



# Property Assessed Clean Energy (PACE) Financing

## PROGRAM MANUAL

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## Executive Summary

The City of Milwaukee recognizes that stimulating the market for cost-effective energy efficiency and water saving upgrades in commercial buildings as a *public purpose*, since these upgrades in properties located within the City increase property values, protect the tax base, increase local economic activity, provide improved environmental benefits, and promote the general welfare of the people of the City of Milwaukee

The *Property Assessed Clean Energy (PACE) Financing Program* creates a strong incentive for some commercial property owners to undertake energy efficiency upgrades in their buildings. Commercial property owners, whose tenants, by their lease terms, pay the energy bills, may not see a strong business case for investing in energy efficiency upgrades in their buildings. The Me<sup>2</sup> PACE Financing Program strengthens the business case for energy upgrades by potentially allowing a property owner to invest in an energy efficiency upgrade and pass the energy savings and upgrade loan repayments to their tenants via a governmental special charge<sup>1</sup>. Additionally, PACE financing provides access to long-term financing, so that the energy savings from a project can meet or exceed loan repayment costs. Finally, the PACE financing is tied to the property, so that the building owner only pays for the improvements while they are in the building, and subsequent owners can pay the annual special charge while they occupy the building and benefit from the energy savings.

Through the *PACE Financing Program*, property owners develop a qualifying energy efficiency project. They then arrange project financing with a financial institution of their choice. The property owner and lender then apply to the City of Milwaukee to designate loan repayments as a governmental special charge. If approved, the City, the Property Owner, and Financial Institution, will enter into a three party agreement to finance the project. The program is potentially open to any lender that would like to participate. However, the City is currently partnering with [Clean Fund](#) and the [Milwaukee Economic Development Corporation \(MEDC\)](#) to provide up to \$100 million of private capital to the program.

The PACE program will be marketed under the Me<sup>2</sup> brand name. The program is administered by the Milwaukee Office of Environmental Sustainability, in partnership with MEDC.

## Authorization

**State of Wisconsin Enabling Statute:** [66.0627\(8\)](#): A political subdivision may make a loan, or enter into an agreement regarding loan repayments to a 3rd party for owner-arranged or lessee-arranged financing, to an owner or lessee of a premises located in the political subdivision for making or installing an energy efficiency improvement, a water efficiency improvement, or a renewable resource application to the premises. If a political subdivision makes a loan or enters into

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<sup>1</sup> Treatment as a special charge *may* allow a property owner to pass through the cost of the improvements to the building's tenants under certain types of lease agreements. The City provides no advice on whether such pass-through is legally allowable and the property owner is solely dependent on seeking independent legal and/or accounting advice if such a pass-through of special charges under the City Ordinance is permissible. The City will not mediate any disputes between a property owner and tenants regarding the disposition or collection of the special charge.

an agreement under this paragraph, the political subdivision may collect the loan repayment as a special charge under this section. Notwithstanding sub. (4), a special charge imposed under this paragraph may be collected in installments and may be included in the current or next tax roll for collection and settlement under ch. 74 even if the special charge is not delinquent.

(b) A political subdivision that imposes a special charge under par. (a) may permit special charge installments to be collected by a 3rd party that has provided financing for the improvement or application and may require that the 3rd party inform the political subdivision if a special charge installment is delinquent.

(c) An installment payment authorized under par. (a) that is delinquent becomes a lien on the property that benefits from the improvement or application as of the date of delinquency. A lien under this paragraph has the same priority as a special assessment lien.

(d) A political subdivision that, under par. (a), makes a loan to, or enters an agreement with, an owner for making or installing an improvement or application that costs \$250,000 or more shall require the owner to obtain a written guarantee from the contractor or project engineer that the improvement or application will achieve a savings-to-investment ratio of greater than 1.0 and that the contractor or engineer will annually pay the owner any shortfall in savings below this level. The political subdivision may determine the method by which a guarantee under this paragraph is enforced.

(e) If the making or installing of an improvement or application under par. (a) costs less than \$250,000, the political subdivision may require a 3rd-party technical review of the projected savings of the improvement or application as a condition of making a loan or entering into an agreement under par. (a). Notwithstanding the provisions of sub. (4), a special charge imposed under this subsection may be collected in installments and may be included in the current or next tax roll for collection and settlement under ch. 74 even if the special charge is not delinquent.

**City of Milwaukee Authorizing Resolution:** Resolution 121591, sponsored by Aldermen Michael Murphy and Nik Kovac and signed by Mayor Tom Barrett, authorized City Ordinance 304-26.5, described in full in Appendix A. This ordinance facilitates owner-arranged financing with a third-party lender for commercial property owners making renovations to improve the energy efficiency to their properties by levying annual installments as a special charge onto the property tax bill. The city will make all reasonable and customary efforts to collect these special charges once they are levied onto the tax bill and remit them to the lender when collected. The city will be entitled to an administrative fee for services rendered in collecting and otherwise processing these special charge payments. By levying these annual installments as a special charge onto the property tax bill, this ordinance places a portion of a debt owed by the property owner to a private lender before the owner's property tax obligation to the city. However, in the event of foreclosure, the city receives all foreclosure proceeds and will pay the private lender only after the city receives full payment for all property taxes and other charges levied against the foreclosed property. In addition, this ordinance repeals code provisions which effectively guaranteed one year's principal and interest payments on clean energy financing loans through a grant-funded reserve fund.

## General Program Information and Eligibility

1. **Administrating Agency:** City of Milwaukee Department of Administration, Office of Environmental Sustainability (OES), in partnership with the Milwaukee Economic Development Corporation and the City Treasurer.
2. **Eligible Properties:** This Program is only available to commercial properties located within the City of Milwaukee. This includes for-profit businesses and non-governmental, non-residential, tax-exempt properties such as privately-operated community centers and hospitals. The property may be a commercially-owned multifamily building with four or more dwelling units. Condominium or residential cooperatives must meet the conditions outlined in the “*Buildings with Multiple Taxkeys*” section.
3. **Eligible Projects:** An eligible energy efficiency, water efficiency, or renewable energy improvement project must:
  - 3.1. Have a minimum cost of \$20,000 and maximum cost of \$3 million. PACE projects typically cannot exceed 20% of the property value typical commercial buildings or 10% for industrial or special use facilities. For example, a commercial building with an assessed or appraised value of \$1,000,000 could do a PACE project costing no more than \$200,000. The City will normally use assessed value for this determination, except in the case of property-tax exempt buildings that do not have an assessed property value. Owners of property-tax exempt properties or property owners that would like to use a higher property valuation must provide a copy of a full, independent appraisal done in the past 12 months.
  - 3.2. Have a useful life of at least five years. PACE financing terms should not exceed the expected life of the proposed improvement. See eligible useful life estimates included in Appendix B. For projects that include multiple improvements, the average weighted useful life of the new equipment must equal or exceed the term of the PACE financing.
  - 3.3. Be permanently affixed to the real property or building, and the property owner will leave the improvements with the property upon sale or transfer of title.
  - 3.4. Reduce energy or water usage, or generate renewable power for the property. If the property is vacant or underutilized at project inception, the energy savings of new equipment can be compared to the energy use of existing equipment using modeling simulations under a new building use or higher occupancy rates.
  - 3.5. Examples of eligible projects include but are not limited to (See Appendix B for more detail):
    - High efficiency lighting
    - Heating ventilation air conditioning (HVAC) upgrades
    - New automated building and HVAC controls
    - Variable speed drives (VSDs) on motors fans and pumps
    - High efficiency chillers
    - High efficiency boilers and furnaces
    - High efficiency hot water heating systems

- Combustion and burner upgrades
- Water conservation measures
- Heat recovery and steam traps
- Building enclosure/envelope improvements
- Building automation (energy management) systems
- Renewable energy systems

3.6. Ineligible projects include but are not limited to:

- Compact fluorescent, screw-in lamps.
- Plug load devices.
- Measures that are not permanently installed and can be easily removed.
- Measures that save energy solely due to operational or behavioral changes
- Power correction, power conditioning.
- Any measure that does not result in energy savings or renewable energy production.
- Any measure that cannot be explained in terms of industry-standard engineering or scientific principles.
- Refrigerant charge (AC/Split Systems/Heat Pumps)

3.7. **Projects over \$250,000:** The energy and/or water savings from the project should exceed the cost of the improvements over the life of the improvement. State law requires that PACE a project that costs \$250,000 or more “shall require the owner to obtain a written guarantee from the contractor or project engineer that the improvement or application will achieve a savings-to- investment ratio of greater than 1.0 and that the contractor or engineer will annually pay the owner any shortfall in savings below this level.” The City of Milwaukee determines that under this statute, the **energy cost savings, water cost savings, maintenance cost savings, and other documentable operations savings over the estimated useful life of the improvements must be greater than the principal cost of the improvements.** The performance guarantee should include annual estimates of savings so that its accuracy can be evaluated annually. This calculation can assume increases to the price of energy and water over time, using projections provided in the US Energy Information Administration Annual Energy Outlook. The written guarantee of energy savings must cover a **minimum period of three years** following installation of the PACE-financed equipment. The investment shall be construed as the project cost quoted by the contractor and excludes interest and fees contained in the municipal special charge.

