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June 26, 2017

Steven D. Huff
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DELIVERED BY COURIER
AND SENT BY FACSIMILE

Mr. Paul Hogan
Internal Revenue Service TE/GE
915 Second Avenue
Mail Stop 510
Seattle, WA 98174

[FAX: 855-240-1585]

Dear Mr. Hogan:

Re: Employees' Retirement System of the
County of Milwaukee ("ERS")
EIN: 39-6005720 PN: 001

Thank you for taking the time to speak with me on Friday regarding the updated VCP filing you received on June 22, 2017 via fax and June 23, 2017 via overnight mail.

As noted in the cover letter, ERS postponed resubmitting the 2014 VCP submission until Baker Tilly finished its review of ERS's benefit payments. As I stated on the phone, Baker Tilly's Phase 1 report is scheduled to be released on Wednesday, June 28, 2017. Accordingly, ERS determined that it was best to prepare a submission with preliminary updates to the 2014 VCP. As we also discussed, the contents of the Baker Tilly report have not been disclosed to the Pension Board or to me, so we do not know the extent of any additional errors to be reported.

As you requested, we will provide you with a link to the Baker Tilly report once it has been released, and we will contact you within a week or two after the release of the report to discuss the report further.

We all agree that a complete submission is the ultimate goal. This means that the filing should be expanded to include updated information about the previously reported errors as well as newly identified errors and corrections.

Mr. Paul Hogan
June 26, 2017
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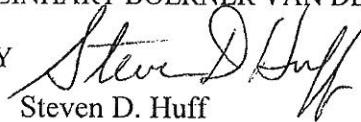
Thank you for allowing Milwaukee County and the Pension Board to file an updated submission to receive a new control number based on the new submission date without requiring payment of the VCP filing fee. It is much appreciated.

Please let us know if you have any questions before we speak again in a couple of weeks.

Yours very truly,

REINHART BOERNER VAN DEUREN s.c.

BY


Steven D. Huff

36534343

cc: Amy Pechacek, Interim Director - Retirement Plan Services
Norb Gedemer, Pension Board Chairperson
Laurie Braun, Pension Board Vice Chairperson
Michael Harper, Pension Board Audit Committee Chairperson
Margaret Daun, Corporation Counsel
James Carroll, Assistant Corporation Counsel



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Mr. Paul Hogan
Internal Revenue Service TE/GE
915 Second Avenue
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Seattle, WA 98174

[FAX: 855-240-1585]

Dear Mr. Hogan:

Re: Employees' Retirement System of the
County of Milwaukee ("ERS")
EIN: 39-6005720 PN: 001

As we discussed in March, with the IRS's approval, ERS postponed expanding the 2014 VCP submission until Baker Tilly has finished its review of ERS's benefit payments. We also understand that the IRS will be assigning a new case number to this VCP, but there will not be a separate VCP charge to the Sponsor.

ERS proposes to submit the attached redlined VCP submission with some preliminary updates in order to allow the IRS to assign a new case number to this VCP. We understand that the Baker Tilly initial review will be released and published next Wednesday.

Please let us know if this is not acceptable to you. Thank you.

Yours very truly,

REINHART BOERNER VAN DEUREN s.c.

BY 
Steven D. Huff

36404155
Encs.

Mr. Paul Hogan

June 22, 2017

Page 2

cc: Amy Pechacek, Interim Director - Retirement Plan Services
Norb Gedemer, Pension Board Chairperson
Laurie Braun, Pension Board Vice Chairperson
Michael Harper, Pension Board Audit Committee Chairperson
Margaret Daun, Corporation Counsel
James Carroll, Assistant Corporation Counsel

Form **8951**(Rev. September 2016)
Department of the Treasury
Internal Revenue Service**User Fee for Application for Voluntary
Correction Program (VCP)**Under the Employee Plans Compliance Resolution System (EPCRS)
► Information about Form 8951 and its instructions is at www.irs.gov/form8951.
► Attach to Form 8950.

OMB No. 1545-1673

For IRS Use Only

Amount paid
\$ _____

1 Name of plan sponsor (employer if single-employer plan)

COUNTY OF MILWAUKEE

2 Plan sponsor's employer identification number

39-6005720

3 Plan number

001

4 Plan name

EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF
MILWAUKEE

5 Number of plan participants. See instructions to determine this number.

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6 If you are submitting a check for an **additional** VCP user fee that has been requested by an IRS employee in Voluntary Compliance, check this box ☐ and provide the check amount \$ _____ and the VCP case number _____.

7 For qualified retirement plans under sections 401(a) and 403(b) that do not qualify for a reduced or alternative user fee, as described below on line 8. Enter the general user fee amount \$ _____ based on the number of plan participants.

Do not complete line 7 if you qualify for a reduced or alternative fee as described below on line 8.

8 Reduced and alternative user fees for VCP submissions

Check box, if applicable and
enter enclosed fee.

(a) Plan is a section 401(a) or 403(b) plan that qualifies for a reduced fee associated with specific failures and under certain conditions. See instructions.

☐

Enter fee amount \$

(b) VCP submission relates to a request for a minor modification of a previously issued compliance statement. See instructions.

☐

Enter fee amount \$

(c) Plan is a SEP, SARSEP, or SIMPLE IRA. See instructions.

☐

Enter fee amount \$

(d) Group submission from an eligible organization. See instructions.

