

<b>COST OR PRICE SUMMARY FORMAT FOR SUBAGREEMENTS UNDER THE STATE REVOLVING FUND PROGRAM</b>	<b>SRF-90-1</b>
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**PART I - GENERAL**

1. APPLICANT City of Taunton	2. PROJECT WWTF Solids Handling Improvements Contract S-2020-3 CWSRF 6690
3. NAME OF CONTRACTOR OR SUBCONTRACTOR JK Muir, LLC	4. FEIN 26-3652124
5. DATE OF PROPOSAL October 15, 2020	
6. ADDRESS OF CONTRACTOR OR SUBCONTRACTOR 21 New Britain Avenue Rocky Hill, CT 06067	7. TYPE OF SERVICE TO BE FURNISHED Equipment Startup and Commissioning

**PART II - COST SUMMARY**

8. DIRECT LABOR (Specify labor categories)	ESTIMATED HOURS	HOURLY RATE	ESTIMATED COST	TOTAL
Project Manager	52	\$ 55.00	\$ 2,860	
Senior Engineer	60	\$ 45.60	\$ 2,736	
Project Engineer	60	\$ 36.00	\$ 2,160	
<b>DIRECT LABOR TOTAL:</b>				<b>\$ 7,756</b>
9. INDIRECT COSTS (Specify indirect cost pools)	RATE	x BASE =	ESTIMATED COST	
Audited overhead at %	1.31	\$ 7,756	\$ 10,161	
<b>INDIRECT COSTS TOTAL:</b>				<b>\$ 10,161</b>
10. OTHER DIRECT COSTS				
a. TRAVEL			ESTIMATED COST	
(1) TRANSPORTATION	1	\$ 600.00	\$ 600	
(2) PER DIEM			\$	
<b>TRAVEL SUBTOTAL:</b>			\$ 600	
b. EQUIPMENT, MATERIALS, SUPPLIES (Specify categories)	QTY	COST	ESTIMATED COST	
Miscellaneous	1	\$ 574.00	\$ 574.00	
<b>EQUIPMENT SUBTOTAL:</b>			\$ 574.00	
c. SUBCONTRACTS			ESTIMATED COST	
<b>SUBCONTRACTS SUBTOTAL:</b>			\$ -	
d. OTHER (Specify categories)			ESTIMATED COST	
			\$	
<b>OTHER SUBTOTAL:</b>			\$	
<b>OTHER DIRECT COSTS TOTAL:</b>				<b>\$ 1,174</b>
<b>11. TOTAL ESTIMATED COST</b>				<b>\$ 19,091</b>
<b>12. PROFIT</b>				<b>\$ 1,909</b>
<b>13. TOTAL PRICE</b>				<b>\$ 21,000</b>

**PART III - CERTIFICATIONS**

**14. CONTRACTOR**

14a. HAS A FEDERAL AGENCY OR A FEDERALLY CERTIFIED STATE OR LOCAL AGENCY PERFORMED ANY REVIEW OF YOUR ACCOUNTS OR RECORDS IN CONNECTION WITH ANY OTHER FEDERAL GRANT OR CONTRACT WITHIN THE PAST TWELVE MONTHS?

~~YES~~      X NO      (If "YES" give name, address, and telephone number of reviewing office.)

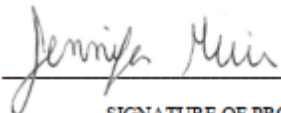
**14b. THIS SUMMARY CONFORMS WITH THE FOLLOWING COST PRINCIPLES**

Overhead rates audited in accordance with standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States. Direct rates are supportable by certified payrolls.

14c. This proposal is submitted for use in connection with and in response to (1) City of Taunton, MA Main Lift Pump Station Improvements. This is to certify that to the best of my knowledge and belief that the cost and pricing data summarized herein are complete, current, and accurate as of (2) 10/15/20

and that a financial management capability exists to fully and accurately account for the financial transactions under this project. I further certify that I understand that the subagreement price may be subject to downward renegotiation and/or recoupment where the above costs and pricing data have been determined, as a result of audit, not to have been complete, current, and accurate as of the date above.