3.8. **Projects less than \$250,000:** For projects less than \$250,000 the property owner must submit a professional energy and/or water audit on the property that corresponds with the proposed improvements the owner is seeking to finance. The audit should meet ASHRAE Level 2 standards or be a comparable energy analysis (i.e. development of projected energy savings, cost savings, and project costs).

4. **Eligible Property Owners:** The person or persons possessing the most recent fee title or land contract vendee’s interest of an eligible property as shown by the records of the Milwaukee County Register of Deeds. To be eligible to participate in the program, an eligible property owner must, at a minimum:

- 4.1. Agree to participate in annual surveys and Program evaluations, which may include access to utility bill usage information. Enrolling in the [Better Buildings Challenge](#) and sharing the buildings energy data through [EPA Portfolio Manager](#) satisfies this requirement.
- 4.2. Obtain the written affirmative acknowledgment of existing mortgage lenders of participation in the PACE program (See the *Lender Consent* section)
- 4.3. Certify they (and its corporate parent if the property owner is a single-purpose entity) are solvent and that no proceedings are pending or threatened in which the property owner (or the corporate parent, as applicable) may be adjudicated as bankrupt, become the debtor in a bankruptcy proceeding, be discharged from all of the property owner's (or corporate parent's, as applicable) debts or obligations, be granted an extension of time to pay the property owner's (and the corporate parent's, as applicable) debts or be subjected to a reorganization or readjustment of the property owner's (and the corporate parent's, as applicable) debts. The property owner must also certify that the property owner (or any corporate parent if the property owner is a single-purpose entity) has not filed for or been subject to bankruptcy protection in the past three years.
- 4.4. Be current in the payment of all obligations secured by the subject property, including property taxes, assessments and tax liens and have had no delinquencies within the past 3 years (or since taking title to the subject property if it has been less than 3 years). The City and its financing partners may review public records, including the real property records, to verify compliance with this requirement. The City reserves the right to make allowances for certain property tax payment delays that do not reflect financial distress.
- 4.5. Have no involuntary liens, defaults or judgments applicable to the subject property. The City and its financing partners may review public records, including the real property records and court documents, to verify compliance with this requirement. A property owner with an involuntary lien(s), default or judgment may be allowed to participate in the Program if it can demonstrate an acceptable reason for the lien, default or judgment and a path for resolution along with supporting documentation.
- 4.6. The property owner must certify that it is not party to any litigation or administrative proceeding of any nature in which the property owner has been served, and that no such litigation or administrative proceeding is pending or threatened that, if successful, would materially adversely affect the property owner's ability to operate its business or pay the contractual assessment when due, or which challenges or questions the validity or enforceability of the Assessment Contract or any other documents executed by property owner in connection with the Program.
5. Properties that are currently appealing a property tax assessment will be reviewed, and eligibility for the Program will be determined on a case-by-case basis.
6. **Program Size:** The PACE program's lender Clean Fund has pledged \$100 million in PACE financing. However, construction financing from the local lender MEDC is limited to \$5 million annually.
7. **Interest Rates and Fees:** Me<sup>2</sup> PACE lenders may charge the market interest rate on PACE loans, plus applicable fees. The market rate for PACE loans is determined by the national PACE market and the particular terms of each loan, and should not be confused with the market rate of traditional commercial mortgage financing.

## Application and Program Process Flow

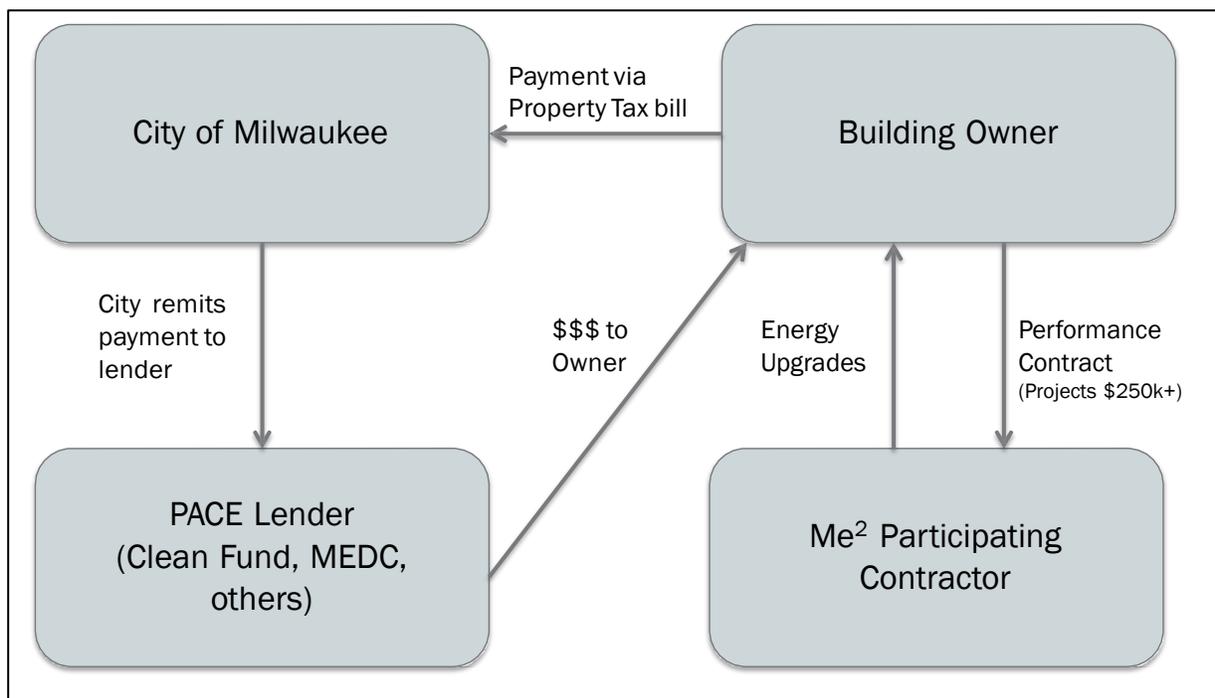
An Eligible Property Owner as Applicant must submit a completed application including the following supporting information on a proposed project to OES or third party entity retained by the City to administer the Program:

1. **Show Interest:** Submit a *Customer Interest Form*, found at [SmartEnergyPays.com/businesses](https://SmartEnergyPays.com/businesses). This form ensures that the property owner fully understands the program requirements prior to developing a project and full application. The City will acknowledge receipt of this form.
2. **Apply:** Submit a completed *Me<sup>2</sup> Commercial PACE Application*, along with supporting documentation, including:
  - a. Signed bid from Participating Me<sup>2</sup> Commercial Contractor for an Eligible Project.
  - b. Savings Analysis detail, documenting energy savings, water savings, maintenance savings, and operations savings; see section 3.8 above for details.
  - c. Energy saving performance contract if project is \$250,000 or more; see section 3.7 above for details.
  - d. Join the [Better Buildings Challenge](#). The Better Buildings Challenge establishes the goal for building owners to reduce their energy use by 20% by the year 2020. The challenge requires monitoring your energy usage using EPA Portfolio Manager and sharing your data with the US Department of Energy and City of Milwaukee. Information on data sharing can be found [here](#).
3. **Get Lien Holder Consent:** Provide written consent from the existing mortgage holder(s) on the eligible property for the proposed Financing Agreement and treating the payments under the Financing Agreement as special charges applied to the eligible property pursuant to this Program. A *Request for Lender Acknowledgement and Notice of Proposed Contractual PACE Special Charge* is available at [SmartEnergyPays.com/businesses](https://SmartEnergyPays.com/businesses)
4. **City Approval:** The City and its lending partner will review and approve the project if it meets the program terms.
5. **Financing Agreement with City and Lender:** The property owner, PACE lender (e.g MEDC) and the City will close the financing. Loan closing requires standard bank loan documents, plus the *PACE Financing Program Agreement* (Tri-party agreement between City, Property Owner(s) and PACE lender) contained in **Appendix C**.