☐

Enter fee amount \$

(e) Terminating orphan plan. A terminating orphan plan may be granted a waiver of the fee upon request. See instructions.

☐

No fee is due at this time.

(f) Plan is a section 457(b) plan. See instructions.

☐No payment is due at the
time of filing.

For Paperwork Reduction Act Notice, see instructions.

Cat. No. 37771W

Form **8951** (Rev. 9-2016)

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 8951 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/form8951.

What's New

The IRS has classified fees associated with the Voluntary Correction Program (VCP) as user fees subject to section 7528. For 2016, user fees for VCP submissions are set forth in Rev. Proc. 2016-8, section 6.08. User fees for VCP submissions are currently published as part of the annual revenue procedure for the user fee program of the IRS as it pertains to requests for letter rulings, determination letters, etc., on matters under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division.

Beginning in 2017 and each year thereafter, the user fees for VCP submissions will be published as part of an annual Employee Plans revenue procedure. Taxpayers should refer to the revenue procedure in effect at the time they file their submission with the IRS to determine the VCP user fee.

The IRS no longer lists specific user fee amounts on this form. Applicants will enter the applicable fee amount when completing the form. For the current user fees, go to the applicable annual revenue procedure or IRS.gov at www.irs.gov/retirement-plans/voluntary-correction-program-fees.

General Instructions

Purpose of Form

Generally, a user fee is required with each VCP submission. Use Form 8951 to submit the applicable fee for the VCP submission.

Where To File

Include Form 8951 and the applicable fee with your VCP submission.

Send the documents to:

Internal Revenue Service
P.O. Box 12192
Covington, KY 41012-0192

VCP submissions shipped by express mail or a delivery service should be sent to:

Internal Revenue Service
201 West Rivercenter Blvd.
Attn: Extracting Stop 312
Covington, KY 41011

Payment of User Fee

Generally, you must include a user fee payment with any VCP submission mailed to the IRS. If your submission is for a terminating orphan plan or a section 457(b) plan, no fee or payment is due at the time of filing. See the instructions for line 8(e) and line 8(f) for additional information.

Attach a check to Form 8951 payable to the "United States Treasury" for the full amount of the fee. If you do not include the full amount of the fee, your submission may be returned or closed with no action. In addition, include a photocopy of the check with your VCP submission.

If you have multiple plans (for example, a profit-sharing and a money purchase plan), submit a separate VCP submission (including a separate Form 8951) for each plan. Submit a separate check, including a photocopy of the check, for each VCP submission.

Your check may be converted to an electronic fund transfer. An electronic fund transfer is the process by which the IRS electronically instructs your financial institution to transfer funds from your account to the Treasury's account, rather than processing your check. By sending your completed, signed check to the IRS, you authorize the IRS to copy your check and to use the account information from your check to make an electronic fund transfer from your account for the same amount as the check. If the electronic fund transfer cannot be processed for technical reasons, you authorize the IRS to process the copy of your check. The electronic fund transfer from your account will usually occur within 24 hours, which is faster than a check is normally processed, so it is important that you have sufficient funds available in your checking account when you send the IRS your check. Your financial institution will not return your cancelled check to you.

Information about correcting plan errors and examples of how to determine the user fee is available at www.irs.gov/retirement-plans/correcting-plan-errors.

Specific Instructions

Lines 1-5

Lines 1 through 5 should correspond to the information you entered for line 1a, 1l, 4b, 4a, and 4e, respectively, on the related Form 8950, Application for Voluntary Correction Program (VCP) under the Employee Plans Compliance Resolution System (EPCRS).

Submission of Additional Fees

Line 6

The IRS's office of Employee Plans Voluntary Compliance may contact you regarding additional fees that may be due for a previously submitted VCP case. If you are instructed to submit an additional fee, file Form 8951 along with a check for the additional user fee, a copy of the check and an appropriate cover letter. Complete lines 1-5. It is important to complete line 6 by checking the box and entering the amount of the additional fee you are submitting plus the nine-digit VCP case number that has been assigned to your VCP submission. No other items on the Form 8951 need to be completed. Once a VCP submission has been mailed to the IRS, an applicant should not mail any

checks to the IRS for any fee matters unless the applicant has received specific instructions from the IRS.

User Fee for VCP Submissions

Line 7

For qualified retirement plans established under section 401(a) or 403(b), enter the amount of the applicable general user fee you are including with your VCP submission. The general user fee amounts for these types of retirement plans are based upon the number of plan participants. Follow the *Determining the Proper User Fee* section in these instructions, later. Do not complete this item if you qualify for a reduced or alternative VCP fee listed on line 8. For the current user fees, go to the applicable annual revenue procedure on IRS.gov at www.irs.gov/retirement-plans/voluntary-correction-program-fees.

Lines 8(a)-(f)

Check the appropriate box and if applicable, enter the user fee for VCP submissions involving reduced or alternative fees for certain section 401(a) and section 403(b) plans, SEP, SARSEP, or SIMPLE IRA retirement plans; group submissions; terminating orphan plans; 457(b) plans and minor modifications of a previously issued compliance statement. For the current user fees, go to the applicable annual revenue procedure on IRS.gov at www.irs.gov/retirement-plans/voluntary-correction-program-fees.

