



## CITY OF ANTIGO

### FINANCE, PERSONNEL, AND LEGISLATIVE COMMITTEE MEETING

COUNCIL CHAMBERS

Wednesday, November 08, 2023

CITY HALL, 700 EDISON STREET

5:45 PM

#### Call to Order

#### Discussion and Action May Occur on Any of the Following Agenda Items:

1. Agreement with Northwind Solar for the Construction of a 350 Kilowatt Ground-mounted Solar Array Project with a Battery Energy Storage System (BESS) at the Wastewater Treatment Plant
2. Recommendation from Weather Siren Ad Hoc Committee to apply for a Building Resilient Infrastructure and Communities (BRIC) Federal Program Grant

#### Any Other Matters Authorized by Law to be Considered

#### Adjournment

*Upon reasonable notice, efforts will be made to accommodate disabled individuals through appropriate aids and services. For additional information, contact Cheryl Barta, 700 Edison Street, Antigo, Wisconsin 54409. (715) 623-3633 extension 100. Members of and possibly a quorum of members of other governmental bodies may be in attendance to gather information. Any governmental body other than that specifically referred to above will take no action.*

DATE MAILED: November 02,2023

TERENCE BRAND



**To:** Mayor and City Council  
**From:** Mark Desotell, Director of Administrative Services  
**Date:** November 08, 2023  
**Re:** Agreement with Northwind Solar for the Construction of a 350 Kilowatt Ground-mounted Solar Array Project with a Battery Energy Storage System (BESS) at the Wastewater Treatment Plant

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Northwind Solar was previously awarded the construction bid (October 2023 Council meeting) for a 350 Kilowatt ground-mounted solar array with a battery energy storage system projected to provide approximately 40% of the current energy needs at the City's Wastewater Treatment Plant.

Subsequent to Council's award of the bid an Energy Procurement Contract (EPC) was sent by Northwind Solar to the City for our consideration. Mike Winter and staff reviewed the proposed document and returned our comments to Northwind Solar for further review. A copy of the initially proposed document, along with our list of comments, is included in your agenda packet.

If we resolve all remaining matters, prior to the date of this Special FP&L meeting, we will request that you advance the contract for Council consideration. If not, you will be asked to authorize staff and our City Attorney to resolve any remaining contract issues allowing the document to be then endorsed by the Mayor and Clerk-Treasurer/Finance Director without returning to the Committee/Council process.

## **CITY of ANTIGO'S REVIEW of Proposed EPC Agreement**

- **Page #1, Section 1 – Agreement**
  - Change the entered into agreement date to November 8, 2023
- **Page # 1, Section 1.1 – Owner/Client**
  - Change address to 70 Edison Street, Antigo, WI 54409
- **Page #1, Section 1.2 – Owner's Authorized Representative**
  - Strike Terrance Brand & Kaye Matucheski
  - Add Terry Kubiacyk, Assistant Building Inspector/Zoning Administrator
  - Add Tommy Horswill, Senior Project Manager for IAI
- **Page #1, Section 1.4 – Full Scope of Work**
  - Attach a copy of Northwind's bid proposal response
- **Page #2, Section 1.6 – Performance Time**
  - Will the date of roadway boring be considered as the targeted start date?
- **Page 3, Section 2.1 – Scope of Work**
  - Consider 10 versus 5 business days for project design approval
    - Allows opportunity for Legacy Solar comments as well
- **Page #3, Section 2.2.1 – Progress Schedule**
  - Add "and upon the concurrence of the owner" to the end of the last sentence
- **Page #3, Section 2.4 – Taxes & Fees**
  - As City is Tax Exempt, assure that all qualified exemptions are achieved
- **Page #5, Section 3.3 - Permits & Licenses**
  - Verify if Northwind is to pay for permits, licenses, inspections & approvals
    - Does Exhibit A, Section 1 (c) already address this?
- **Page #5, Section 3.8 – Subsurface Risk**
  - Subsection (i) should possibly be struck as owner did not provide any soil borings/guarantees
- **Page #5, Section 3.9 – Electrical Interconnection**
  - Why is Owner responsible for this design aspect? If so, do we need to hire an electrical engineer?

- **Page #6, Section 4.1.2 – Working Hours and Overtime Work**
  - Consider striking this section or more tightly define intent
- **Page #7, Section 6.1.1 – Payment of Invoices**
  - Payment is not upon receipt of invoice but should read within 15 days of receipt of invoice
  - Suggest 95% payment with 5% retainage until final payment
    - Reduce to 1% retainage at final payment until verification of payments to others
- **Page #8, Section 6.1.2 – Acceptance of Work**
  - Strike-out “the Work covered by the invoice is in accordance with the Contract Documents”
- **Page #8, Section 6.2.2 - Payment Date**
  - Change to final payment within 15 days with reduction of retainage to 1%
- **Page #8, Section 6.2.3 – Verification of Payment to Others**
  - Release 1% retainage upon verification of no liens or encumbrances
- **Page #8, Section 7.1.1 – Work Orders & Changes**
  - Change last word of line #3 from Northwind to Owner
    - Owner responsible for initiating any change orders
- **Page #9, Section 7.2 - Regulatory Changes**
  - Consider adding documented/authorized “changes in line #1
- **Page#10, Section 8.1 – Warranties for Work Performed by Northwind**
  - Strike the last sentence in its entirety
- **Page#10, Section 8.2 – Warranties for Materials, Equipment and Machinery**
  - Strike the second sentence (all caps portion) in its entirety
- **Page #10, Section 8.3 – Correction of Defects**
  - Subsection (i) request to change two years to three years
- **Page #10, Section 8.4 Owner’s Processes and Products**
  - Strike “or of any product to be manufactured in the Completed Project”
- **Page #11, Section 9.3 - Rights after Termination**
  - Request to strike final sentence

- **Page 12, Section 10.4 – Governing Law**
  - I believe this section should state any disputes are to be settled within the jurisdiction of Langlade County
- **Page #12, Section 10.7 – Assignment**
  - Consider adding “with the concurrence of the Owner” for assignability by Northwind
- **Page #12, Section 10.8 – Confidentiality**
  - Strike entire section
- **Page #13, Section 10.11 - Cost of Collection**
  - Strike entire section
- **Page #13, Section 10.2 – Indemnity**
  - Strike entire section

**EPC AGREEMENT BETWEEN**  
**NORTH WIND RENEWABLE ENERGY COOPERATIVE AND**  
**City of Antigo Wastewater Treatment Plant**  
(Owner/ Client)

SECTION 1 – AGREEMENT

THIS EPC AGREEMENT is made and entered into this October 19th, 2023, (the “EPC Agreement”) by and between **North Wind Renewable Energy Cooperative**, a Wisconsin Cooperative (hereinafter referred to as “Northwind”) and the below named Owner and Client named below in Section 1.1 (hereinafter referred to as “Owner”). **Northwind and Owner are referred to individually as a “Party” and collectively as the “Parties.”**

1.1 Owner/Client:

City of Antigo  
Wastewater Treatment Plant  
N2420 Koszarek Rd.  
Antigo, WI 54409

1.2 Owner’s Authorized Representatives:

Terence Brand  
Mayor, City of Antigo

Kaye Matucheski  
Clerk-Treasurer/Finance Director, City of Antigo

1.3 Project Description:

352.1kW (DC) grid-tied solar power system with BYD CHESS 120kW battery energy storage system (BESS). Solar PV system (DC) will be ground-mounted at fixed-tilt. Solar inverters (AC) are rated for 100kW at 480V. *Note:* BESS primary function is for power and energy savings and is not designed for, or intended to, provide backup power to the facility.

