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4 **AN AMENDED, SUBSTITUTE RESOLUTION/ORDINANCE**

5
6 amending Chapter 13 of the Milwaukee County Code of General Ordinances to require
7 Milwaukee County Board of Supervisors approval for all agreements and partnerships
8 with Milwaukee County support groups
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11 WHEREAS, Chapter 13 of the Milwaukee County Code of General Ordinances
12 outlines the procedures by which Milwaukee County engages with outside groups that
13 provide financial or volunteer support to departments; and
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15 WHEREAS, any group that provides financial assistance to Milwaukee County,
16 including a friends group partnership, must be a nonprofit, obtain 501(c)(3) status, and
17 enter into a written agreement approved by the Milwaukee County Board of Supervisors
18 and Milwaukee County Executive; and
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20 WHEREAS, those agreements must also include:
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- 22 (a) A statement of purpose and outlining its program activities and related
- 23 utilization of county facilities, personnel, utilities and equipment.
- 24 (b) A provision that if the friends groups participate in a capital improvement
- 25 program, they be a party to a separate written contract setting forth the
- 26 nature, scope and ownership of the improvements, together with the
- 27 responsibility and accountability for planning, fundraising and
- 28 construction.
- 29 (c) Recognition that the county board endorses a policy of open meetings,
- 30 open records, affirmative action and its code of ethics, and expects
- 31 county employes to understand and comply with such policies in working
- 32 with friends groups. Friends groups, their agents and employes shall
- 33 comply with all applicable federal, state and county laws and regulations
- 34 governing conflicts of interest. Recognition that county employes are
- 35 responsible to disclose promptly to the county executive and county
- 36 board information concerning proposed capital plans, operating support,
- 37 promotional plans, programs and activities of friends groups.
- 38 (d) Filing annually, with the office of the comptroller, for public record:
- 39 (1) If the organization's annual gross receipts exceed four thousand
- 40 dollars (\$4,000.00), a copy of its state form 308 (charitable
- 41 organization annual report) submitted to the state department of
- 42 regulation and licensing to comply with s. 440.41, Wis. Stats.

- 43 (2) In addition, if the organization's annual gross receipts exceed
44 twenty-five thousand dollars (\$25,000.00), a copy of its IRS form
45 990 (return of organization exempt from income tax).
46 (3) In addition, if the organization's annual gross receipts exceed fifty
47 thousand dollars (\$50,000.00), a certified, independently audited,
48 financial statement reporting an audit performed in accordance
49 with generally accepted accounting principles.
- 50 (e) Limiting its employees to those engaged in the administration of friends
51 groups and those providing interpretive, educational and visitor services
52 where such activities are specifically set forth in the agreement and are
53 not within the jurisdiction of the county employees. All other persons
54 engaged in county department activities, or who control county funds,
55 assets, employes or programs, shall be county employes whose
56 compensation may be funded by friends group allocations.
- 57 (f) Encouraging all county employes to be a member of friends groups, but
58 avoiding any conflict of interest; employes shall not serve as officers or
59 directors of the friends groups.
- 60 (g) Designating a coordinator or liaison person for the department and the
61 friends group. The department head or designee shall be the county
62 coordinator and shall have authority to administer the agreement on
63 behalf of the county. Friends representative shall be available to county
64 for consultation and assistance.

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66 ; and

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68 WHEREAS, all cash or gift donations to Milwaukee County by any group or
69 individual must be approved by the Milwaukee County Board of Supervisors; and

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71 WHEREAS, department heads may agree to a memorandum of understanding
72 with groups that provide only volunteer services, but do not provide any financial
73 assistance or fiscal support, which does not require approval of the County Board or
74 County Executive and are not subject to the provisions laid out above related to
75 nonprofit, 501(c)(3) status, public financial disclosures or open meetings laws; and

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77 WHEREAS, all agreements that Milwaukee County holds with support groups
78 should be subject to review and oversight by the Milwaukee County Board of
79 Supervisors regardless of whether they provide financial support; and

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81 WHEREAS, to ensure appropriate stewardship of public assets, all support
82 groups should be required to adhere to the same relationship guidelines and fund
83 management practices and should be aligned with state requirements for nonprofits;
84 and

