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From the Retirement Plan Services Director, Department of Human Resources, clarifying the Milwaukee County Code of General Ordinances regarding correction of overpayment and underpayment errors and requesting authorization to amend Chapters 201.24(3.1) and (8.24) of the Milwaukee County Code of General Ordinances to reflect these changes, by recommending adoption of the following:

A RESOLUTION/ORDINANCE

WHEREAS, Milwaukee County (the County) sponsors the Employees' Retirement System of the County of Milwaukee (ERS), a defined benefit plan (the Plan), for the exclusive benefit of its employees and beneficiaries; and

WHEREAS, ERS is a tax-qualified retirement plan that must adhere to Internal Revenue Service (IRS) requirements for defined benefit plans, including that ERS be administered in accordance with its written Plan document; and

WHEREAS, the IRS allows qualified plans to correct identified plan errors through a number of programs, including the Voluntary Correction Program (VCP), which allows plans to correct errors for a reduced fee; and

WHEREAS, when previously ERS discovered a number of errors in the administration of the Plan, including overpayments and underpayments, a VCP was filed with the IRS to correct the identified errors; and

WHEREAS, while the VCP was pending with the IRS, the Milwaukee County Board of Supervisors (County Board) adopted new ordinances, and amended other ordinances to address how overpayments and underpayments would be corrected; and

WHEREAS, when the IRS finalized the VCP Compliance Statement, which described how the identified errors would be corrected, the IRS' approved methodology included some differences than what is reflected in the ordinances; and

WHEREAS, the County Board desires to amend the Ordinances to reflect the IRS' required correction methods; and

WHEREAS, the Committee on Personnel, at its meeting of December 6, 2021, recommended adoption of File No. 21-1077 (vote 5-0); and

WHEREAS, the Committee on Finance, at its meeting of December 9, 2021, recommended adoption of File No. 21-1077 (vote 6-0); and

WHEREAS, the Pension Study Commission, at its meeting of December 15, 2021, recommended adoption of File No. 21-1077 (vote 5-0); now, therefore,

47 BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby amends
48 Sections 201.24(3.1) and (8.24) of the Milwaukee County Code of General Ordinances
49 by adoption of the following:

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AN ORDINANCE

53 The County Board of Supervisors of the County of Milwaukee does hereby ordain the
54 following:

55

56 **SECTION 1.** Chapter 201.24(3.1)(1) of the Milwaukee County Code of General
57 Ordinances is hereby amended as follows:

58

59 Section 1.

60 **(1)** *Budget year contributions.*

61 **(a)** The pension board shall furnish to the county executive, prior to June 1 of
62 each year:

63 **(a) i.** An estimated budget contribution required by the county,
64 including contributions required under section 3.3, to pay the
65 following year's cost and to amortize the amount of unfunded
66 obligation of the county over such period of years as determined
67 from time to time by the county board; and

68 **(b) ii.** The established actuarial assumptions supporting said required
69 amount. The county executive shall submit an informational report
70 to the committees on finance and personnel for consideration
71 during the June committee cycle, providing for an estimated
72 contribution amount for the next year's budget and shall include this
73 pension contribution amount in the executive budget as transmitted
74 to the county board. The final amount appropriated in the adopted
75 budget by the county board shall be the estimated contribution to
76 be expensed in the budget year.

77 **(c) ~~(b) Beginning with the first quarter ending after section 201.24(8.24)~~**
78 **~~takes effect,~~** Any contribution required from the County, **~~under~~**
79 **~~applicable law and regulations~~** resulting from the County's
80 assumption of liability for overpayments in lieu of collecting such
81 overpayments from members or beneficiaries or related to any other
82 payment due to **~~the Retirement System ERS~~** by the member or
83 beneficiary under this Ordinance, including section 201.24(8.24), or any
84 other applicable law or regulation, **including IRS requirements for**
85 **correcting qualified plan errors,** shall be calculated and contributed
86 as described below.