Excluded from this contract are the costs and installation associated with perimeter fencing around the solar arrays and landscaping/underlayment under solar arrays. These items can/will be included in the project scope via change order form when/if it’s determined Northwind will provide these services.

1.4 Full scope of work (the “Scope of Work”) is described in Exhibit A.

1.5 Contract Price:

(a) **Total System Price (\$1,010,900)**, consisting of the following payment schedule:

- (i) Deposit upon signing of this EPC Agreement: 10% (\$101,090)
- (ii) Installment payment due 1/15/24: 50% (\$505,450)
- (iii) Installment payment due 2/15/24: 15% (\$151,635)
- (iv) Due 4/15/24 OR upon substantial completion of installation: 15% (\$151,635)
- (v) Due upon utility commissioning of system: 10% (\$101,090)

*Note:* Workmanship warranty effective date of substantial completion. Final Payment to be made within fifteen (15) days of receipt of final invoice.

1.6 Performance Time: Expected completion time 150-180 days from start of construction. Targeted Start Date: 1/2/2024.

1.7 Northwind's Authorized Representatives:

Josh Stolzenburg, CEO  
578 Allen St  
Amherst, WI 54406  
[josh@northwindre.com](mailto:josh@northwindre.com)  
715-630-6451

1.8 Definitions.

1.8.1 The "Contract Documents" consist of this EPC Agreement, the Scope of Work attached as Exhibit A, together with Work Orders and Change Orders issued after execution of this EPC Agreement.

1.8.2 "Owner's Representative" shall mean the person or persons identified in Section 1.2 or such other person as may be designated by the Owner on written notice to Northwind who will have full power and authority to act for, and in the name of, the Owner for any purpose for which the Owner has authority or responsibility under this EPC Agreement.

1.8.3 The "Project" is described in Section 1.3.

1.8.4 The "Work" comprises the installation of equipment more fully described in Exhibit A – "Scope of Work." The Work does not include work by others such as interior construction performed or equipment provided by the Owner or under one or more separate contracts.

## SECTION 2 - RESPONSIBILITIES

2.1 Scope of Work. Northwind shall furnish the necessary system design, supervisors, personnel, equipment, tools, materials, supplies and incidentals (except as may be otherwise provided in this EPC Agreement or another part of the Contract Documents) to perform the Work in accordance with Contract Documents. Northwind may award to others (“Subcontractors” and “Suppliers”) contracts for furnishing labor and/or materials required or necessitated by the Contract Documents. Final project design will be deemed approved by the Owner in all respects if the Owner does not object in writing to the final project design within five (5) business days after the date the final project design is submitted by Northwind to Owner. Submission of the final project design by electronic communication (for example, email) is authorized under this EPC Agreement.

### 2.2 Progress Schedule.

2.2.1 *Progress Schedule.* In connection with preparation of the project design, it is typical for an estimated Progress Schedule to be prepared. No more than twenty (20) business days after the date of this EPC Agreement, and in consultation with Owner, Northwind will undertake to supply Owner with a Progress Schedule, highlighting Payment Milestones, to be followed for the duration of the Project. This will be the official Progress Schedule of the Project. The official Progress Schedule (the “Progress Schedule”) will be added to this EPC Agreement as Addendum #1, is authorized by both Owner and Northwind, and is incorporated herein and considered part of this EPC Agreement. The official Progress Schedule is subject to revision by Northwind as required by the conditions at the Project.

2.2.2 *Schedule to Complete the Work.* The Progress Schedule shall indicate the proposed dates of starting and completion of the phases of the Work, within the Performance Time, including dates for fabrication, shipment, delivery and installation. It shall indicate any other critical dates, such as deadlines for changes, commencement of production, and commencement of manufacturers’ warranties.

2.3 Labor, Materials and Facilities for the Work. Unless otherwise provided in the Contract Documents, Northwind shall provide or cause to be provided and shall pay for labor, materials, equipment, tools, installation equipment and machinery, transportation and other services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Water and utilities will be furnished by the Owner at Owner’s expense, which shall not be charged against the Contract price.

2.4 Taxes and Fees. Owner shall pay all sales, consumer, use and similar taxes applicable to the Work which were in effect at the time of execution of this EPC Agreement. If included within Northwind’s Scope of Work as set forth in Exhibit A, Northwind shall secure, at Owner’s expense, permits and governmental fees, licenses, inspections and approvals necessary for the proper execution and completion of the Work which are either customarily secured after execution of this EPC Agreement or are legally required at the time of the execution of this EPC Agreement. Additional payments for taxes, fees, licenses, and inspections that are required because of changes requested by the Owner or changes in applicable laws after the date of this EPC Agreement shall be at the Owner’s expense. Owner shall

provide information and execute any documents as requested by Northwind to enable it to comply with this paragraph.

2.5 Preparation of Change Orders. Northwind shall prepare Change Orders for the Owner's approval and shall have authority to make minor changes in the design and construction consistent with the intent of this EPC Agreement not involving an adjustment in the Contract Price or an extension of the Performance Time. *See Exhibit B with regard to the format of a Change Order.*

2.6 Risk of Property Loss. With regard to all equipment delivered to Owner in connection with the Project, on the Date of Substantial Completion the Owner shall assume all risk of loss for both the Project site and all equipment provided to the Project site pursuant to the Contract Documents. With regard to all other property, Owner shall assume all risks of loss, damage, injury or theft arising from the placement of the property of Owner or others not under control of Northwind on the Project both before or after substantial completion and Owner shall furnish insurance coverage for said risks.

2.7 Insurance. Northwind shall maintain General Liability and Workman's Compensation Insurance to the limits stated below at all times while performing the Work. City of Antigo can and will be shown as "additional insured" on Northwind's insurance certificate. Copy of insurance certificate will be provided to City of Antigo at signing.