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86 WHEREAS, the Committee on Judiciary, Safety, and General Services (JSGS),
87 at its meeting of July 15, 2021, laid over File No. 21-558 for one meeting (vote 5-0); and
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89 WHEREAS, the Committee on JSGS, on September 9, 2021, laid over File No.
90 21-558 for one meeting (vote 5-0); and
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92 WHEREAS, the Committee on JSGS, on October 12, 2021, postponed File No.
93 21-558 to a date certain (October 21, 2021) (vote 5-0); and
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95 WHEREAS, the Committee on JSGS, at its meeting of October 21, 2021,
96 postponed File No. 21-558 to a date certain (October 29, 2021) (vote 5-0); and
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98 WHEREAS, the Committee on JSGS, at its meeting of October 29, 2021, laid
99 over File No. 21-558 for one meeting (vote 5-0); and
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101 WHEREAS, the Committee on JSGS, at its meeting of December 2, 2021,
102 recommended adoption of File No. 21-558 as substituted (vote 5-0); and
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104 WHEREAS, the Milwaukee County Board of Supervisors (County Board), at its
105 meeting of December 16, 2021, referred File No. 21-558 to the Committee on Parks,
106 Energy, and Environment (PE&E) (vote 14-3); and
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108 WHEREAS, the Committee on PE&E, at its meeting of January 25, 2022,
109 recommended adoption of File No. 21-558 as substituted (vote 4-0); and
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111 WHEREAS, the County Board, at its meeting of February 3, 2022, referred File
112 No. 21-558 to the Committee on PE&E (vote 16-1); and
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114 WHEREAS, the Committee on PE&E, at its meeting of March 15, 2022,
115 recommended adoption of File No. 21-558 (vote 5-0) as amended and substituted;
116 now, therefore,
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118 BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby
119 requests that all agreements with support groups comply with the provisions of Chapter
120 13 of the Milwaukee County Code of General Ordinances; and
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122 BE IT FURTHER RESOLVED, that the Milwaukee County Board of Supervisors
123 hereby amends Chapter 13 of the Milwaukee County Code of General Ordinances by
124 adoption of the following:
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126 **AN ORDINANCE**

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128 The County Board of Supervisors of the County of Milwaukee does ordain as follows:

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130 **SECTION 1.** Chapter 13.01 of the Milwaukee County Code of General Ordinances is
131 amended as follows:

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133 13.01. – Declaration of policy.

134 The role of ~~friends groups~~ **Support Groups** is important to the success of
135 many county departments. Some departments ~~possibly could~~ **might** not survive
136 without full participation of the private sector in furnishing additional funding for capital
137 projects, special programs, and operating needs. ~~Friends groups~~ **Support Groups**
138 add substantially to the limited resources available from the tax base. The general
139 public is greatly benefited through improved facilities and programs. The county has
140 always welcomed and encouraged the establishment of ~~friends groups~~ **Support**
141 **Groups**. By establishing these guidelines, the county hopes to enhance mutual
142 understanding of particular needs and concerns with its ~~friends groups~~ **Support**
143 **Groups**, and establish a fair and consistent policy with them, while maintaining a
144 clear separation between the county and the Support Group, thus assuring a
145 successful, cooperative effort and relationship.

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147 **SECTION 2.** Chapter 13.02 of the Milwaukee County Code of General Ordinances is
148 created as follows:

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150 **13.02. - Definitions**

151
152 **(a) Capital Project means a non-recurring construction, renovation, or**
153 **improvement project with costs greater than or equal to \$100,000.**

154
155 **(b) Support Group means any nonprofit organization with its own governance**
156 **and fiscal structure that exists primarily to support or enhance county**
157 **programs and/or county property either financially and/or through**
158 **volunteer services. Support Group shall also include nonprofit**
159 **organizations with their own governance and fiscal structure that carry**
160 **out Services that are typically performed by the county.**

161
162 **(c) Services include, but are not limited to capital projects, programming, or**
163 **operating activities.**

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165 **SECTION 3.** Chapter 13.02 of the Milwaukee County Code of General Ordinances is
166 amended as follows:

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168 13.023. – Applicability.

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~~(a) The provisions of this policy are applicable to all county department and agency heads **in interacting with private support organizations (friends groups) formed to provide financial support and volunteer services for an activity of the county or any of its departments or agencies partnering with a Support Group, which partnership is expected to last longer than one year.**~~

~~(b) The relationships with these private support organizations that provide only volunteer services, interpretive and educational assistance, and additions to collections, but do not provide financial support or have a fiscal relationship, shall be established in a memorandum of understanding with the county department head.~~

SECTION 4. Chapter 13.03 of the Milwaukee County Code of General Ordinances is amended as follows:

13.034. - Organization—County.