6. **Release of Funds:** After closing, OES will provide the City Assessor with amount of the annual special charge. Property Owner is able to draw upon funds based upon a pre-determined Service Contract with their contractor by contacting the City. *See Property Owner's Certificate and Request for Disbursement (Appendix D)* for more information on drawing funds.
7. **Pay Special Charge:** The voluntarily-assumed PACE special charge will show up on the property tax bill, issued in December of each year, until the loan is fully repaid. The property owner must make this payment to the City or otherwise face the same repercussions as those that follow non-payment of the annual property tax bill. *See Appendix A Clean Energy Financing Ordinance* for details.

See *Figure 1* below for a diagram of the relationship between parties.

*Figure 1: Relationship of Parties on PACE Transaction*



### **Lien Holder Consent**

The Milwaukee PACE program requires documentation that the primary lien holders on the property consent to the PACE financing on that property. A property owner that is applying for or has been pre-approved for PACE financing must gain lender consent prior to closing the PACE loan. Property Owners should this send a *Notice of Proposed Contractual PACE Special Charge* to their existing Lender(s) to (i) provide notice of the proposed participation of the Property in the Program, (ii) request confirmation from the Lender that the levy of the Contractual PACE Special

Charge pursuant to the Assessment Agreement will not trigger an event of default or the exercise of any remedies under the Loan documents, (iii) provide notice that the Contractual PACE Special Charge will be collected in installments on the property tax bill in the same manner as and subject to the same penalties, remedies and lien priorities as real property taxes, (iv) declare the Property Owner's agreement to pay on a timely basis both the existing obligations secured by the Property (including the Loan) and the proposed Contractual PACE Special Charge, and (v) obtain the consent of the Lender for the Property Owner to participate in the Program, including but not limited to the placement of a Contractual PACE Special Charge on the tax bill for the Property which is senior to Lender's mortgage lien.

In seeking lender consent, the building owner may find it helpful to inform primary mortgage holders that in the event of loan default and tax foreclosure, the total value of remaining principal on the PACE loan is not accelerated and collected; rather, the City will only collect delinquent payments on the loan, including delinquent payments that accrue during the tax foreclosure process. Further, the PACE-financed project may increase the property value and hence property equity.

Copies of the *Notice of Proposed Contractual PACE Special Charge* and *Lender the Acknowledgement to Contractual PACE Special Charge* can be found at [SmartEnergyPays.com/businesses](http://SmartEnergyPays.com/businesses)

## **Insurance**

If the PACE financing exceeds 10% of the Property Value or is in excess of \$2 million, the property owner shall carry property insurance with the City of Milwaukee and the PACE lender named as an additional insured.

## **City Approval**

OES, or a third party entity retained by the OES, shall review the application to participate in the Program. The OES may approve, subject to conditions, any completed application to participate in the Program that meets the OES's eligibility criteria for approval as an eligible project. The OES shall provide the property owner and proposed third party lender with written notice of the City's approval or disapproval within 30 business days of a completed application being submitted to OES (including all supporting documentation). All approvals of an Eligible Project for recovery of the Financing Agreement payments as a special charge shall be conditioned upon:

- a. The acceptance of the property owner and lender to pay a one-time program operation fee of 0.5% of the total amount of the Qualifying project to the City ;
- b. The acceptance of the property owner to pay lender fees based on market rates.
- c. Receipt of primary lien holder consent documents
- d. The signing of a written agreement between the City, property owner and financial institution with minimum terms set forth in Appendix C.

## **Recording of the Written Agreement**

Participation in the Program for an approved Qualifying project shall be effective upon the recording of the Financing Agreement between the Eligible Property Owner, lender and City with the Milwaukee County Register of Deeds to provide notice to the public of the Financing Agreement. A discharge of the special charge created under this ordinance upon full payment by the property owner or full discharge of the debt by the third party lender shall be recorded with the Milwaukee County Register of Deeds on the Eligible Property.

## **Education & Outreach Program**

The Office of Environmental Sustainability or its designee shall implement an education and outreach program shall be implemented to make owners of non-residential properties, including 4+ unit multifamily buildings, located within the City of Milwaukee aware of the energy and water savings opportunities available from this Program.

## **Participating Contractors**

All projects financed through the PACE Financing Program must be installed commercial contractors approved through the Me<sup>2</sup> program. Participating Me<sup>2</sup> contractors must meet the terms of the Community Workforce Agreement approved in Common Council File 100007 and subsequent revisions. The most recent Community Workforce Agreement provisions can be found on *Commercial Contractor Request for Qualifications (RFQ)* document at [www.SmartEnergyPays.com/contractors](http://www.SmartEnergyPays.com/contractors). The prime contractor on the project is responsible to ensure that every sub-contractor on the project also complies with the terms of the Community Workforce agreement, e.g. by pre-qualifying the subcontractors through OES or its designated third-party administrator.

Contractors who fail to comply with the terms of the Community Workforce Agreement after a PACE project has been approved can be de-barred from future PACE projects.

Building owners who desire to switch contractors after a project has been approved must pre-clear the change with the program. The City or its lending partners may withhold disbursement[?] if a non-Me<sup>2</sup> approved contractor is used on the project.

## **Change Orders**

All change orders on a project must be pre-approved with the City. The contractor shall provide documentation of the change in:

- Project scope
- Project cost
- Energy and operations savings estimates
- Terms to the energy saving performance contract (if the project was originally over \$250,000 or if total project cost exceeds \$250,000 with the change order)

## **Buildings with Multiple Taxkeys**

Buildings with multiple tax keys such as condominiums require additional documentation and underwriting protocol. The PACE special charge must be tied to a tax key that has sufficient property value to underwrite the project. The City will work with building owners on other solutions and will update this program manual accordingly. However, the City reserves the right to deny buildings with multiple taxkeys if any one taxkey cannot support the PACE project.

## Appendix A: Clean Energy Financing Ordinance

### 304-26.5. Clean Energy Financing.

**1. PURPOSE.** The city finds that renovations of privately-owned commercial properties made to improve energy efficiency, save water, use renewable energy, increase property values, stimulate local economic activity, provide environmental benefits and promote the general welfare of city residents. The purpose of this section is to facilitate loans arranged by commercial property owners to make energy-efficient renovations by treating principal and interest repayments, fees and other charges for these loans as special charges eligible for inclusion on the tax bill for these properties.

