

COOPERATION AND GRANT ADMINISTRATION AGREEMENT

(ME3 Sustainable Manufacturing Program)

THIS COOPERATION AND GRANT ADMINISTRATION AGREEMENT (“Agreement”) is entered into as of May _____, 2011, by and between the City of Milwaukee, Wisconsin, a Wisconsin municipal corporation (“City”), the Milwaukee Economic Development Corporation, a Wisconsin not-for-profit corporation (“MEDC”) and the Wisconsin Manufacturing Extension Partnership, an affiliate of the National Institute of Standards and Technology, (“WMEP”).

WITNESSETH THAT:

WHEREAS, City, a block grant entitlement community, has received a formula grant from the U.S. Department of Energy (“DOE”) through the Energy Efficiency and Conservation Block Grant (“EECBG”) program and City’s Office of Environmental Sustainability (“OES”) has identified seven specific project areas to be implemented with the funds received, including a program promoting the adoption of sustainable manufacturing processes and practices;

WHEREAS, a set aside within the City of Milwaukee EECBG grant award has been designated for the program promoting the adoption of sustainable manufacturing processes and practices (the “ME3 Program”); and

WHEREAS, the ME3 Program, which is further described on EXHIBIT “A,” will assist area businesses to comprehensively assess manufacturing processes and practices that have negative environmental impacts and promote the implementation of sustainable manufacturing processes and practices that cut costs and minimize negative environmental impacts, resulting in reduced energy costs, reduced greenhouse gas emissions, less demand for electricity, natural gas and natural resources, and support area job retention and creation; and

WHEREAS, the parties acknowledge OES's obligation to DOE to monitor and report on EECEBG fund activities; and

WHEREAS, MEDC administers various programs including the MEDC Second Mortgage Loan and Capital Access Programs, a Land Development Loan Fund, a Community Development Block Grant Loan Fund, and an Economic Development Administration loan fund and will act as fiscal agent for the ME3 Program; and

WHEREAS, OES will oversee ME3 Program management, delivery of services and U.S. Department of Energy compliance requirements; and

WHEREAS, the Wisconsin Manufacturing Extension Partnership ("WMEP") will assist in ME3 Program management, delivery of services by WMEP directly or by third party service providers selected by WMEP with the approval of OES, and coordinate all payment for services by invoicing MEDC for reimbursement in accordance with procedures acceptable to MEDC; and

WHEREAS, the Common Council adopted Resolution File No 091147 on January 20, 2010 authorizing the EECEBG funding plan and a fund transfer to MEDC on terms set forth in the Term Sheet attached as **Exhibit "B,"**; and

WHEREAS, City and MEDC entered into a Cooperation and Grant Administration Agreement dated as of June 24, 2010 relative to an EECEBG grant designated for business retrofit and energy efficiency projects and desire to reallocate \$95,999 of remaining EECEBG grant funding from that program to the ME3 Program; and

WHEREAS, MEDC will provide an additional \$20,000 in MEDC funds for expenditure as part of the ME3 Program;

NOW, THEREFORE, In consideration of the mutual covenants and agreements contained herein, the parties hereto mutually agree as follows:

1. Grant to MEDC.

City agrees to provide up to \$200,000 to MEDC (the “Grant”) for the purposes of providing funding to WMEP for implementation of the ME3 Program in a manner consistent with the terms set forth in Exhibit B, hereto.

2. Reallocation of Funds.

Grant funds will be supplemented by the reallocation of \$95,999 in EECBG Grant funding for the business retrofit and energy efficiency program to the ME3 Program. MEDC shall retain as program revenue any bank interest accrued to the EECBG Grant funds not disbursed under this Agreement. If such revenues exceed \$5000, they shall be used solely to support energy efficiency activities, as determined by MEDC.

3. Additional MEDC Funds.

MEDC agrees to commit an additional \$20,000 in MEDC funds to supplement the Grant, which amount shall be designated for non-union company “diagnostic” phases.

4. WMEP Funds.

WMEP will utilize up to \$105,000 in Profitable Sustainability Initiative (PSI) Grant funding to provide services targeted to companies with a represented workforce or as determined by the PSI Grant.