87

88 As soon as practicable but in no case later than **two weeks thirty (230) days**
89 following the end of a quarter, RPS shall submit to the Comptroller and the
90 Director of the Department of Administrative Services a report of the

91 aggregate overpayments and interest falling under Option 1 as determined
92 under section 201.24(8.24)(3)(c)(i), in addition to all other payments required
93 to be paid by the County ~~required~~ under subsection ~~8.24(5) or~~ 8.24(6) or
94 IRS requirements (together, "Aggregate Contribution").

95
96 The Aggregate Contribution shall be paid by the County to ERS by no later
97 than twenty (20) business days following the ~~end of the prior quarter date~~
98 RPS submits the Aggregate Contribution report from the Pension
99 Obligation Bond Reserve or other authorized source of funds. Payments from
100 the Pension Obligation Bond Reserve shall be approved by the Comptroller
101 and the Director of the Department of Administrative Services.

102 ~~(d)~~(c) For overpayments, RPS shall ~~maintain an accounting of all collect~~
103 amounts ~~collected by RPS~~ on behalf of the County from members or
104 beneficiaries under Option 1 as specified in subsection 8.24(3)(c)(i). ~~whether~~
105 ~~by VLS, VRP, or VOP as specified in subsection 8.24(3)(h~~

106 ~~(i.)~~
107 ~~(ii.)~~(i.) ~~Collections in the current year shall reduce the actual amount~~
108 ~~contributed from the County's General Fund to the ERS Trust as~~
109 ~~required under subsection 3.1(1)(b) in the subsequent year (if any)~~
110 ~~dollar for dollar. At the same time, any transfer under subsection~~
111 ~~3.1(1)(b) occurs in the subsequent year, any reduction made to the~~
112 ~~County's annual contribution under this subsection shall be separately~~
113 ~~transferred from the County's General Fund to the Pension Obligation~~
114 ~~Bond Fund. The amount collected on behalf of the County from~~
115 ~~members or beneficiaries under Option 1 as specified in~~
116 ~~subsection 8.24(3)(c)(i) in the current year exceeds the County's~~
117 ~~required annual contribution under subsection 3.1(1)(b) in the~~
118 ~~subsequent year, any portion of the required transfer to the Pension~~
119 ~~Obligation Fund that remains after an offsetting reduction to the annual~~
120 ~~contribution under subsection 3.1(1)(b) shall be paid by the ERS Trust.~~
121 ~~RPS shall also collect, record and invest recoupment moneys recovered~~
122 ~~from members or beneficiaries under Option 2 in the ERS Trust, per~~
123 ~~subsection 8.24(3)(c)(ii), as directed by the Pension Board.)~~ RPS will on
124 a monthly basis submit the collected amounts to the Comptroller, and
125 until such time as the amounts are submitted, RPS will retain the
126 collected amounts outside of ERS in a separate account.

127 ~~(ii)~~ ~~If the amount collected on behalf of the County from members or~~
128 ~~beneficiaries under Option 1 as specified in subsection 8.24(3)(c)(i) in~~
129 ~~the current year exceeds the County's required annual contribution~~
130 ~~under subsection 3.1(1)(b) in the subsequent year, any portion of the~~
131 ~~required transfer to the Pension Obligation Fund that remains after an~~
132 ~~offsetting reduction to the annual contribution under subsection~~
133 ~~3.1(1)(b) shall be paid by the ERS Trust to the County's Pension~~
134 ~~Obligation Fund in the subsequent year.~~

135 ~~(c)~~ **(d)**RPS shall also collect, ~~record, and invest recoupment~~ monies
136 recovered from members or beneficiaries under Option 2, ~~in the ERS Trust, per~~
137 ~~subsection 8.24(3)(c)(ii), as directed by the Pension Board, per Ordinance~~
138 ~~section 8.24(3)(c)(ii) and those amounts shall be ERS Plan assets and paid~~
139 ~~to the ERS trust~~
140

141 **SECTION 2.** Chapter 201.24(8.24) of the Milwaukee County Code of General
142 Ordinances is hereby amended as follows:

