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4 **A RESOLUTION/ORDINANCE**
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6 To amend Chapter 22 - Sales and Use Taxes of the Milwaukee County Code of General
7 Ordinances to enact an additional 0.4% County sales and use tax effective January 1,
8 2024 to reduce the structural deficit and avert the fiscal cliff, and enroll new hires in the
9 Wisconsin Retirement System after December 31, 2024, and close the Employees'
10 Retirement System of the County of Milwaukee ("ERS") to new hires pursuant to 2023
11 Wisconsin Act 12
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14 WHEREAS, on November 4, 2008, Milwaukee County voters approved an
15 advisory referendum to enact an additional one percent (1%) sales and use tax to
16 provide dedicated funding to parks, transit, and emergency medical services (EMS)
17 while also providing tax levy relief; and
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19 WHEREAS, a Milwaukee Journal Sentinel editorial on November 5, 2008, was
20 headlined: *People Have Spoken: It's Time to Move Forward on a Milwaukee County*
21 *Sales Tax Increase to Protect Parks, Transit and Other Key Services and to Offer*
22 *Property Tax Relief*"; and
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24 WHEREAS, until the recent approval of 2023 Wisconsin Act 12 ("Act 12"), the
25 Governor and Wisconsin State Legislature had not authorized Milwaukee County to
26 enact an additional sales and use tax as approved by the voters and have provided little
27 or no increases in state aids (e.g., shared revenue) to fund critical County services; and
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29 WHEREAS, if the County authorizes the additional 0.4% sales and use tax, as
30 allowed in Act 12, it is projected to generate more than \$82.1 million in revenue in 2024
31 to pay for required expenditures and help avert devastating cuts to programs and
32 services; and
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34 WHEREAS, if authorized, the 0.4% sales and use tax must begin at the
35 beginning of a calendar quarter, so any delay in enactment would result in a loss of
36 revenue to the County of approximately \$6.85 million per month, or \$20.5 million per
37 quarter; and
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39 WHEREAS, Milwaukee County has long advocated for fiscal tools through its
40 legislative agenda to help address its structural deficit, primarily due to expenditures
41 outpacing stagnant revenues, and sources of revenue other than property taxes which
42 are strictly limited by state statutes; and

43 WHEREAS, over the last two decades Milwaukee County has addressed its
44 fiscal challenges by shrinking County Government as measured by total number of
45 employees, number and size of facilities, privatizations, public-private partnerships, and
46 numerous changes to services; and

47 WHEREAS, in File No. 17-266, adopted March 23, 2017, the Milwaukee County
48 Board of Supervisors “supports exploration of transitioning from administering a
49 separate defined benefit pension plan on behalf of its employees, to seeking to
50 participate in the Wisconsin Retirement System (WRS)” by creating a workgroup to
51 study the issue; and

52 WHEREAS, in File No. 17-442, the Workgroup on WRS Feasibility issued a
53 report explaining the complexities of moving to the WRS and the legal, actuarial, and
54 fiscal requirements depending on whether it was for all employees, or just future years
55 of service or only for new hires; and
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57 WHEREAS, in 2018, Milwaukee County adopted the “Fair Deal” resolution,
58 establishing the “Fair Deal for Milwaukee County Workgroup” and advocating for long-
59 term fiscal stability through a solution that would work for both the State of Wisconsin
60 and Milwaukee County in furtherance of their shared prosperity (File No. 18-751); and
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62 WHEREAS, the Milwaukee County Comptroller annually produces a five-year
63 fiscal forecast, with the latest edition warning of an \$18.4 million structural deficit for
64 2024 and a five-year projection exceeding \$109 million between 2024 and 2028 (File
65 No. 23-411); and
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67 WHEREAS, as federal and state pandemic aid is exhausted, the Milwaukee
68 County transit division faces a “fiscal cliff” beginning in 2025, requiring an
69 unprecedented \$33.8 million in tax levy to support current operations (an increase of
70 \$25.1 million), which, without a solution, would result in an estimated 20% cut in
71 services amounting to nearly half of the current routes being eliminated (File No. 23-
72 622); and
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74 WHEREAS, strict tax levy limits impede the county’s ability to address the budget
75 shortfall and avoid a severe to critical services such as human services, law
76 enforcement, transit, and quality of life items such as the parks system; and
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78 WHEREAS, on June 20, 2023, Governor Tony Evers signed Assembly Bill 245,
79 now 2023 Wisconsin Act 12 (“Act 12”), providing a historic increase of state funding for
80 local governments (“shared revenue”) and enabling Milwaukee County policymakers an
81 opportunity to enact local sales taxes to help eliminate unfunded pension liabilities; and
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83 WHEREAS, Act 12 enables Milwaukee County to enact a 0.4% countywide sales
84 and use tax increase to the 0.5% sales tax currently authorized while requiring new
85 hires to be enrolled in the Wisconsin Retirement System (WRS) resulting in a “soft
86 close” of ERS; and