- Line 8(a). For section 401(a) and section 403(b) plans, a reduced user fee may be available under limited circumstances.
- Line 8(b). The VCP submission is limited to a request for a minor modification of a previously issued compliance statement and the request is mailed to the IRS before the end of the correction period provided for in the compliance statement.
- Line 8(c). There is a special user fee for a SEP, SARSEP, or a SIMPLE IRA VCP submission.
- Line 8(d). If the VCP submission is a group submission from an eligible organization for section 401(a) and section 403(b) plans, the user fee is based on the number of plans affected by the failure described in the VCP submission. An initial user fee payment must be included with the submission and must be attached to Form 8951. An additional user fee may also apply. The IRS will request the additional fee, if applicable.
- Line 8(e). The IRS has discretionary authority to waive the user fee in the case of a terminating orphan plan. If requested by an eligible party. A VCP applicant who is an eligible party can request that the user fee be waived. Include a written explanation that explains why a waiver should be granted.

• Line 8(f). Do not include any payment at this time if the plan is a section 457(b) plan. If the IRS chooses to process the submission, it will collect a mutually acceptable sanction payment when the applicant signs a special closing agreement.

Determining the Proper User Fee

Step 1:

On line 5, enter the total number of plan participants at the end of the plan year recorded on line 6(f) of the retirement plan's most recently filed Form 5500 return. Filers of Form 5500-SF or EZ will use the equivalent line item specified on their forms. For applicants that are exempt from filing a Form 5500 series return, enter the number of plan participants determined as of the last day of the most recently ended plan year. However, if this information is not available at the time the VCP submission is being mailed to the IRS, it is acceptable to use the most recently ended prior plan year for which information on the number of plan participants is available. The exception does not apply if the VCP submission is mailed to the IRS more than seven months after the close of the most recently ended plan year preceding the date of the VCP submission. Plans that have terminated and filed a final Form 5500 series return should enter the number of participants on the return filed for the year prior to the year all assets were distributed. Your entry should correspond to the information on Form 8950, line 4e.

Step 2:

Single employer plans:

For those VCP submissions that pertain to a qualified retirement plan under section 401(a) or 403(b) that do not qualify for any reduced user fees, the general user fee is based on the number of plan participants.

Multiemployer or multiple employer plans:

If a submission relates to a multiemployer or multiple employer plan, the general user fee will normally be determined in accordance with the instructions in Step 1 and in the first paragraph of this Step 2. However, if all of the described failures in the submission apply to fewer than all of the employers under the plan, the plan administrator may choose to have the general user fee computed separately for each affected employer based on the participants attributable to that employer rather than the total participants of the entire plan. This may apply, for example, when the plan administrator believes each failure is attributable in whole or in part to data, information, actions, or inactions that are within the control of the employers rather than the multiemployer or multiple employer plan (such as attribution in whole or in part to the failure of an employer to provide the plan administrator with full and complete information).

If you are using this special methodology to determine the general user fee, attach a written explanation that details how the user fee was determined. When completing Form 8951, the plan administrator would complete line 5 in the normal manner by using the total participant count reported on the most recently filed Form 5500 series return for the entire plan.

Step 3:

If a VCP submission consists solely of multiple failures that qualify for reduced user fees, then the user fee amount will be the lesser of: the sum of the reduced user fee amounts or the general user fee amount. If the total of the applicable reduced user fee amounts is less than the general user fee amount for qualified retirement plans under sections 401(a) and 403(b), include a worksheet showing how you determined the user fee for your submission.

Note: Additional payments to the IRS may be due under certain situations that involve:

- (a) Egregious qualification failures;
- (b) SEP, SARSEP, or SIMPLE IRA plans that choose to allow excess amounts to remain within the affected IRAs;
- (c) Situations where the plan sponsor has requested that the IRS waive the additional 10% tax imposed by section 72(t) on certain plan distributions.

Go to the correcting plan errors web page on IRS.gov to find additional information. If applicable, the IRS will discuss the matter with the plan sponsor and solicit the additional payment during the review of the VCP submission.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you want to have your VCP submission approved by the IRS, you are required to give us the information. We need it to determine whether your correction proposals meet the legal requirements applicable to qualified retirement plans.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The estimated average time is:

Recordkeeping 3 hr., 21 min.

Learning about the law or the form 2 hr., 39 min.

Preparing the form 3 hr., 45 min.

Copying, assembling, and sending the form to the IRS 0 hr., 16 min.

If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we would be happy to hear from you. You can send your comments to:

Internal Revenue Service
Tax Forms and Publications Division
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send this form to this address. Instead, see *Where To File*.

**Application for Voluntary
Correction Program (VCP)**
Under the Employee Plans Compliance Resolution System (EPCRS)
Information about Form 8950 and its instructions is at www.irs.gov/form8950.

OMB No. 1545-1673
For IRS Use Only

Review the attached Procedural Requirements Checklist before mailing this VCP submission to the IRS.