2.7.1 General Liability - \$1 Million per occurrence, \$2 Million aggregate

2.7.2 Workman's Compensation – Statutory Limits and Employers Liability coverage limits of at least: (i) \$500,000 Each Accident, (ii) \$500,000 Disease-Each Employee, (iii)\$500,000 Disease- Policy Limit

Insurance Carrier: Acuity Insurance

Agent Name: Gary Vanderhei, Tricor Insurance

Limits: \$2 million per occurrence

Phone: 715-423-5400 x6712

### SECTION 3 – RESPONSIBILITIES OF OWNER

3.1 Information Required of the Owner. The Owner shall provide Northwind full information regarding Owner's requirements for the Project and Northwind shall be entitled to rely thereon.

3.2 Owner's Authorized Representative. The Owner has designated a representative or representatives identified in Section 1.2 who shall be authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall examine all submittals, shop drawings, product data samples, equipment, specifications and all other documents submitted by Northwind and shall promptly render decisions pertaining thereto to avoid delay in the orderly progress of the Work.

3.3 Permits and Licenses. Northwind shall work in cooperation with Owner to identify the required permits, licenses and approvals and shall execute such documents as are necessary to secure such permits, licenses and approvals. The Owner shall pay for such permits, licenses, inspections and approvals if the cost of such fees is not specifically identified as being included in Northwind's Scope of Work set forth in Exhibit A.

3.4 Prompt Decisions. The Owner shall furnish required information and shall promptly render decisions pertaining thereto to avoid delay in the orderly progress of the design and construction.

3.5 Communications. The Owner shall not communicate with Northwind's subcontractors and their sub-subcontractors except through Northwind.

3.6 Utilities. Owner shall make available to Northwind convenient and adequate access to the Project site, water and electricity, and all other utilities required by Northwind for the proper and timely performance of its services.

3.7 Shading of the Project Site. Owner shall assume full responsibility for shading issues with regard to trees, buildings, etc. that may impact the Project Site and/or the performance of the Project.

3.8 Subsurface Risk. Owner shall assume all subsurface risk, both (i) soil conditions that are not described in the Scope of Work and (ii) as it relates to interconnection and/or other construction related activities.

3.9 Electrical Interconnection. Engineer, design, construct and commission all interconnection facilities needed as further described in Exhibit A.

3.10 Cooperation. Owner will cooperate and coordinate with Northwind and the Subcontractors both with regard to all Work and in coordinating the work of any of Owner's other contractors who may be working at or near the Project Site.

3.11 Access, Parking and Storage. Owner shall provide at the Project site for Northwind's benefit and use in the performance of the Work:

3.11.1 Access to the premises by Northwind's personnel and Subcontractors at reasonable times as the Project will require;

3.11.2 Suitable space for the receipt, inspection and storage of materials and equipment;

3.11.3 Temporary utilities and facilities at the Project site necessary for the progress and execution of the Work;

3.11.4 Sufficient parking for Northwind's personnel and Subcontractors.

## SECTION 4 - INSTALLATION

### 4.1 Working Hours and Overtime Work.

4.1.1 Unless otherwise provided in the Contract Documents, installation shall be performed during normal working hours prevailing at the location of the Project. Normal working hours being 6 am to 6 pm Monday thru Saturday.

4.1.2 The Contractor shall be reimbursed by the Owner for expenses of overtime work requiring higher than regular rates if such overtime work is performed at the Owner's direction and is not attributable to the Contractor's failure to maintain the progress of the Work consistent with the mutually agreed Performance Time provided under Section 1.6.

### 4.2 Delivery and Staging Facilities.

4.2.1 The Owner shall be responsible for making adequate facilities available for the delivery, staging, and storage of equipment in accordance with the mutually agreed Progress Schedule.

4.2.2 Unless otherwise provided, Northwind shall select the route to be used within the Project premises from point of delivery to final placement but shall not use any route against which the Owner makes reasonable objection.

4.2.3 The Owner shall be responsible for if all delivery and staging facilities and the route used within the Project premises from point of delivery to final placement shall be free of unanticipated obstacles or other trades which might unreasonably impede Northwind during the delivery and installation of the Work.

4.2.4 The Owner shall, within a reasonable time prior to delivery, provide Northwind with firm schedules for the use of unloading facilities.

4.3 Delays. The Owner shall be responsible for any other costs incurred by Northwind such as demurrage, warehouse, storage or redelivery charges which are due to the Owner's failure to conform to the mutually agreed Progress Schedule for the Work, for the Owner's failure to accept delivery or final installation of equipment, or for any other delays for which the Owner is responsible.

4.4 Placement and Assembly. If the Owner requires any changes, whether temporary or permanent, in the placement or assembly of equipment from that indicated in the Contract Documents, it shall reimburse Northwind for any additional costs incurred because of such changes, and an appropriate Change Order shall be issued in accordance with Section 7.

## SECTION 5 – TIME

5.1 Performance Time. Northwind shall commence its services on the date set forth in Section 1.4 or Exhibit A, and subject to authorized adjustments and to delays not caused by Northwind; it is anticipated that Substantial Completion will be achieved in the number of calendar days set forth in Section 1.6, subject to authorized adjustments and to delays not caused by Northwind. The time limits stated in the Contract Documents are of the essence of this EPC Agreement.

5.2 Pace of Work. Northwind shall provide services as expeditiously as is consistent with reasonable skill, safety, care and the orderly progress of design and construction.

5.3 Substantial Completion. The “Date of Substantial Completion” of the Work, or an agreed upon portion thereof, is the date when installation or an agreed upon portion thereof is sufficiently complete so that (a) substantially all the PV modules, racking and inverters have been installed at the Project site, (b) Owner can operate the equipment, or an agreed portion thereof, and (c) the Project is capable of being operated in accordance with the Scope of Work. If Owner is not prepared to accept energy from the Project, but it is able to operate, such a situation will not impact the Date of Substantial Completion. The date shall be fixed by Northwind issuing a Certificate of Substantial Completion, which shall include an attachment listing items of Work to be completed or corrected before final payment.

5.4 Delays. If Northwind is delayed in the progress of the Project by acts of God or the elements or acts, omissions or neglect of the Owner, Owner’s employees, or separate contractors employed by the Owner, the acts or omissions of federal, state or local government or any branch or agency thereof, changes necessary in the Work not caused by the fault of Northwind, labor shortages or disputes, unusual delay in transportation, shortages of equipment, materials, fuels or other supplies, earthquake, fire or flood, unavoidable casualties, any changes in law, codes or regulations, or other causes beyond Northwind’s control, or by delay authorized by the pending dispute resolution procedures, or another cause which the Owner and Northwind agree is justifiable, the Performance Time shall be reasonably extended and the Contract Price shall be equitably adjusted.

## SECTION 6 – PAYMENT TO NORTHWIND

6.1 Contract Price. Subject to adjustments pursuant to Section 7, the Owner shall pay to Northwind the Contract Price as set forth in Section 1.5(a).