5. Fiscal Service.

MEDC agrees to review invoices and make payments to WMEP or, with prior WMEP approval, directly to a third party for services provided for under the ME3 Project.

6. WMEP Responsibilities.

WMEP will:

- Commit the services of Randy Bertram as ME3 project manager leveraging his experience with the WMEP Profitable Sustainability Initiative.

- Provide WMEP staff time to each participating manufacturing firm as a point of contact throughout the diagnostic, assessment and implementation steps of ME3.
- WMEP will assist in screening all projects for DBA participation and other DOE compliance requirements and working with the OES compliance officer as needed.
- WMEP will provide all proprietary tools and methodologies used in the Profitable Sustainability Initiative (PSI).
- WMEP will provide marketing support and services to adapt the PSI materials for use in ME3.
- WMEP will engage partners/consultants, receive invoices and make payments as services are completed.
- WMEP will bundle the invoices for reimbursement from MEDC.
- WMEP will allocate the implementation grant award into the appropriate contract for services and authorize all payments for services.
- WMEP will gather data, summarize and report on program results and metrics for the company's return of investment.
- WMEP will track and report program expenditures and provide documentation needed for any federal reporting and audit purposes.

7. OES Responsibilities.

OES will serve as the overall ME3 Program manager, and will:

- Coordinate all marketing and outreach.
- Accept applications, review and distribute to the ME3 review committee for approval for the program
- Notify applicants of Committee decision.
- OES will be responsible for all Department of Energy and City of Milwaukee compliance and reporting.
- OES will allocate the implementation grant awards notifying WMEP, who will discount services accordingly for the participating company.

8. MEDC Responsibilities.

MEDC will:

- Assist with marketing and outreach to the manufacturing firms.
- Serve on the Review Committee screening applications for participation.
- Serve as fiscal agent overseeing the payment of invoices to WMEP for services to the participating companies.

9. Monitoring.

The parties acknowledge that OES is obligated to the U.S. Department of Energy to monitor and report with respect to all EECEBG funded activities.

10. Establishment of Fund Account.

City Funding for the Grant shall be provided from Account AR1500409010 (the “Account”).

11. Administration of the Fund Account.

City’s Comptroller shall review and approve the accounting and financial reporting systems necessary to administer the Account.

12. Verification by Comptroller.

City’s Comptroller shall, from time to time as in the Comptroller's judgment is appropriate, review the receipts and expenditures of MEDC, WMEP or of management operations in relation to the Grant. The Comptroller shall have full power to conduct an audit or to have such an audit conducted as is necessary in the Comptroller's judgment to provide a full accounting to City. The results of such audit shall be reported to the Common Council.

13. Verification by OES.

Relative to MEDC’s use of the \$200,000 in current EECBG grant funding and the \$95,999 of reallocated EECBG grant funding, OES shall have the right to review and verify all ME3 Program expenditures and records for the purposes of ensuring City’s compliance with its federal contractual requirements under the EECBG grant. OES shall also, from time to time as in the judgment of OES staff is appropriate, review the invoices and payments made to WMEP and third parties for ME3 Program service-providers. OES shall have full power to conduct an audit or to have such an audit conducted as is necessary in the Director of OES’s judgment to provide a full accounting to DOE at OES’s cost.

14. Notices.

Any and all notices shall be in writing and addressed to MEDC at:

Milwaukee Economic Development Corporation
809 N. Broadway Street
Milwaukee, WI 53202-3617

to WMEP at:

Wisconsin Manufacturing Extension Partnership
350 Bishops Way, Suite 104
Brookfield, WI 53005
Attn: Mr. Randy Bertram

to City at:

Office of Environmental Sustainability
200 East Wells Street, Room 603
Milwaukee, WI 53202
Attn: Director

All other correspondence shall be addressed as above, but may be sent "Regular Mail" and deemed delivered upon receipt by the addressee.

15. Changes.

City may from time to time request changes in the scope of services of MEDC or WMEP to be performed hereunder. Such changes, including any increase or decrease in the amount of compensation, shall be mutually agreed upon and approved by City and MEDC and shall be incorporated in written amendments to the Agreement.

