable County Superior Court. The parties acknowledge and agree that the extent of damage to the disclosing party in the event of a breach by the nondisclosing party of any of the covenants contained in this Agreement will be difficult or impossible to ascertain and that there may be no adequate remedy at law available to the disclosing party. The parties therefore agree that, in the event of such breach, the disclosing party, in addition to receiving damages for breach, shall be entitled to enforce any and all of the covenants contained in this Agreement by injunctive or other equitable relief.

13. *Notices.* Except for any notice required by law to be given in another manner, all notices, waivers, demands, or other communications required or permitted by this Agreement to be effective shall be in writing, properly addressed, and shall be given by: (i) personal delivery; (ii) established overnight commercial courier delivery service, with charges prepaid or duly charged by the sender; or (iii) registered or certified mail, return receipt requested, first class, postage prepaid and addressed as follows:

FOR THE COMPACT:

Margaret T. Downey, Administrator
Cape Light Compact
P.O. Box 427
3195 Main Street
Barnstable, MA 02630
(508) 375-6636 (phone)
mdowney@barnstablecounty.org (email)

FOR THE COMPANY:

[insert contact information]

With a copy to:

[insert contact information]

Any party may additionally provide notice by electronic mail, facsimile, or telephone communication, but this shall not relieve the party of the obligation to provide notice as specified above.

14. *Waiver.* No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. No failure or delay by any party to insist upon strict compliance with any term of this Agreement shall be deemed a waiver of such term. No waiver or relinquishment of any right under this Agreement at any one or more times shall be deemed as a waiver or relinquishment of such power or right at any other time.

15. *Assignment; Successors and Assigns.* No party may assign any of its rights or delegate any of its obligations under this Agreement to any third party without the prior written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties hereto.

16. *Entire Agreement; Amendments.* This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the parties relating to the subject matter hereof. This Agreement may only be amended or modified by a written instrument signed by both parties hereto.

17. *Further Agreements.* Nothing contained in this Agreement shall be deemed, by implication or otherwise, to convey to the nondisclosing party any rights in any Confidential Information, nor shall this Agreement be deemed a commitment of any kind by the Compact or the Company to enter into any further agreements with respect to any Confidential Information.

18. *Severability.* If any of the provisions of this Agreement shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect the validity or enforceability of any other provision of this Agreement to the maximum extent permissible by law.

19. *No Joint Venture.* Nothing in this Agreement is intended or shall be deemed to make the Compact a partner or joint venturer of the Company.

20. *Counterpart Execution; Scanned Copy.* This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument. The parties agree that a scanned or electronically reproduced copy or image of this Agreement bearing the signatures of the parties hereto shall be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of the execution, terms and existence of this Agreement notwithstanding the failure or inability to produce or tender an original, executed counterpart of this Agreement and without the requirement that the unavailability of such original, executed counterpart of this Agreement first be proven.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates written below.

FOR THE COMPACT:

FOR THE COMPANY:

Name: Margaret T. Downey
Title: Administrator/Chief Procurement Officer
As authorized by the Barnstable County Commissioners
Dated: _____

Name:
Title:
Dated: _____

EXHIBIT A

NON-DISCLOSURE CERTIFICATE

I hereby certify my understanding that the Confidential Information, as that term is defined in the Confidentiality Agreement between the Cape Light Compact and the [Company] dated _____, 2010 (the "Agreement"), is being provided to me pursuant to the terms and restrictions of the Agreement. I also certify that I have been given a copy of the Agreement, have read its terms and conditions, and agree to be bound by them. I understand that the contents of the Confidential Information and any parts of notes, abstracts, memoranda, or any other form of information that contains such Confidential Information shall not be disclosed to anyone nor copied other than in accordance with the Agreement, and shall be used only for the limited purposes stated therein. I also agree to protect the confidential and proprietary nature asserted for the Confidential Information.

I further acknowledge that, in the event that my role as a _____ of [the Company] ceases, I shall return all copies of Confidential Information and destroy all parts of notes, memoranda, and other documents that contain such material in accordance with the Agreement, and I shall continue to be bound by the terms and conditions of the Agreement.

By: _____
Name: _____
Title: _____
Organization: _____
Representing: _____
Date: _____