

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE SUMMIT CREDIT UNION
AND
THE CITY OF MILWAUKEE
REGARDING THE WISCONSIN ENERGY EFFICIENCY PROJECT AND THE
MILWAUKEE ENERGY EFFICIENCY PROGRAM
DURING THE POST-GRANT PERIOD**

THIS Memorandum of Understanding (hereinafter, “Memorandum”), with an effective date of November 2, 2014 (“Effective Date”) is made by and between the Summit Credit Union, a credit union authorized to make residential loans in the State of Wisconsin and having its principal place of business at 4800 American Parkway, Madison, Wisconsin, 53718 (“Summit” or “Summit Credit Union”), and the City of Milwaukee, a Wisconsin municipal corporation (“City”), hereafter collectively referred to as the “Parties” and individually as a “Party.”

1. Background

The Wisconsin Energy Conservation Corporation (“WECC”) on behalf of the Partner Cities of Milwaukee, Madison, and Racine, Wisconsin, (“Partner Cities”) filed an Application for and received a grant award from the United States Department of Energy (“DOE”) in Funding Opportunity Announcement Number DE-FOA-0000148 Recovery Act: Energy Efficiency and Conservation Block Grant; Competitive Solicitation: Retrofit Ramp-up and General Innovation Fund Programs in the amount of \$20 million. A “Statement of Project Objectives,” describes the general project objectives for the Wisconsin Energy Efficiency (“WE2”) Project, the common name given to the project across the Cities of Milwaukee, Madison and Racine, as attached as Exhibit A to the Cooperation Agreement between WECC and the City of Milwaukee, dated July 27, 2010, including all amendments thereto (“WECC-Milwaukee Agreement 2010”). The Milwaukee Energy Efficiency (“ME2”) Program represents the WE2 Project activities as they are carried out in the geographic limits of the City of Milwaukee. The Energy Efficiency Loan Program (formerly known as “Green Madison”) is the WE2 Project activities as they are carried out in the geographic limits of the City of Madison. WECC and Milwaukee jointly operated the Me2 program under a Cooperation Agreement with a term of July 27, 2010 to November 1, 2014. WECC and Madison jointly operated the Green Madison program under a Cooperation Agreement with a term of November 1, 2010 to November 1, 2014. During these respective time periods, WECC was the Prime Recipient of the Department of Energy grant and the Cities operated as Subrecipients.

After the grant period of performance ends on November 1, 2014, the Department of Energy still intends a portion of the original grant funds to be used to fund “evergreen” financing programs, such as Revolving Loan Funds (“RLFs”), Loan Loss Reserves (“LLRs”) and Interest Rate Buydowns (“IRBs”). WECC, at the direction of the City of Milwaukee, established a Loan Loss Reserve with Summit Credit Union to support affordable loans for energy efficiency projects. The Cities of Milwaukee and Madison intend to continue providing affordable loans or other eligible financing into the future, which necessitates annual reporting to the US Department of Energy, after the expiration of the original grant period.

Therefore, this Memorandum applies to the post-grant period, beginning November 2, 2014. Under this Memorandum, the City shall assume all rights and responsibilities previously assigned to WECC under the Energy Efficiency Loan Program Agreement executed between WECC and Summit Credit Union on or around March 16, 2011, including all amendments thereto (“WECC-Summit Agreement 2011”) for the post-grant period, except as further specified herein in Section 2.

During the post-grant period, the City of Milwaukee will act as an Administrator, Summit Credit Union will act as Milwaukee’s financing partner, and the City of Madison will operate as a Subrecipient to the City of Milwaukee, according to the terms of the Cooperation Agreement executed concomitantly herewith between Milwaukee and Madison (“Milwaukee-Madison Agreement 2014”).

This Agreement sets forth the roles, responsibilities, and rights of Summit and the City, but does not change any of the duties and obligations or other terms of the WECC-Milwaukee Agreement 2010, except as expressly stated in the Memorandum of Understanding executed concomitantly herewith between WECC and Milwaukee (“WECC-Milwaukee MOU 2014”).