16. Assignability.

Neither MEDC nor WMEP shall assign any interest in this Agreement or not transfer any interest hereunder (whether by assignment, novation, or any other manner), without the prior written consent of OES; provided, however, that claims for money due

or to become due to MEDC or WMEP from City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notices of any such assignment or transfer shall be furnished promptly to the City Clerk.

17. Records.

Records shall be maintained by both MEDC and WMEP in accordance with requirements prescribed by City with respect to all matters covered by this Agreement. Except as otherwise authorized, such records shall be maintained for a period of seven years after receipt of the final payment under this Agreement. In addition, this Agreement and certain documents relating hereto are, or may be, subject to Wisconsin's Public Records Law (see Wis. Stat. Ch. 19, Subch. II, and, in particular Wis. Stat. § 19.36(3) which includes records produced or collected under this Agreement). MEDC and WMEP each shall agree to cause others under their control to cooperate with City in the event any of them receive a request under Wisconsin's Public Records Law for this Agreement or for any record relating to, or produced or collected under this Agreement which is subject to the Public Records Law.

18. Conflict of Interest.

A. Interest in Agreement. No officer, employee or agent of City shall have any personal interest, direct or indirect, in this Agreement.

B. Interest of Other Local Public Officials. No member of the governing body of City and no other public official of City who exercises any functions or responsibilities in the review or approval of the carrying out of this Agreement shall have any personal interest, direct or indirect, in this Agreement.

C. Interest of MEDC, WMEP and Employees. MEDC and WMEP covenant, acknowledge and agree that no person who exercises any functions or

responsibilities in connection with the Agreement has any personal financial interest, direct or indirect, in this Agreement. MEDC and WMEP further covenant and acknowledge that they presently have no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of their services hereunder. MEDC and WMEP further covenant that in the performance of their obligations under this Agreement that no person having any such conflicting interest shall be employed.

19. Discrimination Prohibited.

A. In all hiring or employment made possible by or resulting from this Agreement there (1) will not be any discrimination against any employee or applicant for employment because of race, color, religion, sexual orientation, sex, national origin or ancestry, age, disability, lawful source of income, marital status, or familial status, and (2) affirmative action will be taken to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sexual orientation, sex, national origin or ancestry, age, disability, lawful source of income, marital status, or familial status. This requirement shall apply to but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for employment, notices required or to be provided by federal or state agencies involved setting forth the provisions of the clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income,

marital status, sexual orientation, gender identity or expression, past or present membership in the military service, familial status, or based upon affiliation with, or perceived affiliation with any of these protected categories.

B. No person in the United States shall, on the ground of race, color, religion, sexual orientation, sex, national origin or ancestry, age, disability, lawful source of income, marital status, or familial status, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement. The CITY and each employer will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964.

C. MEDC and WMEP shall each cause the foregoing provisions to be inserted in all subcontracts, if any, for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to Agreements or subcontracts for standard commercial supplies or raw materials.

20. Other Provisions

Any and all information, plans, reports and conclusions derived or developed as a consequence or result of this Agreement may be utilized by City in such manner and purpose as City desires or determines without permission or approval of MEDC or WMEP or compensation to MEDC or WMEP therefore other than herein provided.

21. Indemnification.

MEDC and WMEP shall each indemnify and hold harmless the CITY, its officers, employees, agents from and against any and all losses, claims, damages, expenses, and all suits in equity or actions at law arising from, in connection with, or as a result of the

implementation of the ME3 program or any actions of MEDC or WMEP undertaken pursuant to this Agreement. Nothing in the foregoing indemnity shall protect the CITY, its officers, officials, employees, and agents from their own default, active negligence, or misconduct.

22. Termination.

In the event that MEDC, WMEP or others involved in the implementation of the ME3 Program fail to comply with any of the terms or provisions of this Agreement, City may terminate this Agreement upon thirty (30) days written notice.

IN WITNESS WHEREOF, The parties have executed this Agreement the day and year as hereinafter set forth.

