

# Recreation Energy Conservation Program Terms and Conditions

## 1.0 Program Overview

Recreation facilities typically use more energy and produce more greenhouse gas (GHG) emissions than other municipal facilities. The Recreation Energy Conservation (REC) program helps municipally-owned recreation facilities reduce energy use and GHG emissions by providing financial rebates to help identify energy-saving opportunities and implement energy-saving projects. Through REC, municipalities can receive rebates for scoping audits and engineering studies that support investment decisions in addition to rebates for energy efficient retrofits in their recreation facilities.

By signing an Offer Letter for a Scoping Audit, Engineering Study or Implementation Project Rebate, the Municipality acknowledges and agrees to the following (collectively, “**Terms and Conditions**”):

## 2.0 Definitions

In these Terms and Conditions, the following terms shall have the following meanings:

- a. “**Application**” means the complete submission of an eligible Project for which the Municipality is seeking a funding contribution from the MCCAC through the REC program;
- b. “**AUMA**” refers to the Alberta Urban Municipalities Association;
- c. “**Contractor**” means a person or company operating in the Province of Alberta that is duly-qualified to carry out any or all of the activities involved in the design, procurement, construction, or installation of ECMs as they pertain to REC Projects;
- d. “**Engineering Study**” means the in-depth, investment-grade report prepared by a Program Ally that analyzes the feasibility of large capital energy efficiency projects including an assessment of GHG savings and project economics, for which funding is requested by the Municipality through an Application;
- e. “**Environmental Attributes**” means emission offsets, renewable energy certificates, renewable energy credits, and any and all other current or future credits, benefits, emissions reductions, offsets or allowances, however entitled, named, registered, created, measured, allocated or validated that are at any time recognized or deemed of value, or both, by any buyer, applicable law, or any voluntary or mandatory program of any government or other person and that are attributable to generation by the Project and the emissions or other environmental characteristics of such generation or its displacement of conventional or other types of energy generation through the avoidance of environmental impacts on air, soil or water, including but not limited to the emission of greenhouse gases.
- f. “**Energy Conservation Measures**” or “**ECMs**” are defined as measures that reduce energy use and associated GHG emissions through the installation of equipment upgrades, process improvements, operating procedures and/or maintenance procedures at eligible municipally-owned recreation facilities as referenced in Section 2.3.4 of the REC Guidebook for which funding is requested through an Application;
- g. “**Implementation Project**” means the construction, or installation of ECMs, for which funding is requested by the Municipality through an Application;
- h. “**Installed Incentivized Equipment and Products**” include equipment and/or products installed, improved, or otherwise upgraded under the Terms and Conditions of this agreement and for which Implementation Project Rebates have been paid to the Municipality by MCCAC;
- i. “**Municipal Climate Change Action Centre**” or “**MCCAC**” refers to the administrator of the Community Energy Efficiency and Renewable Energy Project which includes the Recreation Energy Conservation program, among others. For clarity, all references and entitlements to, and obligations of, the MCCAC herein are the entitlements and obligations of AUMA, since the MCCAC is not a separate legal entity. However, the MCCAC is specifically referred to herein in light of its specific operational mandate and for clarity to the Municipality as to the point of contact;

- j. **“Municipality”** means the contracting party defined as “Municipality” within the province of Alberta, under the entitlements and obligations of the AUMA. As per Section 1(1)(s) of the *Municipal Government Act*, RSA 2000 c M-26, as amended from time to time, a “municipality” is defined as a city, town village, summer village, municipal district or specialized municipality;
- k. **“Offer Letter”** means the letter sent to a participating Municipality that outlines the pre-approved Rebate amount for the applicable Work;
- l. **“Program Ally” or “Program Allies”** means a person or company contracted by the Municipality that is duly-qualified to carry out and deliver a Scoping Audit and/or an Engineering Study for the REC program and has been selected from the Program Allies list;
- m. **“Project”** means the preparation of a Scoping Audit, an Engineering Study, or the construction, or installation of an Implementation Project, as applicable, for which funding is requested through a single Application;
- n. **“Rebate”** means the monetary value in Canadian Dollars, provided to the Municipality from the MCCAC for the completion of an eligible Project adhering to these Terms and Conditions;
- o. **“REC program”** means the Recreation Energy Conservation program;
- p. **“REC Guidebook”** means the Recreation Energy Conservation guidebook developed by the MCCAC, as amended from time to time, to be used and referred to by the participating Municipalities for eligibility requirements, financial Rebates, and program participation processes;
- q. **“Scoping Audit”** means the report prepared by a Program Ally in order to identify, estimate, and recommend potential GHG reductions and energy-savings from measures throughout the facility, for which funding is requested by the Municipality through an Application;
- r. **“Third-Party Administrator”** means the third-party program administrator that will interact with the participating Municipality throughout the program on behalf of the MCCAC;
- s. **“Work”** describes all activities required for the completion of the Project for which the Municipality is seeking a funding contribution from the MCCAC, and includes the preparation of a Scoping Audit and/or an Engineering Study as well as the construction, or installation of an Implementation Project.