(3) 10/5/2020  
DATE OF EXECUTION

  
SIGNATURE OF PROPOSER

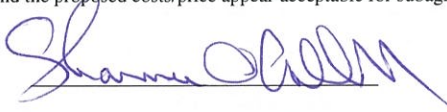
President, JK Muir

TITLE OF PROPOSER

**15. APPLICANT**

I certify that I have reviewed the cost/price summary set forth herein and the proposed costs/price appear acceptable for subagreement award.

10.13.2020  
DATE OF EXECUTION

  
SIGNATURE OF APPLICANT

MAYOR  
TITLE

**16. DEP REVIEWER (if applicable)**

\_\_\_\_\_  
DATE OF EXECUTION

\_\_\_\_\_  
SIGNATURE OF REVIEWER

\_\_\_\_\_  
TITLE



**THE COMMONWEALTH OF MASSACHUSETTS**  
**Executive Office for Administration and Finance**  
**OPERATIONAL SERVICES DIVISION**

One Ashburton Place, Suite 1017  
Boston, MA 02108-1552  
Charles D. Baker  
Governor  
Karyn E. Polito  
Lieutenant Governor  
Michael J. Heffernan  
Secretary  
Gary J. Lambert  
Assistant Secretary for Operational Services Division

August 2, 2019

Ms. Jennifer Muir  
JKMuir, LLC  
2275 Silas Deane Highway  
Rocky Hill, CT 06067

Dear Ms. Muir:

Congratulations! Your firm has been renewed as a woman business enterprise (WBE) with the Supplier Diversity Office ('SDO') under the business description of **ENVIRONMENTAL AND ENERGY ENGINEERING AND CONSULTING SERVICES TO THE ENVIRONMENTAL, WATER, AND WASTEWATER INDUSTRIES**. Your firm will be listed in the SDO Certified Business Directory and the Massachusetts Central Register under this description. **This letter serves as the sole proof of your SDO certification.** Your designation as a WBE is valid for three (3) years unless revoked pursuant to 425 CMR 2.00.

Your firm's next renewal date is August 05, 2022. SDO will send written renewal notices to your business and/or e-mail address on file approximately thirty (30) business days prior to your firm's three (3) years certification anniversary. Additionally, every six (6) years, certified companies that wish to remain certified may undergo a substantive review which will require certain updated supporting documentation.

SDO also reserves the right to monitor your firm and to perform random spot checks to ensure the firm continues to meet the certification criteria. Your firm is required to notify the SDO in writing of any material changes. Examples include but are not limited to changes in its business description, as well as business phone number, fax number, business' physical location, webpage and e-mail addresses. Other reportable changes include business structure, ownership (the business is sold or transferred), control and outside employment. You also have a duty to report decertification and debarment notices from this or any other jurisdiction. Failure to abide by the continuing duty requirements shall constitute grounds for the firm's decertification.

We look forward to working with you and your firm to maximize its business opportunities. Should you have any questions, please feel free to contact us via email at [wsdo@state.ma.us](mailto:wsdo@state.ma.us).

Sincerely,

A handwritten signature in blue ink that reads "William M. McAvoy". The signature is written in a cursive style with a large, stylized 'W' and 'M'.

William M. McAvoy  
Deputy Assistant Secretary and  
Chief Legal Counsel

## **DBE CERTIFICATION OF UNITED STATES CITIZENSHIP**

For the SRF program, under the EPA Disadvantage Business Enterprise (DBE) Rule, a DBE must be owned or controlled by a socially and economically disadvantaged person that is also a **citizen of the United States** (See 40 CFR 33.202). “Ownership” is defined at 13 CFR 124.105 and “control” is defined at 13 CFR 124.106.

DBEs are certified for the SRF program through the Supplier Diversity Office using the federal Department of Transportation (DOT) DBE rules. EPA allows the use of DBEs certified under the DOT rules as long as they are also United States citizens. To ensure compliance with the EPA rule, MassDEP must verify United States citizenship through the completion of the following form for each DBE used on the project.

SRF Project Number **6690**

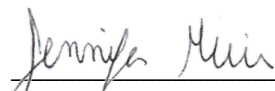
Contract Number **S-2020-3**

Contract Title **WWTF Solids Handling Improvements**

DBE Subcontractor **JK Muir, LLC**.

The undersigned, on behalf of the above named DBE subcontractor, hereby certifies that the DBE firm is either owned or controlled by a person or persons that are citizens of the United States.

