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(ITEM) A resolution/ordinance by Supervisors Mayo, Sr., and Lipscomb, Sr., to amend Section 44.07(b) and create Section 44.17 of the Milwaukee County Code of General Ordinances relating to residency of public works contractors’ employees, by recommending adoption of the following:

A RESOLUTION/ORDINANCE

WHEREAS, in a resolution adopted May 31, 1995, the Milwaukee County Board of Supervisors stated that it does hereby support a goal of achieving and maintaining 50% Milwaukee County residency on County public works construction projects whereby 50% of the salaries to be paid to workers on County construction projects go to Milwaukee County residents; and

WHEREAS, in July 2013, the Audit Services Division provided its most recent evaluation of compliance by contractors in achieving percentage goals of gross payroll paid to Milwaukee County residents; and

WHEREAS, in its October 7, 2013, response to the Audit Services Division report, the Architecture, Engineering & Environmental Services Section (“AE&ES”) set out several steps taken to improve compliance; and

WHEREAS, AE&ES establishes a residency goal for each project before bids are issued, requires bidding contractors to acknowledge the goal through an affidavit, requires contractors to include residency information in order for invoices to be processed, issues warning letters to contractors who appear to be falling short of residency goals and requires those contractors to respond immediately with a strategy to improve performance before the project is complete, and issues letters to non-compliant contractors warning that the County may take action; and

WHEREAS, state and federal statutes and regulations address and sometimes limit the use of residency requirements on public works projects; and

WHEREAS, Wisconsin Statutes §66.0901(1m) provides that residency requirements may be imposed “when necessary to secure federal aid”; and

WHEREAS, at its meeting of December 4, 2013, the Committee on Transportation, Public Works, and Transit requested that a draft ordinance be prepared to formalize the existing 50% residency goal on County construction projects and develop contract requirements designed to achieve compliance; and

WHEREAS, Corporation Counsel, with assistance from the Office of the Comptroller - Audit Services Division and AE&ES, drafted and submitted said ordinance for the review of the Chair of the Committee on Transportation, Public Works, and Transit and the Chair offered to sponsor the recommended ordinance change; and

47 WHEREAS, it is and shall be the policy of Milwaukee County to encourage and
48 promote use of residents on County-funded contracts to the extent permitted by law;
49 now, therefore,
50

51 BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby
52 amends Section 44.07(b) and creates Section 44.17 of the Milwaukee County Code of
53 General Ordinances by adopting the following:
54

55 **AN ORDINANCE**
56

57 The County Board of Supervisors of the County of Milwaukee does ordain as
58 follows:
59

60 **SECTION 1.** Section 44.07(b) is amended as follows:
61

62 (b) *Bidder's certificate.* A sworn statement shall be incorporated in the bid that the
63 bidder has examined and carefully completed the bid and contract documents supplied
64 by the appropriate department of transportation or the department of administrative
65 services and checked it in detail before submission. The sworn statement shall affirm
66 that the bidder is aware of any and all residency goal provisions of the contract and will
67 comply with them, including penalty provisions.
68

69 **SECTION 2.** Section 44.17 of the General Ordinances of Milwaukee County is created
70 as follows:
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72 **44.17. Residency of public works contractors' employees.**
73

74 (1) It is the policy of Milwaukee County that 50% of the salaries paid to workers on
75 eligible Milwaukee County public works construction projects shall be paid to Milwaukee
76 County residents.
77

78 (2) The Architecture, Engineering & Environmental Services Section ("AE&ES") shall
79 establish a 50% residency goal for each eligible public works contract as defined in
80 Section 44.001(a) before the requests for bids are issued. If unusual circumstances
81 exist and are documented, the Director of AE&ES may, with the approval of the Director
82 of Administrative Services, establish a goal of less than 50% for a particular project.
83

84 (3) Where the residency requirement applies:
85

86 (a) Each contractor invoice submitted for payment during the project must include
87 a report of resident salaries paid on forms as required by AE&ES. Invoices not
88 accompanied by the required report will not be processed for payment.
89

90
91 (b) AE&ES shall issue a warning letter to any contractor who fails to submit a
92 report or whose report shows resident salaries are below 50%. The warning
93 letter shall require the contractor to respond immediately with a strategy to show
94 compliance before the project is complete.

95
96 (c) A contractor who fails to achieve the project residency goal shall be notified in
97 writing by AE&ES of the following conditions:

98
99 (i) In future bidding, the contractor may not be considered a responsible
100 bidder and may be penalized or disqualified as a result.

101
102 (ii) The contractor may be debarred from bidding on County projects for a
103 period of up to two years.

104
105 (iii) If the contractor is awarded future County contracts but fails to meet
106 residency goals, the contractor may be subject to early termination or
107 cancellation.

108
109 (iv) The nature and severity of the conditions imposed will be at the
110 discretion of the Director of Architecture, Engineering & Environmental
111 Services in consultation with the Director of Administrative Services.

112
113 (4) The Director of AE&ES or designee is authorized and empowered by this section to
114 effectuate and establish appropriate procedures, standards and bid specifications to
115 implement and achieve the policy embodied in this Section.

116
117 (5) Residence requirements or procedures other than those in this Section 44.17 may
118 be imposed when necessary to secure federal aid.

119
120 (6) The residency provisions of this Section 44.17 shall not apply to projects subject to
121 a US Department of Transportation (“DOT”) prohibition on the use of geographical
122 preferences in the evaluation of bids or proposals in projects using DOT funds, including
123 but not limited to the prohibition set out in 49 CFR §18.36(c)(2).

124
125 **SECTION 3.** The provisions of this ordinance shall be effective upon passage and
126 publication.

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