### 3.0 Requirements for Participation

These requirements apply to all participants in the MCCAC REC program for projects that identify energy saving opportunities, and the implementation of measures that reduce energy use and associated GHG emissions by municipally-owned recreation facilities operating within the Province of Alberta. REC may be implemented by MCCAC and/or a Third-Party Administrator.

Municipally-owned recreation facilities such as arenas, curling rinks, aquatic centres, swimming pools, multiplexes, dry sports centres, and any other recreation-oriented facility referenced in Section 2 of the REC Guidebook, operating within the Province of Alberta are eligible to apply for a Scoping Audit, an Engineering Study, and Implementation Project Rebates. More details including eligible projects, eligible measures, and Rebate rates can be found on the REC website at [www.mccac.ca/programs/REC](http://www.mccac.ca/programs/REC).

- a. The Municipality and its subject facility meet the REC program eligibility as described in these Terms and Conditions and as referenced in Section 2 of the REC Guidebook.
- b. The Municipality represents and agrees that all information submitted to MCCAC under these Terms and Conditions is true and that the Municipality has meets all requirements communicated to it by MCCAC or set out in these Terms and Conditions and the REC Guidebook.
- c. The Municipality agrees to provide full support to meet all timelines and requirements of the REC program and complete the Project. The Municipality is responsible for ensuring their Project and all associated Work is completed within 12 months of the date listed on the executed Offer Letter.

- d. The Municipality agrees that any future work completed to implement recommendations such as the design, selection, installation, and operation of equipment related to the Scoping Audits and Engineering Studies through a Program Ally, or otherwise, are the sole responsibility of the Municipality.
- e. The Municipality agrees that any agreements or arrangements between the Municipality and a Contractor, in relation to the design, procurement, construction or installation of the Implementation Project or supplying product or completing Work on behalf of the Municipality, shall be at the Municipality's sole risk and the Municipality shall be solely responsible to pay all amounts owing to the Contractor in relation to the Project or otherwise.
- f. Rebates provided pursuant to these Terms and Conditions cannot be used in combination with any other MCCAC offer, rebate or incentive, or any other funding through the Alberta Climate Leadership Plan. The Municipality agrees to immediately disclose to the MCCAC both the Municipality's intention to participate as well as the actual participation in any other government programs (federal or provincial) through which any funding towards the cost of the Project is being pursued. While the Municipality is eligible to access other non-Climate Leadership Plan government programs for funding towards the cost of the Project, the Municipality agrees and acknowledges the maximum amount of combined funding towards the cost of the Project from all sources shall not and can not exceed the total eligible costs of the Project.
- g. Rebates are available exclusively for new Installed Incentivized Equipment and Projects. The Municipality agrees that its Application will not include refurbished or repurposed equipment. To be eligible for REC funding, the ratio of installed cost to lifetime GHG emissions reduced for each ECM will be reviewed and must be below \$250/tonne CO<sub>2</sub>e. MCCAC reserves the right to deny funding to ECMs that exceed this cap.
- h. Equipment or products installed as part of the Project must be installed at an eligible municipally-owned facility within the Province of Alberta and Installed Incentivized Equipment and Products must reduce energy use resulting in GHG emission reductions.
- i. Rebates for a Scoping Audit or Engineering Study are available at a subject facility that has not undergone similar audits, studies or investigations within the previous 24 months.
- j. Applications for Rebates must be submitted and be pre-approved in writing by the MCCAC before equipment is ordered, resources are hired, contracted and/or retained to complete the defined scope of work for the Project. To determine eligibility relative to this requirement, the system time-stamp and date from the application portal of the application's pre-approval will serve as the effective date. The Municipality must immediately notify the Third-Party Administrator of any changes to the Application including project scope, costs or otherwise, and any such changes must be approved by the MCCAC in writing prior to the consideration and provision of any funding.
- k. Upon completion of a Scoping Audit or Engineering Study, the Municipality must submit required documents including final invoices, proof of payment, and a final copy of the Scoping Audit or Engineering Study report. MCCAC and its Third-Party Administrator reserves the right to verify proof of payment by requesting additional information.
- l. Upon completion of an Implementation Project, the Municipality must submit a proof of purchase and other required documentation in Section 4 of the REC Guidebook via the application portal. Proof of purchase includes invoice(s) indicating the size, type, manufacturer, model or part number, serial number, purchase date, and vendor of the proposed Installed Incentivized Equipment and Products related to the Implementation Project Rebate. Submitting an application form with incomplete or missing information that is required as completion documentation described in Section 4.0 of the REC Guidebook will delay processing of payment.
- m. Where required by MCCAC to support the review of an application, the Municipality will provide MCCAC or its Third-Party Administrator with reasonable access to the facility to inspect the proposed Installed Incentivized Equipment and Products. MCCAC reserves the right to withhold, revise or reclaim any Rebate until it has performed a satisfactory post-installation verification, inspected installed measures, and verified the energy savings achieved. The Municipality agrees to remedy any issue arising from auditing and monitoring results at no additional cost to MCCAC and within the timeframe provided by MCCAC and/or its Third-Party Administrator. Rebates may be withheld and not paid if the Municipality does not agree to participate in any required report