**Jennifer Muir, P.E. - President**  
Printed Name and Title of DBE Signatory

  
DBE Signature

10/5/2020  
Date

## LETTER OF INTENT FOR PROFESSIONAL SERVICES

This form is to be completed by the MBE and WBE and must be submitted by the Prime Consultant as part of the proposal. A separate form must be completed for each MBE and WBE involved in the project.

Project Title: WWTF Solids Handling Improvements Project Location: Taunton, MA

TO: BETA Group, Inc.  
(Prime Consultant)

FROM: JK Muir, LLC  
(Please Indicate Status ☐ MBE or ☒ WBE)

° I/we intend to perform work in connection with the above project as (check one):


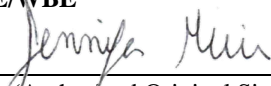
☐ An individual ☐ A partnership  
☒ A corporation ☐ A joint venture with: \_\_\_\_\_  
☐ Other (explain): \_\_\_\_\_

° It is understood that if you are awarded the contract, you intend to enter into an agreement to perform the activity described below for the prices indicated.

### MBE/WBE PARTICIPATION

Description of Activity	Date of Project Commencement	\$ Commitment	% Total Engineering Cost
Equipment Startup and Commissioning	11/1/20	\$21,000	4.6%

° The undersigned certify that they will enter into a formal agreement upon execution of the contract for the above referenced project.

<b>PRIME CONSULTANT</b>  10/13/2020 (Authorized Original Signature) Date 701 George Washington Hwy ADDRESS: Lincoln, RI, 02865 TELEPHONE #: 401-333-2382 FEIN: 05-0398907	<b>MBE/WBE</b>  10/5/2020 (Authorized Original Signature) Date 2275 Silas Deane Highway ADDRESS: Rocky Hill, CT, 06067 TELEPHONE #: 860-249-0989 FEIN: 26-3652124
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### ORIGINALS:

- ° Compliance Mgr. City/Town Project Location
- ° Mass DEP Program Manager for DEP's CRU Director

### **\* Attach a copy of current (within 2 years) SOMWBA Certification**

*If it is determined that one or more of the MBE/WBE subcontractors as submitted by the Prime Consultant on this form is not SOMWBA certified or certified by the Local Government Unit in accordance with the provisions of Executive Order 237, the Prime Consultant shall have an opportunity, following notification, to either find a certified MBE/WBE subcontractor to perform work equal to or greater than that of the uncertified subcontractor or to submit a waiver request.*

# **SUBCONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES**

**Between**

**BETA GROUP, INC.**  
*6 Blackstone Valley Place, Suite 101*  
*Lincoln, RI 02865*

**And**

*JK Muir, LLC*  
*2275 Silas Deane Highway*  
*Rocky Hill, Connecticut, 06067*

*Contract S-2020-3 WWTF Solids Handling Improvements*  
*Taunton, MA*

This **SUBCONSULTANT AGREEMENT** is made this 13<sup>th</sup> *Day of* October **2020**, between BETA GROUP, INC. hereinafter called “BETA” and **JK Muir, LLC** hereinafter called the “SUBCONSULTANT”.

BETA hereby engages the SUBCONSULTANT and the SUBCONSULTANT hereby accepts the engagement to provide **Engineering Support Services** and related professional services in connection with **Contract S-2020-3 WWTF Solids Handling Improvements**, hereinafter called the “PROJECT”.

This Subconsultant Agreement, hereinafter called “AGREEMENT” is comprised of Part I and Part II. Part I includes a general description of the type of professional services to be provided on the PROJECT. Part II contains the Terms and Conditions of SUBCONSULTANT’s AGREEMENT, which are the terms of the engagement between SUBCONSULTANT and BETA.

## **PART I**

BETA has entered into a prime agreement with **The City of Taunton, MA** hereinafter called “CLIENT” to provide certain professional services. BETA has requested that SUBCONSULTANT provide the professional services described herein.

### **SERVICES TO BE PROVIDED**

SUBCONSULTANT shall provide the professional services for *equipment startup and commissioning* as detailed in Scope of Professional Services included as Attachment A to this AGREEMENT.

### **PROJECT SCHEDULE**

SUBCONSULTANT shall provide services in a timely manner and complete all work consistent with the schedule of the construction contract. Final deliverables (field reports, sketches, etc.) shall be submitted within Sixty (**60**) calendar days of the completion of field services.