6.1.1 Payment of Invoices. The Owner shall make payment to Northwind upon receipt of invoice. Northwind’s invoices are assumed to be accurate and correct unless Owner otherwise advises Northwind within 10 days of the date of the invoice. Commencing on the last day of the month following the date of any invoice, at Northwind’s discretion Owner may be subject to interest on any past due amounts at a rate equal to the lesser of one and one-half percent (1-1/2%) per month or the highest rate permitted by law, which interest shall be in addition to such fees and other amounts due and owing to Northwind.

6.1.2 Acceptance of Work. Payment of the invoice shall constitute acknowledgment by Owner that the Work has progressed to the point indicated in the invoice, the Work covered by the invoice is in accordance with the Contract Documents, and Northwind is entitled to payment in the amount requested.

6.2 Final Payment.

6.2.1 Invoice for Final Payment. Northwind shall submit a final invoice when the Work has been fully performed, completed, and all third party and permit inspections passed, and any items listed in the Certificate of Substantial Completion of Work have been completed, and the system has been commissioned. In the event the utility and/or the Owner is not ready for the system to be energized or commissioned within thirty (30) days of submitting the Certificate of Substantial Completion of Work, and all terms required for final payment have been met other than commissioning, the final payment shall be due at the end of such thirty (30) day period regardless of whether the system has been energized or commissioned.

6.2.2 Payment Date. The Owner shall make final payment of the entire unpaid balance due to Northwind within fifteen (15) days from the date of Northwind's final invoice.

6.2.3 Verification of Payment to Others. Northwind shall submit to the Owner on request an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Project for which the Owner or Owner's property might be liable have been paid or otherwise satisfied.

6.2.4 Owner's Waiver of Claims. The making of final payment shall constitute acceptance of the Work and a waiver of all claims by the Owner except those arising from: (1) unsettled liens; (2) faulty or defective Work appearing after Substantial Completion but within the warranty period; or (3) failure of the Work to comply with requirements of the Contract Documents within the warranty period.

6.2.5 Northwind's Waiver of Claims. Acceptance of final payment shall constitute a waiver of all claims by Northwind except those previously made in writing and identified by Northwind as unsettled at the time of final Application for Payment.

6.3 Interest. Payments due Northwind under this EPC Agreement which are not paid when due shall bear interest from the date due at the rate of 1.5% per month. Any fees required for collection or legal services are to be paid by Owner.

## SECTION 7 – CHANGES IN THE WORK

7.1 Work Orders and Change Orders.

7.1.1 A "Work Order" is a written order to Northwind issued after execution of this EPC Agreement, signed by the Owner's Representative, authorizing and directing Northwind to make additions, deletions, or modifications to the Work. A "Change Order" is a written order to Northwind, prepared by Northwind and issued after execution of this EPC Agreement, signed by the Owner's Representative and Northwind,

authorizing a change in the Work and/or adjustment in the Contract sum or Contract time. The Contract sum and Contract time may be changed only by fully executed Change Order.

7.1.2 The Owner, without invalidating this EPC Agreement, may order changes in the Work within the general scope of this EPC Agreement consisting of equipment additions or deletions and the Contract Price and Performance time shall be adjusted accordingly. Such changes in the Work shall be authorized by Work Order or Change Order, and shall be performed under applicable conditions of the Contract Documents. Northwind shall not be required to proceed with any addition, deletion, or modification unless pursuant to a Work Order or Change Order

7.1.3 If the Owner requests Northwind to submit a proposal for a change in the Work and then elects not to proceed with the change, a Change Order shall be issued to reimburse Northwind for any costs incurred in connection with the proposed change. The Owner's refusal to execute a Change Order shall not relieve the Owner of its obligation to pay Northwind.

7.2 Regulatory Changes. Northwind shall be compensated for changes in any phase of the Project necessitated by the enactment or revision of codes, laws or regulations subsequent to the date of the execution of this EPC Agreement.

7.3 Changes in the Delivery of Materials. Delay in the delivery of materials, preparation of or control of a site, or any other change in the agreed upon date of mobilization may lead to a change order or a new mobilization date. Date of Mobilization is defined in Addendum #1: Project Schedule.

7.4 Force Majeure. A "Force Majeure Event" means, as used in this Agreement, any acts, events, or occurrences that are beyond the control of the affected Party (as reasonably determined by the affected Party) and not caused by the negligence or willful misconduct of the affected Party or any of its personnel. By way of example, the following may be a Force Majeure Event: acts of God; earthquakes; unusually severe weather conditions; unusually severe drought; blight; famine; quarantine; blockade; governmental acts, the delay or inability to obtain Permits despite due diligence in seeking such Permits, court orders or injunctions; war; insurrection or civil strife; sabotage; terrorism; transportation accidents; shipwreck; pandemic; plague; explosions; and disruptions in the supply chain for equipment specified for the Work caused by a Force Majeure Event; provided, however, that a Force Majeure Event does not include (i) economic hardship, such as the inability to pay monies due and owing, or (ii) acts or omissions of a third party, including any Subcontractor, unless such acts or omissions themselves result from a Force Majeure Event.

7.4.1 A Party shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder, except the obligation to make payments previously due in a timely manner for liabilities actually incurred, if and to the extent that its failure of, or delay in, performance is caused by a Force Majeure Event. To be entitled to the foregoing relief, the Party claiming excuse by reason of a Force Majeure Event must:

(a) give the other Party prompt notice describing the particulars of the Force Majeure Event promptly after the Party claiming excuse by reason of a Force Majeure Event knows of or reasonably should have known of the occurrence of such event;

- (b) use commercially reasonable efforts to overcome or mitigate the effects of such occurrence; and
- (c) promptly resume performance hereunder when such Party can resume performance of its obligations under this Agreement, and shall give the other Party notice to that effect.

7.4.2 If the Party claiming the Force Majeure Event (the “Claiming Party”) desires a Change Order, the Claiming Party shall give the other Party notice within ten (10) days after Claiming Party knows of the Force Majeure Event giving rise to such request. The Parties shall negotiate reasonably and in good faith such that the Change Order addresses price adjustments and delay resulting from the Force Majeure Event, provided that price increases and additional time shall be granted in the Change Order to the extent caused by the Force Majeure Event, as determined in the reasonable discretion of the Claiming Party.

## SECTION 8 – WARRANTIES AND REMEDIES

8.1 Warranties for the Work Performed by Northwind. With regard to the installation of the Work, Northwind warrants that the Work will be performed in accordance with good installation practices and completed in substantial conformity with the Contract Documents. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EITHER EXPRESS OR IMPLIED, WHETHER UNDER ANY FEDERAL OR STATE LAW.

8.2 Warranties for Materials, Equipment and Machinery. Northwind does not guarantee or warrant, either expressly or impliedly, the materials, equipment or machinery manufactured by third parties or furnished or installed by Northwind, or its Subcontractors or Suppliers. NORTHWIND MAKES NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. However, Northwind shall obtain the customary warranties and guarantees made by the vendors and suppliers of such supplies, materials, equipment and machinery, and assign them to the Owner. Northwind shall compile all such written warranties and deliver them to the Owner prior to the Date of Substantial Completion. Northwind shall, at Owner’s expense, render reasonable assistance to the Owner in enforcing such warranties and guarantees.