**2. DEFINITIONS.** a. "Annual installment" means the portion of the loan amount that is due for a particular year under the loan agreement.

b. "Default loan balance" means the outstanding balance of a PACE loan at the time the city receives foreclosure proceeds on a property subject to special charges under this section.

c. "Foreclosure proceeds" means the proceeds resulting from the disposition of a property the city received through an in rem tax foreclosure.

d. "Foreclosure reconstructive costs" means the sum of a stream of costs equal to the annual city portion of property taxes levied a property in in rem tax foreclosure, from the initiation of an in rem tax foreclosure action by the city until the city prevails in a foreclosure action.

e. "Incentive" means any reimbursable or non-reimbursable credit enhancement or other grants of funds by or through the city to a PACE lender in connection with a PACE loan.

f. "Loan agreement" means a written agreement among a borrower, a PACE lender and the city as provided in sub. 7.

g. "Loan amount" means the amount of principal, interest, administrative fees, incentives and other loan charges under the loan agreement to be paid by the borrower under the PACE loan.

h. "PACE" means property assessed clean energy.

i. "PACE default provisions" means the sum of:

i-1. Any additional interest charges the loan agreement stipulates shall be applied to unpaid annual installments levied as special charges under this section onto the property tax bill when the city initiates tax foreclosure on the property.

i-2. Any additional annual installments stipulated by the loan agreement that become due between the time the city initiates tax foreclosure on the property and the date the city receives proceeds from the disposition of the tax foreclosed property.

i-3. Any additional interest charges the loan agreement stipulates shall be applied to annual installments included in paragraph i-2.

i-4. Any default loan balance.

j. "PACE lender" means a lender that makes a PACE loan.

k. "PACE loan" means a loan made by a PACE lender to a borrower under this section for energy-efficiency improvements made to a commercial property.

l. "Reimbursable incentive" means an incentive that must be paid back to the city pursuant to the loan agreement upon the collection of the annual installments or the foreclosure proceeds.

m. "Subject property" means any property on which energy-efficiency improvements have been made and financed through an outstanding PACE loan.

3. STATE COMPLIANCE. Annual installments shall be considered special charges on the subject property, and each year's annual installment shall be levied onto the property tax bill of the subject property pursuant to s. 66.0627, Wis. Stats., as amended.

4. INCENTIVES. The city may offer incentives to the PACE lender subject to the availability of funds or grants.

5. AFFILIATE FINANCING. Nothing in this section shall be construed to prohibit an affiliate of the property owner of a commercial property, including without limitation, a single-member limited liability company owned by the property owner, from providing the funds for a PACE loan with respect to the property. In such case, the property owner shall be considered the borrower, and the affiliate shall be considered the PACE lender.

6. LOAN APPROVAL. a. A prospective borrower applying for a PACE loan shall comply with the loan application process as set forth in the program manual prepared by the department of administration.

b. The department of administration shall approve the financing arrangements between a borrower and a PACE lender.

7. LOAN AGREEMENT. a. The department of administration, the borrower and the PACE lender shall execute the loan agreement which:

a-1. Shall inform the participants that the loan amount shall be considered a special charge, and each year's annual installment shall be levied onto the property tax bill of the subject property as a special charge and be a lien against the subject property pursuant to s. 66.0627, Wis. Stats., as amended.

a-2. Shall set forth the amount of the annual installment due each year.

a-3. Shall stipulate any default interest to be applied to unpaid annual installments. a-

4. May provide for fees to the city to administer the program.

a-5. May provide for prepayments of annual installments by the borrower with a resulting reduction in the special charge for the prepayment, subject to any prepayment premium charged by the PACE lender.

a-6. May allow for amendment by the parties.

b. Each loan shall be amortized over the term of the loan as provided in the loan agreement. The annual installments may be collected in 10 monthly installments pursuant to s. 74.87, Wis. Stats., as amended.

c. The city shall agree in the loan agreement to enforce the special charge under this section and to account for the funds collected as special charges with respect to each subject property.

d. The loan agreement shall require the PACE lender and the borrower to comply with all federal, state and local lending and disclosure requirements and this section.

8. ANNUAL INSTALLMENTS ADDED TO TAX BILLS. The department of administration, following the city's customary practices, shall cause each year's annual installment to be levied onto the property tax bill of the subject property as a special charge pursuant to s. 66.0627, Wis. Stats., as amended, and be a lien against the subject property.

9. COLLECTION OF SPECIAL CHARGES. The department of administration, following the city's customary practices, shall cause each year's annual installments to be levied onto the appropriate property tax bills as special charges. The office of the treasurer shall follow its customary practices to collect special charges under this section once placed on the tax rolls, including assessing penalties and charging interest.

10. REMITTANCE OF SPECIAL CHARGES. a. The office of the treasurer shall not submit special charges levied onto property tax bills under this section to the city comptroller for remittance, or in any other way cause unpaid special charges under this section to be remitted to the department of administration, the PACE lender or any other party.

b. The department of administration shall regularly monitor the property tax bill accounts of subject properties, keep an accounting of payments received by the city for these special charges and obtain written confirmation of these payments from the office of the treasurer. The department of administration shall establish a procedure, in consultation with the city comptroller and the city treasurer, to authorize the city comptroller to remit payments received for special charges levied onto property tax bills under this section to the appropriate PACE lender, less any service fees or incentive reimbursement owed to the city by the PACE lender, taking special precautions to prevent remitting any monies before receipt by the city, on the following schedule:

b-1. Payments in full made by January 31 shall be remitted not later than February 28.

b-2. The sum of installment payments received by May 31 shall be remitted not later than June 30.

b-3. The sum of installment payments received between May 31 and October 31 shall be remitted not later than November 30.

11. ADMINISTRATION AND COLLECTION SERVICES FEES. The department of administration shall, in consultation with the city comptroller and the city treasurer, determine fees to charge the PACE lender for services rendered in administrating, collecting and remitting special charges levied onto property tax bills under this section, and shall include these fees in the loan agreement.

12. PROPERTY FORECLOSURE PROCEDURES. a. If an owner fails to pay special charges levied on a property under this section, either in full by January 31 or through a city-approved installment plan, the city treasurer, following its customary and ordinary practices, shall begin a property tax foreclosure proceeding on the subject property at the earliest time allowed under state statutes, unless the condition of the property, or for other reasons, the city determines a foreclosure is not in the best interests of the city. The department of administration shall inform the PACE lender eligible to receive special charge payment remittances on this property of the city's determination not to pursue foreclosure within 30 days of the city's determination not to proceed.

b. If the city is unwilling to foreclose on a subject property, under s. 75.521, Wis. Stats., the PACE lender may request that the city, pursuant to s. 75.106, Wis. Stats., assign the city's right to take judgment against the subject property, provided the PACE lender fully complies with all provisions of s. 75.106, Wis. Stats., as amended, concerning the subject property, and agrees to reimburse the

city for foreclosure costs, pays the city all other charges accruing to the foreclosed property, including but not limited to, special charges other than special charges levied on the property under this section, delinquent utility charges and personal property taxes, special assessments, special taxes, interest and penalties, and property taxes.

13. initial marketing period. a. If the city treasurer prevails in a property-tax foreclosure action against a subject property, the PACE lender may request, and the department of city development shall grant, if requested, a 90-day initial marketing period during which the department of city development shall consider offers to purchase the subject property from the PACE lender before considering any other purchase offers for the subject property. The PACE lender shall have 5 business days after receiving written notice that the department of city development is prepared to market the subject property for sale to request this 90-day initial marketing period, and the 90-day initial marketing period shall begin immediately upon the department of city development's receipt of the PACE lender's request.

b. No PACE lender in violation of s. 304-49-8 shall be eligible to request this 90-day initial marketing period, and a PACE lender shall not sell a subject property acquired under this section to any party in violation of s. 304-49-8.

c. Any purchase offer negotiated during this period shall be approved by the common council as provided in s. 304-49-7.

d. If the PACE lender sells a subject property acquired under this section for an amount that exceeds the sum of PACE default provisions and the purchase cost incurred to buy the property from the city, the PACE lender shall apply this excess to the amount owed the city on the subject property under sub. 14-c-1 to 6 less the amount paid to the city to acquire the property.