## COMPENSATION

SUBCONSULTANT shall be compensated as follows:

### Time and Materials Basis Using Billing Rates

For the services performed under this AGREEMENT, BETA will pay the SUBCONSULTANT on a time-charge plus expense basis, monthly as charges accrue, a not to exceed amount of **\$21,000**.

Approved Hourly Billing Rates shall be as shown on Attachment B – Subconsultant Billing Rates

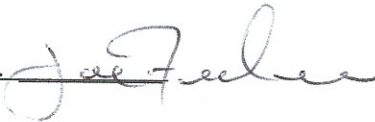
Monthly invoices shall reflect costs incurred (direct labor, indirect labor costs, and direct costs) during the billing period. If additional work beyond the budget is required, BETA shall be contacted for approval prior to proceeding. No additional services shall be provided without the specific written authorization of BETA.

Reimbursable expenses will be billed at a multiplier of **1.0**.

If this AGREEMENT is acceptable, please sign and date below, and return one (1) copy.

### BETA GROUP, INC.

By: Joseph Federico, P.E.



Title: Sr. Vice President

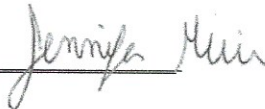
Date: 10/13/2020

### SUBCONSULTANT ACCEPTANCE

**JK Muir, LLC** agrees with Part I which includes the general description of the types of professional services to be provided and details of the authorization and performance of services under individual project assignments. Part II includes the Subconsultant Terms and Conditions (attached hereto and acknowledged as being received) under which the services are to be provided. Together with the individual letters of authorization issued by BETA for individual assignments, they constitute the entire AGREEMENT between BETA and **JK Muir, LLC**

### JK Muir, LLC

By: Jennifer Muir, P.E.



Title: President

Date: 10/5/2020



## **PART II**

### **BETA Group, Inc. SUBCONSULTANT TERMS AND CONDITIONS**

The engagement of SUBCONSULTANT by BETA Group, Inc. (BETA) is subject to the following terms and conditions, which are an integral part of the collective agreement between SUBCONSULTANT and BETA.

#### **ARTICLE 1 – PRIME AGREEMENT**

- 1.1 SUBCONSULTANT is bound in the same manner and extent as is BETA to all the applicable provisions of the prime agreement between BETA and its CLIENT.
- 1.2 The Agreement represents the entire and integrated agreement between BETA and SUBCONSULTANT with respect to its subject matter and supersedes all prior negotiations, representations, proposals or agreements, either written or oral. The agreement may be amended only by written instrument signed by both BETA and SUBCONSULTANT.
- 1.3 SUBCONSULTANT certifies that it does not maintain, and will not maintain nor provide for its employees, facilities which are segregated on the basis of race, color, religion, or national origin.

#### **ARTICLE 2 – SERVICES OF THE SUBCONSULTANT**

- 2.1 By entering into this Agreement SUBCONSULTANT represents that it is willing and qualified to provide the professional services herein described (the "Services"). SUBCONSULTANT shall perform the Services with reasonable diligence and expediency consistent with sound professional practice. Timely performance of the Services is of the essence of this Agreement.
- 2.2 It is understood and agreed that SUBCONSULTANT shall perform all services under this Agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. SUBCONSULTANT shall be solely responsible for the methods and means used in performing the professional services herein described, and is neither an employee or agent of, nor a joint venture with, BETA.
- 2.3 All services and work set forth in this Agreement shall commence upon receipt of a signed contract by BETA or a written notice to proceed issued to SUBCONSULTANT by BETA.
- 2.4 Requests for additional services not described herein must be made and authorized in writing prior to commencement of any work related to such additional services. Should SUBCONSULTANT perform said services without prior authorization, SUBCONSULTANT will not be entitled to receive any additional compensation therefore.