143
144 8.24. - Correction of Underpayment and Overpayment of Benefits
145

- 146 (1) General - In the event that a benefit paid to a member or beneficiary is
147 determined to be incorrect, RPS shall take appropriate action under this
148 subsection and the Ordinances and Rules to: (i) correct such error; (ii) **as soon**
149 **as practicable,** calculate and pay the correct benefit amount on a prospective
150 basis, including any net impact of multiple corrections, without regard to
151 subsection 201.24(8.24)(6); and (iii) maintain the federal tax-qualified status of
152 the retirement system under the Internal Revenue Code.
153
- 154 (2) Erroneous Underpayments - Unless the underpaid amount is less than the de
155 minimis threshold amount set forth in subsection 8.24(5) below, if the benefit paid
156 to a member or beneficiary is determined to be less than that to which the
157 member or beneficiary is entitled under the provisions of this ~~Ordinance~~ **section**
158 **201.24 and the Rules in Appendix B,** RPS shall authorize a single sum
159 corrective payment in an amount equal to: (i) the total amount of the
160 underpayment ~~for the claim period (as defined in subsection 8.24(6))~~; plus (ii)
161 applicable interest (as defined in subsection 8.24(4)), calculated ~~as of the~~
162 **through the** date of ~~each such~~ correction.
163
- 164 (3) Erroneous Overpayments - If the benefit paid to a member or beneficiary is
165 determined to be greater than that to which the member or beneficiary is entitled
166 under the provisions of this ~~Ordinance~~ **section 201.24 and the Rules in**
167 **Appendix B,** the following shall apply:
168 (a) Notice of Overpayment - RPS shall provide a written "Notice of
169 Overpayment" to the **affected** member and/or beneficiary ~~of the~~
170 **overpayment** within ~~two (2) months~~ **a reasonable period of time** of
171 determining that an overpayment occurred. Such Notice shall specify the
172 following substantive information:
173
 - The currently payable incorrect monthly pension benefit (if any),
 - The correct monthly pension benefit absent any collection offset (if
174 any),
 - An explanation of the benefit determination error and overpayment,
 - The Total Amount Owed in principal and interest,
 - The Overpayment Options as defined in subsection 8.24(3)(c),
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- The expected monthly benefit amount under either Overpayment Option if the recoupment is not paid off in a VLS under subsection 8.24(3)(h)(i), and
 - An explanation of interest applicable under subsection 8.24(4).
- The Notice shall also include the following process-related information:
- A member may meet with a representative of ERS in-person to review relevant documents, to receive an explanation related to the correction and collection, and/or to receive an explanation of the Overpayment Collection Options;
 - The member or beneficiary should consult with an attorney before selecting either Overpayment Collection Option;
 - The member or beneficiary shall be given a reasonable time to consult with an attorney, which in no case shall be less than seven (7) days after the date the Notice is mailed;
 - The beneficiary or member shall be given no less than seven (7) days to revoke the selection of an Overpayment Collection Option following the date of execution of the Overpayment Collection Form;
 - The process to request an exception to a monthly overpayment collection amount under subsection 8.24(3)(g);
 - The appeal process **under Rule 1016** for challenging a benefit correction and/or IOP under Option 2; and
 - Contact information for RPS.

(b) Overpayment Collection Option Form - The Notice of Overpayment shall include a separate Overpayment Collection Option Form **listing that includes the following: (i) the Overpayment Collection Options (as defined in subsection (c) below), (ii) the expected monthly benefit amount for each Overpayment Collection Option if the recoupment is not paid off in a VLS, explaining (iii) a statement** that the member or beneficiary must return the form within thirty (30) days, and **explaining (iv) a statement** that if the member or beneficiary fails to return the form, he or she will be placed into Overpayment Collection Option 2, as defined in subsection 8.24(3)(c)(ii).