14. FORECLOSURE PROCEEDS DISTRIBUTIONS. a. If the city treasurer prevails in a property-tax foreclosure action against a subject property, the foreclosure proceeds shall be credited to the city's reserve for tax deficit fund in accordance with s. 304-49-11.

b. The department of administration shall determine the PACE default provisions when the city receives foreclosure proceeds on a subject property.

c. The department of administration, in consultation with the city comptroller and the city treasurer, shall develop a procedure to authorize the city comptroller to remit to the PACE lender a portion of the foreclosure proceeds to satisfy all or part of the PACE default provisions, provided the foreclosure proceeds exceed the sum total of:

c-1. All costs incurred by the city in pursuing this foreclosure action.

c-2. Any reimbursable incentives paid by the city to the PACE lender or the PACE lender's representative.

c-3. Any administrative fees stipulated in the loan agreement.

c-4. Any interest and penalties accruing to special charges added to the property tax bill under this section.

c-5. All other charges accruing to the foreclosed property, including but not limited to, special charges other than special charges levied on the property under this section, delinquent utility charges and personal property taxes, special assessments, special taxes, interest and penalties, and property taxes.

c-6. All foreclosure reconstructive costs.

## **Appendix B: Eligible PACE Improvements and Expected Useful Life**



## Me<sup>2</sup> Commercial PACE Eligible Improvements (September 2013)

### INTRODUCTION

Me<sup>2</sup> Commercial PACE provides clean energy financing for energy efficiency and renewable energy projects between \$20,000 and \$3 million. PACE financing helps make energy efficiency projects work for your bottom line. The program is offered by the City of Milwaukee's Office of Environmental Sustainability.

PACE Financing allows a property owner to implement energy efficiency and renewable energy improvements without a large up-front cash payment. The property owners that voluntarily choose to participate in the PACE Financing program repay their improvement costs over a set time period (typically 10 to 20 years) through municipal special charges, which are secured by the property itself and paid as an addition to the owner's property tax bill. Non-payment generally results in the same set of repercussions as the failure to pay any other portion of a property tax bill.

### ELIGIBLE IMPROVEMENTS

The Me<sup>2</sup> Commercial PACE program provides financing for a wide variety of commercial energy and water saving projects that can include common measures as well as custom measures. See below for a complete list of eligible common measures. Please refer to the Program Handbook for more details and requirements for the approval of energy efficiency and renewable energy measures under the program. All measures approved for funding under the program must have the capacity to save energy or produce renewable energy as compared to building base case systems. Refer to the program handbook for details on the program requirements. **NOTE: Cost savings from the improvements over the life of the improvement must exceed the improvement cost. The EUL guidelines are being nationalized but currently reflect the California origins of PACE. Applicants may submit an engineering justification for a different EUL that will be reviewed - for a customer-paid fee - by an engineering firm retained by the Program.**

### CONTACT

For details on the Me<sup>2</sup> Commercial PACE program visit [www.smartenergypays.com](http://www.smartenergypays.com)

For any questions on Me<sup>2</sup> PACE financing, contact:

Erick Shambarger, City of Milwaukee

(414) 286-8556

[eshamb@milwaukee.gov](mailto:eshamb@milwaukee.gov)



## Me<sup>2</sup> Commercial PACE Eligible Improvements (September 2013)

### KEY

#### ACRONYMS / DEFINITIONS

ACH	Air changes per hour
ASHRAE	American Society for Heating Refrigeration and Air-conditioning Engineers ( <a href="http://www.ashrae.org">www.ashrae.org</a> )
CADMAC	California DSM Measurement Advisor Committee ( <a href="http://www.calmac.org/">http://www.calmac.org/</a> )
CEE	Consortium for Energy Efficiency ( <a href="http://www.cee1.org">www.cee1.org</a> )
CSI	California Solar Initiative - PV
CSI-Thermal	California Solar Initiative - Water heating
CRRC	Cool Roof Rating Council ( <a href="http://www.coolroofs.org">www.coolroofs.org</a> )
DEER	Database for Energy Efficient Resources ( <a href="http://www.energy.ca.gov/deer/">www.energy.ca.gov/deer/</a> )
DSIRE	Database of State Incentives for Renewables and Efficiency ( <a href="http://www.dsireusa.org">www.dsireusa.org</a> )
DHW	Domestic Hot Water
EMS	Energy management systems
EUL	Expected Useful Life
HET	High Efficiency Toilets
HEU	High Efficiency Urinals
HID	High Intensity Discharge
IC	Internal Combustion
IOU	Investor owned utility
PV	Photovoltaic
SAE	Society of Automotive Engineers
SGIP	Self-Generation Incentive Program
SRCC	Solar Rating and Certification Corporation
VFD	Variable Frequency Drive (aka Adjustable Frequency Drive, Variable Speed Drive)



## Me<sup>2</sup> Commercial PACE Eligible Improvements (September 2013)

### ELIGIBLE ENERGY EFFICIENCY IMPROVEMENTS

System	Subsystem	Measure	Effective Useful Life (yrs)	Source for Effective Useful Life
<b>Domestic Hot Water (DHW)</b>	Water Heater	Efficient Unit Replacement	14	ASHRAE: DHW
	Water Heater	DHW Pipe Insulation	20	CADMAC EUL (Appendix F)
	Commercial Kitchen	Pre-rinse Spray Valve	5	Watersmart Guidebook (EBMUD - 2008)
	Commercial Laundry	Ozone Laundry System	10	PG&E Work Paper
	Pumps	Efficient Unit Replacement	24	ASHRAE: Heating Pump
	Pumps	Trimmed impeller	24	ASHRAE: Heating Pump
	Pumps	Installing VFD & controls	13	ASHRAE: EMS Controls
<b>Envelope</b>	Doors	Reduce Building Infiltration	Subject to review	
	Walls	Insulation (Conditioned spaces only)	22	ASHRAE - HVAC Applications 36.3 Table 4: Insulation
	Roof	Insulation (Conditioned spaces only)	22	ASHRAE - HVAC Applications 36.3 Table 4: Insulation
	Roof	Cool roof surface	15	DEER 2008: EUL Summary
	Roof	Green roof installation	Subject to review	
	Windows	High Performance Windows	20	DEER 2008: EUL Summary
	Windows	Window film installation	10	DEER 2008: EUL Summary
<b>Lighting</b>	Fluorescent	Efficiency Improvement	12	DEER 2008: EUL Summary
	Compact Fluorescent	Efficiency Improvement	12	DEER 2008: EUL Summary
	Induction Lighting	Efficiency Improvement	12	DEER 2008: EUL Summary
	Cold Cathode Lamps	Efficiency Improvement	12	DEER 2008: EUL Summary
	HID	Efficiency Improvement	14	DEER 2008: EUL Summary (avg of all HID)
	Bi-Level Fixtures	Replace existing lighting in Stairwells and Garages with Bi-level Lighting fixtures	16	DEER 2008: EUL Summary
	Exit Signs	Replace with LED / LEC exit Sign	16	DEER 2008: EUL Summary
	Exit Signs	Replace with self-luminescent	16	DEER 2008: EUL Summary
	Interior Lighting	Replace with Induction or LED	10	IOU-specific Measure Evaluations
	Exterior Lighting	Replace with Induction or LED	10	IOU-specific Measure Evaluations

