

1 FROM THE OFFICE OF JOSPEH J. CZARNEZKI

2  
3 MILWAUKEE COUNTY CLERK

4  
5 County Ordinance No. 12-2

6  
7 File No. 12-54

8  
9 AN ORDINANCE

10  
11 The County Board of Supervisors of the County of Milwaukee does ordain as  
12 follows:

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14 **Section 1.** Effective January 1, 2002, section 203(2.4) of the General  
15 Ordinances of Milwaukee County is amended to read as follows:

16  
17 **2.4. Compensation.**

18  
19 "Compensation" means for any plan year the total of all amounts paid to  
20 an employee by the county defined as wages within the meaning of  
21 Internal Revenue Code section 3401(a) (determined without regard to any  
22 rules under section 3401(a) that limit the remuneration included in wages  
23 based on the nature or location of the employment or the services  
24 performed (such as the exception for agricultural labor in section  
25 3401(a)(2)) and all other payments of compensation paid to an employee  
26 by the county for which the county is required to furnish the employee a  
27 written statement under Internal Revenue Code sections 6401(d) and  
28 6051(A)(3), exclusive of amounts paid or reimbursed by the county for  
29 moving expenses incurred by the employee to the extent that at the time  
30 of the payment it is reasonable to believe that these amounts are  
31 deductible by the employee under Internal Revenue Code section 217.  
32 Further, "compensation" for each plan year shall exclude any amount that  
33 is in excess of the Social Security OASDI taxable wage base as in effect  
34 for the plan year. In the event that during any plan year an employee  
35 spends time in the employment of the county during part of which the  
36 county is obligated to collect and contribute taxes under the Federal  
37 Insurance Contributions Act (other than the Medicare portion of the FICA  
38 tax described in Internal Revenue Code section 3121(u)) with respect to  
39 such employee, either by virtue of a voluntary agreement between the  
40 state and the Secretary of Health and Human Services pursuant to section  
41 218 of the Social Security Act or by any other provision of federal law,  
42 he/she shall be credited with compensation hereunder only for the  
43 amounts earned during the portion of the year during which the county is  
44 not obligated to collect and contribute taxes under the Federal Insurance  
45 Contributions Act (other than the Medicare portion of the FICA tax  
46 described in Internal Revenue Code section 3121(u)) with respect to such

47 employee either by virtue of a voluntary agreement between the state and  
48 the Secretary of Health and Human Services pursuant to section 218 of  
49 the Social Security Act or by any other provision of federal law. The  
50 compensation of each member taken into account for determining all  
51 benefits provided under the system for any year shall not exceed the  
52 annual compensation limit pursuant to Code section 401(a)(17); provided,  
53 however, that this limitation shall apply only with respect to members who  
54 first commence participation in the system after 1995. The annual  
55 compensation limit shall be adjusted annually for increases in the cost of  
56 living by the Secretary of the Treasury or his delegate, except that the  
57 dollar increase in effect on January 1 of any calendar year is effective for  
58 years beginning in such calendar year. The "annual compensation limit" is  
59 two one-hundred fifty thousand dollars (\$200,000.00), as indexed.  
60

61 **Section 2.** Effective January 1, 2002, the following is added as a new paragraph  
62 at the end of section 203(2.12) of the General Ordinances of Milwaukee County:  
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64 Upon beginning membership, members are 100% vested in their benefit  
65 under the system at all times, and will remain 100% vested upon reaching  
66 normal retirement date, as defined in section 2.9. Members shall remain  
67 fully vested even in the event of a partial plan termination or full plan  
68 termination, as contemplated under section 9.1.  
69

70 **Section 3.** Effective January 1, 2007, or as noted below, the following is added  
71 at the end of section 203(2.12) of the General Ordinances of Milwaukee County:  
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73 To the extent required by the Heroes Earnings Assistance and Relief Tax  
74 Act of 2008 (the "HEART Act") and as applicable for the system, the  
75 following provisions apply:

76 (a) Effective January 1, 2007, if a member dies while performing  
77 qualified military service, the survivors of the member shall be  
78 entitled to any additional benefits (other than contributions relating  
79 to the period of qualified military service) provided under the system  
80 as if the member had been reemployed on the day prior to death  
81 and then severed employment on the actual date of death.

82 (b) Effective for payments made on or after January 1, 2009,  
83 Compensation for purposes of section 2.4 includes any differential  
84 wage payments (as defined in Code section 3401(h)(2)) to an  
85 individual who does not currently perform services for the County  
86 by reason of qualified military service while on active duty for a  
87 period of more than 30 days and represents all or a portion of the  
88 wages the individual would have received from the County if the  
89 individual was performing services for the County. Such differential  
90 wage payment shall be treated as a payment of wages by the  
91 County to the member.



137 If a member begins receiving a lifetime monthly pension pursuant to the  
138 preceding paragraph, then for each plan year subsequent to the plan year  
139 in which his or her lifetime monthly pension commenced during which he  
140 or she continues in the employment of the county, the amount of his or her  
141 pension shall be recomputed. The amount of such recomputed pension  
142 for each month during any such plan year shall be equal to (A) one-twelfth  
143 times (B) two (2) percent of the member's average compensation  
144 computed through the end of the prior plan year times (C) the member's  
145 years of service (not in excess of thirty (30)) computed through the end of  
146 the prior plan year (but not taking into account any years of service earned  
147 prior to the member's normal retirement date or for which the member  
148 received a single lump sum distribution after his/her normal retirement  
149 date); provided, however, that any increase in such recomputed pension  
150 over the pension previously payable shall be offset by the actuarial  
151 equivalent value (determined using the UP-1984 mortality table and an  
152 interest rate of eight and five-tenths (8.5) compounded annually) of  
153 pension benefits actually distributed during the prior plan year.

154  
155 (c) Lump sum actuarial equivalent value shall be computed under this section  
156 4.4 using the UP-1984 unisex mortality table and an interest rate equal to  
157 eight and five-tenths (8.5) percent compounded annually.  
158

159 **Section 5.** Effective March 28, 2005, section 203(4.5)(a) of the General  
160 Ordinances of Milwaukee County is amended to read as follows:

161  
162 **4.5 Mandatory cash out.**

163  
164 (a) *Eligibility for mandatory cashout.* A member shall not receive the pension  
165 described in sections 4.1, 4.2 or 4.3, and shall instead receive a single  
166 lump sum distribution of his or her benefit if, before attaining his or her  
167 normal retirement date and before death:

- 168  
169 (1) The member terminates county employment.  
170  
171 (2) The member is absent from county employment for a period of five  
172 years.  
173  
174 (3) The actuarial equivalent lump sum present value of his or her  
175 pension is five thousand dollars (\$5000) or less, and  
176  
177 (4) An employe who became a member of OBRA prior to January 1,  
178 1994 consents to the cashout.  
179

180 The mandatory cashout required under this subsection 4.5(a) shall be paid  
181 to the member as soon as practicable after the close of the plan year in  
182 which the member satisfies the conditions for the mandatory cashout. Any

183 mandatory lump sum payments of between \$1,000 and \$5,000 made  
184 under this section after March 28, 2005, will be paid directly into an  
185 Individual Retirement Account (IRA) in the member's name, unless the  
186 member requests otherwise. No amount will be payable with respect to a  
187 member who dies after satisfying the conditions for a mandatory cashout  
188 but before the system makes payment in the following plan year.

189  
190 **Section 6.** Effective January 1, 2002, section 203(7.1)(a)(ii) of the General  
191 Ordinances of Milwaukee County shall be amended to read as follows:

- 192  
193 (ii) One hundred sixty thousand dollars (\$160,000) ~~ninety thousand~~  
194 ~~dollars (\$90,000)~~ which amount shall be adjusted automatically  
195 each plan year to the extent permitted by and in accordance with  
196 the Internal Revenue Code and regulations promulgated by the  
197 Secretary of the Treasury.

198  
199 **Section 7.** Effective January 1, 2002, section 203(7.1)(f) of the General  
200 Ordinances of Milwaukee County is amended to read as follows:

- 201  
202 (f)(i)(A) If benefits begin prior to age sixty-two (62), the limitation  
203 specified in subparagraph (a)(ii) above shall be replaced with a  
204 limitation which is the actuarial equivalent of the limitation  
205 described at subparagraph (a)(ii) above beginning at age sixty-  
206 two (62). Actuarial equivalence for this purpose will be  
207 determined using an interest rate of five (5) percent and the ~~1983~~  
208 GAM mortality table specified by the Internal Revenue Service in  
209 Revenue Ruling 2001-62, or any successor Revenue Ruling  
210 thereto. As of December 31, 2001, that mortality table is the  
211 1994 GAR mortality table. ~~However, the limitation under (a)(ii)~~  
212 ~~shall never be reduced below seventy-five thousand dollars~~  
213 ~~(\$75,000.00) in the case of a benefit beginning no earlier than~~  
214 ~~age fifty-five (55).~~

- 215  
216 (B) ~~The limitation under subparagraph (a)(ii) for benefits~~  
217 ~~commencing prior to age fifty-five (55) is the actuarial equivalent~~  
218 ~~of the limitation for benefits commencing at age fifty-five (55).~~  
219 ~~Actuarial equivalence for this purpose will be determined using~~  
220 ~~an interest rate of five (5) percent and the 1983 GAM mortality~~  
221 ~~table.~~

- 222  
223 (ii) If benefits begin after age sixty five (65), the limitation specified  
224 in subparagraph (a)(ii) above shall be increased so that it is the  
225 actuarial equivalent of the limit described at subparagraph (a)(ii)  
226 above beginning at age sixty-five (65). Actuarial equivalence for  
227 this purpose will be determined using an interest rate of five (5)  
228 percent and the ~~1983~~ GAM mortality table specified by the

229 Internal Revenue Service in Revenue Ruling 2001–62, or any  
230 successor Revenue Ruling thereto. As of December 31, 2001,  
231 that mortality table is the 1994 GAR mortality table.  
232

233 **Section 8.** Effective January 1, 2008, section 203(7.1)(f)(ii) of the General  
234 Ordinances of Milwaukee County is hereby deleted and section 203(7.1)(f)(i) is  
235 renumbered to be section 203(7.1)(f).  
236

237 **Section 9.** Effective January 1, 2008, section 203(7.1)(g) of the General  
238 Ordinances of Milwaukee County is created to read as follows:  
239

240 Except as provided for in this section, where a benefit is payable in a form other  
241 than a straight life annuity, the benefit shall be adjusted to an actuarially  
242 equivalent straight life annuity that begins at the same time as such other form of  
243 benefit and is payable on the first day of each month, before applying the  
244 limitations of this article. The determination of the annual benefit shall take into  
245 account social security supplements described in section 411(a)(9) of the Internal  
246 Revenue Code.  
247

248 **Section 10.** Effective January 1, 2008, section 203(7.1)(h) of the General  
249 Ordinances of Milwaukee County is created to read as follows:  
250

251 Effective for distributions in plan years beginning after December 31,  
252 2003, the determination of actuarial equivalence of forms of benefit other  
253 than a straight life annuity shall be made in accordance with this section.

254 (i) Benefit Forms Not Subject to Internal Revenue Code section  
255 417(e)(3): The straight life annuity that is actuarially equivalent to  
256 the member's form of benefit shall be determined under this section  
257 if the form of the member's benefit is either (1) a nondecreasing  
258 annuity (other than a straight life annuity) payable for a period of  
259 not less than the life of the member (or, in the case of a qualified  
260 pre-retirement survivor annuity, the life of the surviving spouse), or  
261 (2) an annuity that decreases during the life of the member merely  
262 because of (a) the death of the survivor annuitant (but only if the  
263 reduction is not below 50% of the benefit payable before the death  
264 of the survivor annuitant), or (b) the cessation or reduction of Social  
265 Security supplements or qualified disability payments (as defined in  
266 Internal Revenue Code section 401(a)(11)).

267 (A) Limitation Years beginning before July 1, 2007. For Limitation  
268 Years beginning before July 1, 2007, the actuarially equivalent  
269 straight life annuity is equal to the annual amount of the straight life  
270 annuity commencing at the same annuity starting date that has the  
271 same actuarial present value as the member's form of benefit  
272 computed using whichever of the following produces the greater  
273 annual amount: (I) an 8.5 percent interest rate assumption and the

274 UP-1984 Mortality Table for adjusting benefits in the same form;  
275 and (II) a 5 percent interest rate assumption and the applicable  
276 mortality table defined in Internal Revenue Code section 417(e) for  
277 that annuity starting date.

278 (B) Limitation Years beginning on or after July 1, 2007. For Limitation  
279 Years beginning on or after July 1, 2007, the actuarially equivalent  
280 straight life annuity is equal to the greater of (1) the annual amount  
281 of the straight life annuity (if any) payable to the member under the  
282 plan commencing at the same annuity starting date as the  
283 member's form of benefit; and (2) the annual amount of the straight  
284 life annuity commencing at the same annuity starting date that has  
285 the same actuarial present value as the member's form of benefit,  
286 computed using a 5 percent interest rate assumption and the  
287 applicable mortality table defined in Internal Revenue Code section  
288 417(e) for that annuity starting date.

289 (ii) Benefit Forms Subject to Internal Revenue Code section 417(e)(3):  
290 The straight life annuity that is actuarially equivalent to the  
291 member's form of benefit shall be determined under this paragraph  
292 if the form of the member's benefit is other than a benefit form  
293 described in section 7.1(h)(i). In this case, the actuarially  
294 equivalent straight life annuity shall be determined as follows:

295 (A) Annuity Starting Date in Plan Years Beginning After 2005. If  
296 the annuity starting date of the member's form of benefit is in  
297 a plan year beginning after 2005, the actuarially equivalent  
298 straight life annuity is equal to the greatest of (I) the annual  
299 amount of the straight life annuity commencing at the same  
300 annuity starting date that has the same actuarial present  
301 value as the member's form of benefit, computed using an  
302 8.5 percent interest rate assumption and the UP-1984  
303 Mortality Table for adjusting benefits in the same form; (II)  
304 the annual amount of the straight life annuity commencing at  
305 the same annuity starting date that has the same actuarial  
306 present value as the member's form of benefit, computed  
307 using a 5.5 percent interest rate assumption and the  
308 applicable mortality table defined in Internal Revenue Code  
309 section 417(e); and (III) the annual amount of the straight life  
310 annuity commencing at the same annuity starting date that  
311 has the same actuarial present value as the member's form  
312 of benefit, computed using the applicable interest rate  
313 defined in Internal Revenue Code section 417 and the  
314 applicable mortality table defined in Internal Revenue Code  
315 section 417(e), divided by 1.05.

316 (B) Annuity Starting Date in Plan Years Beginning in 2004 or  
317 2005. If the annuity starting date of the member's form of  
318 benefit is in a plan year beginning in 2004 or 2005, and if the  
319 IRS so requires, the actuarially equivalent straight life  
320 annuity is equal to the annual amount of the straight life  
321 annuity commencing at the same annuity starting date that  
322 has the same actuarial present value as the member's form  
323 of benefit, computed using whichever of the following  
324 produces the greater annual amount: (I) an 8.5 percent  
325 interest rate assumption and the UP-1984 Mortality Table;  
326 and (II) a 5.5 percent interest rate assumption and the  
327 applicable mortality table specified by the Internal Revenue  
328 Service in Revenue Ruling 2001-62, or any successor  
329 Revenue Ruling thereto. As of December 31, 2001, that  
330 mortality table is the 1994 GAR mortality table.

331 If the annuity starting date of the member's benefit is on or  
332 after the first day of the first plan year beginning in 2004 and  
333 before December 31, 2004, the application of this section  
334 shall not cause the amount payable under the member's  
335 form of benefit to be less than the benefit calculated under  
336 the plan, taking into account the limitations of this article,  
337 except that the actuarially equivalent straight life annuity is  
338 equal to the annual amount of the straight life annuity  
339 commencing at the same annuity starting date that has the  
340 same actuarial present value as the member's form of  
341 benefit, computed using whichever of the following produces  
342 the greatest annual amount:

343 (I) an 8.5 percent interest rate assumption and the UP-  
344 1984 Mortality Table for adjusting benefits in the  
345 same form;

346 (II) the applicable interest rate defined in Internal  
347 Revenue Code section 417 and the applicable  
348 mortality table defined in Internal Revenue Code  
349 section 417; and

350 (III) the interest rate defined in Internal Revenue Code  
351 section 417 (as in effect on the last day of the last  
352 plan year beginning before January 1, 2004, under  
353 provisions of the system then adopted and in effect)  
354 and the applicable mortality table defined in Internal  
355 Revenue Code section 417.

356  
357 **Section 11.** Effective January 1, 2002, section 203(7.2)(a) of the General  
358 Ordinances of Milwaukee County is amended to read as follows:



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For purposes of section 7.1, "compensation" shall mean the member's earnings from his/her employment with the county as defined in Internal Revenue Code section 415(c)(3), and, unless otherwise required by regulation, includes bonuses and other taxable payments and elective contributions made on behalf of the County under Internal Revenue Code sections 125, 132(f)(4), 402(e)(3), 402(h), 403(b), 408(p)(2)(A)(i) or 457 but excludes deferred compensation, and distributions which received special tax benefits.

**Section 12.** Effective January 1, 2008, section 203(7.2)(c) of the General Ordinances of Milwaukee County is added to read:

(c) For purposes of section 7, limitation year shall mean the calendar year.

**Section 13.** Effective January 1, 2008, section 203(9.3) of the General Ordinances of Milwaukee County is amended to read as follows:

After termination of the system each member's accrued pension (accrued to the date of termination of the system or earlier cessation of benefit accrual) shall be distributed to him/her in the form of a nontransferable annuity contract which will pay him/her such accrued pension, except that, in lieu of such annuity contract, a lump sum cash distribution of the actuarial equivalent of the member's accrued pension shall be made to any member whose accrued pension is smaller than the minimum amount necessary to meet insurance company annuity requirements; provided, however, no such lump sum distribution shall be made if the actuarial equivalent value of the member's pension exceeds the five thousand dollar (\$5,000) ~~three thousand five hundred~~ amount (as adjusted) specified in section 4.4. (Such actuarial equivalent lump sum shall be computed using the UP-1984 unisex mortality table and an interest rate equal to eight and five-tenths (8.5) percent compounded annually.)

**Section 14.** Effective January 1, 2003, section 203(10.7) of the General Ordinances of Milwaukee County is amended to read as follows:

**10.7. Code requirements.**

All distributions will be made in accordance with the rules of Internal Revenue Code section 401(a)(9) and regulations thereunder, ~~including rules of IRS regulation section 1.401(a)(9)-2.~~ The rules of Internal Revenue Code section 401(a)(9) and regulations thereunder shall override any distribution options described in this system to the extent that the options in this system could be considered to be inconsistent with the requirements of Internal Revenue Code section 401(a)(9) ~~and regulations~~

405 ~~thereunder. The rules set forth in this system regarding time of~~  
406 ~~commencement of distribution and method of distribution shall be in lieu of~~  
407 ~~the default provisions in IRS regulation sections 1.401(a)-1, 1.401(a)(9)-1~~  
408 ~~and 1.401(a)(9)-2.~~

409  
410 (a) The member's benefit will be distributed, or begin to be distributed,  
411 to the member no later than the member's required beginning date,  
412 defined as the April 1 following the later of the calendar year in  
413 which the member attains age 70-1/2 or terminates county  
414 employment.

415 (b) Unless the member's benefit is distributed in a single sum on or  
416 before the required beginning date, distributions shall be made in  
417 accordance with section (c) below.

418 (c) If the member's benefit is paid in the form of annuity distributions  
419 under the system, payments under the annuity will satisfy the  
420 following requirements:

421 (1) The annuity distributions will be paid in periodic payments made at  
422 uniform intervals not longer than one year;

423 (2) The distribution period will be over the life of the member;

424 (3) Payments will either be nonincreasing or increase only as follows (if  
425 otherwise provided for in Chapter 203):

426 (i) By an annual percentage increase that does not exceed the  
427 annual percentage increase in an eligible cost-of-living index  
428 (as defined under A-14 of Treasury Regulation section  
429 1.401(a)(9)-6) for a 12-month period ending in the year  
430 during which the increase occurs or a prior year;

431 (ii) By a percentage increase that occurs at specified times and  
432 does not exceed the cumulative total of annual percentage  
433 increases in an eligible cost-of-living index (as defined under  
434 A-14 of Treasury regulation section 1.401(a)(9)-6) since the  
435 annuity starting date, or if later, the date of the most recent  
436 percentage increase, provided (in the case of a cumulative  
437 increase), an actuarial increase may not be provided to  
438 reflect that increases were not provided in the interim years;

439 (iii) To pay increased benefits that result from a system  
440 amendment; or

441 (iv) To the extent increases are otherwise permitted under A-14  
442 of Treasury Regulation section 1.401(a)(9)-6.

- 443 (d) The amount that must be distributed on or before the member's required  
444 beginning date is the payment that is required for one payment interval.  
445 The second payment need not be made until the end of the next payment  
446 interval even if that payment interval ends in the next calendar year.  
447 Payment intervals are the periods for which payments are received, e.g.,  
448 bi-monthly, monthly, semi-annually, or annually. All of the member's  
449 benefit accruals as of the last day of the first distribution calendar year will  
450 be included in the calculation of the amount of the annuity payments for  
451 payment intervals ending on or after the member's required beginning  
452 date.
- 453 (e) Any additional benefits accruing to the member in a calendar year after  
454 the first distribution calendar year will be distributed beginning with the first  
455 payment interval ending in the calendar year immediately following the  
456 calendar year in which such amount accrues.
- 457 (f) For purposes of this section 10.7, a distribution calendar year is a  
458 calendar year for which a minimum distribution is required. The first  
459 distribution calendar year is the calendar year immediately preceding the  
460 calendar year which contains the member's required beginning date.

461 **Section 15.** Effective January 1, 2002, section 203(11.3) of the General  
462 Ordinances of Milwaukee County is amended to read as follows:

463  
464 **11.3. Eligible Retirement Plan.**  
465

466 An eligible retirement plan is an individual retirement account described in  
467 Internal Revenue Code Section 408(a), an individual retirement annuity  
468 described in Internal Revenue Code Section 408(b), an individual  
469 retirement annuity described in Internal Revenue Code Section 403(a), or  
470 a qualified trust described in Internal Revenue Code Section 401(a) that  
471 accepts the distributee's eligible rollover distribution, an eligible deferred  
472 compensation plan described in Internal Revenue Code Section 457(b)  
473 which is maintained by an eligible employer described in Internal Revenue  
474 Code section 457(e)(1)(A), or an annuity contract described in Internal  
475 Revenue Code Section 403(b). ~~However, in the case of an eligible~~  
476 ~~rollover distribution to a distributee's surviving spouse, an eligible~~  
477 ~~retirement plan is an individual retirement account or individual retirement~~  
478 ~~annuity.~~  
479

480 **Section 16.** Effective January 1, 2010, the following is added at the end of  
481 section 203(11.3) of the General Ordinances of Milwaukee County:

482  
483 Effective for eligible rollover distributions made on or after January 1,  
484 2008, an eligible retirement plan shall also mean a Roth individual  
485 retirement account described in Code Section 408A provided that eligible  
486 rollover distributions made on or after January 1, 2008 are subject to the

487 adjusted gross income limits of Code Section 408A(c)(3)(B), as applicable,  
488 and the distribution rules of Code Section 408A(d)(3). For a distributee  
489 who is a nonspouse designated beneficiary, the direct rollover may be  
490 made only to an individual retirement account or annuity described in  
491 Code Section 408(a) or Section 408(b) that is established on behalf of the  
492 designated beneficiary for the purpose of receiving the distribution as an  
493 inherited individual retirement account or annuity pursuant to the  
494 provisions of Code Section 408(d)(3)(C).  
495

496 **Section 17.** Effective January 1, 2010, the following is added at the end of  
497 section 203(11.4) of the General Ordinances of Milwaukee County:  
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499 **11.4. Distributee.**

500  
501 A distributee includes a member or former member. In addition, the  
502 member's or former member's surviving spouse and the member's or  
503 former member's spouse or former spouse who is the alternate payee  
504 under a qualified domestic relations order, as defined in Internal Revenue  
505 Code Section 414(p), are distributees with regard to the interest of the  
506 spouse or former spouse. A distributee also includes a member or former  
507 member's nonspouse beneficiary.

508 **Section 18.** This ordinance shall be effective upon passage and publication.  
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**Adopted by the Milwaukee County Board of Supervisors**

**February 2, 2012**

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