CITY OF MILWAUKEE

**MILWAUKEE ECONOMIC
DEVELOPMENT
CORPORATION**

By: _____

By:

Tom D. Barrett, Mayor

Patrick G. Walsh, President

By: _____

WISCONSIN

MANUFACTURING

EXTENSION

City Clerk

PARTNERSHIP

By:

COUNTERSIGNED:

City Comptroller

Date: _____

Approved as to form, execution, and
content this ____ day of _____, 2011.

Assistant City Attorney

1134-2011-975:169219

EXHIBIT “A”

ME3 stands for “Milwaukee Economy, Energy and Environment.” Economy, Energy and Environment, or E3, is a national model innovatively delivering technical assistance to small and medium sized manufacturers that want to cut costs while at the same time minimize negative environmental impacts of their production processes.

The City of Milwaukee’s Office of Environmental Sustainability (OES) is bringing this approach to our manufacturing community and has signed a Charter with 13 partner organizations from across the city, state and region to form a Milwaukee E3 (or ME3) program. The City identified partners who bring a particular area of industrial expertise to the table so that the ME3 Team will be able to assess a range of sustainability related challenges facing small and medium sized manufacturers from energy efficiency, to logistics, to waste reduction, to more efficient materials management.

The City and the ME3 Partners signed a Charter on February 17, 2011 committing to working together to address critical sustainability needs of Milwaukee’s small and medium sized manufacturers. As a result, ME3’s mission is to improve the competitiveness of small and medium sized manufacturers in Milwaukee by promoting the implementation of cost-effective sustainable manufacturing practices and technologies that collectively reduce community-wide negative environmental impacts.

OES has allocated \$200,000 from its formula EECBG budget toward this program and used that funding to leverage up to \$105,000 from Wisconsin Manufacturing Extension Partnership and \$115,999 from the Milwaukee Economic Development Corporation. In addition, 11 other part organizations have pledged in-kind technical assistance and staff time to ME3.

These funds will provide up to 20 small and medium sized manufacturers with no-cost diagnostic and assessment services of their manufacturing processes and practices. Grants ranging from \$1,000 to \$10,000 will also be available to assist manufacturers with process/practice implementation.

The ME3 program is a 5 step program for Milwaukee’s manufacturers: (1) application review; (2) comprehensive manufacturing process/practice diagnostic; (3) best return on investment process/practice assessment; (4) best return on investment process/practice implementation; and, (5) follow-up and continuous improvement.

Step 1 – Application Review: The entire process is intensive yet collaborative. The ME3 Team will work with the manufacturer to ensure that their input and manufacturing needs drive the ME3 process. In the applicant interview, several ME3 Team members will sit down with firms for an hour long interview to better understand their line of business and potential areas of need or concern. After the interview, the ME3 Team will schedule a time convenient for the applicant to run the ME3 comprehensive manufacturing process/practice diagnostic.

Step 2 – Diagnostic: The diagnostic is a process of discovery. Therefore, participating manufacturers will need to commit at least a half-day of time as ME3

independent industry and manufacturing experts walk through their facility and entire production process, from material or natural resource input through product delivery. The purpose of the diagnostic is to allow the ME3 Team to identify the range of potential sustainability drivers that may be negatively impacting costs like inefficient energy or water use, logistics challenges, or inefficient management of material or natural resource inputs. The ME3 Team will work with participants to identify several sustainable process or practice improvements that have quality returns on investment. Based on the diagnostic and ME3 Team input, participants will identify a process or practice (or multiple ones) that meets their priorities. This process or practice will then be the subject of an intensive technical assessment by an independent expert in that field.

Step 3 – Assessment: The assessment phase is a “deep dive” into the best return on investment sustainable process or practice of choice based on the diagnostic and input from the ME3 Team. An independent industry expert or team of experts will work with participants over the course of several weeks to scope out the sustainable manufacturing process or practice to implement.

Step 4 – Implementation: The ME3 Team will provide implementation grants on a sliding scale depending on the dollar amount of the sustainable process or practice to be implemented. By agreeing to the Commitment to the ME3 Process participants will be eligible for an implementation grant ranging from \$1000 to \$10,000. The ME3 Team will work with firms to identify additional financing should that be required.

