

1 By Supervisors Bowen and Rainey

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3 **A RESOLUTION/ORDINANCE**  
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5 Enacting a minimum living wage ordinance for service, concession, lease and  
6 financial assistance agreements publicly funded by Milwaukee County and  
7 amending the Milwaukee County General Ordinance (MCGO) Chapter 32.09(17)  
8 definition of "Service Contracts."  
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10 WHEREAS, living and minimum wage ordinances have been established  
11 in the United States for over two decades with the city of Baltimore taking the  
12 lead in 1994; and  
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14 WHEREAS, more than 140 municipalities have adopted living or  
15 minimum wage ordinances in the United States including Dane County, the City  
16 of Madison and the City of Milwaukee; and  
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18 WHEREAS, a 2010 study by Ken Jacobs and T. Williams Lester suggests  
19 that raising job standards does not reduce jobs in a city; the study compared 15  
20 cities that impose such ordinances against similar cities that did not and found  
21 no direct negative effects on job demand; and  
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23 WHEREAS, Milwaukee County is the most populated county in the State  
24 of Wisconsin with the largest ethnically diverse population in the State; and  
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26 WHEREAS, the Census Bureau in 2011 indicates that 41% of African  
27 Americans and 35% of Latinos living in Milwaukee are impoverished; and  
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29 WHEREAS, the IRS reports in 2012 that single parent tax filers with  
30 dependents in inner city Milwaukee had a 26% decrease in state earned income  
31 tax credits in 2011 as a result of state legislation lowering the credit for  
32 "working poor" families with 2 or more children; and  
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34 WHEREAS, as of April 2012, 275,058 Milwaukee County residents and  
35 558,158 residents in the balance of Wisconsin were enrolled in the Food Share  
36 program; and,  
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38 WHEREAS, in 2005, Wisconsin Chapter 104, Minimum Wage Law was  
39 created and repealed any city, village, town or county living wage ordinances in  
40 place before June 16 of that year; and  
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42 WHEREAS, Wisconsin Chapter 104 excludes from its provisions, public  
43 works projects governed by prevailing wage rates, service contracts, and any  
44 work funded by financial assistance from a city, village, town or county;  
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46 WHEREAS, the rates of impoverished population, cost of living, and the  
47 increased number of working poor in Milwaukee County are a matter of local  
48 concern; now, therefore,

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50 BE IT RESOLVED, that the Milwaukee County Board of Supervisors  
51 hereby requires all service, leases, and economic development financial  
52 assistance agreements funded by Milwaukee County to follow the procedures  
53 established by this ordinance:

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55 **AN ORDINANCE**

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57 The Milwaukee County Board of Supervisors ordains as follows:

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59 **Section 1. Chapter 111 of the Milwaukee County General Ordinances is hereby created**  
60 **as follows:**

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62 **111.01. Policy.**

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64 It shall be the policy of Milwaukee County that certain contractors,  
65 subcontractors, lessees and recipients of financial assistance doing business  
66 with the County shall be subject to the requirements of this chapter, a minimum  
67 wage ordinance, as below. This minimum wage ordinance shall apply to all  
68 contractors, subcontractors, and recipients of financial assistance as defined  
69 herein party to an agreement covered under this Chapter with any Milwaukee  
70 County unit, division, office, department, or sub-unit thereof, and Milwaukee  
71 County quasi-public entity including:

- 72 (a) A service contract as defined in MCGO 32.20(17), or an agreement to  
73 provide personal care and supportive home care to persons with  
74 disabilities or the frail elderly provided by agencies that exclusively  
75 contract with Milwaukee County, involving an amount greater than or  
76 equal to \$20,000; and,  
77 (b) A lease agreement involving County funding or a public asset involving  
78 an amount greater than or equal to \$20,000; and,  
79 (c) A concession agreement involving an amount greater than or equal to  
80 \$20,000; and,  
81 (d) Economic development financial assistance involving an amount of  
82 financial assistance from the County greater than or equal to \$1,000,000.

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84 **111.02. Definitions.**

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86 For all agreements covered under this chapter, the following definitions shall  
87 apply:

- 88 (a) *Service Contract* means an agreement between the County or  
89 related entity and another party that provides a set of services  
90 defined in MCGO 32.20(17), as well as personal care, or supportive

91 home care provided to persons with disabilities or the frail elderly by  
92 preferred provider.

93 (1) Service contracts do not include:

- 94 i. Purchase of goods or commodities or its delivery
- 95 ii. Equipment lease and maintenance
- 96 iii. Professional services contracts
- 97 iv. Contracts with any school district, municipality, or any  
98 other governmental unit
- 99 v. Contracts in which State or Federal funder has a  
100 prevailing wage requirement
- 101 vi. Contracts for Family Care *other than* preferred provider  
102 agencies that exclusively contract with Milwaukee County to  
103 provide personal care and supportive home care.
- 104 vii. Contracts procured under Milwaukee County Ordinance  
105 Chapter 46.

106 (b) *Concession Agreement* means an agreement between the County or  
107 related entity and another party to allow the organization exclusive or  
108 semi-exclusive right to operate a particular enterprise usually making  
109 use of some resource of the County or related entity requiring  
110 payment to the County or related entity fees, rent, or percentage of  
111 revenues derived from the particular enterprise; airport concessions  
112 are included as defined by Milwaukee County ordinance 42.02(1)(c).

113 (c) *Lease* means an agreement between the County or related entity as  
114 lessor and another party as lessee to provide exclusive use of real  
115 property, a particular asset or resource in exchange for rental  
116 payments or a fee, and which involves financial assistance consistent  
117 with Wisconsin Chapter 104.001(3). The following leases are  
118 exempted:

119 (1) *Cultural institutions*: Leases with institutions including the  
120 Fund for the Arts/CAMPAC, Milwaukee County, Historical  
121 Society, Milwaukee County Federated Library System, Marcus  
122 Center, Milwaukee Public Museum, Charles Allis & Villa  
123 Terrace Museums, War Memorial Center, Milwaukee Art  
124 Museum, and any other cultural organization that receives  
125 contributions from Milwaukee County.

126 (2) *Non Profit*: Leases with nonprofit corporations, unless the nonprofit  
127 corporation passes through to a for-profit entity an amount greater  
128 than or equal to \$1,000,000 in which case the for-profit entity shall  
129 be subject to this chapter as a subcontractor as in 111.03(1)(b).

130 (3) *Other Local Units of Government*: Leases with any school  
131 district, municipality or any other governmental or quasi-  
132 governmental unit.

133 (d) *Economic Development Financial Assistance* means any form of  
134 assistance, consistent with Wisconsin Chapter 104.001(3), of an  
135 amount greater than or equal to \$1,000,000, provided to a recipient  
136 directly by the County in the form of loan rates below those

137 commercially available, loan forgiveness or guarantees, bond  
138 financing or forgiveness, sales or leases of land or real property or  
139 other assets for an amount below fair market value, or grants of land  
140 or real property, or other valuable consideration, or any other assets  
141 provided to develop real property, to foster economic development or  
142 to create or retain jobs or for other similar purposes which inure to  
143 the benefit of the recipient. The following are exempted:

144 a. *Non-Profit Corporations:* Economic Development Financial  
145 Assistance provided to nonprofit corporations, unless the  
146 nonprofit corporation passes through to a for-profit entity an  
147 amount greater than or equal to \$1,000,000 in which case the  
148 for-profit entity shall be subject to this chapter as a  
149 subcontractor as in 111.03(1)(b).

150 b. *Cultural Institutions:* Economic Development Financial  
151 Assistance to the Fund for the Arts/CAMPAC, Milwaukee  
152 County Historical Society, Milwaukee County Federated  
153 Library System, Marcus Center, Milwaukee Public Museum,  
154 Charles Allis and Villa Terrace Museums, War Memorial  
155 Center, Milwaukee Art Museum, and any other cultural  
156 organization that receives contributions from Milwaukee  
157 County.

158 c. *Other Units of Government:* Economic Development Financial  
159 Assistance provided to any school district, municipality or any  
160 other governmental or quasi-governmental unit.

161 (e) *Living wage means* a minimum hourly wage rate equal to 110% of  
162 the poverty income level set forth annually by the U.S. Department  
163 of Health and Human Services a family of four (4) divided by 2,080  
164 hours.

165 (f) *Contractor means* a person or an entity that has a service contract,  
166 lease, or concession agreement with Milwaukee County covered  
167 under this Chapter.

168 (g) *Subcontractor means* a person or an entity:

169 (1) Having an agreement or arrangement with a contractor to  
170 furnish a service for the benefit of Milwaukee County that  
171 would be covered under this chapter; or,

172 (2) Having an agreement or arrangement with a contractor to  
173 operate on a property that is subject to a lease or concession  
174 agreement with Milwaukee County that would be covered  
175 under this chapter; or,

176 (3) Purchasing or leasing from a recipient of financial  
177 assistance; or, managing or operating an enterprise  
178 employing people on the premises of property developed or  
179 improved as a result of financial assistance.

180 (h) *Recipient means* a person or entity receiving economic  
181 development financial assistance as defined in 111.02 (d) but does

182 not include a person or entity indirectly benefiting from incidental  
183 effects of County policies, regulations or ordinances.

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185 **111 .03. Standards Requirement**  
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- 187 (1) All employees performing part or full time work for a contractor,  
188 subcontractor, lessee or recipient of economic development financial  
189 assistance covered under this chapter and all direct employees of the  
190 County, shall be paid the minimum wage rate defined in Chapter  
191 111.02(e), except as provided in sub-section (c) of this section.
- 192 (a) Tipped employees, employees paid on commission, or employees  
193 whose compensation consists of more than hourly wages shall be paid  
194 an hourly wage, when coupled with the other compensation, that will  
195 at least equal the minimum wage rate. The value of meals or lodging  
196 shall be calculated pursuant to Chapter DWD 272, Wisconsin  
197 Administrative Code.
- 198 (b) Contractors and subcontractors as defined in Chapter 111.02(g) (1)  
199 and (2) shall be subject to the requirements of this chapter for the  
200 duration of the agreement with the County. Employees of contractors  
201 and subcontractors shall be covered under the requirements of this  
202 chapter for the hours worked in performance of covered agreements.
- 203 (c) Recipients of economic development financial assistance and  
204 subcontractors as defined in Chapter shall:
- 205 i. Be subject to the requirements of this chapter for a period  
206 equal to one year for every \$100,000 provided in economic  
207 development financial assistance, rounded to the nearest  
208 whole year; and employees of such recipients and  
209 subcontractors shall be covered under the requirements of  
210 this chapter for work performed on the premises of a project  
211 benefiting from financial assistance; and,
  - 212 ii. Be subject to the wage requirements of this section as  
213 follows:
    - 214 (1) Effective January 1, 2015, employees of such  
215 recipients and subcontractors shall be  
216 compensated at an hourly wage rate equal to  
217 100% of the poverty income level set forth  
218 annually by the U.S. Department of Health and  
219 Human Services for a family of four (4), divided  
220 by 2080 hours.
    - 221 (2) Effective January 1, 2016, employees of such  
222 recipients and subcontractors shall be  
223 compensated at an hourly wage rate equal to  
224 105% of the poverty income level set forth  
225 annually by the U.S. Department of Health and  
226 Human Services for a family of four (4), divided  
227 by 2080 hours.

228 (3) Effective January 1, 2017, employees of such  
229 recipients and subcontractors shall be  
230 compensated at an hourly wage rate equal to  
231 110% of the poverty income level set forth  
232 annually by the U.S. Department of Health and  
233 Human Services for a family of four (4), divided  
234 by 2080 hours.

235 (d) Minimum wage rate requirement will be updated annually on the last  
236 business day of February.

237 (2) Excluded employees:

238 (a) The provisions in this chapter shall exclude:

- 239 i. Student learners as defined by Wisconsin Chapter 104.01(7);  
240 and,
- 241 ii. Employees of sheltered workshops as defined by Wisconsin  
242 Chapter 104.01 (6); and,
- 243 iii. Employees under the age of 18; and,
- 244 iv. Employees not performing work under a Milwaukee County  
245 service contract, concession, or lease; and,
- 246 v. Employees not working in a financially assisted economic  
247 development project; and,
- 248 vi. Interns and seasonal employees; and,
- 249 vii. Volunteers receiving stipends; and
- 250 viii. Any other category of employee excluded under Wisconsin  
251 Chapter 104.
- 252 ix. Employees of a contractor, subcontractor, concessionaire or  
253 recipient of financial assistance otherwise covered under this  
254 chapter where the employer otherwise subject to the  
255 provisions of this chapter employs no more than 20 employees  
256 and where the employer otherwise subject to the provisions of  
257 this chapter is not an affiliate or subsidiary of another business  
258 entity dominant in its field of operation.
- 259 x. Employees of contractors, subcontractors or a recipient of  
260 financial assistance who provide residential services such as  
261 Community Based Residential Facilities, Adult Family Homes,  
262 Residential Community Apartment Complexes, and Supportive  
263 and Independent living.
- 264 xi. Employees of a member who receives personal care and  
265 supportive home care through a self-directed service program  
266 model in Milwaukee County.

267 (b) The requirements of this section may be modified or waived as regard  
268 employees who are covered by a collective bargaining agreement  
269 between the employer and a bona fide union, where the parties to  
270 such collective bargaining agreement expressly specify their intent in  
271 the agreement.

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273 **111.04. Contracting Requirements**

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- (1) Department heads or their designee shall include requirements for compliance with this Chapter in:
  - (a) Every bid, request for proposal, or request for qualifications for services, leases, concessions or economic development financial assistance covered under this Chapter,
  - (b) All new service, lease, and concession agreements, and all new agreements involving financial assistance; and,
  - (c) All renewals or amendments of agreements for services, leases, concessions, or economic development financial assistance covered under this Chapter after the effective date of this ordinance.
- (2) Contractors, subcontractors, and recipients of financial assistance must submit to the department a notarized affidavit certifying that they will comply with the requirements of this chapter prior to contract or subcontract award or receipt of any financial assistance.
- (3) Contractors and subcontractors as defined in Chapter 111.02(g) shall submit to the Department of Audit at the conclusion of every third month during the period of an agreement covered under this chapter verifiable payroll records that shall minimally contain:
  - a. Name of contractor, and in the case of sub-contractor, the name of the direct employer of employees covered under this chapter; and,
  - b. Contract or project name; and
  - c. Name of all employees employed to perform the contract or subcontract and their job classifications; and,
  - d. Address of each employee employed to perform the contract or subcontract; and,
  - e. Hourly rate of pay for each employee employed to perform the contract or subcontract.
- (4) Contractors, subcontractors and recipients of financial assistance shall not use the requirements of this chapter to reduce the wages of employees.
- (5) For every service contract and economic development assistance grant the current rate shall be posted by the contractor or grant beneficiary at the site of the work in a prominent place where it can be easily seen and read by persons employed in the performance of such contract or grant. The poster shall also provide information of the means the reader may use to file a complaint of violation. In addition, copies of the current rate requirements shall be supplied to any person employed in the performance of a service contract or economic development assistance grant at the request of such person and within a reasonable period of time after the request.
- (6) Milwaukee County reserves the right to inspect and audit any payroll records of any contractor or subcontractor or recipient of financial assistance for which this chapter applies, for any reason and at any time.

**111.05 Accountability, Enforcement and Monitoring**

- 318 (1) The Division of Audit shall enforce this ordinance and shall convene a  
319 workgroup, the composition of which will be determined by the Auditor,  
320 from stakeholders in county departments. This workgroup will:  
321 (a) Develop language for RFP's, bids, concessions and leases  
322 agreements; and  
323 (b) Define processes for field and desk audits ensuring compliance with  
324 this section; and,  
325 (c) Ensure that each department/division head or his/her designee  
326 complies with payroll monitoring processes imposed on agreements;  
327 and  
328 (d) Define penalties and sanctions for noncompliance, subject to  
329 county board approval, including any combination of the following:  
330 a. withholding of payment or imposing monetary penalties in an  
331 amount sufficient to pay the wages of all affected employees;  
332 or  
333 b. termination of agreement; or  
334 c. temporary debarment of contractors or subcontractors no less  
335 than three years; or  
336 d. permanent debarment of contractors or subcontractors; and  
337 (e) Examine the impact on airport concessionaires, real estate  
338 development contracts, and human service providers a year after the  
339 implementation of this ordinance; and  
340 (f) Publish and disseminate all procedures within sixty (60) days of the  
341 passage and publication of this ordinance.
- 342 (2) Contractors, subcontractors and recipients of financial assistance covered  
343 under this chapter shall not discriminate or take adverse employment  
344 action against an employee covered by this ordinance for filing a  
345 complaint under this chapter, informing another covered employee of the  
346 provisions of this chapter, or assisting another covered employee in filing a  
347 complaint under this chapter.
- 348 (3) Successor contractors or subcontractors shall offer employees of the  
349 incumbent or previous contractor or subcontractors, who perform or  
350 performed the same or substantially similar work in performance of the  
351 current or previous contract or subcontract as will be performed under the  
352 successor contract or subcontract, continued employment for at least 90  
353 days, unless the successor contractor or subcontractor demonstrates  
354 cause for discontinuation of employment.
- 355 (4) Nothing in this section shall prevent a covered employee, a group of  
356 covered employees, or other person adversely affected by a violation of this  
357 section from attempting to bring an action against a contractor or  
358 subcontractor in a court of competent jurisdiction seeking relief under  
359 MCGO Chapter 111. Milwaukee County shall not be liable in any action  
360 arising under this Chapter brought by a covered employee, a group of  
361 employees, or other person adversely affected violation of this section.



362 (5) An aggrieved individual, contractor or subcontractor may appeal findings of  
363 noncompliance in accordance with procedures established in chapter 110  
364 of this Code.

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366 **111.06. Severability and Savings**

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368 If any provision of this chapter or application thereof is judged invalid, the  
369 invalidity shall not affect other provisions or application of the chapter which can  
370 be given effect without the invalid provisions or application, and to this end the  
371 provisions of this chapter are declared severable.

372  
373 **111.07. Waiver by County Board/Rights of Enforcement**

374 Milwaukee County recognizes that from time to time it may be in the County's  
375 best interest to enter into contracts, leases or other agreements, including agreements  
376 involving financial assistance, which have been negotiated, bid for, or otherwise entered  
377 into in a manner which is not in strict conformity with the terms of this ordinance. Upon  
378 adoption or ratification of any such contract, lease or other agreement by the County  
379 Board through a vote carrying two-thirds of all seats on the County Board, any such  
380 nonconformity shall be deemed to have been waived by the County.

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382 This ordinance shall not be construed to create any right or rights of enforcement  
383 in any person seeking to do business with the County and compliance with the terms of  
384 the ordinance shall rest solely with the County of Milwaukee.

385  
386 **Section 2. Chapter 32.09 of the General Ordinances is hereby amended**  
387 **as follows:**

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389 (17) "Service contract" means an agreement primarily related to staff  
390 services including, but not limited to, housekeeping, security, landscaping,  
391 maintenance, clerical services, food services, and other non-professional  
392 services.

393  
394 **Section 3. This ordinance shall become effective upon passage and**  
395 **publication.**