1a Name of plan sponsor (employer if single-employer plan)

COUNTY OF MILWAUKEE

1b Address of plan sponsor (if a P.O. box, see instructions)

901 NORTH NINTH STREET, ROOM 210-C

1c City or town

MILWAUKEE

1d State

WI

1e ZIP code

53233

1f Foreign country name

1g Foreign province/county

1h Foreign postal code

1i Employer identification number

39-6005720

1j Telephone number

414-278-4242

1k Fax number

1l NAICS Business Code

2a Person to contact if more information is needed. (see instructions)

(If a Power of Attorney is attached, check box and do not complete lines 2a through 2g.) ☒

Name

2b Address

2c City or town

2d State

2e ZIP code

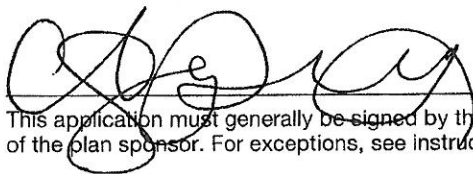
2f Telephone number

2g Fax number

If more space is needed for any line items, attach additional sheets of the same size as this form. Identify each additional sheet with the plan sponsor's name and EIN and identify the corresponding line item.

Under penalties of perjury, I declare that I have examined this VCP submission, including Form 8950 and all accompanying documents, and to the best of my knowledge and belief, they and the facts presented in support of this application and submission are true, correct, and complete.

SIGN HERE ▶



Date ▶

6/21/17

This application must generally be signed by the owner or an authorized employee of the plan sponsor. For exceptions, see instructions under *Who Must Sign*.

Type or print name

Amy Pechacek

Type or print title

Interim Director Retirement Plan Services



3 Type of VCP submission (see instructions)

Check one:

- ☒ VCP regular submission
- ☐ VCP anonymous submission
- ☐ VCP group submission
- ☐ Non-VCP 457(b) submission (as permitted by Rev. Proc. 2013-12, section 4.09)

4a Name of plan:

EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE

4b Enter 3-digit plan number
(see instructions)

001

4d Enter the dollar value of the
plan's assets (see instructions)

1.72 B

4c Enter month plan year ends
(MM) (see instructions)

12

4e Enter number of participants
(see instructions)

13029

5 Indicate type of plan by entering the corresponding number from the list below: 10 (Enter only one plan type)

01-Profit sharing (not 401(k))

11-SEP

02-401(k)

12-SARSEP

14-Stock bonus

13-SIMPLE IRA

03-Money purchase

16-Group submission defined contribution

06-Target benefit

17-Group submission defined benefit

04-Defined benefit (not cash balance or
other statutory hybrid)

99-Other (see instructions)

09-Cash balance or other statutory hybrid

05-ESOP

15-KSOP

07-403(b)

08-457(b)

10-Governmental 414(d) defined benefit

20-Governmental 414(d) defined contribution

Yes **No**

- 6** ☒ ☐ Are **all** qualification failures and correction methods in this VCP submission being resolved by the use of schedules specified on Forms 14568-A through 14568-I?

If "Yes," please indicate the specific schedules you are submitting.

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Form 14568-A, Sch 1 | <input type="checkbox"/> Form 14568-D, Sch 4 | <input type="checkbox"/> Form 14568-G, Sch 7 |
| <input type="checkbox"/> Form 14568-B, Sch 2 | <input type="checkbox"/> Form 14568-E, Sch 5 | <input type="checkbox"/> Form 14568-H, Sch 8 |
| <input type="checkbox"/> Form 14568-C, Sch 3 | <input type="checkbox"/> Form 14568-F, Sch 6 | <input type="checkbox"/> Form 14568-I, Sch 9 |

- 7a** ☒ ☐ If you are proposing to correct any section 401(a) qualification failure, does the correction include a retroactive plan amendment (see instructions)?

- 7b** ☐ ☒ If 7a is "Yes," have you concurrently submitted a Form 5300 series, Application for Determination for Employee Benefit Plan (see instructions)?

If 7b is "No," attach an explanation as to why such determination letter application was not submitted.

- 7c** If 7a is "Yes," indicate the plan's remedial amendment cycle as determined by Rev. Proc. 2007-44 (or successor) that was in effect as of the date of this VCP submission (see instructions):

CYCLE E

- 8** ☐ ☒ Has the plan or plan sponsor been party to an abusive tax avoidance transaction (see Rev. Proc. 2013-12, section 4.13(2))?

If "Yes," attach an explanation that provides details of the transaction (see instructions).

- 9** ☐ ☒ Does the VCP submission relate to the diversion or misuse of plan assets (see Rev. Proc. 2013-12, section 4.12)?

- 10** ☐ ☒ As of the date this VCP submission is mailed to the IRS, is the plan sponsor or the plan under examination, as defined in Rev. Proc. 2013-12, section 5.09? If "Yes," you are ineligible for VCP (see instructions).

- 11** ☐ ☒ As of the date this VCP submission is mailed to the IRS, is the plan being considered in an unrelated Form 5300 series determination letter application?

If "Yes," include an attachment indicating the date the application was filed with the IRS and the determination letter application case number.

- 12** ☐ ☒ Have you previously filed a Form 5300 series determination letter application for this plan with the IRS that was subsequently closed or withdrawn as a result of a failure to respond to a request for additional information?

If "Yes," attach an explanation (see instructions).



Procedural Requirements Checklist

You do not have to use this checklist, but it may help prevent delayed IRS processing caused by an incomplete submission.