2. Limitations to the WECC-Summit Agreement 2011

By this Memorandum, Milwaukee agrees to assume all duties, rights, and responsibilities of WECC as stated in the WECC-Summit Agreement 2011, except as follows:

- a. Paragraph D of the “RECITALS” is amended to read: “CITY received a \$20,000,000 grant from DOE (the “Grantor”), of which [\$220,160] the source of capital for providing loan loss reserve security to facilitate energy efficiency loans from Summit to residential borrowers within the City of Milwaukee under this Agreement.”
- b. Section 2.02(a) is amended to read: “Point person for CITY is Erick Shambarger, Deputy Director, City of Milwaukee Office of Environmental Sustainability.”
- c. Section 2.05(f) is amended to read: “Summit agrees to display signage at certain of its City of Milwaukee branches announcing the Program and its benefits.” Thus, the the “marketing milestones” are deleted from that subsection.
- d. Section 3.05 is amended to read: “Funds in the Escrow Account belong to CITY as grantee of the US DOE BetterBuildings grant. CITY shall have the option, in its sole discretion, to re-allocate all or part of the funds remaining in the Escrow Account or held as loan loss reserves in the Reflow Escrow Account pursuant to Section 4.02 to a different credit enhancement option, such as but not limited to an interest rate buy-down or to direct cash incentives. In addition, CITY shall have the option, in its sole discretion, to withdraw funds from the Escrow Account and/or Reflow Escrow Account to re-allocate to other eligible Program uses. To re-allocate and/or withdraw funds, CITY must submit in writing a showing that the targets set forth above, in this Section 3.05, have not been met and a request for release of the funds back to CITY for the purpose of re-allocation.” Thus, the “targets for lending” are deleted from this subsection.

- e. Section 3.06 is void and no longer applies to WECC, the City, or Summit.
- f. [Revision to Section 10.09 on Notices]
- g. A replacement Annex A, entitled “Residential Loan Data and Quarterly Report Example,” is attached hereto.
- h. Prior Annex C, entitled “Project Eligibility Design Criteria – Loans” is replaced by a new Annex C, entitled “Eligible Measures” and attached hereto.
- i. A replacement Annex D, entitled “Project Eligibility Determination Procedure,” is attached hereto.
- j. A new Annex I, entitled “Project Detail Form,” is attached hereto.
- k. A replacement Schedule 1, entitled “Quarterly Reports,” is attached hereto.

3. Term of Memorandum. The term of this Memorandum shall begin November 2, 2014 and continue as long as the City of Milwaukee and City of Madison operate financing programs backed by Department of Energy funds under Milwaukee-Madison Agreement 2014 and/or Milwaukee-Summit Memorandum 2014, or so long as the Department of Energy requires reporting of such funds, or is otherwise amended or terminated earlier in accordance with the provisions of this Agreement.

4. Termination. The City or Summit may terminate this Memorandum for a material breach of the Agreement by the other Party by giving at least 60 days notice in writing to the other party specifying the effective date thereof. In the event of such termination, the City and Summit agree and acknowledge that the City shall in no way be responsible for legal or equitable damages alleged by Summit as a consequence of termination under this section.

5. Amendment. The City and Summit may amend this Memorandum in writing.

6. Governing Law and Venue. This Memorandum and the rights and duties of the Parties hereunder shall be governed by and construed, enforced, and performed in accordance with the laws of the state of Wisconsin without regard to principles of conflicts of law. The sole and exclusive venue for any disputes, claims or causes of action, legal or equitable, shall be the state courts of Wisconsin. This Section 8 and its requirement shall survive the term or any extension terms of this Agreement.

7. Communications and Notices. Any notice given pursuant to this Memorandum shall be in writing and shall be effective when delivered personally or shall be deposited in the United States mail, postage prepaid, certified or registered, return receipt requested, in which latter event it shall be deemed given three days after the date mailed. Written notice shall be addressed to the respective Parties as follows:

If to City:	If to Summit as Escrow Agent:	If to Summit as Lender:
City of Milwaukee Department of Administration 200 East Wells St., Room 603 Milwaukee, WI 53202 Attn: Erick Shambarger		

8. Headings. The headings in this Memorandum are included only as reference and shall not limit or alter the meaning of any of the terms and conditions herein.

9. Severability. The provisions of this Memorandum are severable, and the invalidity or unenforceability of any one or more provision(s) shall not affect or limit the validity of the remaining provisions. Should any particular provision be held to be unreasonable or unenforceable for any reason, then such provision shall be given effect and enforced to whatever extent would be reasonable and enforceable under the applicable law.

