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From the Director, Retirement Plan Services, Department of Human Resources, requesting authorization to amend Sections 201.24(3.5), (4.5), (5.16), (7.1) and (11.11) of the Milwaukee County Code of General Ordinances, to conform the terms of the Plan document to past administration and comply with the corrections approved by the Internal Revenue Service ("IRS"), by recommending adoption of the following:

A RESOLUTION/ORDINANCE

WHEREAS, the Employees' Retirement System (ERS) is a tax-qualified governmental retirement plan that must comply with the applicable provisions of the Internal Revenue Code (the Code); and

WHEREAS, the Pension Board of ERS (the Pension Board) acts as the fiduciary for, and oversees administration of ERS in an effort to ensure that ERS maintains its tax-qualified status; and

WHEREAS, the Code requires tax-qualified retirement plans to be in writing and to be operated in accordance with the terms of their written plan documents; and

WHEREAS, after conducting a compliance audit of the ERS's operations, Retirement Plan Services, Department of Human Resources, which administers ERS, discovered several operational errors; and

WHEREAS, ERS and the Pension Board have been working with the Internal Revenue Service (IRS) to negotiate a Voluntary Correction Program (VCP) compliance statement to formally correct these and other violations; and

WHEREAS, following discussions with the IRS, ERS is proposing that some of the errors be corrected via retroactive ordinance amendment; and

WHEREAS, the Pension Board voted 10-0 on June 24, 2020 to recommend adoption of these Ordinance amendments; and

WHEREAS, the Committee on Personnel, at its meeting of September 15, 2020, recommended adoption of File No. 20-604 (vote 5-0); and

WHEREAS, the Committee on Finance, at its meeting of September 17, 2020, recommended adoption of File No. 20-604 (vote 7-0); and

WHEREAS, the Pension Study Commission, at its meeting of September 22, 2020, recommended adoption of File No. 20-604 (vote 4-0); now, therefore,

45 BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby amends
46 Sections 201.24(3.5), (4.5), (5.16), (7.1) and (11.11) of the Milwaukee County Code of
47 General Ordinances by adopting the following:

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AN ORDINANCE

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

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SECTION 1. Effective January 1, 2011, Section 201.24(4.5) of the Milwaukee County Code of General Ordinances is amended as follows:

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201.24(4.5) – Deferred vested retirement.

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(1) A member shall be eligible for a deferred vested pension if his employment is terminated for any cause, other than fault or delinquency on his part, provided that he elects not to withdraw any part of his membership account and that his pension when he qualifies for a normal retirement as defined in section 4.1 is at least ten dollars (\$10.00) per month.

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(2) Notwithstanding the foregoing provisions of this section 4.5, **the following vesting provisions will apply:**

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(a) For members ~~any member~~ whose last period of continuous membership began on or after January 1, 1971, but prior to January 1, 1982, **those members** shall not be eligible for a deferred vested pension if his **or her** employment is terminated prior to his **or her** completion of six (6) years of service.

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~~**(b) For** Also, notwithstanding the foregoing provisions of this section 4.5 any members who first became a member of **ERS** the system on and after January 1, 1982, **those members** shall not be eligible for a deferred vested pension if his **or her** employment is terminated prior to his **or her** completion of ten (10) years of service.~~

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(c) Any member who attains normal retirement age as defined in Ordinance section 201.24(2.18) while in active ERS-covered County employment shall be vested and eligible for a deferred vested benefit if the member terminates County employment prior to retirement. This provision shall apply to members who previously received a benefit under this portion of the vesting schedule. For members who would have received a benefit under this vesting schedule, ERS will pay a prospective benefit to those individuals commencing with the adoption of this amendment.