87 WHEREAS, the County sought a bill that provided a solution for its looming fiscal
88 cliff and, Act 12, approved by a politically divided State government, was the only tool
89 granted to the County to address its own fiscal challenges; and

90 WHEREAS, Wisconsin exempts sales and use taxes from items such as
91 personal groceries, prescription drugs, water from mains, natural gas, and electricity
92 (November through April), therefore these state exemptions reduce the impact of the
93 tax; and

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95 WHEREAS, a key benefit of the sales and use tax, aside from the increased
96 revenue growth to stave off program and service reductions, is that visitors who reside
97 outside of Milwaukee County will be contributing revenue to the County through their
98 purchases; and

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100 WHEREAS, if the County approves the 0.4% sales and use tax to begin January
101 1, 2024, Act 12 requires the County to enroll all new employees hired on or after
102 January 1, 2025 in the Wisconsin Retirement System (WRS) phasing out the County’s
103 current ERS pension system through a soft close provision; and

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105 WHEREAS, WRS is one of the most highly regarded state pension plans in the
106 nation, which according to a January 2023 article by Pew Charitable Trusts, *Wisconsin*
107 *Pension Official Details States Approach to Weathering Market Volatility*, demonstrates
108 “...exemplary characteristics...including a path to retirement security for all workers
109 within clearly defined cost targets, a plan for managing risk, and a commitment to
110 ensuring that policies are transparent and clearly communicated to stakeholders”; and

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112 WHEREAS, Act 12 requires the revenue generated by the 0.4% sales and use
113 tax to first be used to make the annual actuarial required unfunded liability payment for
114 the ERS and, if there are funds remaining, to offset the annual payment on the County’s
115 outstanding pension obligation bonds; and

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117 WHEREAS, through the enactment of Act 12, Milwaukee County has long last
118 been given an opportunity to address its looming fiscal crisis and provided a significant
119 decrease in its projected structural deficit while ensuring the current pension plan is fully
120 funded for its members; and

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122 WHEREAS, the Committee on Personnel (Personnel), at its July 17, 2023,
123 Special Joint Hybrid Meeting with the Committee on Finance (Finance), recommended
124 adoption of File No. 23-719 (vote 5-0); and

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126 WHEREAS, Finance, at its July 17, 2023, Special Joint Hybrid Meeting with
127 Personnel, recommended adoption of File No. 23-719 (vote 4-3); now, therefore,
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129 BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby
130 authorizes the implementation of a 0.4% sales and use tax increase pursuant to Wis.
131 Stats. § 77.70(2)(a) beginning January 1, 2024, to establish an overall 0.9% sales and
132 use tax for Milwaukee County when coupled with the current 0.5% sales and use tax;
133 and
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136 BE IT FURTHER RESOLVED, the Milwaukee County Board of Supervisors
137 hereby authorizes new eligible employees hired after December 31, 2024 to be enrolled
138 in the Wisconsin Retirement System (WRS) pursuant to Wis. Stats. § 40.21(7)(a) and
139 as required by § 77.70(2)(a); and
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141 BE IT FURTHER RESOLVED, the Director, Office of Strategy, Budget and
142 Performance, is authorized and directed to provide a certified copy of this
143 resolution/ordinance to the Secretary, Wisconsin Department of Revenue, as soon as
144 available but not later than September 1, 2023 after adoption and publication to allow
145 the 0.4% sales and use tax to begin January 1, 2024; and
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147 BE IT FURTHER RESOLVED, the Director of ERS Retirement Plan Services is
148 authorized and directed to provide a notice specifying the date the Ordinance was
149 passed to the Legislative Reference Bureau for publication in the Wisconsin
150 Administrative Register; and
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152 BE IT FURTHER RESOLVED, the Milwaukee County Board of Supervisors
153 approves the transition to WRS for new employees in accordance with Act 12 and WRS
154 rules and authorizes and directs the relevant County officials to complete, sign, and
155 submit to WRS the attached “Resolution of Inclusion Under the Wisconsin Retirement
156 System” form to be effective January 1, 2025 as required by Act 12 with the
157 acknowledgement that while the County operates a replacement retirement plan (the
158 OBRA plan), the County will enroll all OBRA members who meet WRS’ eligibility
159 requirements in WRS as required by law; and
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161 BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby
162 authorizes the County Executive, Office of the Comptroller, County Clerk, Office of
163 Corporation Counsel, Department of Administrative Services, Department of Human
164 Resources, and any other Milwaukee County officials deemed necessary to perform all

165 actions necessary to complete the implementation of the new 0.4% sales and use tax
166 effective January 1, 2024, and to prepare as necessary for County Board approval any
167 further resolutions/ordinances that may be required to effectuate the soft closing of the
168 Milwaukee County Employees' Retirement System (ERS) and the enrollment of new
169 eligible employees hired after December 31, 2024 into the Wisconsin Retirement
170 System (WRS); and

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172 BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby amends
173 Chapter 22 – Sales and Use Taxes of the Milwaukee County Code of General
174 Ordinances by adopting the following:

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AN ORDINANCE

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

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181 **SECTION 1.** Chapter 22 of the Milwaukee County Code of General Ordinances is
182 hereby amended as follows:

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22.01. Authority and purpose.