## Me<sup>2</sup> Commercial PACE Eligible Improvements

	Street Lighting	Replace with Induction or LED	10	IOU-specific Measure Evaluations	
	Daylighting	Skylights	NA	NA	
	Controls	Demand Response Controls	13	ASHRAE: EMS Controls	
	Controls	Lighting scheduling controls	8	DEER 2008: EUL Summary	
	Controls	Daylighting controls	16	DEER 2008: EUL Summary	
	Controls	Occupancy sensors	8	DEER 2008: EUL Summary	
	General	De-lamping			
<b>HVAC</b>	AC/Split Systems/Heat Pumps	Efficient Unit Replacement	18	ASHRAE: AC/HP/Split	
	AHUs	Airflow distribution improvements	24	ASHRAE - HVAC Applications 36.2 Table 3: DX air dist equip	
	AHUs	Economizer (Air or Water-side)- Repair or New Unit	10	IOU-specific Measure Evaluations	
	Boilers	Burner upgrade	21	ASHRAE-HVAC Apps 36.3 Table 4: Burners	
	Boilers	Combustion fan VFD	13	ASHRAE: EMS Controls	
	Boilers	Economizers	10	IOU-specific Measure Evaluations	
	Boilers	Efficient Unit Replacement	22	ASHRAE - HVAC Applications 36.2 Table 3: Boilers, HW, steel gas-fired	
	Boilers	Heat recovery	22	ASHRAE - HVAC Applications 36.2 Table 3: Boilers, HW, steel gas-fired	
	Boilers	Oxygen trim controls	15	IOU-specific Measure Evaluations	
	Boilers/Chillers	Pipe Insulation	20	CADMAC EUL (Appendix F)	
	Chillers	Add water-side economizer	15	DEER 2008: EUL Summary	
	Chillers	Efficient Unit Replacement	21	ASHRAE: Chillers	
	Chillers	Heat recovery	25	ASHRAE: Chiller, Heat Recovery	
	Cooling Tower	Installing VFD & controls - fans	13	ASHRAE: EMS Controls	
	Cooling Tower	Replacement or add. capacity	22	ASHRAE - HVAC Applications 36.2 Table 3: Cooling Towers, metal	
	Energy Management Controls	Cooling tower fan sequencing	13	ASHRAE: EMS Controls	
	Energy Management Controls	Demand Response Controls	13	ASHRAE: EMS Controls	
	Energy Management Controls	Improved scheduling capability	13	ASHRAE: EMS Controls	
	Energy Management Controls	Sensors calibration/optimal relocation	13	ASHRAE: EMS Controls	
	Energy Management Controls	Ongoing-commissioning software			
	Evaporative Cooling Systems	Offset existing mech. cooling	15	DEER 2008: EUL Summary	
	Fans	Installing VFD & controls	13	ASHRAE: EMS Controls	

## Me<sup>2</sup> Commercial PACE Eligible Improvements

	Furnaces	Condensing furnaces	18	ASHRAE - HVAC Applications 36.3 Table 4: Furnace	
	HVAC System (General)	Duct testing and sealing	Subject to review		
	HVAC System (General)	Duct testing and sealing	Subject to review		
	HVAC System (General)	VAV system conversions	15	IOU-specific Measure Evaluations	
	HVAC System (General)	Radiant Heating / Cooling	Subject to review		
	HVAC System (General)	Geothermal HVAC	Subject to review		
	HVAC System (General)	Thermal Storage for Load Shifting	Subject to review		
	Steam Heating	Install/Replace Steam Traps			
	Labs	Reduced ACH	15	IOU-specific Measure Evaluations	
	Labs	VAV fume hoods	15	IOU-specific Measure Evaluations	
	Motors	Efficient Unit Replacement	18	ASHRAE: Motors	
	Pumps	Efficient Unit Replacement	19	ASHRAE: Cooling Pumps	
	Pumps	Trimmed impeller	19	ASHRAE: Cooling Pumps	
	Pumps	Installing VFD & controls	13	ASHRAE: EMS Controls	
	Ventilation	Demand controlled ventilation	21	ASHRAE: Exhaust Fan	
	Ventilation	Garage CO controls	21	ASHRAE: Exhaust Fan	
<b>Refrigeration</b>	Refrigerated Cases / Walk-ins	Addition of insulation	11	DEER 2008: EUL Summary	
	Refrigerated Cases / Walk-ins	Anti-sweat heater controls	12	DEER 2008: EUL Summary	
	Refrigerated Cases / Walk-ins	Auto-closers for cooler/freezer doors	8	DEER 2008: EUL Summary	
	Refrigerated Cases / Walk-ins	Case-lighting Controls	13	ASHRAE: EMS Controls	
	Refrigerated Cases / Walk-ins	Efficient evaporator fan motors	18	ASHRAE: Motors	
	Refrigerated Cases / Walk-ins	Efficient Unit Replacement	13	ASHRAE: Refg. Equipment	
	Refrigerated Cases / Walk-ins	Evaporator fan controllers	16	DEER 2008: EUL Summary	
	Refrigerated Cases / Walk-ins	High Efficiency Display Cases	13	ASHRAE: Refg. Equipment	
	Refrigerated Cases / Walk-ins	Improved Defrost Controls	13	ASHRAE: EMS Controls	
	Refrigerated Cases / Walk-ins	Install doors w/ low/no anti-sweat heat	12	DEER 2008: EUL Summary	
	Refrigerated Cases / Walk-ins	Installing Night covers	5	DEER 2008: EUL Summary	
		Refrigerated Cases/Walk-ins	Suction line insulation	22	ASHRAE - HVAC Applications 36.3 Table 4: Insulation
		Thermal Storage Systems	Thermal Storage for Load Shifting	Subject to review	
		Compressors	Add VFD and Controls	13	ASHRAE: EMS Controls
	Compressors	Added Heat Recovery	15	IOU-specific Measure Evaluations	
	Compressors	Addition of Mechanical Sub-cooling	15	DEER 2008: EUL Summary	
	Compressors	Efficient Unit Replacement	15	IOU-specific Measure Evaluations	

## Me<sup>2</sup> Commercial PACE Eligible Improvements

	Compressors	Floating Head Pressure Controls	15	DEER 2008: EUL Summary	
	Compressors	Floating Suction Pressure	15	DEER 2008: EUL Summary	
	Condensers	Efficient Unit Replacement	15	DEER 2008: EUL Summary	
	Condensers	Evaporative Condensers	20	ASHRAE - HVAC Applications 36.3 Table 4: Condensers, Evaporative	
	Condensers	Floating Head Pressure	15	DEER 2008: EUL Summary	
	Condensers	Replace Air Cooled with Evaporative Condenser	20	ASHRAE - HVAC Applications 36.3 Table 4: Condensers, Evaporative	
	Controls	Retro-commissioning	10	DEER 2008: EUL Summary	
<b>Compressed Air</b>	Air Compressors	Efficient Unit Replacement	20	ASHRAE - HVAC Applications 36.3 Table 4: Recip Compressors	
	Compressed Air Storage	Additional compressed air storage	15	IOU-specific Measure Evaluations	
	Controls	Improved compressor sequencing	13	ASHRAE: EMS Controls	
	Controls	Improved scheduling or controls	13	ASHRAE: EMS Controls	
<b>Process / Plug Loads</b>	Boilers	Efficient Unit Replacement	22	ASHRAE - HVAC Apps 36.2 Table 3: Boilers, HW, steel gas-fired	
	Boilers	Burner upgrade	21	ASHRAE - HVAC Apps 36.3 Table 4: Burners	
	Boilers	Combustion fan VFD	13	ASHRAE: EMS Controls	
	Boilers	Economizers	10	IOU-specific Measure Evaluations	
	Boilers	Heat recovery	22	ASHRAE - HVAC Applications 36.2 Table 3: Boilers, HW, steel gas-fired	
	Boilers	Oxygen trim controls	15	IOU-specific Measure Evaluations	
	Chillers / Cooling	Efficient Unit Replacement	15	IOU-specific Measure Evaluations	
	Air / Water Distribution System	Efficiency Improvement	12	IOU-specific Measure Evaluations	
	Fans	Efficient Unit Replacement	20	ASHRAE - HVAC Applications 36.3 Table 4: Fans	
	Fans	Installing VFD & controls	13	ASHRAE: EMS Controls	
	Industrial Process	Equip. scheduling for load reduction	Subject to review		
	Industrial Process	Process improvement	Subject to review		
	Motors	Efficient Unit Replacement	18	ASHRAE: Motors - NRR manual	
	Elevators	Hoisting and Standby improvements	Subject to review		
	Pool	Add pool cover	6	IOU-specific Measure Evaluations	
	Pool	Efficient Heater Replacement	5	DEER 2008: EUL Summary	
	Pool Pump	Reduce/Optimize Flow/Configuration	13	ASHRAE: EMS Controls	
Pool Pump	Replace Motor	18	AHRAE: Motors - NRR manual		



## Me<sup>2</sup> Commercial PACE Eligible Improvements

	Pool Pump	Replace Pump	20	ASHRAE - HVAC Apps 36.3 Table 4: Pumps
	Pool Pump	Variable Flow	15	IOU-specific Measure Evaluations
	Pumps	Efficient Unit Replacement	20	ASHRAE HVAC Apps 36.3 Table 4: Pumps
	Pumps	Installing VFD & controls	13	ASHRAE: EMS Controls
Mobility	Elevators		20	
	Escalators		20	