(c) Overpayment Collection Options - A member or beneficiary shall have **the following** two (2) overpayment collection options **set forth in an Overpayment Collection Option Form, which shall accompany the Notice of Overpayment, regardless of whether overpayment recoupments are collected through a VLS, VRP, VOP, or IOP, as defined in subsection 8.24(3)(h):**

- i. Option 1: For the exclusive benefit of the ERS trust, if the member or beneficiary signs an Overpayment Collection Option Form selecting Option 1, on behalf of the overpaid member or beneficiary, whether newly-identified or currently in a recoupment

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process as of the effective date of this provision, the County shall make payment to the ERS trust of the TAO (i.e., the amount of the overpayment plus all interest applicable under subsection 8.24(4) through the date of repayment, as prescribed in subsection 3.1(1)(c)), and RPS shall, on behalf of the County, recoup from the member or beneficiary post-tax an amount equal to the total amount of the overpayment for the claim period (as defined in subsection 8.24(6)), but not applicable interest (as defined in subsection 8.24(4)), referred to herein as the "Principal Amount Owed" or "PAO."

Under Option 1, a member or beneficiary must agree to the benefit correction, accept the County's payment of the TAO on the member individual's behalf and, agree to waive any and all claims and rights to challenge the benefit correction and recoupment ~~whether by a VLS, VRP, or VOP as defined in subsection 8.24(3)(h)~~. Under Option 1, the member is only responsible for the PAO, and if a VRP or VOP is required, no interest on the PAO will accrue.

Option 1 shall not be available to a member or beneficiary if the overpayment is the direct or indirect result of the member's or beneficiary's fraud, material misrepresentation or material omission as determined by RPS.

Option 1 shall not be available as of right to any member or beneficiary who has a pension benefit dispute that (i) is subject to an executed and binding settlement agreement or commitment of correction; (ii) is currently before a court of competent jurisdiction; or (iii) has been finally adjudicated by a court of competent jurisdiction.

Any payments made to ~~the retirement system~~ ERS by the County prior to the effective date of this subsection shall remain assets of the ERS trust and shall not be refunded or otherwise returned to the member ~~or~~ beneficiary or the County. Further, no provision in this section 8.24 shall provide any member or beneficiary any retroactive rights or benefits.

- ii. Option 2: For the exclusive benefit of the ERS trust, if the member or beneficiary signs an Overpayment Collection Option Form selecting Option 2 or is placed into Option 2 as authorized under subsection 8.24(3)(b) after failing to make an affirmative election within thirty (30) days of the date the Notice is mailed, RPS shall collect from the member or beneficiary an amount equal to: (i) the total amount of the overpayment for the claim period (as defined in subsection 8.24(6)); plus (ii) applicable interest (as defined in subsection 8.24(4)) ~~calculated as of the date of each such~~

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~~overpayment through the date the County would have made payment to the ERS trust on behalf of the member or beneficiary under Option 1, referred to herein together as the "Total Amount Owed" or "TAO," as detailed below, plus (iii) additional Pension Interest as specified in subsection 8.24(4) if a VRP, VOP, or IOP defined under subsection 8.24(3)(h) is required. Under Option 2, the member or beneficiary will be responsible for the TAO, and if a VRP, VOP, or IOP is required, the interest on the entire TAO, which will continue to accrue until the TAO is repaid in full.~~

Under Option 2, a member or beneficiary ~~wishes to potentially dispute the benefit correction now or in the future, and therefore, the member or beneficiary~~ rejects the County's payment of the TAO on the member individual's behalf and ~~refuses to~~ does not waive any and all claims and rights to challenge the benefit correction and recoupment. ~~Under Option 2, the member or beneficiary will be responsible for the entire amount of the TAO, and if a VRP, VOP, or IOP is required, as well as interest on the entire TAO that will continue to accrue at the higher Pension Interest Rate under subsection 8.24(4).~~ Under Option 2, corrected benefit payments, along with any VRP, VOP, or IOP, shall continue unless and until the member or beneficiary obtains a final, favorable judgment from a court of competent jurisdiction and/or before an appropriate administrative body, or enters into a binding settlement agreement, whereby the benefit correction, overpayment collection, and/or applicable interest is deemed to be in error or otherwise inapplicable; should such occur, RPS shall calculate the appropriate adjustments to the member's monthly benefit, collection amount, and/or interest and effectuate and account for those adjustments as soon as practicable.