- ☒ **1** Is Form 8951, Compliance Fee for Application for Voluntary Correction Program (VCP) Under the Employee Plans Compliance Resolution System (EPCRS), attached to Form 8950?
- ☒ **2** Is the appropriate compliance fee for your submission (and a photocopy of the compliance fee check) attached to Form 8951?
- ☒ **3** If appropriate, is Form 2848, Power of Attorney and Declaration of Representative, and/or Form 8821, Tax Information Authorization, attached? For more information, see *Disclosure Request by Taxpayer* in the instructions and Rev. Proc. 2015-4 (or its successor).
- ☒ **4** Is the employer identification number (EIN) of the plan sponsor/employer (NOT the trust's EIN, or an individual's SSN) entered on line 1i? See *Line 1i* in the instructions.
- ☒ **5** Is the application signed and dated? It generally must be signed by an authorized employee or the owner of the plan sponsor. See *Who Must Sign* in the instructions for situations where the signer may be a different person.
- ☒ **6** If you are submitting Form 14568, Model VCP Compliance Statement, or any model document schedules using Forms 14568-A through 14568-I, have you used the latest official versions of these forms that are located at www.irs.gov/Retirement-Plans/Correcting-Plan-Errors? The forms may not be modified in any way. See Rev. Proc. 2013-12, sections 11.01 and 11.02 as modified by Rev. Proc. 2015-27.
- ☒ **7** If you answered "Yes" to line 7a, have you answered lines 7b and 7c and supplied the requested information?
- ☒ **8** If you answered "No" to line 7b, have you included a written explanation as requested by line 7b?
- ☐ **9** If you answered "Yes" to line 7b, have you included: a separate determination letter application that includes a Form 8717; a Form 5300, 5307, or 5310; a separate check for the user fee; and separate copies of plan documents, amendments, etc., required by the Form 5300 series application instructions? See Rev. Proc. 2013-12, sections 6.05 and 11.04.
- ☐ **10** If this is an anonymous VCP submission, have you included a signed statement from the plan sponsor's representative indicating the representative has the legal authorization to make this submission and is willing and able to submit Form 2848 to the IRS upon disclosure of the taxpayer's identity? See instructions and Rev. Proc. 2013-12, sections 10.10 and 11.08.
- ☐ **11** If this VCP submission involves an orphan plan, have you included appropriate documentation that establishes that this submission is being made by an eligible party? See instructions and Rev. Proc. 2013-12, sections 5.03 and 11.10.

NOTE: If you answered "Yes" to line 6, then items 12 through 19 on this checklist do not apply (as they have been incorporated into the Form 14568 series (that is, Form 14568 and Forms 14568-A through 14568-I). All applicable items on each of the forms need to be completed, and you must include the enclosure items listed on each applicable form with your VCP submission. The Form 14568 series may be used as a Model VCP Submission Compliance Statement. Forms 14568-A through 14568-I can be used to resolve certain qualification failures. If you combine the model document schedules with the Form 14568, you must specify in each section of Form 14568 the specific model schedules that are being submitted in that section.

Procedural Requirements Checklist (Continued)

- ☒ 12 Have you included an explanation of how and why the described qualification failures arose? Include a description of the applicable administrative procedures for the plan that were in effect at the time the described failures occurred.
- ☒ 13 Have you included a complete description for each qualification failure that is to be resolved by this VCP submission? The narrative description should include the years in which the failure occurred and the number of employees affected by each failure.
- ☒ 14 Have you included a detailed description of the method for correcting the failures that the plan sponsor has implemented or proposes to implement to correct each failure described in this VCP submission? Each step of the correction method must be described in narrative form and must include specific information needed to support the proposed correction method. See Rev. Proc. 2013-12, section 11.03.
- ☒ 15 Have you included a description of the administrative measures that have been or will be implemented to ensure that the qualification failures described in this VCP submission do not recur? See Rev. Proc. 2013-12, section 11.03.
- ☒ 16 For failures involving corrective contributions or distributions, have you included an explanation that provides a detailed, narrative description explaining the methodology you have used to determine lost earnings and how this is consistent with EPCRS correction principles? See Rev. Proc. 2013-12, sections 6.02 and 11.03.
- ☒ 17 For failures involving corrective contributions or distributions, have you included detailed and specific calculations for each affected employee or a representative sample of affected employees? The sample calculations must be sufficient to demonstrate each aspect of the proposed correction method. See Rev. Proc. 2013-12, section 11.03.
- ☐ 18 For failures involving participant loans that do not comply with section 72(p) requirements, have you included:
- An explanation that contains a detailed description of the failure;
 - An explanation that requests income tax reporting relief, and/or a request to report the distribution on Form 1099-R in the year of correction instead of the year of failure;
 - For cases in which income tax reporting relief has been requested, detailed calculations and narrative that describe the correction proposal and demonstrate compliance with the requirements set forth in Rev. Proc. 2013-12, sections 6.07 and 11.03?
- ☐ 19 For operational failures that have resulted in certain excise taxes, have you included an explanation requesting a waiver of the excise tax under section 4972, 4973, 4974, or 4979 or additional income tax under section 72(t), as applicable? Where required, have you included detailed explanations supporting the request? See Rev. Proc. 2013-12, section 6.09, for information as to when such waivers are available.
- ☒ 20 Have you included an explanation that describes the method(s) that will be used to locate and notify former employees or beneficiaries? If there are no former employees or beneficiaries affected by the failure described in this VCP submission or the proposed method of correction, have you provided an affirmative statement to that effect? See Rev. Proc. 2013-12, section 11.03.
- ☐ 21 If the failures described in this VCP submission include a failure related to transferred assets, as defined in Rev. Proc. 2013-12, section 5.01(7), have you included an attachment that describes the related employer transaction, including the date of the employer transaction and the date the assets were transferred to the plan?
- ☒ 22 If the failures described in this VCP submission include an operational failure, have you included a copy of the plan document (and adoption agreement, if applicable) or applicable provisions of the plan document, that were in effect during the period of failure? See Rev. Proc. 2013-12, section 11.04.