### ELIGIBLE WATER CONSERVATION IMPROVEMENTS

System	Subsystem	Measure	Effective Useful Life (yrs)	Source for EUL
Domestic Water Use	Toilets	Efficient Unit Replacement	20	Watersmart Guide (EBMUD - 2008)
	Urinals	Efficient Unit Replacement	10	Watersmart Guide (EBMUD - 2008)
	Commercial Kitchen	Pre-rinse Spray Valve	5	Watersmart Guide (EBMUD - 2008)
	Laundry Systems (Multi-family dwellings)	Efficient Unit Replacement	13	Water Conservation Handbook (2002) - pg 125
Commercial Kitchens	Pre-Rinse Valves	Efficient Unit Replacement	5	Watersmart Guide (EBMUD - 2008)
	Dishwashers	Efficient Unit Replacement	10	Watersmart Guide (EBMUD - 2008)
	Commercial Ice-makers	Efficient Unit Replacement	6	Watersmart Guide (EBMUD - 2008)
Laundry & Laundromats	Commercial Laundry	Efficient Unit Replacement	13	Water Conservation Handbook (2002) - pg 125
	Commercial Laundry	Retrofit with wastewater recovery system	TBD	
HVAC	Cooling Towers	Upgrades to Reduce Bleed-off and Drift	TBD	
	Condensers	Upgrades to Reduce Bleed-off and Drift	TBD	
	Steam Boilers	Upgrades to Reduce Bleed-off	TBD	
Industrial / Process Water	Steam Sterilizers / Autoclaves	Efficient Unit Replacement	10	Watersmart Guidebook (EBMUD - 2008)



## Me<sup>2</sup> Commercial PACE Eligible Improvements

	Car Wash Operations	Water Recycling System	TBD		
	Manufacturing	Film / X-Ray Processing	TBD		
	Manufacturing	Food / Beverage Processing	TBD		
	Manufacturing	Metal Finishing	TBD		
	Manufacturing	High Tech Manufacturing	TBD		

### ON-SITE CLEAN ENERGY PRODUCTION

System	Subsystem	Measure	Effective Useful Life	
<b>Renewable - Thermal Energy</b>				
DHW	Service water	Solar thermal water heat	35	
HVAC	Heating	Solar thermal space heat (hydronic)	35	
Process	Pool	Solar pool heat	20	
<b>Renewable - Electrical Energy</b>				
Photovoltaic	PV	PV System	20-25	
Microturbine (Renewable fuel)	Micro-turbine using renewable fuel	Micro-turbine	15	
Internal Combustion Engine (ICE) (Renewable fuel)	ICE using renewable fuel	Internal combustion engine	15	
Fuel Cell (Renewable fuel)	Electric-only fuel cell using renewable fuel	Fuel cell	15	
<b>Non-Renewable - Electrical Energy</b>				
<i>Subject to review: Contact Me<sup>2</sup> PACE</i>	Electric-only fuel cell using non-renewable fuel (e.g., natural gas)	Grid-tied fuel cell	15	

EUL of solar hot water (SHW) from Center for Sustainable Energy 2008 Natural Gas Cost Effectiveness Model

[http://energycenter.org/index.php/incentive-programs/solar-water-heating-pilot-program/swhpp-documents/cat\\_view/55-rebate-programs/172-swhpp/321-cpuc-documents](http://energycenter.org/index.php/incentive-programs/solar-water-heating-pilot-program/swhpp-documents/cat_view/55-rebate-programs/172-swhpp/321-cpuc-documents)

EUL of PV from "CPUC Self-Generation Incentive Program – Fifth Year Impact Evaluation Report", Itron, March 2007. Range (20-25) depends on type of PV material.

P.U. ode 216.6 applies to cogeneration of heat and power using non-renewable fuel

<http://law.onecle.com/california/utilities/216.6.html>

## INELIGIBLE MEASURES

The following are non-qualifying efficiency measures.

Compact fluorescent, screw-in lamps.

Plug load devices.

Measures that are not permanently installed and can be easily removed.

Measures that save energy solely due to operational or behavioral changes

Power correction, power conditioning.

Any measure that does not result in energy savings or renewable energy production.

Any measure that can not be explained in terms of industry-standard engineering or scientific principles.

Vending machine controllers

Refrigerant charge (AC/Split Systems/Heat Pumps)

**Appendix C: PACE Financing Program Agreement (Tri-party agreement between City, Property Owner(s) and PACE lender)**

Document Number

**SUPPLEMENTAL  
FINANCING/LOAN AGREEMENT**  
Document Title

## **Supplemental Financing/Loan Agreement**

Notice: This Agreement provides for the levying of special charges against real estate pursuant to Section 66.0627, Wis. Stats. Interested parties are advised to contact the City of Milwaukee, Dept. of Administration's Office of Environmental Sustainability for the most current information regarding any such charges outstanding under this Agreement.

Recording Area

Name and Return Address

City of Milwaukee  
Department of Administration  
200 East Wells Street, Room 606  
Milwaukee, WI 53202  
ATTN: Erick Shambarger

Parcel Identification Number (PIN)

This document drafted by:

Jeremy R. McKenzie  
Assistant City Attorney  
City Hall, Room 800  
200 E. Wells St.  
Milwaukee, WI 53202

## PACE FINANCING PROGRAM AGREEMENT

**THIS PACE FINANCING PROGRAM AGREEMENT** (this “Agreement”), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Milwaukee by and through its Department of Administration (“City”), \_\_\_\_\_, a \_\_\_\_\_ (“Lender”), and \_\_\_\_\_, a \_\_\_\_\_ (“Property Owner”), and is attached to and made a part of that certain LOAN AGREEMENT dated as of the same date made by and between Lender and Property Owner, such Loan Agreement hereafter referred to as the “Document.”

### WITNESSETH:

**WHEREAS**, Property Owner is the owner of certain real property located at \_\_\_\_\_ **[Insert Address]** in the City of Milwaukee (the “Property”), further described on **Exhibit A**, attached hereto;

**WHEREAS**, City has adopted a Clean Energy Financing Program pursuant to Common Council File No. 121591, codified as Section 304-26.5 of the Milwaukee Code of Ordinances and attached hereto as **Exhibit B** (the “Program”);

**WHEREAS**, pursuant to the terms of the Program, City has approved Property Owner’s application for implementation of an energy efficiency, water savings and/or renewable energy improvement project at the Property as described on **Exhibit C**, attached hereto (the “Project”);

**WHEREAS**, as part of the Property Owner’s approved application attached hereto as **Exhibit D**, Property Owner warranted that the Project shall be installed by Me<sup>2</sup> Approved Contractors;

**WHEREAS**, as part of the Property Owner’s approved application attached hereto as **Exhibit E**, Property Owner states that the annual energy savings accruing to Property Owner’s tenant(s) should be more than then annual special charge payments accruing to tenant(s);

**WHEREAS**, Lender has agreed to make a loan to Property Owner in the amount of \$ \_\_\_\_\_ (the “Loan”) to be used towards the implementation of the Project;

**WHEREAS**, the Project consists of “energy efficiency improvements,” as that term is used in Section 66.0627 of the Wisconsin Statutes, which allows the City to collect loan repayments for such improvements as municipal special charges;

**WHEREAS**, pursuant to the Program, City may collect Property Owner’s payments under the Document on Lender’s behalf as special charges placed on Property Owner’s property tax bill for the Property;

**WHEREAS**, City's Department of Administration is authorized to enter into this Agreement pursuant to Common Council File No. 121591.