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(3) Notwithstanding the foregoing provisions of this section, any nonrepresented Doyme employe who was a member of the employe's retirement system and any

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90 member who was represented by the Federation of Nurses & Health
91 Professionals when they voluntarily resigned their employment between
92 September 1, 1995, and December 31, 1995, at the time of, and in lieu of, a
93 layoff from county service as a direct result of the sale/lease of John L. Doyne
94 Hospital and employes of the School of Nursing who resign from county service
95 in lieu of being laid off due to the closure of the School of Nursing who left county
96 service with seven (7) or more years of service shall be vested for a deferred
97 vested pension.
98

99 (4) Payment of a deferred vested pension shall commence as of the member's
100 normal retirement date, but in no event until timely application for the deferred
101 vested pension is filed with the board. However, if a member has at least fifteen
102 (15) years of service, he may request the board to authorize commencement of
103 his deferred vested pension as of his 55th birthday, or as of any date after his
104 55th birthday, which precedes his normal retirement date, and if the board
105 consents thereto, his pension shall commence as of the date so requested but
106 the amount thereof shall be reduced as provided in section 5.5. The last payment
107 shall be made as of the date of death of the retired member.
108

109 Effective January 1, 2011, the first paragraph of Ordinance section 201.24(3.5) of the
110 Milwaukee County Code of General Ordinances is amended as follows:

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112 201.24(3.5) – Refunds upon severance or death

113

114 Notwithstanding the following, a member shall not be eligible to receive a refund
115 of the portion of his membership account attributable to accumulated contributions
116 contributed under section 3.11 if the member's employment was terminated due to fault
117 or delinquency on the member's part under section 4.5 or if the member or a beneficiary
118 of the member is eligible, at the time the request for a refund is made, for the present
119 receipt of any monthly annuity benefit under sections 4.1, 4.5, 6.1, 6.2, 6.4, 7.1 or 7.2 of
120 the chapter 201.24 of the ordinances. **However, a member whose employment**
121 **terminated after reaching normal retirement age, who is eligible for the present**
122 **receipt of a benefit, whose pension benefit, as calculated pursuant Ordinance**
123 **section 201.24(4.1) or (4.5), is below one-hundred (\$100) per month, and who so**
124 **elected at the time of retirement (or who so elects in accordance with section 3.11**
125 **for retirements after June 1, 2020), may receive a refund of the member's**
126 **membership account instead of receiving an annuity.**

127

128 **SECTION 2.** Effective January 1, 2011, Section 201.24(3.5) of the Milwaukee County
129 Code of General Ordinances is amended to read as follows:

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131 Notwithstanding the following, a member shall not be eligible to receive a refund
132 of the portion of his membership account attributable to accumulated contributions
133 contributed under section 3.11 if the member's employment was terminated due to fault
134 or delinquency on the member's part under section 4.5 or if the member or a beneficiary

135 of the member is eligible, at the time the request for a refund is made, for the present
136 receipt of any monthly annuity benefit under sections 4.1, 4.5, 6.1, 6.2, 6.4, 7.1 or 7.2 of
137 the chapter 201.24 of the ordinances. However, a member whose employment
138 terminated after reaching normal retirement age, who is eligible for the present receipt
139 of a benefit, whose pension benefit, as calculated pursuant Ordinance section
140 201.24(4.1) or (4.5), is below one-hundred (\$100) per month, and who so elected at the
141 time of retirement (or who so elects for retirements after May 1, 2020), may receive a
142 refund of the member's membership account instead of receiving an annuity.
143

144 Upon termination of employment, for reason other than death or retirement, a
145 member shall be entitled to receive a refund of the balance as of the date of termination
146 of his membership account and his savings account, ~~plus accumulated at interest~~ **(as**
147 **described in Rule 403) through the date of disbursement** ~~as set from time to time by~~
148 ~~the board~~. However, if a member who is eligible for a deferred vested pension
149 withdraws his membership account, he shall forfeit all rights to a deferred vested
150 pension. If a member requests, under this paragraph, a refund of assets in his or her
151 membership account related to contributions made pursuant to sections 3.11 or 3.3, the
152 member shall receive a refund of all assets contained in his or her membership account
153 at that time, with interest as provided above, provided that the request is made within
154 the time limits contained in section 3.11.
155

156 Upon termination of employment by reason of a member's death or upon the
157 death of a member who is eligible for a deferred vested pension, the member's
158 beneficiary shall be paid in lump sum the balance, **plus interest (as described in Rule**
159 **403) through the date of disbursement,** ~~as of the date of death,~~ of his membership
160 account and his savings account **as well as any applicable benefit under Ordinance**
161 **section 201.24(6.3),** provided that if a joint and survivor option under section VII is
162 effective or a survivorship benefit under section VI **(excluding section 6.3)** is payable,
163 the membership account shall not be paid to the beneficiary. ~~However, if the amount of~~
164 ~~the membership account at the date of a member's death exceeds the total of the~~
165 ~~amount of the payments made to the spouse and children under sections 6.1, 6.2, 6.4~~
166 ~~and 7.1, after all payments due thereunder have been made, such excess shall be paid~~
167 ~~in a lump sum to the member's beneficiaries.~~
168