#### **ARTICLE 3 – PAYMENTS TO SUBCONSULTANT**

- 3.1 Invoices may be submitted by SUBCONSULTANT not more than once monthly. BETA will submit SUBCONSULTANT's invoice together with its invoice to the CLIENT on BETA's regularly scheduled invoicing cycle. BETA will pay each invoice received from SUBCONSULTANT within 15 days of receipt of payment from BETA's CLIENT. It shall be a condition precedent to BETA's obligation to make payments or reimbursements to SUBCONSULTANT that BETA shall first have received payment from BETA's CLIENT for the Services covered by SUBCONSULTANT's invoice, and SUBCONSULTANT agrees to

look only to the amounts actually received by BETA from its CLIENT as the source of payments or reimbursement. In case of partial payment by BETA's CLIENT, SUBCONSULTANT shall be paid proportionately. BETA shall make reasonable efforts to obtain payment from its CLIENT on account of SUBCONSULTANT's invoices. BETA reserves the right to defer or refuse to pay any invoice or payment, or part thereof, if in its opinion, the amount submitted is not in reasonable proportion to the percentage of services completed by SUBCONSULTANT. Invoices shall be submitted in a format acceptable to BETA and its CLIENT.

- 3.2 Should BETA's CLIENT elect to withhold retainage from payments to BETA, then BETA shall have the right to withhold the same percentage of retainage from BETA's payments to SUBCONSULTANT.
- 3.3 SUBCONSULTANT shall submit invoices no later than 60 days after the close of the monthly billing period during which costs are incurred. All invoices should be submitted to BETA via e-mail at [AP@BETA-Inc.com](mailto:AP@BETA-Inc.com). If SUBCONSULTANT prefers, hard copies of invoices should be mailed to BETA's corporate office at the following address:

BETA Group, Inc.  
Attn: Accounts Payable  
PO Box 9  
Albion, RI 02802-0009

- 3.4 Final payment to SUBCONSULTANT for the Services, and acceptance of the payment by SUBCONSULTANT upon completion or termination of this Agreement, shall release and forever discharge BETA from all claims, demands, and liabilities of every nature relating to payment for SUBCONSULTANT's Services.
- 3.5 SUBCONSULTANT shall keep records on a generally recognized accounting basis of its personnel expenses, employees' and principals' time, and any other expenses incurred by SUBCONSULTANT in connection with the performance of Services for this project. These records shall be available to BETA or its authorized representative at reasonable times.

#### **ARTICLE 4 – INSURANCE**

- 4.1 SUBCONSULTANT agrees to provide at its own expense the following minimum insurance coverages, or as required by the prime agreement, whichever is greater, for the duration of this Agreement:
- 4.1.1. Workmen's compensation and employer's liability insurance in accordance with statutory limits.
- 4.1.2. Aircraft liability insurance owned/non-owned in an amount not less than \$5,000,000 (when applicable).
- 4.1.3. Comprehensive general liability insurance including products completed, contractual, property and personal injury coverage with combined single limits of \$1,000,000 for each occurrence and aggregate amount. Coverage must also include XCU and pollution liability coverage when applicable.
- 4.1.4. Automobile liability insurance including non-owned and hired autos with the following limits:

Bodily injury	\$500,000 each person
	\$500,000 each occurrence
Property damage	\$100,000 each occurrence

- 4.1.5. Excess liability coverage, umbrella form, in an amount not less than \$1,000,000.
- 4.1.6. Professional liability insurance for negligent acts, errors or omissions of SUBCONSULTANT made in connection with the performance of Services for this project, in the amount of not less than \$1,000,000. Such insurance must be maintained in force for the greater of (i) three (3) years following acceptance of all work under this Agreement or (ii) such longer period as is specified in the prime agreement.
- 4.1.7. BETA and its CLIENT shall be named as "additional insured's" on all policies except Worker's Compensation and Professional Liability insurance.
- 4.2 SUBCONSULTANT shall provide BETA with a certificate of insurance as evidence of the above described coverage prior to commencing Services under this Agreement. Such Certificate shall clearly identify the specific project for which the certificate is being issued and shall contain language requiring a minimum of thirty (30) days written notice before coverage can be changed.

#### **ARTICLE 5 – STANDARDS OF PERFORMANCE**

- 5.1 SUBCONSULTANT shall be responsible for the quality, technical accuracy and coordination of all designs, drawings, specifications and all other services furnished by SUBCONSULTANT under this Agreement. SUBCONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications and other services performed by SUBCONSULTANT in connection with its performance of the Services.
- 5.2 Neither BETA's review, approval or acceptance of, nor payment for, any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of performance of Services of this Agreement; and SUBCONSULTANT shall be and remain liable to BETA in accordance with applicable law for all damages to BETA caused by SUBCONSULTANT's performance of the Services furnished under this Agreement.