8.3 Correction of Defects. The Owner’s exclusive remedy for any deficiencies in the Work shall be limited to correction of defects in the Work or items that fail to conform with the Contract Documents; provided, however, that (i) such defect must manifest itself within two years from the Date of Substantial Completion and (ii) that the Owner shall give written notice to Northwind of such defect within twenty (20) days from the date when the defect first manifests itself. In lieu of remedying such defect, Northwind may, at its option, pay the Owner the cost of the repair.

8.4 Owner’s Processes and Products. Northwind does not guarantee or warrant the quality or suitability of any process to be used by Owner in the Completed Project or of any product to be manufactured in the Completed Project.

8.5 Limitation of Liability. Other than as set forth in this EPC Agreement, neither the Owner nor Northwind shall incur any liability to the other under this EPC Agreement or otherwise, whether based upon contract, strict liability, product liability, tort (including negligence) or warranty (express or implied)

for any indirect, incidental, consequential, punitive, or special damages of any kind whatsoever including, but not limited to, loss of use, lost profits, financing, interest expense, business interruption or lost production. The parties' remedies are exclusive to those stated in this EPC Agreement.

## SECTION 9 – TERMINATION OF THE EPC AGREEMENT

9.1 Termination by the Owner. If Northwind defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents, the Owner may give written notice to Northwind that the Owner intends to terminate this EPC Agreement. If Northwind fails to correct the defaults, failure or neglect within fourteen (14) calendar days after being given notice, the Owner may then give a second written notice and, after an additional seven (7) days, the Owner may without prejudice to any other remedy available under this EPC Agreement make good such deficiencies and may deduct the cost thereof from the payment due Northwind or, at the Owner's option, may terminate the employment of Northwind.

9.2 Termination by Northwind. If the Owner fails to make payment when due, Northwind may give written notice of Northwind's intention to terminate this EPC Agreement. If Northwind fails to receive payment within seven (7) calendar days after receipt of such notice by the Owner, Northwind may give a second written notice and, after an additional seven (7) calendar days, Northwind may terminate this EPC Agreement and recover from the Owner payment for Work executed and for proven losses sustained upon materials, equipment, tools, and construction equipment and machinery, including reasonable profit and applicable damages.

9.3 Rights After Termination. In the event of termination by either the Owner or Northwind, Owner shall take possession of the work and of all materials, equipment, tools, supplies and other items purchased by the Work for which Northwind has been paid. In such event, Northwind shall be paid to the date of termination for such portions of the Work as Northwind and its subcontractors have completed and for equipment and materials which have been ordered, provided, fabricated or delivered and all other reimbursable costs incurred or accrued by Northwind but not yet paid by Owner, including reasonable expenses arising directly from the termination and the proportionate amount of overhead and profit earned at the time of such termination. Owner shall assume all obligations, commitments or other liabilities that Northwind shall have incurred in connection with its performance of the Work and for which Northwind has not been paid and released. Project shutdown costs and associated personnel relocation and reassignment costs are proper reimbursable costs under this termination provision.

## SECTION 10 - MISCELLANEOUS PROVISIONS

10.1 Entire Agreement. This EPC Agreement is solely for the benefit of the signatories hereto and represents the entire and integrated agreement between the parties hereto and supersedes all proper contemporaneous negotiations, representations, understandings or agreements, either written or oral. This EPC Agreement shall not be modified except by a written instrument signed by the parties.

10.2 Notices. All written communications between the parties and notices required under this EPC Agreement shall be deposited in the U.S. Mail with first class postage prepaid or with private mail courier service with shipping receipt. Notices to Northwind shall be addressed to 578 Allen Street, Amherst, WI 54406, to the attention of the authorized representatives designated in Section 1.7 of this EPC Agreement. Notices to the Owner shall be sent to the address given in Section 1.1 to the attention of the authorized representatives designated in Section 1.2. Any notice sent by mail shall be deemed to have received the third (3<sup>rd</sup>) calendar day after the date of mailing. Notice may also be delivered by hand delivery or fax, in which event notice shall be deemed effective on the date such notice is given.

10.3 Use of Photographs, etc. Owner permits Northwind to show, by photograph or otherwise, in any marketing, advertising or other materials, including the Northwind website, the Project under construction or as completed (including any related Project Hardware).

10.4 Governing Law. This EPC Agreement shall be governed by, and interpreted in accordance with, the laws of Langlade County and the State of Wisconsin applicable to agreements executed, delivered, and to be performed solely within Langlade County and the State of Wisconsin.

10.5 Counterparts, Electronic Signature of this EPC Agreement. This EPC Agreement may be executed in separate counterparts each of which shall be an original and all of which taken together shall constitute one and the same agreement. Execution and delivery of this EPC Agreement by electronic means, including an executed signature page of this EPC Agreement delivered via photocopy, electronic copy, including without limitation, Adobe, or facsimile, shall be fully enforceable and shall have the same effect as an original.

10.6 Headings. The headings of articles and sections are for ease of reference only and shall not be relied upon or cited for any other purpose.

10.7 Assignment. This EPC Agreement is not assignable by the Owner except upon the prior written consent of Northwind. This EPC Agreement and any portion thereof are assignable by Northwind in its sole and absolute discretion.

10.8 Confidentiality. Each party acknowledges that it may receive information, trade secrets and other valuable and confidential information, which are the property of the other party (hereinafter the "Confidential Information"). Each party agrees to treat the Confidential Information provided hereunder with at least the same degree of care and protection that it exercises with respect to its own confidential and proprietary information. Further, each party shall not directly or indirectly, copy, reproduce, distribute or use in violation of the terms of this EPC Agreement any of the Confidential Information. This obligation shall continue during the term of this EPC Agreement and for a period of three (3) years following termination of this EPC Agreement for any reason.

10.9 Severability. The partial or complete invalidity of any one or more provisions of this EPC Agreement shall not affect the validity or continuing force and effect of any other provision. The failure of either party hereto to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this EPC Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

10.10 Third Parties. Nothing contained in the Contract Documents shall create a professional obligation or contractual relationship between the Owner and any third party or between Northwind and any third party.

10.11 Cost of Collection. Owner agrees to reimburse Northwind for all costs and expenses incurred by Northwind in enforcing collection of any monies due under this EPC Agreement, including, without limitation, reasonable attorneys' fees.

10.12 Further Assurances. The parties to this EPC Agreement agree to execute and deliver in a timely fashion any and all additional documents necessary to effectuate the purposes of this EPC Agreement. Each party, by the execution hereof designates the Northwind, and any of its authorized officers, as its attorney-in-fact to execute all documents and instruments necessary or desirable to implement the provisions hereof.

