

4 **A RESOLUTION/ORDINANCE**
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6 To amend Section 44.07(b) and create Section 44.17 of the Milwaukee County Code of
7 General Ordinances relating to residency of public works contractors' employees
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9 WHEREAS, in a resolution adopted May 31, 1995, the County Board stated that
10 it

11 does hereby support a goal of achieving and maintaining 50%
12 Milwaukee County residency on County public works construction
13 projects whereby 50% of the salaries to be paid to workers on County
14 construction projects go to Milwaukee County residents
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16 and;

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18 WHEREAS, in July 2013, the Audit Services Division provided its most recent
19 evaluation of compliance by contractors in achieving percentage goals of gross payroll
20 paid to Milwaukee County residents; and
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22 WHEREAS, in its October 7, 2013, response to the Audit Services Division
23 report, the Architecture, Engineering & Environmental Services Section ("AE&ES") set
24 out several steps taken to improve compliance; and
25

26 WHEREAS, AE&ES establishes a residency goal for each project before bids are
27 issued, requires bidding contractors to acknowledge the goal through an affidavit,
28 requires contractors to include residency information in order for invoices to be
29 processed, issues warning letters to contractors who appear to be falling short of
30 residency goals and requires those contractors to respond immediately with a strategy
31 to improve performance before the project is complete and issues letters to non-
32 compliant contractors warning that the County may take action; and
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34 WHEREAS, state and federal statutes and regulations address and sometimes
35 limit the use of residency requirements on public works projects; and
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37 WHEREAS, Wis. Stat. § 66.0901(1m) provides that residency requirements may
38 be imposed "when necessary to secure federal aid"; and
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40 WHEREAS, at its meeting on December 4, 2013, the Committee on
41 Transportation, Public Works and Transit requested that a draft ordinance be prepared
42 to formalize the existing 50% residency goal on County construction projects and
43 develop contract requirements designed to achieve compliance; and
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45 WHEREAS, Corporation Counsel, with assistance from the Office of the
46 Comptroller - Audit Services Division and AE&ES, drafted and submitted said ordinance

47 for the review of the Chair of the Committee on Transportation, Public Works, and
48 Transit and the Chair offered to sponsor the recommended ordinance change; and
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50 WHEREAS, it is and shall be the policy of Milwaukee County to encourage and
51 promote use of residents on County-funded contracts to the extent permitted by law;
52 now, therefore,
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54 BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby
55 amends Section 44.07(b) and creates Section 44.17 of the Milwaukee County Code of
56 General Ordinances by adopting the following:
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58 **AN ORDINANCE**

59
60 The County Board of Supervisors of the County of Milwaukee does ordain as
61 follows:
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63 **SECTION 1.** Section 47.07(b) is amended as follows:
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65 (b) *Bidder's certificate.* A sworn statement shall be incorporated in the bid that the
66 bidder has examined and carefully completed the bid and contract documents supplied
67 by the appropriate department of transportation or the department of administrative
68 services and checked it in detail before submission. The sworn statement shall affirm
69 that the bidder is aware of any and all residency goal provisions of the contract and will
70 comply with them, including penalty provisions.
71

72 **SECTION 2.** Section 47.17 of the General Ordinances of Milwaukee County is created
73 as follows:
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75 **47.17. Residency of public works contractors' employees.**
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77 (1) It is the policy of Milwaukee County that 50% of the salaries paid to workers on
78 eligible Milwaukee County public works constructions projects shall be paid to
79 Milwaukee County residents.
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81 (2) The Architecture, Engineering & Environmental Services Section ("AE&ES") shall
82 establish a 50% residency goal for each eligible public works contract as defined in
83 Section 44.001(a) before the requests for bids are issued. If unusual circumstances
84 exist and are documented, the Director of AE&ES may, with the approval of the Director
85 of Administrative Services establish a goal of less than 50% for a particular project.
86

87 (3) Where the residency requirement applies:
88

89 (a) Each contractor invoice submitted for payment during the project must include
90 a report of resident salaries paid on forms as required by AE&ES. Invoices not
91 accompanied by the required report will not be processed for payment.
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93 (b) AE&ES shall issue a warning letter to any contractor who fails to submit a
94 report or whose report shows resident salaries are below 50%. The warning
95 letter shall require the contractor to respond immediately with a strategy to show
96 compliance before the project is complete.

97
98 (c) A contractor who fails to achieve the project residency goal shall be notified in
99 writing by AE&ES of the following conditions:

100
101 (i) In future bidding, the contractor may not be considered a responsible
102 bidder and may be penalized or disqualified as a result.

103
104 (ii) The contractor may be debarred from bidding on County projects for a
105 period of up to two years.

106
107 (iii) If the contractor is awarded future County contracts but fails to meet
108 residency goals, the contractor may be subject to early termination or
109 cancellation.

110
111 (iv) The nature and severity of the conditions imposed will be at the
112 discretion of the Director of Architecture, Engineering & Environmental
113 Services in consultation with the Director of Administrative Services.

114
115 (4) The Director of AE&ES or designee is authorized and empowered by this section to
116 effectuate and establish appropriate procedures, standards and bid specifications to
117 implement and achieve the policy embodied in this Section.

118
119 (5) Residence requirements or procedures other than those in this Section 44.17 may
120 be imposed when necessary to secure federal aid.

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122 (6) The residency provisions of this Section 47.17 shall not apply to projects subject to
123 a US Department of Transportation (“DOT”) prohibition on the use of geographical
124 preferences in the evaluation of bids or proposals in projects using DOT funds, including
125 but not limited to the prohibition set out in 49 CFR § 18.36(c)(2).

126
127 **SECTION 3.** The provisions of this ordinance shall be effective upon passage and
128 publication.