The county public facilities are owned and managed for the benefit of the people of the entire community. Responsibility, authority and accountability for their activities lie in the county executive and the county board; active management lies in the designated department head. The county cannot delegate or contract away its statutory powers and responsibilities. Accordingly, organizational internal controls within a county department are the responsibility of the department head who must adhere to all applicable ordinances, procedures, and ethical standards of county government. Acceptance of all **monetary** gifts to county departments by department heads shall be conditioned upon approval by the county executive and county board, or within parameters established by ordinance. **Acceptance of gifts of physical property with an estimated value of greater than ten thousand dollars (\$10,000) shall be conditioned upon approval by the county executive and county board.**

SECTION 5. Chapter 13.04 of the Milwaukee County Code of General Ordinances is amended as follows:

13.045. - Organization—~~Friends groups~~**Support Groups.**

~~Friends groups are independent organizations having their own governance and fiscal structure.~~ In order to achieve county-wide consistency and fiscal accountability, all ~~friends groups~~ **Support Groups** shall be or shall conduct their fiscal affairs through a nonprofit, nonstock Internal Revenue Code 501(c)(3) tax exempt corporation, structured through articles of incorporation and bylaws, ~~to A~~ **Support Group can** support, assist and promote the activities of a county department or agency under the provisions of a written agreement approved by the department head, the county executive, and the county board.

213 **SECTION 6.** Chapter 13.05 of the Milwaukee County Code of General Ordinances is
214 amended as follows:

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216 13.056. - Role of ~~friends groups~~**Support Groups**.

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218 ~~Friends groups~~**Support Groups**, in cooperation with the county department head
219 and within policies, programs, and goals of the department, may raise funds and may
220 provide volunteer assistance and support, both in terms of physical facilities and
221 programs. ~~Friends groups~~**Support Groups** may be considered by the county
222 department head to be the lead volunteer organization for the department, but it shall
223 not prevent the department head from accepting assistance from other ~~groups~~
224 **Support Groups** where there will be no conflict with agreements executed with
225 ~~friends groups~~ **Support Groups**.
226

227 **SECTION 7.** Chapter 13.06 of the Milwaukee County Code of General Ordinances is
228 amended as follows:

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230 13.067. - Relationship—~~Friends groups~~**Support Groups**.

231 Because of their close relationship with public institutions, ~~friends groups acquire~~
232 ~~a quasipublic status. The~~ public often perceives ~~them~~ **Support Groups** to be a
233 functional part and representative of a county department. Public confidence and
234 support is best maintained by adequate disclosure of all activities ~~Basic of the Support~~
235 ~~Group and clear delineation of roles and responsibilities~~ to ~~the quasipublic nature~~
236 ~~of friends groups~~ **ensure the independence and separation of the county and**
237 **Support Group. If an organization meets the definition of a Support Group,** the
238 department head shall negotiate a written agreement with ~~each friends group the~~
239 ~~Support Group~~ for approval by the county executive and the county board, ~~including:~~
240 **If a Support Group is unable or unwilling to enter into a written agreement with**
241 **the county, the department head shall notify the county board and county**
242 **executive. The requirements of this Chapter may only be waived by action of the**
243 **county board and county executive. The written agreement shall include, at a**
244 **minimum:**

- 245
246 (a) A statement of purpose and ~~outlining its~~ **an outline of the Support Group's**
247 program activities and related utilization of county facilities, personnel, utilities,
248 and equipment.
- 249 (b) A provision that if the ~~friends groups~~**Support Group** participates in a capital
250 improvement program, they be a party to a separate written contract setting forth
251 the nature, scope, and ownership of the improvements, together with the
252 responsibility and accountability for planning, fundraising, and construction.
- 253 (c) Recognition that the county board endorses a policy of open meetings, open
254 records, affirmative action and its code of ethics, and expects county employes to
255 understand and comply with such policies in working with ~~friends~~
256 ~~groups~~**Support Groups**. ~~Friends groups~~**Support Groups**, their agents and

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employees shall comply with all applicable federal, state and county laws and regulations governing conflicts of interest. Recognition that county employees are responsible to disclose promptly to the county executive and county board information concerning proposed capital plans, operating support, promotional plans, programs, and activities of ~~friends groups~~ **Support Groups**.

(d) **Filing A Support Group must file** annually, with the department and the office of the comptroller, for public record:

(1) If the ~~organization's~~ **Support Group's** annual gross receipts ~~exceed four are under twenty-five~~ thousand dollars (~~\$4\$25,000.00~~), **or under fifty thousand dollars (\$50,000.00) if it only solicited contributions in the county where its principal office is located,** a copy of its state form ~~308 (charitable organization annual report 1943I (affidavit in lieu of Annual Financial Report)~~ submitted to the state department of regulation and licensing to comply with ~~s. 440.44~~ **Chapter 202**, Wis. Stats. **Subchapter II.**