Binding Effect. This EPC Agreement shall be binding upon and inure to the benefit of Northwind, Owner, and their successors and assigns.

10.2 Indemnity. Each party agrees to defend, indemnify, and hold the other, and its agents or employees, harmless from and against loss, damage, or liability (including but not limited to reasonable attorneys' fees and other costs) on account of any claim against such party caused by the act or omission of the other or the other's employees, servants, or agents, in connection with the performance of their respective undertakings under this Agreement.

## SECTION 11 – SPECIAL PROVISIONS

11.1 Exhibits. The following documents are attached hereto and incorporated by reference herein.

EXHIBIT A Project scope of work

EXHIBIT B Contract Change Order Form

11.2 Other Provisions. n/a

This EPC Agreement is made and entered into as of the day and year first written above.

### **NORTHWIND:**

**North Wind Renewable Energy Cooperative**

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

(Signature)

Name/Title: Josh Stolzenburg, CEO

### **OWNER/CLIENT:**

**City of Antigo, Wastewater Treatment Plant**

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

(Signature)

Name/Title: Terence Brand, Mayor

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

(Signature)

Name/Title: Kaye Matucheski, Clerk-Treasurer/Finance Director

### EXHIBIT A – Scope of Work (or proposal)

- 1) Design & Engineering: Complete Design and Engineering for the PV system.
  - a) Structural drawings from racking supplier.
  - b) Electrical drawings.
  - c) Permit ready project plan set.
- 2) Installation and Project Management:
  - a) Pricing includes installation of all solar power system components, including:
    - i) Racking System: Sinclair fixed-tilt racking system.
    - ii) Modules (by project): Hanwha QCells Q.Peak DUO G10 485w bifacial PV modules
    - iii) Inverters (by project): CPS SCH100KTL-DO/US-480 solar inverters
    - iv) DC source conductors and integration into the inverters
    - v) AC conductors, conduit and integration to inverters and facility
    - vi) AC Subpanels and Disconnects
    - vii) Battery energy storage system (BESS): BYD CHESS 120kW commercial battery
    - viii) Balance of system
    - viv) Inverter warranties (20 years total manufacturer coverage per inverter)
  - b) North Wind Renewable Energy Cooperative will attend meetings with the City of Antigo personnel as required and take part in any pre-access orientation to the site.
  - c) North Wind Renewable Energy Cooperative will remove its own construction debris from the jobsite.
  - d) North Wind Renewable Energy Cooperative will provide post-installation training for facility managers, a maximum of 4 hours.
  - e) Northwind will coordinate to have technician(s) available for AHJ inspections, utility interconnection and punch list walks.
- 3) Testing: A detailed look at our testing procedures is found in our Commissioning Manual
  - a) IV Curve testing conducted on all DC strings using a FLUKE Multifunction PV Tester
  - b) IR camera testing will be performed at all combiner boxes.
  - c) All mechanical fasteners and electrical fasteners will be torqued to spec and marked.
  - d) North Wind Renewable Energy Cooperative will provide a utility commissioning and/or inspection report detailing system permission to operate, if necessary.

**EXHIBIT B – Contract Change Order**

**North Wind Renewable Energy Cooperative Change Order**

**Project name:** City of Antigo, Wastewater Treatment Plant

**Change order number:**

**Date of Change:**

**Original contract date:**

**You are directed to make the following changes in this contract:**

The original contract sum was: \$ \_\_\_\_\_

Net amount of previous change orders: \$ \_\_\_\_\_

Total original contract amount plus or minus net change orders:

Total amount of this change order: \$ \_\_\_\_\_

**The new contract amount including this change order will be:**

The contract time will be changed by the following number of days: (     ) Days

The date of completion as of the date of this change order is:

**North Wind Renewable Energy Cooperative**

Northwind Representative: \_\_\_\_\_

Title:

\_\_\_\_\_  
(Signature)

**OWNER:**

Owner Representative: \_\_\_\_\_

Title:

\_\_\_\_\_  
(Signature)

## ADDENDUM #1 - PROGRESS SCHEDULE

- 1) Design & Engineering: Design and Engineering for the PV system.

DATE

- 2) Procurement and Installation Scheduling:

DATE

- 3) Substantially all equipment and materials delivered to site

DATE

- 4) Mechanical Completion

DATE

- 5) Commissioning and Interconnection

DATE



**To:** Mayor and City Council  
**From:** Mark Desotell, Director of Administrative Services  
**Date:** November 08, 2023  
**Re:** Recommendation from Weather Siren Ad Hoc Committee to apply for a Building Resilient Infrastructure and Communities (BRIC) Federal Program Grant

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At their October 31, 2023 meeting, the Weather Siren Ad Hoc Committee meeting heard from Langlade County Emergency Management Director, Travis Krueger, of a potential grant source through the State of Wisconsin Department of Military Affairs Division of Emergency Management. The Federal Emergency Management Agency (FEMA) published its Financial Fiscal Year (FFY) 2023 call for candidate projects under the Building Resilient Infrastructure and Communities (BRIC) Program. The application deadline of November 29, 2023 is quickly approaching requiring your consideration to advance.

It was initially believed that the grant might supply a 90%/10% grant to local match ratio based upon economic criteria for the City of Antigo. However, further investigation into the grant criteria revealed that this 90/10 ratio was reserved for communities with populations of 3,000 or less. However, if our weather siren grant submission is found acceptable it does appear that we would be eligible for a 75%/25% grant to local match ratio.

Initial cost projections for a 5-siren installation providing the anticipated coverage needed for the City totaled +/- \$150,000. The Ad Hoc Committee recommended a budget of \$250,000 be considered in order to assure proper coverage, construction and the overall operating goals for the system.

Other grant sources are potentially available and will be explored in addition to or in place of this application depending upon the results of the submittal.

I offer the following for your consideration:

- |                                                      |                 |
|------------------------------------------------------|-----------------|
| • Consultant Design & Bidding Services (10%)         | \$ 18,000       |
| • Establish a construction budget for up to 6 sirens | \$ 180,000      |
| • Construction Contingencies (10%)                   | \$ 18,000       |
| • Construction Administration (5%)                   | <u>\$ 9,000</u> |

**Total Amount = \$ 225,000**

The Ad Hoc Committee made its recommendation to pursue this grant. A \$225,000 application would provide \$168,750 in grant funds requiring a \$56,250 local match. Applicants are given up to 36 months to complete a project allowing Council the necessary time to acquire matching funds should they decide to advance this grant application at their November 8, 2023 meeting. Matching Funds are not available within the 2024 budget as being considered by Council. I suggest identifying a 2025 or 2026 construction timeline

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providing the ability to identify matching fund sources.

Your recommendation regarding the advancement of a grant application will be under consideration by Council immediately following this meeting or will be removed should it fail to pass your authorization.