Procedural Requirements Checklist (Continued)

- ☐ **23** If the failures described in this VCP submission include a non-amender failure other than late interim amendments, have you included a copy of the plan document in effect **prior** to any of the amendments used to correct the failure(s)? See Rev. Proc. 2013-12, section 11.04.
- ☒ **24** If the failures are being corrected by plan amendments or the adoption of a written plan, have you:
- Included copies of the corrective amendments?
 - Submitted corrective documents that were executed by the plan sponsor (if correcting interim amendment failures or a failure to adopt a written 403(b) plan timely)?
 - Included an explanation that identifies the specific plan language that resolves each specified qualification failure described in the VCP submission (including the page and section of the plan document that includes the specific plan language), if a restated plan document is being submitted as evidence of correction?
- ☐ **25** If the plan in this VCP submission is a 403(b) plan, has a written attachment been included that contains the following items?
- A statement as to the type of employer (e.g., a tax-exempt organization described in section 501(c)(3)) that is making the VCP submission; and
 - A statement indicating that the plan sponsor has contacted all other entities involved with the plan and has been assured of cooperation to the extent necessary to implement the applicable correction.
- ☒ **26** If you wish to receive an acknowledgement letter that the IRS has received your Form 8950 and VCP submission, have you included an IRS Letter 5265, Form 8950 Application for Voluntary Correction Program Acknowledgement Letter with your submission? See Rev. Proc. 2013-12, section 11.11 as modified by Rev. Proc. 2015-27.
- ☒ **27** Have you assembled your submission as described in Rev. Proc. 2013-12, section 11.14? For those submissions with related determination letter applications, have you included separate copies of all necessary plan documents and amendments so that the VCP submission and the determination letter application each has its own copies? See Rev. Proc. 2013-12, section 11.04.
- ☐ **28** Is this VCP submission limited to a minor modification to a previously issued compliance statement, as permitted by Rev. Proc. 2013-12, section 10.07(10)?
- If "Yes," have you included the following items?
- An attachment describing the modification;
 - A copy of the original compliance statement;
 - A copy of the original VCP submission;
 - Any other correspondence relating to the issuance of the original compliance statement, if applicable; and
 - An attachment indicating that the modification request is being mailed to the IRS before the end of the correction period specified in the original compliance statement.



**THE COUNTY OF MILWAUKEE
EIN/PN: 39-6005720 / 001
EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE**

- Attachment to Form 8950

Line 7b - Determination Letter Application

The Plan Sponsor is not submitting a determination letter application because the Plan is a Cycle E plan and effective January 1, 2017, the staggered 5-year remedial amendment cycles for individually designed plans is eliminated.

THE COUNTY OF MILWAUKEE
EIN/PN: 39-6005720 / 001
EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE

ATTACHMENT TO FORM 14568 - SECTION II
Applicant's Description of Failures

1. Description of Failures. The Pension Board of the Employees' Retirement System of the County of Milwaukee has authority over ERS. The ERS Retirement Office is responsible for day-to-day administration of ERS. In addition to the violations reported in our past VCP filing, a comprehensive review of ERS has revealed several additional operational errors, which are described in detail below.

a. Compliance with Domestic Relations Support Orders. Ordinance section 201.24(11.7) provides for the non-alienation of retirement benefits. ERS Rule 1017 provides a limited exception to this prohibition for a Domestic Relations Order ("DRO"). The Rule requires that in order to be treated as a DRO, the support order must contain certain elements. Periodically ERS receives Income Withholding Support Orders sent by County support enforcement agencies requesting that the Retirement Office withhold support amounts from members' benefit checks for a child or former spouse. These support orders do not contain all of the information required under Rule 1017 to qualify as a DRO. However, the Retirement Office has generally complied with these orders and a basis exists to conclude that state law requires ERS to comply with these orders.

b. Lump Sum BackDROP Payments Failed to Include Interest. ERS Rule 711 allows members remaining in County employment past their earliest retirement date to elect to receive a back DROP benefit upon actual retirement from County employment. This benefit consists of a lump sum DROP benefit comprised of the member's monthly annuity payments that would have been payable to the member had the member retired on his or her back DROP date through the member's actual retirement date. The member will prospectively receive a monthly annuity in the amount that the member would have received had the member retired on his or her back DROP date. ERS Rule 713 provides that the interest rate applicable to calculating the back DROP lump sum benefit shall be the rate used by the ERS actuary as the assumed rate of return for funding purposes in the year of the member's actual retirement. The Retirement Office discovered an error in the ERS computer system's calculation of interest on the back DROP payments. When calculating a back DROP benefit, the computer system did not include interest on the member's final month of service to the County. For example, if the retiring member's last day on the payroll is the 20th of the month, 20 days of interest for that final month should have been included in the back DROP amount. This final partial month of service was not included in the final interest calculation.

c. Cost of Living Adjustments ("COLA"). Ordinance section 201.24(5.7) provides that each year after retirement a member's monthly pension benefit shall be increased by two percent of the amount paid to the member for the first full month of retirement. Beneficiaries receiving annuities after the death of the member are also entitled to these increases. The Retirement Office discovered two categories of errors relating to the COLA adjustments.