- (d) Other Waiver of Repayment - Notwithstanding anything else to the contrary in this Ordinance section 201.24, RPS shall waive the collection of any overpayment if TAO is below the de minimis threshold as set forth in subsection 8.24(5). The above notwithstanding, there shall be no reduction or waiver of any repayment if the overpayment is the direct or indirect result of the member's or beneficiary's fraud, material misrepresentation or material omission as determined by RPS.
- (e) Collection Administered by RPS - RPS shall commence overpayment collection as specified herein, beginning with the next full month following the receipt of the Overpayment Collection Option Form or the next full month following the 30th day after mailing of the Notice of Overpayment,

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regardless of whether any action or appeal is filed to challenge any element of, calculation of, or process related to the correction of the monthly benefit amount and/or collection of any overpayment and/or any applicable interest.

- (f) ~~Calculation of Minimum Monthly Overpayment Collection-Offset Amount~~
- The monthly overpayment ~~collection offset~~ amount ~~shall be based upon the PAO under Option 1 or the TAO under Option 2, and~~ shall ~~be no less than as prescribed under the monthly repayment guidelines established by the Wisconsin Department of Employee Trust Funds under Wis. Stat. § 40.08. RPS shall implement and update ERS guidelines by January 1 of each year using the most recent, effective version of Wis. Stat. § 40.08 and Wisconsin Department of Employee Trust Funds guidelines. In all cases, payments shall be applied first to applicable Pension Interest, then County Interest, as further defined in subsection 8.24(4), and then, respectively, to the PAO under Option 1 or the TAO under Option 2. be based on the amount necessary for the individual to repay the PAO under Option 1 or the TAO under Option 2 over 60 consecutive months starting as described in subsection (e) above.~~
- (g) Exceptions to Monthly Overpayment Collection Amount - If the member or beneficiary presents verifiable documentation to RPS within 30 days of the commencement of the collection or prior to the commencement of the collection that either:
- i. such member or beneficiary's adjusted gross household income is at or below the federal poverty threshold as established by the United States Department of Health and Human Services, then the monthly repayment amount shall not exceed five percent (5%) of the member or beneficiary's total monthly pension benefit; or
 - ii. such member or beneficiary is entitled to an equitable adjustment to their monthly repayment amount, as determined by RPS, which shall be unappealable to the Pension Board, based upon (a) the financial status of the member or beneficiary and their household; (b) the amount of the overpayment; (c) the amount of the monthly benefit payment; (d) the culpability of the member or beneficiary in the circumstances that gave rise to the overpayment; (e) extraordinary medical or long-term care expenses; (f) whether the member or beneficiary supports claimed dependents; and (g) fairness to taxpayers.
Documentation required to be submitted by the member or beneficiary to qualify for either adjustment under subsection 8.24(3)(g) shall include, but is not limited to, the member or beneficiary's (and similar documents related to the

354 member or beneficiary's household if the member or beneficiary
355 does not live alone) most recent IRS Form 1040 and a complete
356 disclosure of all member or beneficiary assets including
357 investments, real estate, savings, checking, or any other assets, as
358 well as the same documents and statement of assets for any
359 claimed dependent and/or spouse. Nothing in this subsection shall
360 operate to reduce the total TAO or PAO owed, in addition to any
361 applicable interest, as defined below in subsection 8.24(4). This
362 subsection applies regardless of which Overpayment Collection
363 Option a member or beneficiary selects under
364 subsection 8.24(3)(c). RPS and/or the Pension Board may
365 promulgate additional procedures and documentation mandates
366 under this subsection.
367