revision or verification within the timeframe provided by MCCAC. The Municipality will repay to MCCAC on MCCAC's request any Rebate that was paid prior to an unsatisfactory post-installation verification.

- n. If the project is found by MCCAC to not match the documentation provided during application for pre-approval, during an on-site visit or otherwise, the Municipality agrees to immediately return any Rebate payments received by it with respect to the Project to MCCAC.
- o. The Municipality shall immediately refund to the MCCAC any payment received under the REC program not in accordance with the REC Guidebook and these Terms and Conditions upon notice being provided to the Municipality by the MCCAC. Failure to make repayment as required by the MCCAC creates a debt owing to the Government of Alberta that can be set-off against any money the Government of Alberta owes to the Municipality.
- p. All measures will be installed in accordance with all applicable federal, provincial and local laws along with manufacturer's specifications.
- q. Rebates provided by MCCAC pursuant to these Terms and Conditions are subject to change at any time without notice to the Municipality.
- r. The payment of a Rebate by MCCAC is dependent upon availability of funds and the distribution of incentives across Alberta. MCCAC reserves the right to deny any application made pursuant to these Terms and Conditions for any reason including MCCAC exceeding its program budget. An executed Offer Letter will reserve funding for the associated Project.
- s. MCCAC may at its sole discretion, approve or reject any application for a Rebate at any time.
- t. If the Municipality provides any false, misleading, or incomplete information under the REC program, the Municipality shall forgo all rights to benefit from the REC program.
- u. Rebates rates and limitations of REC are set out under the Programs tab of [www.mccac.ca](http://www.mccac.ca), and in the REC Guidebook. The Municipality and/or its Contractors are responsible for all costs associated with sales tax and disposal/recycling. For greater certainty, the Municipality is responsible for any tax liability or other fees arising from its receipt of a Rebate payment from MCCAC.
- v. Rebates will only be paid directly to the Municipality and the signatory of the Offer Letter must be a Municipal Representative.

#### 4.0 Legal Terms and Conditions

- a. MCCAC AND ITS THIRD-PARTY ADMINISTRATOR DO NOT ENDORSE, GUARANTEE, OR WARRANT ANY PARTICULAR MANUFACTURER OR PRODUCT AND MCCAC AND ITS THIRD-PARTY ADMINISTRATOR EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESSED, OR IMPLIED, FOR ANY PRODUCTS OR SERVICES WHETHER DEEMED BY MCCAC OR ITS THIRD-PARTY ADMINISTRATOR TO BE "ELIGIBLE" OR NOT. MCCAC AND ITS THIRD-PARTY ADMINISTRATOR DO NOT EXPRESSLY OR IMPLICITLY WARRANT THE PERFORMANCE OF INSTALLED EQUIPMENT OR ANY SERVICE PROVIDER OR INSTALLATION CONTRACTOR'S QUALITY OF WORK. MCCAC AND ITS THIRD-PARTY ADMINISTRATOR DO NOT MAKE ANY REPRESENTATIONS OF ANY KIND REGARDING THE RESULTS TO BE ACHIEVED BY THE ENERGY-SAVING MEASURES OR THE ADEQUACY OR SAFETY OF SUCH MEASURES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- b. MCCAC's and its Third-Party Administrator's sole liability hereunder is limited to paying the properly qualified Rebates specified herein. Neither the AUMA, the MCCAC, its Third-Party Administrator, or any of their directors, officers, consultants, agents, servants or their respective successors and assigns will have any liability whatsoever or howsoever to the Municipality, or any of its employees, representatives, directors, or officers, or any of them, in connection with these Terms and Conditions, the Project or any application submitted to MCCAC under these Terms and Conditions.

