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A SUBSTITUTE RESOLUTION/ORDINANCE

amending Chapter 13 of the Milwaukee County Code of General Ordinances to require Milwaukee County Board of Supervisors approval for all agreements and partnerships with Milwaukee County support groups

WHEREAS, Chapter 13 of the Milwaukee County Code of General Ordinances outlines the procedures by which Milwaukee County engages with outside groups that provide financial or volunteer support to departments; and

WHEREAS, any group that provides financial assistance to Milwaukee County, including a friends group partnership, must be a nonprofit, obtain 501(c)(3) status, and enter into a written agreement approved by the Milwaukee County Board of Supervisors and Milwaukee County Executive; and

WHEREAS, those agreements must also include:

- (a) A statement of purpose and outlining its program activities and related utilization of county facilities, personnel, utilities and equipment.
- (b) A provision that if the friends groups participate in a capital improvement program, they be a party to a separate written contract setting forth the nature, scope and ownership of the improvements, together with the responsibility and accountability for planning, fundraising and construction.
- (c) Recognition that the county board endorses a policy of open meetings, open records, affirmative action and its code of ethics, and expects county employees to understand and comply with such policies in working with friends groups. Friends groups, their agents and 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.
- (d) Filing annually, with the office of the comptroller, for public record:
 - (1) If the organization's annual gross receipts exceed four thousand dollars (\$4,000.00), a copy of its state form 308 (charitable organization annual report) submitted to the state department of 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.

65
66 ; and

67
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

70
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

76
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

80
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

85

86 WHEREAS, the Committee on Judiciary, Safety, and General Services, at its
87 meeting of December 2, 2021, recommended adoption of File No. 21-558 as substituted
88 (vote 5-0); now, therefore,
89

90 BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby
91 requests that all agreements with support groups comply with the provisions of Chapter
92 13 of the Milwaukee County Code of General Ordinances; and
93

94 BE IT FURTHER RESOLVED, that the Milwaukee County Board of Supervisors
95 hereby amends Chapter 13 of the Milwaukee County Code of General Ordinances by
96 adoption of the following:
97

98 AN ORDINANCE

99

100 The County Board of Supervisors of the County of Milwaukee does ordain as follows:
101

102 **SECTION 1.** Chapter 13.01 of the Milwaukee County Code of General Ordinances is
103 amended as follows:
104

105 13.01. – Declaration of policy.

106 The role of ~~friends groups~~ **Support Groups** is important to the success of many
107 county departments. Some departments ~~possibly could~~ might not survive without full
108 participation of the private sector in furnishing additional funding for capital projects,
109 special programs, and operating needs. ~~Friends groups~~ **Support Groups** add
110 substantially to the limited resources available from the tax base. The general public is
111 greatly benefited through improved facilities and programs. The county has always
112 welcomed and encouraged the establishment of ~~friends groups~~ **Support Groups**.
113 By establishing these guidelines, the county hopes to enhance mutual understanding
114 of particular needs and concerns with its ~~friends groups~~ **Support Groups**, and
115 establish a fair and consistent policy with them, while maintaining a clear
116 separation between the county and the Support Group, thus assuring a
117 successful, cooperative effort and relationship.
118

119 **SECTION 2.** A new Chapter 13.02 of the Milwaukee County Code of General
120 Ordinances is added as follows:
121

122 **13.02. Definitions**

123

124 **(a) Support Group means any nonprofit organization with its own governance**
125 **and fiscal structure that exists primarily to support or enhance county**
126 **programs and/or county property either financially and/or through**
127 **volunteer services. Support Group shall also include nonprofit**
128 **organizations with their own governance and fiscal structure that carry**
129 **out Services that are typically performed by the county.**

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(b) Services include, but are not limited to capital projects, programming, or operating activities.

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

13.023. – Applicability.

~~(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 those 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.**

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

170
171 13.045. – Organization— ~~Friends groups~~ Support Groups.

172
173 ~~Friends groups are independent organizations having their own~~
174 ~~governance and fiscal structure.~~ In order to achieve county-wide consistency and
175 fiscal accountability, all ~~friends groups~~ Support Groups shall be or shall conduct
176 their fiscal affairs through a nonprofit, nonstock Internal Revenue Code 501(c)(3) tax
177 exempt corporation, structured through articles of incorporation and bylaws, ~~to~~ A
178 Support Group can support, assist and promote the activities of a county department
179 or agency under the provisions of a written agreement approved by the department
180 head, the county executive, and the county board.

181
182 **SECTION 6.** Chapter 13.05 of the Milwaukee County Code of General Ordinances is
183 amended as follows:

184
185 13.056. Role of ~~friends groups~~ Support Groups.

186
187 ~~Friends groups~~ Support Groups, in cooperation with the county department head
188 and within policies, programs, and goals of the department, may raise funds and may
189 provide volunteer assistance and support, both in terms of physical facilities and
190 programs. ~~Friends groups~~ Support Groups may be considered by the county
191 department head to be the lead volunteer organization for the department, but it shall
192 not prevent the department head from accepting assistance from other ~~groups~~
193 Support Groups where there will be no conflict with agreements executed with
194 ~~friends groups~~ Support Groups.

195
196 **SECTION 7.** Chapter 13.06 of the Milwaukee County Code of General Ordinances is
197 amended as follows:

198 13.067. Relationship—~~Friends groups~~ Support Groups.