Step 5 – Follow-up and Continuous Improvement: As part of acceptance into the ME3 Process, firms agree to periodic follow-up with the ME3 Team to discuss challenges, needs and continuous improvement ideas. Participants will be asked to meet once a quarter with a ME3 Team member for 1 calendar year following implementation of the sustainable process or practice. One of the major benefits of participation in the ME3 process is having direct access to a powerful network of statewide service providers that can address a range of business needs from sustainable manufacturing issues, to financial counseling, to workforce training. We encourage manufacturers to tap into this resource network to address all of a firm’s most pressing needs.

The ME3 Partners are:

- Wisconsin Manufacturing Extension Partnership www.wmep.org
- Milwaukee Economic Development Corporation www.medconline.com
- Veolia Water North America – Central, LLC www.veoliawaterna.com
- University of Wisconsin-Milwaukee www.uwm.edu
- Wisconsin Energy Research Consortium www.energyweracs.org
- Wisconsin Department of Natural Resources www.dnr.wi.gov
- University of Wisconsin-Extension www.uwex.edu
- Milwaukee Metropolitan Sewerage District www.mmsd.com
- Focus on Energy www.focusonenergy.com
- Milwaukee Area Technical College www.matc.edu
- Wisconsin Regional Training Partnership www.wrtpp.org
- Milwaukee Area Workforce Investment Board www.milwaukeeewib.org
- American Society for Quality www.asq.org

Who is WMEP?

WMEP – or Wisconsin Manufacturing Extension Partnership - is an affiliate of the federal government's National Institute of Science and Technology's (NIST) Hollings Manufacturing Extension Partnership (MEP), a national network of 59 centers that provide technical assistance to small and midsize manufacturers. For the past 20 years, the MEPs across the U.S. have worked with manufacturers to realize cost savings, new sales, and retained sales. The MEP system produces more than \$1.4 billion in cost savings and \$9.1 billion in increased or retained sales annually. MEPs provide companies with services and access to public and private resources that enhance growth, improve productivity, and expand capacity.

NIST is a keystone partner in the federal government's national E3 program. Thus, one of Milwaukee's local E3 champions and ME3 signatories is WMEP. WMEP has agreed to provide up to \$105,000 in funding to the ME3 program and will also form the core of the technical assistance team addressing manufacturer's sustainability priorities. WMEP enhances the success of Wisconsin's small to midsize manufacturers by providing expert and accessible services in the areas of profitable sustainability, growth and innovation, continuous improvement, training, export assistance, supply chain management and profitable sustainability. WMEP is a strong advocate for manufacturers in Milwaukee and Wisconsin and supports Wisconsin manufacturing at a national level.

Since 1996, WMEP has provided assistance to more than 4,000 small and midsize manufacturers to help them improve their productivity and profitability. Through its Profitable Sustainability Initiative it has addressed the sustainability needs of almost 50 manufacturers statewide with outstanding results. During the past five years, WMEP-assisted manufacturers reported impacts of nearly \$1 billion, with 6,557 jobs created/retained.

Exhibit B

Terms and Conditions of City of Milwaukee/MEDC Cooperation Agreement

- 1) The City will supply MEDC with funds up to \$200,000. The City will transfer funds to accounts of MEDC's choosing.
- 2) The City will take primary responsibility for the monitoring of compliance and related reporting to the U.S. Department of Energy, Office of Management & Budget and any other related federal agencies as it relates to the expenditure of these EECBG funds.
- 3) MEDC agrees to use its best efforts in the facilitation and management of the sustainable manufacturing grants. MEDC will strive to grant the funds in an expeditious manner. At the request of the Director, OES, MEDC agrees to return control of any unspent funds to the City that MEDC has had under its control for a period of two (2) years from the date of the last fund transfer to MEDC.
4. MEDC shall provide any and all relevant MEDC and external documents to the OES in order for OES to meet the monitoring and compliance standards imposed by City, state and federal authorities. A non-inclusive list of relevant documents is shown as Attachment D – “Section 1:Records, Filing and Monitoring.