# STATE OF WISCONSIN

## DEPARTMENT OF MILITARY AFFAIRS

### DIVISION OF EMERGENCY MANAGEMENT

Greg Engle  
Administrator

Tony Evers  
Governor

**DATE:** October 30, 2023

**TO:** Wisconsin Tribal and County Emergency Management Directors  
Interested Wisconsin Communities  
Wisconsin Regional Planning Commissions  
WEM Region Directors  
Wisconsin Silver Jackets Hazard Mitigation Team

**FROM:** Chad Atkinson  
Hazard Mitigation Section Supervisor

**SUBJECT:** Notice of Funding Opportunity (NOFO)  
Federal Fiscal Year (FFY) 2023  
Building Resilient Infrastructure and Communities (BRIC) Program

#### BOTTOM LINE UP FRONT

The Federal Emergency Management Agency (FEMA) has published the NOFO for the FFY 2023 BRIC program. Notice of intent pre-applications from potential subapplicants are due to Wisconsin Emergency Management (WEM) by 11/29/2023. Proposed projects must be consistent with the goals and objectives of the approved tribal or local hazard mitigation plan and the State of Wisconsin Hazard Mitigation Plan. Please share this information broadly with eligible applicants and subapplicants.

#### Timeline

- October 16, 2023: FEMA Application Start
- November 29, 2023: Notice of intent to apply due WEM.  
Complete the attached BRIC Project pre-application form and email to [DMAWEMHazardMitigation@widma.gov](mailto:DMAWEMHazardMitigation@widma.gov).
- December 13, 2023: Potential subapplicants registered in FEMA GO ([go.fema.gov](https://go.fema.gov)).  
An active SAM.gov account, Employer Identification Number (EIN), and Unique Entity Identifier (UEI) are required for registration. Any registration issues must be resolved by this date.
- January 12, 2024: Final draft subapplications due to WEM.

This is a review of the final draft of subapplications by WEM to ensure completeness and maximization of national competition criteria points.

NOTE, if requested, WEM may review pre-final draft subapplications provided they are submitted sufficiently ahead of January 12, 2024.

- February 22, 2024: **SUBAPPLICATIONS DUE IN FEMA GO BY 11:59PM CDT.**  
This deadline provides 7 days for WEM to finalize submissions, and report any FEMA Go technical difficulties, prior to the application submission deadline. Subapplications or attachments submitted after the deadline will not be considered.

## FUNDING

The total available funding for the FFY 2023 BRIC program is as follows:

|                                        |                        |
|----------------------------------------|------------------------|
| State/Territory Allocation:            | \$112,000,000          |
| Tribal Set-Aside:                      | \$50,000,000           |
| State/Territory Building Code Plus-Up: | \$112,000,000          |
| Tribal Building Code Plus-Up:          | \$25,000,000           |
| National Competition:                  | \$701,000,000          |
| <b>TOTAL</b>                           | <b>\$1,000,000,000</b> |

## COST SHARE

The BRIC program cost share is 75% federal and 25% non-federal. For communities located in a Community Disaster Resilience Zone<sup>1</sup> and Economically Disadvantaged Rural Communities<sup>2</sup> the cost share is adjusted to 90% federal and 10% non-federal.

## BRIC PROGRAM

The BRIC program is an annual, nationally competitive, federal grant program that makes funds available to eligible applicant for the following hazard mitigation activities:

- Capability and Capacity-Building activities  
Activities that enhance the knowledge, skills, and expertise of the current workforce to expand or improve the administration of mitigation assistance. This includes activities in the following: building codes, partnerships, project scoping, hazard mitigation planning and planning-related activities, and other activities.
- Hazard Mitigation Projects  
Cost-effective projects designed to increase resilience and public safety; reduce injuries and loss of life; and reduce damage and destruction to property, critical services, facilities, and infrastructure (including natural systems) from natural hazards.

<sup>1</sup> As defined in 42 U.S.C. § 5136(a)(1).

<sup>2</sup> As defined in 42 U.S.C. § 5133(a) as a small impoverished community.

- Management Costs

Financial assistance to reimburse the recipient and subrecipient for eligible and reasonable indirect costs, direct administrative costs, and other administrative expenses associated with a specific mitigation measure or project.

### **ELIGIBLE SUBAPPLICANTS**

WEM serves as the applicant for BRIC program funding. Subapplications must be submitted to WEM. Eligible subapplicants include:

- Federally recognized tribal governments
- Local units of government (i.e., towns, villages, cities, counties) and special district governments (i.e., School Districts)

Subapplicants are required to have a current, approved, hazard mitigation plan by the application deadline and at the time of obligation of the award. This requirement is not applicable for hazard mitigation planning subapplications.

Individuals, businesses, and nonprofit organizations are not eligible subapplicants. However, an eligible subapplicant may apply for funding on behalf of individuals, businesses, and nonprofit organizations.

Federally recognized tribal governments may apply directly to FEMA as an applicant and are eligible for Tribal Set-Aside funding. Tribal governments in Wisconsin considering BRIC program assistance are encouraged to contact WEM to discuss options as either an applicant or as a subapplicant. WEM will support tribal government applicants with technical assistance to the same level as subapplicants.

### **STATE/TERRITORY ALLOCATION**

Under the State/Territory Allocation the State of Wisconsin may submit subapplications totaling \$2,000,000. Eligible subapplications may be for Capability and Capacity Building activities or hazard mitigation projects.

A total of \$1,500,000 of the allocation is required to be used for Capability and Capacity Building activities. In addition, a minimum of \$400,000 of the allocation is required to be used on any combination of Capability and Capacity Building activities and projects primarily benefiting Community Disaster Resilience Zones. Based on these requirements it is the intention of WEM to prioritize hazard mitigation planning and project scoping subapplications for the State/Territory Allocation. In addition, WEM will not consider subapplications with a federal share of \$1,000,000 or more for potential funding under the State/Territory Allocation. Subapplications with a federal share of \$1,000,000 or more may be considered under the National Competition.

### **TRIBAL SET-ASIDE**

Under the Tribal Set-Aside an applicant may submit Capability and Capacity Building activities not exceeding \$2,000,000 federal cost share. An applicant may submit hazard mitigation planning and planning-related activities up to \$1,000,000. In the event more than \$50,000,000 in subapplications are submitted under the Tribal Set-Aside, the Capability and Capacity Building activities and highest-ranked hazard mitigation project subapplications up to \$50,000,000 will be

selected. All remaining tribal hazard mitigation project subapplications will be evaluated under the National Competition.

## **NATIONAL COMPETITION**

Under the National Competition subapplicants may apply for hazard mitigation projects that have a maximum federal share of \$50,000,000. Subapplications submitted to the national competition that pass the eligibility and completeness programmatic review will be scored with technical evaluation criteria and may be scored with qualitative evaluation criteria, if applicable. At least one eligible subapplication from each applicant will be sent to the National Review Panel for review.