10. Entire Agreement. This Memorandum (and the WECC-Summit Agreement 2011 to the extent it is expressly incorporated herein) constitutes the entire agreement between the Parties pertaining to the services to be provided hereunder, and there are no other understandings, agreements, or representations between them pertaining to services to be provided hereunder.

11. Waiver. Failure or delay on the part of either party to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. A waiver of any default shall not operate as a waiver of any other default or of the same type of default on a future occasion.

12. No Third-Party Beneficiaries. No provision of the Memorandum or Exhibits is intended or shall be construed to be for the benefit of any third party.

13. Assignment. This Memorandum shall inure to the benefit of and be binding upon the Parties' respective successors and assigns, and neither Party shall assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day, month, and year set forth above.

CITY OF MILWAUKEE

SUMMIT CREDIT UNION, AS LENDER

TOM BARRETT, Mayor

[NAME], [Title]

JIM OW CZARSKI, City Clerk

COUNTERSIGNED:

**SUMMIT CREDIT UNION, AS ESCROW
AGENT**

MARTIN MATSON, City Comptroller

[NAME], [Title]

List of Replaced or New Annexes and Schedules

A. Residential Loan Data and Quarterly Report Example

C. Eligible Measures

D. Project Eligibility Determination Procedure

I. Project Detail Form

Schedule 1: Each Quarterly Report shall be annexed to and become a part of this Agreement

1052-2014-1902/206455v1

Annex A
Residential Loan Data and Sample Quarterly Report

Residential Loan Data

The data points outlined below should be supplied to CITY on a quarterly basis, per the contract language in Section 5.01. This data should be emailed to Erick Shambarger (eshamb@milwaukee.gov) in an electronic file format. The specific file format is to be agreed upon by CITY and Summit within 10 business days of signing this contract.

UNIQUE DATA IDENTIFIER	This number will be provided to Summit from CITY.
LOAN APPLICATION ACCEPTANCE	This section is for collecting information related to the rejection of a loan application.
Loan application rejected? (1 if yes)	Indicate if the building owner applied for a loan, but was rejected.
Was loan rejected because of credit worthiness or incomplete application?	Indicate if the loan was rejected based on credit worthiness or an incomplete application.
If loan was rejected based on credit worthiness, select the reason that is most applicable to the loan applicant.	Select the reason most applicable to the loan applicant: Delinquent past or present credit obligations, Bankruptcy past or present, Excessive obligations in relation to income, Insufficient credit file, Credit score below minimum requirement, No FICO score
RESIDENTIAL LOAN TERMS	This section is for collecting information related to the residential loan terms.
Which loan product was used to finance the retrofit? (As listed in the LOAN PRODUCT INFO Tab)	List the loan product offering that the applicant used to finance the retrofit.
Loan Approved Date (mm/dd/yyyy)	If the loan was approved, please enter the date when the loan was funded.
Compounding Period (# of times per year)	Compounding period indicates the number of times a year that the interest rate is applied to the cost of the loan.
Loan Term (# of Months)	The loan term is the period of time agreed upon by the lender and the borrower to repay the loan.
Fixed Interest Rate (%)	The amount of interest charged on a monthly loan payment, expressed as a percentage.
Initial Interest Rate if Variable (%)	The initial interest rate is the rate stated in the adjustable rate mortgage (ARM) note that will be in effect from the date of the first monthly payment for the ARM. The index to which the floating interest rate is attached should be noted in the LOAN PRODUCT INFO tab.
RESIDENTIAL UNDERWRITING CRITERIA	This section is for collecting information related to residential underwriting criteria.
Annual Income (\$)	The annual income of the lendee is part of the process of analyzing a loan application to determine the amount of risk involved in making the loan.