(2) In addition, if the ~~organization's~~ **Support Group's** annual gross receipts exceed twenty-five thousand dollars (\$25,000.00), a copy of its IRS form 990 (return of organization exempt from income tax-) **and a copy of its state form 1952 (Wisconsin Supplement to Financial Report), or state form 308 (Charitable Organization Annual Report), submitted to the state department of regulation and licensing to comply with Chapter 202, Wis. Stats. Subchapter II.**

(3) In addition, if the organization's annual gross receipts ~~exceed fifty thousand dollars (\$50,000.00)~~, **are in excess of three hundred thousand dollars (\$300,000.00), but not more than five hundred thousand dollars (\$500,000.00), a financial statement for the most recently completed fiscal year, prepared in accordance with generally accepted accounting principles, and a review of the financial statement by an independent certified public accountant.**

(4) In addition, if the Support Group's annual gross receipts exceed five hundred thousand dollars (\$500,000.00) in the most recently completed fiscal year, a certified, independently audited, financial statement reporting an audit performed in accordance with generally accepted accounting principles, **and the opinion of an independent certified public accountant on the financial statement.**

~~**(5) The Support Group's adopted budget for the coming year.**~~

~~**(6) A report detailing the amount of the Support Group's pecuniary support and the nature of its operations and hours of volunteer**~~

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~~support for the previous year.~~

~~(7) An accounting of all single charitable donations over five thousand dollars (\$5,000.00) received by the Support Group in support of its work with the county, which shall include a general description of the amount of the donation, and, if applicable, any donor intent.~~

~~(8) An updated copy of the Support Group's bylaws, any amendments to its articles of incorporation, and a list of its officers and directors.~~

~~(9) A copy of the Support Group's policies and procedures for internal controls. Internal controls are systems of policies and procedures that protect the assets of an organization, create reliable financial reporting, promote compliance with laws and regulations, and achieve effective and efficient operations.~~

~~(e) Limiting its employees to those engaged in the administration of friends groups and those providing interpretive, educational and visitor services where such activities are specifically set forth in the agreement and are not within the jurisdiction of the county employees. All other persons engaged in county department activities, or who control county funds, assets, employees or programs, shall be county employees whose compensation may be funded by friends group allocations.~~

~~(f) (e) Encouraging all county employees to be a member of Recognition that county employees may be members of friends groups Support Groups, but avoiding shall avoid any conflict of interest employees; County employees shall not serve as officers or directors of ~~the friends groups~~ any Support Group.~~

~~(g) (f) A provision~~ designating a coordinator or liaison person for the department and the ~~friends group~~ Support Group. The department head or designee shall be the county coordinator and shall have authority to administer the agreement on behalf of the county. ~~Friends~~ The Support Group representative shall be available to the county for consultation and assistance.

~~(g) A statement that any person who controls county funds, county employees, or other county assets shall be a county employee. If a Support Group wishes to fund such a position, it will do so through the transfer of funds to the Milwaukee County Treasurer rather than direct payments to the employee.~~

~~(h) A statement that the county and Support Group agree that, as independent and separate entities, each shall maintain a staff,~~

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management, and fiscal structure independent of the other.

(i) A provision that allows the county to terminate the agreement for cause.

(j) A statement that the Support Group understands and will abide by the applicable requirements of Chapter 34 of the ordinances.

SECTION 8. Chapter 13.07 of the Milwaukee County Code of General Ordinances is amended as follows:

13.078. - Fund management.

- (a) ~~Friends groups~~ **Support Groups** have authority to solicit, retain, and expend funds they determine are appropriate to their programs and goals. Funds donated to the county by ~~friends groups~~ **Support Groups** shall be managed ~~so as to assure funds raised are used as intended by consistent with the donors donor's intentions and~~ consistent with ch. 59, Wis. Stats. Funds transmitted to the county treasurer by ~~friends groups~~ **Support Groups**, with a description of the intended use, shall be identified as deposited for that purpose and shall be expended only after a fund transfer consistent therewith is authorized.
- (b) The department head and designees have authority to solicit funds they determine are appropriate to their programs and goals. Such funds shall be payable to the county and may not be accepted by ~~friends groups~~ **a Support Group, unless the donor directs the funds to the Support Group.** Funds payable to the county shall be immediately deposited with the county treasurer in accordance with county procedures. An "appropriation transfer request" by the department head will be required for the release of such funds. The department head, and designees, may participate in solicitations when requested by a ~~friends group~~ **Support Group.**
- (c) There shall be an accounting with the department **in writing** of the use by each of the other's real or personal property, personnel, utilities, equipment and similar expenses, and provision for the reimbursement of reasonable value thereof, **or explanation if fees are waived.**

SECTION 9. The provisions of this Ordinance shall be effective upon passage and publication.