169 Upon retirement of a member, the balance of his savings account shall be paid in
170 one (1) of the following forms as determined by the board:

- 171
- 172 (a) Lump sum payment.
 - 173
 - 174 (b) Life annuity with full cash refund or on a term certain basis.
 - 175
 - 176 (c) Installments of a designated amount or over a designated period of time.
 - 177

178 If under any of the above options a benefit becomes payable to some other
179 person as a result of the death of the retired member, payment shall be made to the

180 beneficiary designated by the member or, in the absence of a valid designation, than as
181 provided in section 2.16.

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183 **SECTION 3.** Effective January 1, 2002, a new Section 201.24(5.16)(6) of the
184 Milwaukee County Code of General Ordinances is created to read as follows:

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186 201.24(5.16) – Back drop pension benefit.

187

188 **(6) Notwithstanding Rule 711, a surviving spouse who was eligible for and**
189 **received a Protective Survivorship Option under Ordinance section 201.24(7.1)(3)**
190 **may elect a back drop if such back drop was previously elected between January**
191 **1, 2002 and December 31, 2004.**

192

193 **SECTION 4.** Effective January 1, 2007, Section 201.24(7.1) of the Milwaukee County
194 Code of General Ordinances is amended as follows:

195

196 201.24(7.1) – Optional Benefits.

197

198 (1) By filing an application with the board prior to the date on which the
199 member's pension is due to commence a member may elect to convert the member's
200 pension payable only during his or her life into another form in accordance with the
201 following options:

202

203 (a) *Fifty percent (50%) survivor benefit.* A reduced pension payable during
204 the member's life, with the provision that after the member's death a
205 pension at one-half (1/2) of the member's reduced pension shall be
206 continued during the life of, and shall be paid to, the member's beneficiary
207 as the member shall have nominated by written designation duly executed
208 and filed with the system at the time of retirement.

209

210 (b) *One hundred percent (100%) survivor benefit.* A reduced pension payable
211 during the member's life, with the provision that after the member's death
212 it shall continue in the same amount during the life of, and shall be paid to,
213 such beneficiary as the member shall have nominated by written
214 designation duly executed and filed with the system at the time of
215 retirement.

216

217 (c) *Twenty-five percent (25%) survivor benefit.* A reduced pension payable
218 during the member's life, with the provision that after the member's death
219 a pension at twenty-five percent (25%) of the member's reduced pension
220 shall be continued during the life of, and shall be paid to, such beneficiary
221 as the member shall have nominated by written designation duly executed
222 and filed with the system at the time of retirement.

223

224 (d) *Seventy-five percent (75%) survivor benefit.* A reduced pension payable
225 during the member's life, with the provision that after the member's death
226 a pension at seventy-five percent (75%) of the member's reduced pension
227 shall be continued during the life of, and shall be paid to, such beneficiary
228 as the member shall have nominated by written designation duly executed
229 and filed with the system at the time of retirement.

230
231 (e) *Ten-year certain annuity.* This form of benefit provides a reduced monthly
232 benefit payable to the member for his or her lifetime. If a member who is
233 receiving this form of benefit dies before receiving one hundred twenty
234 (120) monthly payments, then monthly payments in the amount payable at
235 the time of the member's death shall continue to the member's designated
236 beneficiary until a total of one hundred twenty (120) payments have been
237 made in the aggregate to the member and his or her designated
238 beneficiary (or, if the member's designated beneficiary has predeceased
239 the member or dies before a total of one hundred twenty (120) payments
240 have been made, then to the member's spouse, or if none, then to the
241 member's estate). The amount of the benefit shall be computed pursuant
242 to tables supplied by the actuary to the board.