Middle Credit Score (FICO)	FICO is an abbreviation for Fair Isaac Corporation and refers to a person's credit score based on credit history. Lenders and credit card companies use the number to decide if the person is likely to pay his or her bills. A credit score is evaluated using information from the three major credit bureaus and is usually between 300 and 850. When evaluating a borrower's eligibility for a loan, financial institutions typically pull the borrower's credit history which contains all three scores. Since the scores may vary slightly, here we ask for the second highest credit score (median), in order to standardize reporting.
Debt-to-Income Ratio (Front End)	Debt-to-income ratio is a comparison or ratio of gross income to housing and non-housing expenses. With the FHA, the mortgage payment combined with non-housing debts should not exceed 41% of income. The front-end debt-to-income ratio is calculated with housing debts.
Debt-to-Income Ratio (Back End)	Debt-to-income ratio is a comparison or ratio of gross income to housing and non-housing expenses. For example, with the FHA, the monthly mortgage payment should be no more than 29% of monthly gross income (before taxes). The back-end debt-to-income ratio is calculated with non-housing debts.
Property Valuation (\$ or n/a)	Property valuation is an estimation of the current market value of a property.
Outstanding Mortgage Debt (\$)	Please enter any debt the homeowner may already have prior to applying for the loan. This may be a car loan or credit card debt that is not yet paid.
Outstanding Home Equity Line (\$)	Home equity line of credit is a mortgage loan, usually a second mortgage, allowing a borrower to obtain cash against the equity of a home, up to a predetermined amount.
Outstanding Other Debt (\$)	Please enter any debt the homeowner may already have prior to applying for the loan. For example, these may include debts on a car loan or credit card. Definitions will depend on the financial institution.
Existing Liens on Property (\$)	A lien is a legal claim against property that must be satisfied when the property is sold.
Loan-to-Value Ratio	Loan-to-value ratio is a percentage calculated by dividing the amount borrowed by the price or appraised value of the home to be purchased; the higher the LTV, the less cash a borrower is required to pay as down payment.
Previous bankruptcy or foreclosure in past 7 years? (1 if yes)	Please indicate if the applicant has previously filed for bankruptcy or had a property foreclosed in the last 7 years.
Other (write here to specify)	If there are other important residential underwriting criteria that are not already captured by this section, please describe them here.

Default Loan Data

UNIQUE DATA IDENTIFIER	This number will be provided to Summit from CITY.
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PAYMENT HISTORY	Provide the payment history for retrofit projects that have received a financial loan that went into default during anytime in the quarter. You do not need to report loans that have been current each month (i.e. if a borrower defaulted in Q1, quickly repaid the loan, and was current all of Q2, you only need to report the loan for Q1).
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Month	Month
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Payment Status	<p>Payment History Key</p> <p>0 = current account 1 = 30-59 2 = 60-89 days 3 = 90-119 days</p> <p>4 = 120-149 days 5 = 150-179 days 6 = 180+ days B = no pmt data available,</p> <p>D = no pmt data available E = 0 balance or current L = charged off because account not yet opened</p>
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DELINQUENCY	
Date of Default	First date when the loan went 30 days past due
Default Amount (\$)	Total amount passed due
Current Balance (\$)	Principal balance due on a loan that is unpaid by the borrower.

CHARGE OFFS	
Sale of Assets (\$)	Proceeds from sales of assets to recover unpaid loan amount (if applicable)
Net Lender Loss (\$)	The net lender loss is the total amount of money lost by lender (i.e. current balance - assets sale amount).

Quarterly Report (EXAMPLE ONLY)

QUARTERLY REPORT to CITY from Summit as lender and Escrow Agent Pursuant to Energy Efficiency Loan Program Agreement dated [], 20XX

Reporting Period: [], 2011 to [], 2011

Total number of loan applications for the period: ____ Approved ____ Denied

Funds to be Transferred from Escrow Account to Reserve Account for these new Loans as per Agreement Section 4.02

50.00% \$1,600

Funds Transferred from Escrow Account to Reserve Account, per all prior Quarterly Reports \$200,000
 Funds Transferred from Escrow Account to Reserve Account, with this Quarterly Report \$1,600
 Total Funds transferred from Escrow Account to Reserve Account, as of this Quarterly Report \$201,600

Funds to be Disbursed to Summit from Reserve Account for total Net Loss Amount per this Quarterly Report, as per Agreement Section 3.04

90.00% \$10,800

Funds Disbursed to FI from Reserve Account, per all prior Quarterly Reports \$0

Funds to be Disbursed to FI from Reserve Account, with this Quarterly Report \$10,800

Total Funds Disbursed to FI from Reserve Account, as of this Quarterly Report \$10,800