i. Failure to Apply COLAs to Benefits. ERS failed to apply COLAs to some members' benefits, resulting in underpayments to these individuals. This error occurred primarily as a result of the change to ERS's new computer system.

ii. Paid Excess COLAs. ERS also discovered members for whom excess COLAs had been paid, resulting in overpayments to these individuals.

d. Administration of 10-Year Certain Benefit. ERS Rule 1013 provides that members may choose a 10-year certain annuity which provides a reduced monthly benefit payable to the member for his or her lifetime. If the member dies before receiving 120 monthly payments, then the monthly payments shall be payable to the member's beneficiary until the full 120 payments have been made. The Retirement Office discovered the following errors in the administration of this benefit.

i. Exceeding Cut-Off Dates/Calculation Errors. Overpayments to beneficiaries resulted from calculation errors and the failure to cut-off monthly benefit payments after the required 120 payments were made.

ii. Premature Cut-Offs. Underpayments to beneficiaries occurred as a result of premature cut-off dates. The Retirement Office failed to continue to make payments to the designated beneficiary if the member died prior to receiving 120 payments.

e. Incorrect Retirement Option. The Retirement Office discovered one member whose survivor benefits were calculated under the wrong retirement option. The member elected a 100% joint and survivor annuity, but the survivor benefit was calculated based on a 50% joint and survivor annuity. This resulted in an underpayment of approximately \$346,189.94117,556.

f. Allowing Optional Employees to Remain in OBRA After Electing into ERS. The County administers two retirement systems for its employees: ERS and the OBRA 1990 Retirement System of the County of Milwaukee ("OBRA"). ERS is the primary retirement system for County employees. In general, most employees automatically become members of ERS but certain members can elect into ERS or OBRA. Rule 202 governs these elections and provides that the option to elect into ERS from OBRA may be exercised at any time but may not be thereafter revoked except by withdrawal from service and the retirement system. Up until 2014, seasonal employees were provided the option to elect into ERS. However, given the nature of their employment schedules with the County, they often leave and return each season. While ERS treats seasonal employees as terminated at the end of each season and returning employees are reenrolled in ERS or OBRA each season, the majority do not withdraw from the retirement system each year. Therefore, violations occurred when a seasonal employee elected into ERS in a previous year and chose to remain in OBRA in a subsequent year without first withdrawing from ERS.

g. BackDROP Election by Beneficiary. Members' beneficiaries selected a back DROP form of benefit on the members' behalf after the members died. Pursuant to Rule 711, only members who are in active service may elect a back DROP. Beneficiaries are ineligible to elect a back DROP for a member.

h. Designation of Multiple Beneficiaries for Annuity. The Retirement Office discovered an error with the payment of an active member's death benefit. The member's death benefit is being paid to multiple beneficiaries, which is not allowed under the Ordinances and Rules unless the member has approval from the Pension Board under an Option 7 form of benefit. The beneficiaries also received a back DROP and are included as part of the error explained in Section (g) above.

i. Use of Incorrect Service Credit to Calculate Pension Benefit. The Retirement Office discovered that an overpayment had been made to a member's spouse because the benefit was calculated using full-time instead of part-time service credit.

i-. It was also subsequently discovered that the member's child was also incorrectly paid. Under the Ordinances and Rules, a child of a deceased member who was in active service is eligible for a pension benefit until the child reaches age 18 or 22 if the child is unmarried and a full-time student. This amount is to be offset by any Social Security benefits payable to the child. The Retirement Office failed to pay the child of this member a survivor pension in accordance with the Ordinances and Rules.

j. Benefit Paid to Wrong Member. The Retirement Office recently discovered that the surviving spouse of an ERS member was incorrectly receiving her spouse's benefits plus the pension benefit of another member. Neither the spouse nor the individual who should have been receiving the benefit notified ERS so the error was not discovered until the surviving spouse died.

k. Definition of Employee. Prior to the adoption of a resolution amending Ordinance section 201.24(2.4), which includes the definition of "Employee" under the Plan, the definition of Employee for purposes of the Plan included only individuals employed by the County or individuals employed by the State who received a portion of his or her wages from the County. State employees who received their entire wages from the State participated in ERS after their positions were transferred from County to State oversight. Accordingly, these individuals were not encompassed within the definition of Employee in Ordinance section 201.24(2.4).

l. IRS and Wisconsin Department of Revenue Levies. ERS periodically receives notices of levy/attachment for delinquent income taxes from the IRS and the Wisconsin Department of Revenue ("DOR") requesting that ERS send all or a portion of a member's pension benefit to the IRS or DOR for payment of unpaid taxes. ERS generally complies with these levies. However, Ordinance section 201.24(11.7) ("Section 11.7") provides for the non-alienation of ERS retirement benefits, which prohibits the payment of pension benefits to satisfy a debt, claim, damage or judgment. Accordingly, ERS's compliance with the levies violates the alienation of benefits prohibition in Section 11.7.

m. Benefit Processing Issues. An internal audit identified potential errors whereby members' benefits were potentially incorrectly processed under the wrong forms of benefit, which could result in overpayments or underpayments to the members and the members' beneficiaries. The Retirement Office is completing an in-depth review to confirm whether errors occurred related to these benefit payments.