- 368 (h) Collection Methods - Overpayments may be collected by any of the
369 following methods, listed in order of preference:
- 370 i. Method 1 - Lump Sum: whether a member or beneficiary elects
371 Option 1 or 2 under subsection 8.24(3)(c), the PAO or TAO may be
372 collected through a timely Voluntary Lump Sum ("VLS") payment by
373 the member or beneficiary. If a VLS is ~~made to the ERS trust by~~
374 ~~the specified deadline~~ **paid within sixty (60) days from the date**
375 **the individual returns his or her Overpayment Collection**
376 **Option Form**, then ongoing monthly pension benefits, if any, shall
377 be paid at the corrected amount. If a VLS is ~~made to the ERS trust~~
378 ~~paid~~ after the ~~specified sixty-day~~ **specified sixty-day** deadline, then the next monthly
379 pension benefit should be adjusted to account for ~~additional~~
380 ~~amounts owed, if any, and following that adjustment, the~~
381 ~~reduction in subsection (f) above, and following the payment~~
382 ~~of the VLS~~ **monthly benefits shall be paid at the corrected amount.**
 - 383 ii. Method 2 - Voluntary Repayment Plan or Voluntary Offset Plan:
384 whether a member or beneficiary elects Option 1 or 2 under
385 subsection 8.24(3)(c), the PAO or TAO may be collected through
386 either a "Voluntary Repayment Plan" ("VRP"), where there is no
387 ~~longer any~~ ongoing benefit payment, ~~under which and~~
388 the member or beneficiary agrees to make equal monthly direct
389 payments **approved by the Director of RPS** through an electronic
390 fund transfer or similar means to the ERS trust, or through a
391 "Voluntary Offset Plan" ("VOP"), where benefit payments are
392 ongoing, ~~under which and~~ the member or beneficiary agrees in
393 writing that each future monthly benefit payment will be reduced by
394 a specific amount that shall be no less than that required under
395 subsections 8.24(3)(f) and (g). ~~If a member or beneficiary enters~~
396 ~~into either type of voluntary agreement, such agreement may~~
397 ~~provide for repayment over a shorter period and/or in a greater~~

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~~amount than otherwise required under subsections 8.24(3)(f) and (g).~~

iii. Method 3 - Involuntary Offset Plan: ~~only~~ where member or beneficiary ~~elects Option 2 or~~ fails to make a selection between Options 1 and 2, as specified under subsection 8.24(3)(c), or fails to agree to a lump sum or an offset plan, RPS shall place the member of beneficiary into an "Involuntary Offset Plan" ("IOP"), whereby each future monthly benefit payment is offset by an amount as prescribed under subsections 8.24(3)(f) and (g).

(i) Failure to Repay -

- i. If the member or beneficiary fails to make a payment under a VLS, or VRP, and such payment is outstanding for thirty (30) days, RPS shall commence such recoupment by an IOP in the manner set forth herein.
- ii. If the member or beneficiary refuses, despite reasonable efforts, to enter into a VLS or VRP when an overpayment exists with no future benefits ~~are~~ payable, and any amount remains outstanding for more than thirty (30) days, RPS shall report the same to the County and ERS, which each may elect to collect any amounts remaining through legal action or other methods.
- iii. Upon the death of ~~a~~ member or beneficiary that becomes known to ERS, the County or ERS may elect to attempt to collect any remaining amount owed from the estate or from future benefits payable to any remaining non-spouse beneficiary.
- iv. Outstanding Collection amounts, where no reasonable method of collection is available to the County or RPS, may be written off after a period of five (5) years, if owed to the County under Option 1. Any uncollected amounts owed to the ERS trust under Option 2, where no reasonable method of collection is available, may be written off after a period of five (5) years. Such written off balances under Option 2, shall require payment to ERS by the County as required by the IRS' Employee Plans Compliance Resolution System.

(j) Settlement Authority Remains - Nothing in this Ordinance impacts or curtails the County or the Pension Board's authority to settle litigation matters where the Pension Board, ERS or the County are named as parties.