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186 This chapter is enacted under authority of subch. V, ch. 77, Wis. Stats., and the
187 county sales and use taxes imposed hereunder shall be used only for the purposes
188 authorized by state statutes. Per Wis. Stat. § 77.70(1), the purpose of the 0.5
189 percent sales and use tax shall be to directly reduce the property tax levy of the
190 county. Per Wis. Stat. § 77.70(2), the purpose of the 0.4 percent sales and use tax
191 shall be to pay, in priority order: the unfunded actuarial accrued liability
192 payment for the Employees' Retirement System (ERS), and then second, the
193 required payments for pension bond obligations, and then third, if additional
194 revenues remain after these payments from the 0.4 percent sales and use tax, an
195 additional payment to the unfunded actuarial accrued liability for ERS. The 0.5
196 percent and 0.4 percent sales and use taxes may be imposed concurrently for a
197 total county sales and use tax of nine-tenths (0.9) percent of directly reducing the
198 property tax levy of the county.

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22.02. Imposition of 0.5 percent tax.

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There are hereby imposed county sales and use taxes at the rate of five-tenths
(0.5) percent in the manner and to the extent permitted as set forth in their entirety in
subch. V, ch. 77, Wis. Stats., and acts amendatory thereto.

22.03. Property tax itemization of the 0.5 percent tax.

In order to implement state statute stipulations that the 0.5 percent county sales
tax revenues be used to directly reduce the property tax levy:

- 208 (1) All county tax revenue requirements shall be included in the property tax levy
209 listed within the recommended and adopted budget; and
210 (2) County sales tax revenues shall be listed subsequent to the tax levy
211 requirement as a property tax credit; and
212 (3) The estimated sales tax revenue impact on individual property taxes shall be
213 printed on each property tax bill as a credit to taxpayers.
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215 **22.04. Application of 0.5 percent sales and use tax revenue.**

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217 Sales and use tax revenues **generated from the 0.5 percent tax** shall be applied
218 toward county expenditures as follows:

- 219 (1) County sales and use tax revenues shall be dedicated to pay general
220 obligation debt service costs; and
221 (2) Any surplus county sales and use tax revenues shall be used to:
222 (a) Cash-finance capital improvement projects;
223 (b) Prepay outstanding bonds;
224 (c) Prefund employee benefit costs or fund unanticipated or extraordinary
225 annual increases in such costs; or
226 (d) Supplement the Appropriation for Contingencies.
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228 **22.05. Reserve for payment of stadium bonds.**

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230 Notwithstanding section 22.04, county sales tax collections reserved for payment of
231 stadium bonds in the amount of eight hundred nineteen thousand, six hundred dollars
232 (\$819,600.00) shall be dedicated to directly reduce the 1992 property tax levied on all
233 taxable property in the county for general county purposes and payable in 1993.
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235 **22.06. Imposition of 0.4 percent tax.**

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237 **There are hereby imposed county sales and use taxes at the rate of four-tenths**
238 **(0.4) percent in the manner and to the extent permitted as set forth in their**
239 **entirety in subch. V, ch. 77, Wis. Stats., and acts amendatory thereto.**

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241 **22.07. Application of 0.4 percent sales and use tax revenue.**

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243 **Sales and use tax revenues generated from the 0.4 percent tax shall be**
244 **applied toward county expenditures in the following priority order:**

- 245
246 (1) **Pay the annual unfunded actuarial accrued liability payment for the**
247 **Employees' Retirement System (ERS) consistent with the provisions of**
248 **Wis. Stat. § 59.875(4).**
249 (2) **If any revenue derived from the 0.4 percent tax remains after making the**
250 **payment in section 22.07(1), as determined by the Comptroller, it shall be**

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used to pay any or all of the annual required payment(s) for outstanding pension bond obligations.
(3) If any revenue derived from the 0.4 percent tax remains after making the payment(s) in section 22.07(1) and (2), as determined by the Comptroller, it shall be used to make an additional payment to the unfunded actuarial accrued liability for ERS.

SECTION 2. The provisions of this Ordinance shall be effective January 1, 2024, upon passage and publication.

07/17/2023
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