199 Because of their close relationship with public institutions, ~~friends groups acquire~~
200 ~~a quasipublic status.~~ The public often perceives ~~them~~ Support Groups to be a
201 functional part and representative of a county department. Public confidence and
202 support is best maintained by adequate disclosure of all activities Basic of the Support
203 Group and clear delineation of roles and responsibilities ~~to the quasipublic nature~~
204 ~~of friends groups ensure the independence and separation of the county and~~
205 Support Group. If an organization meets the definition of a Support Group, the
206 department head shall negotiate a written agreement with ~~each friends group the~~
207 Support Group for approval by the county executive and the county board, ~~including:~~
208 If a Support Group is unable or unwilling to enter into a written agreement with
209 the county, the department head shall notify the county board and county
210 executive. The requirements of this Chapter may only be waived by action of the

211 **county board and county executive. The written agreement shall include, at a**
212 **minimum:**

- 213
- 214 (a) A statement of purpose and ~~outlining its~~ **an outline of the Support Group's**
215 program activities and related utilization of county facilities, personnel, utilities,
216 and equipment.
- 217 (b) A provision that if the ~~friends groups~~ **Support Group** participates in a capital
218 improvement program, they be a party to a separate written contract setting forth
219 the nature, scope, and ownership of the improvements, together with the
220 responsibility and accountability for planning, fundraising, and construction.
- 221 (c) Recognition that the county board endorses a policy of open meetings, open
222 records, affirmative action and its code of ethics, and expects county employees to
223 understand and comply with such policies in working with ~~friends groups.~~
224 **Friends groups. Support Groups**, their agents and employees shall comply with
225 all applicable federal, state and county laws and regulations governing conflicts
226 of interest. Recognition that county employees are responsible to disclose
227 promptly to the county executive and county board information concerning
228 proposed capital plans, operating support, promotional plans, programs, and
229 activities of ~~friends groups~~ **Support Groups**.
- 230 (d) **Filing A Support Group must file** annually, with the **department and the** office
231 of the comptroller, for public record:

232

233 (1) If the ~~organization's~~ **Support Group's** annual gross receipts ~~exceed~~
234 **four are under twenty-five** thousand dollars (~~\$4~~**\$25,000.00**), **or under**
235 **fifty thousand dollars (\$50,000.00) if it only solicited contributions in**
236 **the county where its principal office is located,** a copy of its state form
237 ~~308 (charitable organization annual report 1943)~~ **1943I (affidavit in lieu of**
238 **Annual Financial Report)** submitted to the state department of regulation
239 and licensing to comply with ~~s. 440.44~~ **Chapter 202**, Wis. Stats.
240 **Subchapter II.**

241

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

249

250 (3) In addition, if the organization's annual gross receipts ~~exceed fifty~~
251 **thousand dollars (\$50,000.00), are in excess of three hundred**
252 **thousand dollars (\$300,000.00), but not more than five hundred**
253 **thousand dollars (\$500,000.00), a financial statement for the most**
254 **recently completed fiscal year, prepared in accordance with generally**

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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 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.~~

298 ~~(g)~~ **(f) A provision** designating a coordinator or liaison person for the
299 department and the ~~friends-group~~ **Support Group**. The department head or
300 designee shall be the county coordinator and shall have authority to administer the
301 agreement on behalf of the county. ~~Friends-The Support Group~~ representative
302 shall be available to the county for consultation and assistance.
303

304 **(g) A statement that any person who controls county funds, county**
305 **employees, or other county assets shall be a county employee. If a**
306 **Support Group wishes to fund such a position, it will do so through the**
307 **transfer of funds to the Milwaukee County Treasurer rather than direct**
308 **payments to the employee.**
309

310 **(h) A statement that the county and Support Group agree that, as**
311 **independent and separate entities, each shall maintain a staff,**
312 **management, and fiscal structure independent of the other.**
313

314 **(i) A provision that allows the county to terminate the agreement for cause.**
315

316 **(j) A statement that the Support Group understands and will abide by the**
317 **requirements of Chapter 34 of the ordinances.**
318

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

321
322 **13.078.** Fund management.
323

324 (a) ~~Friends-groups~~ **Support Groups** have authority to solicit, retain, and expend
325 funds they determine are appropriate to their programs and goals. Funds donated
326 to the county by ~~friends-groups~~ **Support Groups** shall be managed ~~so as to~~
327 **assure funds raised are used as intended by consistent with the donors**
328 **donor's intentions and** consistent with ch. 59, Wis. Stats. Funds transmitted to the
329 county treasurer by ~~friends-groups~~ **Support Groups**, with a description of the
330 intended use, shall be identified as deposited for that purpose and shall be
331 expended only after a fund transfer consistent therewith is authorized.
332

333 (b) The department head and designees have authority to solicit funds they determine
334 are appropriate to their programs and goals. Such funds shall be payable to the
335 county and may not be accepted by ~~friends-groups.~~ **a Support Group, unless**
336 **the donor directs the funds to the Support Group.** Funds payable to the county
337 shall be immediately deposited with the county treasurer in accordance with county
338 procedures. An "appropriation transfer request" by the department head will be
339 required for the release of such funds. The department head, and designees, may
340 participate in solicitations when requested by a ~~friends-group.~~ **Support Group.**

341 (c) There shall be an accounting with the department **in writing** of the use by each of
342 the other's real or personal property, personnel, utilities, equipment and similar
343 expenses, and provision for the reimbursement of reasonable value thereof, **or**
344 **explanation if fees are waived.**

345
346 **SECTION 9.** The provisions of this Ordinance shall be effective upon passage and
347 publication.

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12/02/21

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