(4) Applicable Interest -

(a) The calculation of underpayments ~~and overpayments, including the calculation of a TAO,~~ shall include simple annual compound interest at a rate ~~of five percent (5%) per annum~~ equal to the actuarial equivalence interest rate as stated in Rule 1014(b)(2) on the underpaid ~~or overpaid~~

442 amount from the date of incorrect payment(s) through the ~~applicable period~~
443 ~~of payment to the member by the trust in the case of an underpayment,~~
444 ~~or to the trust by the County or member in the case of an overpayment,~~
445 ~~also known as the "Pension Interest Rate" or "PIR." The above~~
446 ~~notwithstanding, to the extent that a different interest rate is mandated~~
447 ~~by the Internal Revenue Service pursuant to the terms of a VCP~~
448 ~~submission under Ordinance section 8.23, such rate shall be the~~
449 ~~applicable interest rate or "PIR" (if referring to the interest portion of the~~
450 ~~TAO, also known as "Pension Interest" or "PI").~~ date the underpayment
451 is paid to the individual.
452

453 (b) ~~If the member or beneficiary selects Option 1 under~~
454 ~~subsection 8.24(3)(c)(i), once an overpayment is repaid to the trust by~~
455 ~~the County under subsection 3.1(1)(c), and the member or beneficiary is~~
456 ~~placed into an either a VRP or VOP under subsection 8.24(3)(h)(ii), RPS~~
457 ~~shall not apply interest after the VRP or VOP begins, to the remaining~~
458 ~~balance of the PAO, over the entire repayment period.~~
459 The calculation of overpayments shall include compound interest at a
460 rate of five (5%) percent per annum on the overpaid amount from the
461 date of incorrect payment(s) through the applicable period of full
462 repayment by the County under Option 1 or the member or beneficiary
463 under Option 2.
464

465 (5) De Minimis Amounts –

466 (a) Overpayments. RPS shall waive ~~any member's or beneficiary's~~ repayment
467 obligation if the total of all overpayments paid to the recipient is less than
468 ~~one hundred sixty-five dollars (\$165.00)~~ two-hundred and fifty dollars
469 (\$250.00), inclusive of applicable interest under subsection 8.24(4).
470

471 (b) Underpayments. If the total underpayment payable to a member or
472 beneficiary is seventy-five dollars (\$75.00) or less (inclusive of applicable
473 interest under subsection 8.24(4)), RPS will not pay such amounts to the
474 member or beneficiary if RPS determines in its sole discretion that the
475 reasonable direct costs of processing and delivering the distribution to
476 the affected individual would exceed the amount of the distribution.
477

478 (6) Claim Period - This subsection 8.24(6) applies only to benefit payments made on
479 or after July 1, 2019. Any claim related to ~~a benefit~~ an overpayment made on or
480 after July 1, 2019, must be initiated by ~~the aggrieved party~~ RPS in writing on or
481 before the sixth anniversary of the date on which the payment is issued by the
482 retirement system. For purposes of this subsection, a payment shall be a single
483 benefit payment or any single periodic payment if the benefit is paid in an
484 installment or annuity form. Any claim with respect to a periodic payment shall
485 apply to each subsequent periodic payment. A timely claim made during the

486 claim period shall remain valid during the period of appeal (to the ~~p~~**P**ension
487 ~~b~~**B**oard or any court of law) and through final disposition of such appeal even if
488 such disposition occurs after the sixth anniversary of the date of payment. This
489 subsection 8.24(6) shall not apply to: (i) any matter that is subject to a binding
490 settlement agreement or commitment of correction; (ii) any matter currently
491 before a court of competent jurisdiction; (iii) any matter that has been finally
492 adjudicated by a court of competent jurisdiction; or (iv) any matter that is subject
493 to a contrary directive by the IRS through its Employee Plans Compliance
494 Resolution System. **For any overpayment amounts that are outside the**
495 **claim period, the County shall contribute the amounts to ERS.**
496

497 (7) Effective Date - Except as otherwise set forth above, this section shall apply to
498 any overpayment or underpayment that as of January 1, 2019: (i) is not
499 otherwise subject to an agreement or commitment of correction; (ii) is not
500 currently before a court of competent jurisdiction; and (iii) has not been finally
501 adjudicated by a court of competent jurisdiction.
502

503 **SECTION 3.** The provisions of this Ordinance shall become effective upon passage and
504 publication.
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