#### **ARTICLE 6 – OWNERSHIP AND USE OF DOCUMENTS**

- 6.1 All drawings, specifications, information or data prepared by or furnished by SUBCONSULTANT in connection with any or all work to be performed under this agreement shall be the property of BETA. All documents, including those stored on electronic or magnetic media of any format shall be immediately forwarded to BETA upon request.
- 6.2 All documents, information and other data furnished by SUBCONSULTANT under the terms of this agreement shall be delivered to and become the property of BETA.
- 6.3 SUBCONSULTANT shall not divulge any proprietary or confidential information or material of either BETA or BETA's CLIENT without BETA's prior written consent.
- 6.4 No publicity releases including news releases, presentations, articles, papers and advertising pertaining to this Agreement or the Services hereunder shall be issued by the SUBCONSULTANT without the prior written approval of BETA.

#### **ARTICLE 7 – RETENTION OF RECORDS**

- 7.1 Unless a longer period is required by the CLIENT, or is set forth in the BETA's Agreement, the SUBCONSULTANT agrees that BETA or the CLIENT shall, until the expiration of **Seven (7)** years after final payment under this Agreement, have access to and the right to examine and copy any books, documents, papers and records directly related to this Agreement which have

not been previously delivered to BETA. The period of access and examination of records shall continue during litigation and until settlement of any claims arising out of the performance of this Agreement.

## **ARTICLE 8 – TERMINATION**

- 8.1 Termination for Convenience. Either party may terminate this AGREEMENT at any time by giving fourteen (14) calendar days prior written notice to the other party of such termination. In the event that BETA's contract with its CLIENT is terminated, this AGREEMENT shall simultaneously terminate. In the event of termination, SUBCONSULTANT shall receive compensation for Services satisfactorily performed and accepted by BETA to the date of termination, provided that BETA receives payment for such Services from its CLIENT. In no case shall SUBCONSULTANT be entitled to make a claim for lost profits or damages in the event of termination.
- 8.2 Termination for Cause. Should the SUBCONSULTANT breach any portion of this Agreement, BETA shall have the rights and remedies provided by law and those provided under this Agreement. Further, BETA shall have the right at any time to terminate this Agreement, in whole or in part, if the SUBCONSULTANT fails to perform any of its obligations: or, if the SUBCONSULTANT fails to give to BETA adequate assurance of performance within fourteen (14) calendar days after receipt of BETA's written request for such assurances. In the event of a breach of this Agreement, including SUBCONSULTANT's failure to provide adequate assurance of performance, BETA may:
- Declare the SUBCONSULTANT to be in default; or,
  - Cancel this Agreement in whole or in part; or,
  - Withhold payment of any further funds which may be due the SUBCONSULTANT, until the default is corrected, and/or
  - Pursue any and all other remedies afforded by law.
- 8.3 BETA shall have the right to suspend all or any part of the Services at any time and for any reason by written notice to SUBCONSULTANT. SUBCONSULTANT shall have the right to terminate the agreement upon ten days prior written notice to BETA only upon BETA's substantial breach of the agreement, provided there has been no breach by SUBCONSULTANT. In case of suspended Services, SUBCONSULTANT shall promptly recommence any suspended Services when and to the extent directed in writing by BETA.
- 8.4 Promptly upon termination of the Agreement for whatever reason, SUBCONSULTANT shall deliver to BETA all documents and materials received by SUBCONSULTANT in connection with the project, whether completed or not.

## **ARTICLE 9 – ALLOCATION OF RISKS**

- 9.1 Either party shall defend and indemnify, save and hold harmless the other party, its CLIENT, and their officers, agents and employees from suits, actions, legal proceedings, claims, damages, liabilities, costs and expenses, including attorney's fees arising out of any claims, damages, personal injuries, property losses, and/or economic or other damages sustained by or alleged to have been sustained by any person or entity, to the extent caused by the negligent acts, errors or omissions of SUBCONSULTANT or BETA, its agents, employees or subcontractors in connection with the performance of Services for this project.
- 9.2 If BETA incurs any expense, including attorneys' fees, in connection with actions or proceedings brought or joined by BETA to enforce any provision, duty or obligation of

SUBCONSULTANT under this Agreement, SUBCONSULTANT shall compensate BETA for, and shall indemnify and hold BETA harmless against, all damage, loss, cost, or expense of enforcement.

## **ARTICLE 10 – MISCELLANEOUS**

### **10.1 Survival**

10.1.1 All duties and obligations of SUBCONSULTANT which, by their nature, extend beyond the period of time during which the Services are performed shall survive the completion of the Services and/or the termination of the Agreement for any reason.

### **10.2 Severability**

10.2.1 If any of these conditions shall be determined to be invalid or unenforceable in whole or part, the remaining provisions shall remain in full force and effect, and be binding upon the parties hereto.

### **10.3 Waiver**

10.3.1 None of these terms and conditions, duties and obligations or other parts of the agreement shall be considered waived by BETA, nor shall any action or failure to act by BETA constitute a waiver unless reduced to written form and signed by BETA. No waiver shall be construed as a modification of or an amendment to any of the provisions of this Agreement or as an acquiescence in any past or future default or breach of this Agreement unless expressly stated in writing by BETA.

### **10.4 Successors, Assigns and Beneficiaries**

10.4.1 SUBCONSULTANT binds itself, its partners, successors, assigns, and legal representatives to BETA and to the partners, successors, assigns, and legal representatives of BETA with respect to all terms and conditions of this Agreement.

10.4.2 SUBCONSULTANT shall not subcontract, sell, transfer, assign, or otherwise dispose of this Agreement or any portion thereof, or the work provided for therein, or of its right, title, or interest therein, to any person, firm, partnership or corporation without the prior written approval of BETA.

### **10.5 Controlling Law**

10.5.1 Unless otherwise specified, this Agreement shall be governed by, and interpreted, construed and enforced in accordance with, the laws of the State of Rhode Island, State of Connecticut, Commonwealth of Massachusetts provided, however, that if under the law governing the prime agreement the applicable statute of limitations period is longer than that under the laws of the State of Rhode Island, State of Connecticut, Commonwealth of Massachusetts the longer period shall govern.

### **10.6 Certifications**

10.6.1 If BETA's CLIENT, any financing institution, private party, or public agency requests BETA or SUBCONSULTANT to provide any certification, approval, statement or representation with respect to the Services (collectively referred to as "Certifications"), then at BETA's election SUBCONSULTANT shall either promptly execute and deliver to the requesting party the Certifications that are required or shall promptly execute and deliver to BETA Certifications substantially similar in content to those requested of BETA and in a form as determined by BETA.

10.7 Protection of Personal Information

10.7.1 To the extent that the work under this Agreement requires SUBCONSULTANT to have access to personal information (defined as “an individual’s first name or first initial and last name in combination with any one or more of the following data elements, including but not limited to: social security number, driver’s license number, or financial account number, or credit or debit card number), SUBCONTRACTOR shall after receipt thereof, treat such personal information as confidential and safeguard such information from unauthorized use and disclosure.

10.8 Debarment

10.8.1 SUBCONSULTANT certifies that it is not listed as debarred or suspended on the Debarment Lists maintained by any local, state or federal agency. Furthermore, SUBCONSULTANT confirms that it will review the Debarment Lists and not knowingly solicit or consider bids, contract or negotiate with, or approve a subcontract with any vendor listed as debarred or suspended on the Debarment Lists referenced above.

*End of Subconsultant Terms & Conditions*

## **Attachment A**

### **Scope of Professional Services**

The scope of services is as follows:

1. The subconsultant shall provide equipment commissioning and startup services on an on-call basis.
2. The subconsultant's inspector shall report to BETA's project manager.
3. Prior to the start of inspections, the subconsultant shall provide:
  - Resumes (with photo) of each individual to be used on the project.
  - A primary point of contact (Name, cell #, and email address).
4. BETA will provide forms for all reports to be completed by subconsultant. Subconsultant shall provide data entry.
5. Subconsultant's responsibilities may include, but are not limited to:
  - a. Witnessing factory acceptance testing for equipment
  - b. Witnessing manufacturer's field testing and startup of equipment
  - c. Testing and inspection of equipment on site.
  - d. Completing reports on startup and testing activities.
6. Inspectors shall attend project meetings as necessary.



**Attachment B**  
**Subconsultant Billing Rates**