- c. Neither AUMA, the MCCAC, its Third-Party Administrator nor any of their affiliates are or will be liable to the Municipality or to any other party for a Contractor's failure to perform, for failure of the Installed Incentivized Equipment and Products to function, for any damage to the Municipality's premises caused by the Contractor, or for any and all damages to property or injuries to persons caused by or arising from any activities associated with the REC program.
- d. No Claims. The Municipality will not make a claim against MCCAC, its Third-Party Administrator, or either of their directors, officers, consultants, agents, servants or their respective successors and assigns for any reason whatsoever or howsoever relating to these Terms and Conditions.
- e. Disclaimer. MCCAC and the Third-Party Administrator take no responsibility for the accuracy of the information supplied during the application process by MCCAC, its Third-Party Administrator, or either of their directors, officers, consultants, project advisors, agents, servants or their respective successors and assigns.
- f. The Municipality will not register or claim any Environmental Attributes generated by the Project. The Municipality will not transfer or assign any right, titles and interests, if any, all Environmental Attributes generated by the Project to any person. The Municipality warrants that no Environmental Attributes generated by the Project have been claimed, sold or otherwise transferred to a third party and that no other person has any claim to or ownership of the Environmental Attributes generated by the Project.
- g. From the date of pre-approval of the application until five years after the last Rebate date, the Municipality shall not sell, lease, or otherwise dispose of, directly or indirectly, any Installed Incentivized Equipment and Products to any entity, without the prior written approval of MCCAC, which may be reasonably withheld. The Municipality may be required to reimburse the Government of Alberta via MCCAC, any funds received from MCCAC, if at any time within five years from the last Rebate date, the Municipality sells, leases, or otherwise disposes of, directly or indirectly, any Installed Incentivized Equipment and Products, purchased, acquired, constructed, rehabilitated, or renovated, in whole or in part, as a result of or in connection with REC.
- h. The Municipality consents to allow the MCCAC to use any data and information related to the Project for reporting and other purposes, including to showcase key aspects of the Project on public MCCAC marketing materials. MCCAC reserves the right to publicize the Municipality's participation in REC. Prior to issuing payment, the MCCAC reserves the right to request that the Municipality complete activities to advance Project profile including: issuing a media release for the Project, supplying high resolution photographs, writing a brief abstract describing the Project with one or more quotes from Municipal leaders to be used for MCCAC program marketing, or conducting other public engagement activities deemed appropriate by the MCCAC.
- i. Failure of the Municipality to comply with any aspect of these Terms and Conditions may result in the Municipality being barred from future participation in any and all MCCAC programs for any period of time and to full repayment of any Rebates provided pursuant to these Term and Conditions. .
- j. Miscellaneous. These Terms and Conditions shall be governed by and construed under the laws of the Province of Alberta, without regard to conflict of law rules. Any dispute or claim that relates to the REC program or these Terms and Conditions, their interpretation or breach, or to the existence, scope, or validity of these Terms and Conditions or this arbitration provision, will be referred to and finally determined by arbitration in accordance with the JAMS International Arbitration Rules and judgment upon the award rendered pursuant to such arbitration may be entered in any court with jurisdiction. The parties acknowledge that mediation helps parties settle their disputes and any party may propose mediation whenever appropriate through JAMS International or any mediator selected by the parties. If any provision of these Terms and Conditions is invalid or unenforceable in any jurisdiction, the other provisions shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to effectuate the purpose and intent of these Terms and Conditions. The invalidity or unenforceability of any provision of these Terms and Conditions in any jurisdiction shall not affect the validity or enforceability of any such provision in any other jurisdiction. The failure of any party to enforce strict performance by the other of any provision of these Terms and Conditions, or to exercise any right available to a party, shall not be construed as a waiver of such party's right to enforce strict performance in the same or any other instance.