## **DIRECT TECHNICAL ASSISTANCE**

The BRIC program also includes non-financial Direct Technical Assistance (DTA) to support the development of climate resilience planning and project design in, and with, underserved or disadvantaged communities, and federally recognized tribal governments that are disproportionately affected by natural hazard risk and climate change. Eligible recipients include:

- Federally recognized tribal governments
- Local units of government as defined in Section 102(8) of the Stafford Act (42 § U.S.C. 5122(8)) including, but not limited to towns, villages, cities, counties, special district governments, regional planning organizations, and other political subdivisions of the state.

More information on DTA is available at [http://www.fema.gov/grants/mitigation/building - resilient-infrastructure-communities/direct-technical-assistance](http://www.fema.gov/grants/mitigation/building-resilient-infrastructure-communities/direct-technical-assistance).

## **OTHER SUBMISSION REQUIREMENTS**

- Benefit-Cost Analysis (BCA)

Applicants and subapplicants applying for hazard mitigation projects must provide a BCA or other documentation that validates cost-effectiveness. Applicants and subapplicants should use one of the following: Streamlined cost-effectiveness determination method; BCA Assistance; or BCA. In no case will FEMA award a hazard mitigation project that is not cost-effective.

- Go/No-Go Milestones

The subapplicant, in coordination with the applicant, must identify at least one or more Go/No-Go milestones in the work schedule for hazard mitigation projects submitted to the national competition that FEMA will review and approve. Hazard mitigation projects submitted under the state/territory allocation or tribal set-aside do not require Go/No-Go milestones.

- National Environmental Policy Act (NEPA)

Applicants and subapplicants applying for hazard mitigation projects must provide information needed to comply with the NEPA (42 U.S.C. §§ 4321–4370h) and the related Department of Homeland Security and FEMA instructions and directives.

- Acquisition Project Requirements

The subrecipient must provide FEMA with a signed copy of the Statement of Voluntary Participation for each property post-award.

- Intergovernmental Review

An intergovernmental review may be required.

- Funding Restrictions and Allowable Costs

All costs charged to awards covered by this NOFO must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements at 2 C.F.R. Part 200, unless otherwise indicated in the NOFO, or the terms and conditions of the award.

## **ADDITIONAL INFORMATION**

Please review following resources if considering a BRIC subapplication:

- Department of Homeland Security's BRIC NOFO announcement

The NOFO is available at: <https://www.grants.gov/web/grants/view-opportunity.html?oppld=350563>.

- 2023 Hazard Mitigation Assistance Program and Policy Guide

The 2023 HMA Program and Policy Guide is available at: <https://www.fema.gov/grants/mitigation/hazard-mitigation-assistance-guidance>.

## **QUESTIONS**

For questions or additional information, please email the WEM Hazard Mitigation Section at [DMAWEMHazardMitigation@widma.gov](mailto:DMAWEMHazardMitigation@widma.gov) or contact any of the following:

- Chad Atkinson, Hazard Mitigation Section Supervisor: [chad.atkinson@widma.gov](mailto:chad.atkinson@widma.gov)
- Heather Thole, State Hazard Mitigation Officer: [heather.thole@widma.gov](mailto:heather.thole@widma.gov)
- Emily Cohen, Hazard Mitigation Planning Lead: [emily.cohen@widma.gov](mailto:emily.cohen@widma.gov)

## TECHNICAL EVALUATION CRITERIA FOR THE NATIONAL COMPETITION

FEMA will score subapplications submitted to the national competition using the following criteria:

| Technical Evaluation Criteria for the National Competition |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Potential Points |
|------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 1.                                                         | Infrastructure project                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 15               |
| 2.                                                         | <u>Incorporation of nature-based solutions for hazard mitigation.</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                  |
|                                                            | Subapplication includes a neighborhood or site scale nature-based solution(s).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 5                |
|                                                            | OR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                  |
|                                                            | Subapplication includes watershed or landscape scale nature-based solution(s) including those that support coastal resilience.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 15               |
| 3.                                                         | <u>Building Code Adoption and Enforcement</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                  |
|                                                            | Community where the project will be developed has locally adopted building codes based on both the International Building Code (IBC) and the International Residential Code (IRC) model codes published by the International Code Council (ICC). To obtain points, both codes have to be 2018 or 2021.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 5                |
|                                                            | AND                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                  |
|                                                            | Community locally adopted building codes are based on the applicant's mandatory state-, tribal-, territory-wide adoption of building codes based on both the International Building Code (IBC) and the International Residential Code (IRC) model codes published by the International Code Council (ICC). To obtain points, both codes have to be 2018 or 2021.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | 5                |
|                                                            | AND                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                  |
|                                                            | Subapplicant has Building Code Effectiveness Grading Schedule (BCEGS) Rating of 1 to 5.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 10               |
|                                                            | OR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                  |
|                                                            | Any subapplicant that has not received building code adoption and enforcement points could receive points by providing a narrative demonstrating they hold higher standards for the primary hazard they have identified in their subapplication. Examples include, but are not limited to: <ul style="list-style-type: none"> <li>• Prohibition of fill within the floodplain or floodway.</li> <li>• Requiring at least 2 feet of freeboard in all Special Flood Hazard Areas.</li> <li>• Prohibition of siting/placement of critical facilities within the 0.2% annual chance floodplain.</li> <li>• Coastal Zone (V Zone) development requirements, including open foundations, seaward of identified Limits of Moderate Wave Action (LiMWA).</li> <li>• Using a higher risk category as defined in the IBC.</li> <li>• Using a higher importance factor for the primary hazard as defined in the American Society of Civil Engineer's Minimum Design Loads and Associated Criteria for Buildings and Other Structures (ASCE 7).</li> </ul> | 5                |

|    |                                                                                                                                                                                                                                                                                                                     |    |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| 4. | Application generated from a previous FEMA HMA Project Scoping award or any other federal grant award, or the subapplicant is a past recipient of BRIC DTA.                                                                                                                                                         | 10 |
| 5. | <u>Application covers a project that is located in or primarily benefits:</u>                                                                                                                                                                                                                                       |    |
|    | A Justice40 community or communities, including any geographically defined community or communities identified by the Climate and Economic Justice Screening Tool.                                                                                                                                                  | 30 |
|    | OR                                                                                                                                                                                                                                                                                                                  |    |
|    | Designation as an Economically Disadvantaged Rural Community (as defined in 42 U.S.C § 5133(a) as a small impoverished community) or a federally recognized Tribal government, or a subapplication that benefits or primarily benefits a Community Disaster Resilience Zone (as defined in 42 U.S.C. § 5136(a)(1)). | 40 |

Please note, the State of Wisconsin's building codes do not align with the 2018 or 2021 versions of the International Code Council's model residential and commercial codes as identified in the scoring criteria.