243
244 (2) The aggregate of the pension payments expected to be paid to the
245 member and the member's contingent pensioner under paragraphs (1)(a) through (e)
246 above shall be the actuarial equivalent of the pension which the member is otherwise
247 entitled to receive upon retirement.

248
249 (3) Any member in active service who, pursuant to section 4.1 or a collective
250 bargaining agreement, has attained eligibility to retire and receive a pension may elect a
251 protective survivorship option by selecting the one hundred (100%) **or fifty (50%)**
252 **percent** survivor benefit in the manner hereinafter set forth, which option shall then
253 become effective at the member's death with the same force and effect as if such
254 member had retired under such option immediately prior to his or her death. The
255 election of such option shall be in writing on a form prescribed by the board and may be
256 revoked at any time prior to retirement. If the designated beneficiary shall die or if the
257 designated beneficiary is the member's spouse and a divorce is granted prior to the
258 member's retirement, the election shall be automatically revoked. If any member eligible
259 to elect an option shall die in active service, without electing a one hundred (100%)
260 survivor benefit, the member's surviving spouse shall be paid a survivorship pension
261 equal to the amount that would have been payable if such member had retired and
262 elected a one hundred (100%) survivor benefit immediately prior to his or her death.

263
264 (4) During any month in which a survivor's pension is payable under section
265 6.1 or 6.4 the amount of the survivorship pension payable under this section shall be
266 reduced by such amounts.

267

268 (5) Notwithstanding the foregoing, if a member elects a non-spouse
269 beneficiary to receive a benefit and the benefit is subject to the Internal Revenue
270 Code's minimum distribution incidental benefit requirements, the member will
271 only be eligible to elect a survivor benefit in a form that does not exceed the Code
272 requirements. If a member elects a form of benefit that does not comply with
273 such requirements, ERS will automatically reduce the member's benefit to the
274 highest survivor benefit option the member was eligible to elect.
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276 **SECTION 5.** Effective August 1, 1994, Section 201.24(11.11) of the Milwaukee County
277 Code of General Ordinances is created to read as follows:

278
279 **201.24(11.11) – Assets for purchasing permissive service credit**
280

281 **Subject to all other requirements contained within the ordinances and rules with**
282 **regard to purchases of service credit, at a member's request, and consistent with**
283 **the requirements of applicable Internal Revenue Code provisions, a member may**
284 **use amounts rolled over from a prior employer's Internal Revenue Code section**
285 **401(k) plan completed between August 1, 1994 and November 1, 1994 to**
286 **repurchase previously forfeited service credit for which the member received a**
287 **benefit distribution from the employees retirement system pursuant to**
288 **section 11.1.**
289

290 Effective January 1, 2002, section 201.24(11.11) of the Milwaukee County Code of
291 General Ordinances is amended to read as follows:

292
293 201.24(11.11) - Assets for purchasing permissive service credit.
294

295 Subject to all other requirements contained within the ordinances and rules with regard
296 to purchases of service credit, at a member's request, and consistent with the
297 requirements of applicable Internal Revenue Code provisions, a member may use
298 amounts rolled over from a prior employer's Internal Revenue Code section 401(k) plan
299 completed between August 1, 1994 and November 1, 1994 to repurchase previously
300 forfeited service credit for which the member received a benefit distribution from the
301 employees retirement system pursuant to section 11.1.
302

303 **Effective January 1, 2002, for payments made prior to July 1, 2007, subject to all**
304 **other requirements contained within the Ordinances and Rules with regard to**
305 **purchases of service credit, at a member's request, and consistent with the**
306 **requirements of applicable Internal Revenue Code provisions, a member may use**
307 **amounts held in the member's name pursuant to Milwaukee County's Internal**
308 **Revenue Code section 457 deferred compensation plan or an individual**
309 **retirement account described in Internal Revenue Code section 408 to purchase**
310 **permissive service credit, as described in Rule 207 of the employees retirement**
311 **system, or to repurchase previously forfeited service credit for which the member**

312 **received a benefit distribution from the employees retirement system pursuant to**
313 **section 11.1.**

314

315 **SECTION 6.** Unless otherwise noted, the provisions of this ordinance shall become
316 effective upon passage and publication.

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S:\Committees\2020\Sept\FINANCE\Resolutions\20-604 RESOLUTION - VCP Ordinance Amendments

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