Quarterly Portfolio Data

1	Total Loans in Segment, prior Quarterly Report	
2	Total # New Loans Added, this Quarterly Report	
3	Total # Loans as of this Quarterly Report	
4	Total Original Loan Principal, all Loans in Segment, with prior Quarterly Report	
5	Total Original Principal, all New Loans, this Quarterly Report	
6	Total Original Principal, all Loans in Segment, this Quarterly Report	
7	Total Outstanding Principal, all Loans in Segment, as of Mar 31, 2010	
8	# Loans current	
9	# Loans past due 30 days	
10	# Loans past due 60 days	
11	Total Outstanding Principal, all Loans in Segment past due 60 days	
12	Total outstanding principal of Loans in default	

Fully Matured Loans

Total # Loans that were paid in full during Quarterly

1 Report period

Total \$ amount moved from Reserve Account to Reflow Escrow Account during Quarterly Report

2 period

Prepared By: _____

Approved By: _____
 Manager [] Summit

Annex C Eligible Measures

Eligible Measures: Measures eligible for financing under Me2 including primary energy efficiency measures and support measures.

Primary energy efficiency measures are measures that have been approved for incentives by the statewide Focus on Energy program as part of the Home Performance with ENERGY STAR® program, Residential Rewards Program, or Renewable Energy program (geothermal heat pumps only). These include insulation, air sealing, attic ventilation, polyethylene vapor barrier, high efficiency furnaces, boilers, water heaters, air conditioning, and geothermal heat pumps. A listing of eligible primary energy efficiency measures is listed in Annex I: Project Detail Form. A minimum of 80% of the Summit loan on each project must be for primary energy efficiency measures. All building shell work must be completed under the Home Performance with ENERGY STAR® program.

Support Measures: Up to 20% of the Summit loan (or up to 25% of the value of the primary energy efficiency measures) on each project may be for support measures that are necessary to install the primary energy efficiency measures or otherwise contribute to energy efficiency in the building. These include but are not limited to electrical upgrades, asbestos/vermiculite removal, oil tank removal, minor roof repair, minor carpentry work such as creating attic access, mechanical ventilation, and window or door replacements.

Annex D
Project Eligibility Determination Procedure

1. **Customer/Borrower Eligibility Determination:** Potential Customers will apply for a Me2 loan at Summit Credit Union's website or at a branch location. Summit will review the application and determine if the potential customer qualifies based on the criteria set forth in Annex B. Summit will determine if the potential customer is an Eligible Customer by reviewing the customer's public property information available at http://itmdapps.milwaukee.gov/MyMHome/SearchDB2_prod.jsp. This website provides information that confirms a) that the property is located in the City of Milwaukee; b) is a single family home, duplex, or triplex; c) is owned by an individual natural person, not as an LLC, trust, or other form of ownership; and d) there are no delinquent property taxes owned. Summit will also review the eligibility of the customer based on the Underwriting Criteria set forth in Annex B.
2. **Eligible Measure Determination:** Participating Me2 Contractors will provide the potential Me2 customer with a copy of the Project Detail Form (Annex I). This form, signed by both the Me2 customer and contractor, describes the project scope and cost and ensures that only eligible primary and support measures are proposed. Once completed, this form may be directly uploaded to the customer's online Summit web account or provided to the Summit Credit Union loan officer. Upon receipt of this correctly completed form and affirmation that the customer is eligible, Summit may notify the customer to proceed with the project.
3. **Project Completion:** When all eligible measures have been installed, the Eligible Borrower and Approved Contractor shall sign an Installation Completion Certificate for that project and send the signed copy of the Installation Completion Certificate and a copy of the bill for final costs for the Eligible Project to Summit (see Annex E). The Participating Contractor warrants via the Project Detail Form (Annex I) that they will cure any installation deficiencies identified by the Me2 program staff or Focus on Energy program staff at no additional cost to the homeowner. Summit Credit Union will directly pay the Participating Contractor on the project upon receipt of the Installation Completion Certificate according to the terms requested in Section 5 of the Project Detail form (Annex I).

Schedule 1
Quarterly Reports

Each Quarterly Report be annexed to and become part of this Agreement.

In addition to the quarterly reports, Summit shall provide the program with copies of the Project Detail Form on all approved projects on our quarterly basis or at the request of the Program.