**NOW, THEREFORE**, for and in consideration of the making of the Loan, City's approval of the Project and the financing arrangements between Lender and Property Owner, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, LENDER, PROPERTY OWNER, and CITY agree as follows:

1. Loan Amortization. The Loan shall be fully amortized over the \_\_\_ year term of the Loan with Property Owner paying \$ \_\_\_\_\_ per year (the "Annual Payment").
2. Special Charge. As long as the Document is in force, the Annual Payment shall be treated as a municipal special charge (the "Special Charge") pursuant to Section 66.0627(8)(a) of the Wisconsin Statutes and become a lien against the Property that runs with the land, and shall be binding upon any successor in interest to the Property, unless City takes title via an in rem tax foreclosure.
3. Installment Plan. Pursuant to Wis. Stat. § 66.0627(8)(a), Property Owner may pay the Special Charge in ten monthly installments set forth in section 74.87 Wis. Stats.
4. Collection of Special Charges. The Special Charge shall be collected from Property Owner by the City via the City Treasurer's customary collection practices. Property Owner may prepay the Special Charge subject to any prepayment premiums contained in the Document. The City shall remit the Special Charges collected from Property Owner pursuant to the terms of MCO 304-26.5-10. The City shall keep an accounting of the Special Charges collected on the Property and shall, upon request of Property Owner or Lender, provide a copy of the accounting.
5. Default by Property Owner. Property Owner's failure to pay the Special Charge in full on or before January 31 or pursuant to the terms of Property Owner's installment plan, shall cause default interest to accumulate on the past-due Special Charge at a rate of %. Additionally, Property Owner's failure to pay the Special Charge shall cause City to commence an in rem property tax foreclosure through the procedures outlined in Chapters 74 and 75 of the Wisconsin Statutes subject to the limitations contained in MCO 304-26.5.12(a). The disposition of any property obtained by City through the procedures outlined in Chapters 74 and 75 shall be governed by section 304-26.5 of the Milwaukee City Ordinances.
6. Default by City. Except as otherwise provided in this Agreement, in the event of any material default or breach of the Agreement, or any of its terms or conditions, by City, upon written notice from the Lender, proceed immediately to cure or remedy such default or breach within sixty (60) days after receipt of such notice. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be

necessary or desirable, in its opinion, to cure and remedy such defaults or breach, including, but not limited to, proceedings to compel specific performance by the City .

7. Passing Special Charges to Tenant(s). City makes no guarantee regarding Property Owner's ability to pass on the special chargers to its tenant(s) and City shall not be liable should Property Owner be unable to do so. Property Owner is strongly urged to seek independent legal and accounting advice regarding Property Owner's ability to pass special charges on to its tenant(s). Further, City makes no representation, warranty, or guarantee regarding the consequences of Property Owner treating its payments under this Agreement as a capital expense or an operating expense. Any dispute between Property Owner and its tenant(s) regarding the passing through of special charges is only between Property Owner and tenant(s). City will not participate, mediate, or arbitrate and dispute between Property Owner and tenant(s), nor shall City be liable to Property Owner for any non-payment by Property Owner's tenants of passed through special charges.
8. Except as otherwise provided in this Agreement, City shall not does not assume responsibility for or guarantee in any manner, in whole or in part, the repayment of the private financing agreement between Property Owner and Lender, nor shall City be required to expend its own funds directly or indirectly on the Project.
9. Property Owner or Lender shall pay a \$\_\_\_\_\_ administration fee to the City.
10. City shall not be liable to Property Owner or Lender for any liability associated with the design, construction, installation, or operation of the project described in Exhibit C including any failure to achieve the projected energy, water, or other savings contemplated by the Project.
11. Supremacy. In the event of any conflict, inconsistency or ambiguity between the provisions of this Addendum and the provisions of the Document, the provisions of this Addendum shall control.
12. Application Compliance. In applying for the Loan, Property Owner represents and warrants that it has fully complied with the loan application process as set forth in the approved Program manual, on file with City's department of administration.
13. City Approval. By its entry into this Addendum, City, through its department of administration, has approved of the financing arrangements between Property Owner and Lender.
14. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed a single agreement.
15. Severability. If any one or more of the provisions of this Agreement shall be found to be invalid, illegal or unenforceable in any respect of to any extent, such finding shall not

affect the validity, legality or enforceability of the remaining provisions of this Agreement.

16. Amendment. This Agreement may be amended by written agreement of the City, Property Owner, and Lender.

17. Compliance with Applicable Laws. Lender and Property Owner agree shall comply with all applicable Federal, State, and Local lending and disclosure laws, including but not limited to MCO 304-26.5

18. Recording. City shall cause this Agreement to be recorded with the Milwaukee County Register of Deeds.

**[Signature Page Follows]**

Executed as of the date set forth above.

LENDER

\_\_\_\_\_  
A \_\_\_\_\_

By: \_\_\_\_\_  
its \_\_\_\_\_

PROPERTY OWNER

\_\_\_\_\_  
A \_\_\_\_\_

By: \_\_\_\_\_  
its \_\_\_\_\_

CITY OF MILWAUKEE

By: \_\_\_\_\_  
\_\_\_\_\_

EXHIBIT A

Legal Description of Property

Insert Legal Description

Address:

Tax Key Number:

**EXHIBIT B**  
**Milwaukee City Ordinance 304-26.5**

## EXHIBIT C

### Description of the Project

**EXHIBIT D**

APPROVED PROJECT APPLICATION

## Appendix D: Property Owner's Request for Disbursement

Date: \_\_\_\_\_

RE: Financing Agreement dated [INSERT DATE], 2013

Project: [INSERT ADDRESS]

This Property Owner's Certificate and Request for Disbursement is submitted by the Property Owner to the CITY in connection with the Loan made pursuant to a PACE Financing Program Agreement between City, Property Owner and Lender, dated [INSERT DATE], 2013 (the "Financing Agreement"). Capitalized terms used herein and not otherwise defined shall have their respective meanings set forth in the Financing Agreement. The Property Owner hereby requests the Lender to make a principal disbursement under the Benefit Assessment Advance (a "Disbursement") in the amount of \$ \_\_\_\_\_ which is to be funded as follows:

- \_\_\_\_\_ Issue a check to the Property Owner for reimbursement of proper costs
- \_\_\_\_\_ Issue a check to \_\_\_\_\_

To induce Lender to make the requested Disbursement, the Property Owner hereby certifies, warrants and represents to CITY and Lender that:

1. The proceeds of this Disbursement will be used for the purposes detailed in the PACE Application attached hereto, which shall have attached to it (A) copies of invoices and other evidence of the items to be paid or reimbursed and (B) if required by CITY, certifications from the Architect in form satisfactory to CITY.
2. The improvements will be completed as specified in the Financing Agreement. All proceeds of all prior Disbursements have been expended solely for the purposes for which they were requisitioned, and no proceeds of the current or any prior Disbursement have been or will be returned to the Property Owner as a rebate, refund or otherwise.
3. The Property Owner has paid all obligations incurred in connection with all work and materials supplied for the Project through the date of the last requisition.
4. The Property Owner has not authorized, nor does the Property Owner contemplate, any change orders or other modifications to any contracts entered into in connection with the Project's development costs that have not been authorized in writing by CITY.
5. The cost to complete the Project (including financing and other soft costs) is reasonably projected to be \$[INSERT AMOUNT], and the amount of the undisbursed portion of the Loan is therefore sufficient to complete the Project.
6. The projected completion date of the Project remains \_\_\_\_\_.

7. Each condition precedent to the making of this Disbursement under the Financing Agreement has been satisfied.

8. The Property Owner has no knowledge or notice of any mechanics' notices of intention, contracts, stop work notices, liens or claims for liens having been filed or threatened to be filed against the Project.

9. All required licenses, approvals and permits covering or required for the development of the Project have been issued and are in force, and there are no actions pending or threatened to revoke, rescind, alter or declare invalid any such licenses, approvals or permits or any laws, ordinances, regulations, permits, variances, certificates or agreements for or relating to the Project.

10. No event of default under the terms of the Financing Agreement or any Transaction Document has occurred.

11. The Property Owner is not a party to any lawsuit and the Property Owner has no knowledge of any actions, suits or proceedings pending or threatened, against or affecting Property Owner which could materially adversely affect the Property Owner, any of its properties, its financial condition or which will hinder, delay, prevent or interfere with the construction of the Project.

12. There have been no material adverse changes in the financial condition of the Property Owner since the date of the Financing Agreement that have not been previously disclosed in writing to CITY.

Property Owner:

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By: \_\_\_\_\_

Name:

Title: