

**AMENDMENT TO COMMUNITY WORKFORCE AGREEMENT BETWEEN THE CITY OF
MILWAUKEE AND THE WISCONSIN ENERGY CONSERVATION CORPORATION**

This Amended Community Workforce Agreement (“Amended CWA”) is made and effective as of January 1, 2014, by and between the City of Milwaukee, Wisconsin, a municipal corporation, (“the City”) and the Wisconsin Energy Conservation Corporation (“WECC”), a non-profit corporation with its principal business address at 431 Charmany Drive, Madison, Wisconsin 53719 (“the Parties”).

W I T N E S S E T H:

Whereas, The Parties executed a Cooperation Agreement Between the Wisconsin Energy Conservation Corporation and the City of Milwaukee regarding the Wisconsin Energy Efficiency Project and the Milwaukee Energy Efficiency Project dated July 27, 2010, (“Cooperation Agreement”) which set forth the roles, responsibilities, and allocation of resources between WECC and the City from a grant award awarded to WECC on behalf of the partner cities of Milwaukee, Madison and Racine 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; Retro Ramp-up and General Innovation Fund programs; and

WHEREAS, The Parties executed a Community Workforce Agreement with an effective date of July 27, 2010 (“CWA”), which was made part of the Cooperation Agreement as Exhibit E; and

WHEREAS, The Parties executed an Amended Cooperation Agreement with an effective date of October 1, 2013, establishing the roles, responsibilities, and allocation of resources between WECC and the City, both as to general project oversight and the allocation and use of year 2014 grant extension award funds for the Me² program, consistent with the objectives, terms and conditions of the DOE grant award; and

WHEREAS, The Parties desire to amend the CWA and to make this Amended CWA a part of the Amended Cooperation Agreement as Exhibit E; and

WHEREAS, By requiring the inclusion of the Amended CWA in the Request for Qualifications to be issued by the City for purposes of qualifying contractors, the Parties seek to guide the implementation of energy retrofit projects in a manner that provides pathways to prosperity for local workers, offers family-supporting wages that lead to a lasting career track, involves stakeholders and community members in developing and enacting policies and processes, and drives accountability and continuously evaluates performance towards goals; and

WHEREAS, This Amended CWA reflects the goals of the Milwaukee Promise, which was established, by Common Council Resolution 121139 , as an ongoing program to address poverty, disparity and inequality in the City of Milwaukee; and

WHEREAS, This Amended CWA reflects the following guidance the Office of Management and Budget has given to agencies implementing American Recovery Reinvestment Act programs (OMB April 3, 2009):

- a. Ensuring compliance with equal opportunity laws and principles;
- b. Promoting local hiring: Departments and agencies should seek to maximize the economic benefits of a Recovery Act-funded investment in a particular community by supporting

projects that seek to ensure that the people who live in the local community get the job opportunities that accompany the investment;

- c. Providing maximum practicable opportunities for small businesses;
- d. Providing equal opportunity for Disadvantaged Business Enterprises;
- e. Encouraging sound labor practices: The federal government invests substantial resources in enforcing wage and hour, occupational safety and health, and collective bargaining laws, to ensure that American workers are safe and treated fairly. All other things being equal, agencies awarding Recovery Act funds should seek to support entities that have a sound track record on these issues and are creating good jobs. This will strengthen the recovery effort and the economic prospects of American workers; and
- f. Engaging with community-based organizations.

WHEREAS, The Common Council of the City of Milwaukee authorized execution of this Amended CWA pursuant to Resolution No. 131139 adopted _____, 2014; and

Whereas, pursuant to Common Council Resolution No. 131139, this Amended CWA will also apply to projects under the Property Assessed Clean Energy (“PACE”) financing program. The PACE financing program was approved by the Common Council in Common Council Resolution No. 121591;

NOW, THEREFORE, in consideration of the mutual promises contained in this Amended CWA and other good and valuable consideration, the City and WECC agree as follows:

1. Scope of Agreement. This Amended CWA is applicable to the Me² Program, including the residential program and commercial program and projects funded by the PACE financing program. The scope of this agreement covers positions related to the construction trades, including but not limited to electricians, insulation installers, laborers, HVAC mechanics, plumbers, and weatherization techs. This Amended CWA does not cover energy auditors/consultants, design engineers, sales staff, or administrative or program delivery staff. Any direction to be exercised on the part of the City or any approvals to be granted under this Amended CWA shall be given by the City’s Department of Administration (“DOA”) or its designee.
2. Qualified Contractors – RFQ. Pursuant to the Amended Cooperation Agreement, DOA shall issue a Request for Qualifications (“RFQ”) to qualify contractors to perform retrofit work under the Me² program. The RFQ shall contain the requirements set forth in this Amended CWA. The RFQ will also contain technical requirements for contractors, which requirements are not enumerated in this Amended CWA. DOA shall re-qualify contractors annually and shall disqualify contractors who fail to meet the requirements of this Amended CWA.
3. Labor Standards.
 - a. Resident Preference:

On Me² program energy efficiency retrofit work contractors shall agree to utilize UNEMPLOYED or UNDEREMPLOYED RESIDENTS of the city of Milwaukee in a minimum amount equal to the percentage of WORKER HOURS set forth in this

paragraph. Forty percent (40%) of the sum total of WORKER HOURS performed on Me² program work by each contractor in a six month period must be performed by UNEMPLOYED or UNDEREMPLOYED RESIDENTS of the city of Milwaukee. In responding to the RFQ, the contractor shall submit a listing of RPP eligible employees they will use or a city resident utilization plan detailing how the level of required participation will be achieved once the company has projects under contract.

The contractor, prior to commencing work as a qualified Me² program contractor, shall submit an affidavit (on a form to be provided by the City) with proof of residency for all employees utilized by the contractor and subcontractors to meet the Resident Preference requirements, stating that each employee is either UNEMPLOYED or UNDEREMPLOYED and is a RESIDENT of the City. The contractor shall prepare and submit accurate and timely resident utilization forms and reports to the City. For the residential program, time Reports shall be submitted within ten (10) days following completion of work. For Commercial projects, the contractor will submit biweekly reports during project construction and a final report within 10 business days following project completion. The reports shall identify the name, address, work classification, and hours worked of all employees utilized on the contract by the contractor and all subcontractors. Failure to submit the required forms and reports to the City may result in de-qualification of the contractor. DOA will develop an annual report on the performance of contractors in carrying out the requirements of the resident preference program.

The contractor shall maintain, and shall ensure that all subcontractors maintain, personnel records listing the name and address of all employees utilized for each Me² program contract and any records demonstrating that the employees utilized by the contractor to meet the Resident Preference are RESIDENTS. These records shall be maintained for one (1) year after completion of work and shall be made available to the City upon reasonable notice.

1. RESIDENT – A person who maintains his or her place of permanent abode in the city of Milwaukee. Domiciliary intent is required to establish that a person is maintaining his or her place of permanent abode in the city. Mere ownership of real property is not sufficient to establish domiciliary intent. Evidence of domiciliary intent includes, without limitations, the location where a person votes, pays personal income taxes, or obtains a driver’s license.
2. UNEMPLOYED or UNDEREMPLOYED – a RESIDENT that has worked less than 1,200 hours in the preceding 12 months or has not worked in the preceding 30 days or, regardless of employment status, has household income at or below the federal poverty guidelines as adjusted by the Wisconsin department of public instruction to define eligibility for reduced lunch in public schools. A RESIDENT will continue to qualify as unemployed or underemployed for five (5) years from the date he or she first participates on a Me² program project. If a RESIDENT becomes an apprentice for a contractor or becomes a participant in an on-the-job training program immediately after or in the course of performing on a particular construction contract, he or she shall continue to qualify as unemployed or underemployed for a period not exceeding 5 years from the date the person became an apprentice or participant in such on-the-job training program.

3. **WORKER HOURS** – means the total hours worked on a ME2 program contract by skilled and unskilled trade workers, whether those workers are employed by the contractor or any subcontractor. “Worker hours” includes work performed by persons filling apprenticeships and participating in on-the-job training programs and excludes the number of hours of work performed by all non-Wisconsin residents.
 - b. **Proper Classification of Employees.** Participating Contractors shall utilize only employees to perform work on a Me² project, rather than independent contractors, temporary workers (except for those workers hired through an approved staffing agency as outlined below), or any other individuals holding non-employee status. Participating Contractors shall classify all workers performing work on Me² projects as employees of the company and pay appropriate taxes, unemployment insurance, workers compensation, and other benefits as required by law. General contractors may contract with subcontractors to perform work on Me² projects, provided that those subcontractors are also Participating Contractors under the Me² program. Participating Contractors may utilize workers as needed from trade staffing agencies that have been approved by the City. Workers hired from these approved trade staffing agencies must meet the training requirements set forth in this agreement.
 - c. **Wage Rate Requirement.** On Me² residential projects of owner-occupied 1-3 unit homes, participating Contractors shall pay wages to their employees performing work at a minimum wage rate of \$17 per hour (wage rate plus deferred compensation/pensions costs). For residential projects in non-owner occupied buildings, or properties in which the building title is held by an entity other than an individual (company, corporation, limited liability company, etc.) and all other commercial projects, Contractors shall pay wages to their employees performing work at a minimum wage rate of \$27 per hour (including wages and deferred compensation/pensions costs, but not including health care benefits) or existing union-negotiated wage rates, if the contractor is a union contractor.
 - d. **Safety-Trained Workforce.** Contractors shall utilize a safety-trained workforce in which all on-site workers have completed an OSHA 10-hour safety course and a Lead and Asbestos awareness course. As applicable, contractors shall comply with State of Wisconsin laws regarding Lead Renovator training and certification for their workforce.
4. **Pre-Qualification Standards.** In addition to the Labor Standards set forth in this Agreement, to establish a standard of quality for the work to be completed and to build consumer confidence, the Amended CWA establishes a Pre-qualification Standard for contractors who will perform the work. The City will communicate with existing City-certified Small Business Enterprises and other local firms to encourage their participation in the RFQ process and connect them to resources that can assist them in meeting the following minimum criteria.

Contractors must meet the following minimum criteria to be considered for qualification:

- a. Contractors on Me² program projects shall be licensed and insured.
- b. Contractors listed on the federal Excluded Parties List System (<https://www.epls.gov/>) or the Wisconsin Department of Workforce Development Consolidated List of Debarred Contractors will not be qualified.

- c. Contractors shall be registered as a Focus on Energy Trade Ally or be willing to sign on as a Focus on Energy Program Ally and commit to participate in training/mentoring provided by Focus on Energy Staff. Contractors who perform insulation or air sealing work on residential properties must meet the requirements of the Focus on Energy Home Performance with Energy Star program.
 - d. Per DOE Special Terms and Conditions, contractors shall provide a documented waste disposal plan for sanitary and hazardous waste, which includes but is not limited to old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, and asbestos.
 - e. Contractors shall agree to maintain and provide access to records to verify compliance with all provisions contained within this Amended CWA. At any time during normal business hours and as often as the City, or if federal or state grants or aids are involved, as the appropriate state or federal agency may deem necessary, there shall be made available to the City for examination all of the contractor's or subcontractor's records with respect to the matters covered by this Amended CWA and the contractor or subcontractor shall permit the City to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Amended CWA.
5. Training Programs. The City shall identify training programs to supply contractors with a trained workforce. Participating training programs will also provide training that includes OSHA 10 hour training.

In addition to their capacity to execute the training functions described above, to be identified as a participating training program, a training program will:

- a. Have defined partnerships with pre-apprenticeship programs or community organizations that serve historically disadvantaged or underrepresented populations, including women, and people of color;
 - b. In conjunction with those partner organizations, endeavor to promote participation in the training program among individuals who are unemployed, women, people of color, residents of low-income communities, or other disadvantaged or underrepresented people;
 - c. Offer mentoring, follow-up monitoring and/or other support to assure retention of participants in the program and in weatherization careers; and
 - d. Demonstrate a track record of graduating and placing trainees from underrepresented communities in career-track construction jobs.
6. Term of Agreement. The term of this Amended CWA shall commence upon the Effective Date of the Amended CWA and shall remain in force for the entire duration of the term of the Amended Cooperation Agreement, of which this Amended CWA is a part as Exhibit E.
7. WECC/City Amended Cooperation Agreement Provisions Binding. This Amended CWA is attached to and made a part of the Cooperation Agreement between WECC and the City as

Exhibit E. All provisions set forth in the Cooperation Agreement are made a part of this Amended CWA and are binding on the parties.

8. Review. The goals outlined in this Amended CWA are secondary to the primary Me2 program objectives of stimulating the market for energy efficient building improvements. Contractors who wish to participate in the Me2 program but do not meet the requirements set forth in this CWA may apply to participate in the program, but must receive a waiver from the Community and Economic Development Committee of the Common Council prior to being listed as a Participating Me2 Contractor. The waiver request, to be submitted on a form provided by the DOA or its designee, shall set forth the circumstances for the inability to meet the terms of the Community Workforce Agreement, and any efforts the contractor has made to comply with the terms.

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

CITY OF MILWAUKEE

TOM BARRETT, Mayor

JIM OWCZARSKI, City Clerk

WISCONSIN ENERGY CONSERVATION CORPORATION

Mary Woolsey Schlaefter
President & CEO