n. Payment of Deferred Vested Benefits to Non-Vested Members. Ordinance section 201.24(4.5) provides that members are eligible for deferred vested benefits, if among other requirements, they have sufficient service credit to vest in their benefits. Members become eligible for deferred vested benefits if there is a gap between the member's termination of service and retirement (*i.e.*, the member does not retire directly from active service). The required years of service necessary to vest in a benefit depends on the member's enrollment date. For enrollment dates between January 1, 1971 and January 1, 1982, a member must have 6 years of service credit. For enrollment dates on or after January 1, 1982, where the member did not earn service credit after January 1, 2001, the member must have 10 years of service. For members who have service on or after January 1, 2001, the member must have 5 years of service to vest in his or her deferred vested benefit from ERS. Despite the vesting requirements in Ordinance section 201.24(4.5), members with less than the required service credit necessary to vest have been paid benefits in violation of this Ordinance section.

o. Pension Protection Act of 2006 ("PPA") and Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART") Amendments. The legislative body with authority to amend ERS did not adopt the required amendments under PPA and HEART within the required time period. ERS has operationally complied with the requirements.

2. Years in which the Failures Occurred. ERS believes that:

- a. This failure occurred in 2000 through 2013.
- b. This failure occurred in 2009, 2010, 2011 and 2012.
- c. This failure occurred in approximately 1985, 1993, 1996, 2001, 2004, 2008-2013.
- d. (1) This failure occurred in 2006, 2007 and 2008.
(2) This failure occurred in approximately 2002, 2009 and 2010.
- e. This failure occurred ~~from 2003-2017 over a number of years. The Retirement Office is confirming the exact dates, and this filing will be updated once those dates are received.~~
- f. This failure occurred over a number of years. The Retirement Office is confirming the exact dates, and this filing will be updated once those dates are received.
- g. This failure occurred in 2002, 2003 and 2004.
- h. This failure occurred in 2003 through 2014.
- i. This failure occurred over a number of years. The Retirement Office is confirming the exact dates, and this filing will be updated once those dates are received.
- j. This failure occurred in approximately 2008 through 20110.
- k. This failure occurred in 2009-2011.
- l. This failure occurred in 2000 through 2013.
- m. If a failure occurred, it occurred over a number of years. The Retirement Office is confirming the exact dates, and this filing will be updated once those dates are received.

n. This failure occurred from approximately 2011 through 2013, but the Retirement Office is confirming if any additional errors occurred earlier than 2011.

o. This failure occurred in 2011.

3. Number of Participants Affected. ERS believes that:

a. This failure affected 80 participants.

b. This failure affected 598 participants.

c. This failure affected approximately 350 participants ~~62 participants, but the Retirement Office is confirming this number.~~

d. (1) This failure affected 7 beneficiaries, but the Retirement Office is confirming this number.

(2) This failure affected 4 beneficiaries, but the Retirement Office is confirming this number.

e. This failure affected 1 member's beneficiary.

f. This failure affected all optional employees who previously elected into ERS and were subsequently allowed to remain in OBRA. The Retirement Office is confirming an estimate of the number of affected participants.

g. This failure affected 5 beneficiaries.

h. This failure affected 4 beneficiaries.

i. This failure affected 21 beneficiaries ~~participant~~.

j. This failure affected 1 participant and 1 beneficiary.

k. This failure affected 40 participants.

l. This failure affected at least 11 participants, but the Retirement Office is confirming if any additional members were affected.

m. If this failure occurred, it affected at least 1 participant, but the Retirement Office is confirming the number of members affected.

n. This failure affected approximately 11 participants.

o. This failure did not affect individual participants.

THE COUNTY OF MILWAUKEE
EIN/PN: 39-6005720 / 001
EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE

ATTACHMENT TO FORM 14568 - SECTION III
Applicant's Description of Proposed Method of Correction

1. Relief Requested. On behalf of the Plan Sponsor and ERS, we respectfully request a favorable compliance letter for ERS in accordance with Revenue Procedure 2013-17. We respectfully request a conference with you or Review Staff in the event you contemplate issuing a determination that is unfavorable.

2. Methods of Correction.

a. Compliance with Domestic Relations Orders. ERS proposes to correct this failure by retroactively amending the Plan document to authorize acceptance of these support orders.

b. Back DROP Interest Errors. ERS proposes to determine the difference between the amount of interest the member should have received with his or her back DROP and the amount of interest the member actually received with his or her back DROP. ERS further proposes to calculate interest on that difference and pay the difference, plus 5% interest, to the member. ERS has already begun making these corrective payments.

c. Cost of Living Adjustments. ERS proposes to determine the correct COLA attributable to the member's benefit. If the member did not receive COLAs when required, ERS will recalculate the member's benefit and begin paying the member the appropriate amount. ERS will also pay to the member a lump sum payment for the COLA amounts not paid, plus 5% interest.

If a member received a COLA when it should not have been received, ERS proposes to recalculate the member's benefit to reflect the appropriate amount and request repayment of the overpaid amount. If the affected member does not refund the overpayment, then the Retirement Office will obtain the refund by reducing the member's monthly annuity benefit as illustrated in Rev. Proc. 2013-12 Appendix B § 2.04(1)(a)(ii). To recover the overpayment, the Retirement Office will reduce the recalculated benefit to recoup the overpayment (over a period not longer than the remaining payment period), plus 5% interest. The Plan Sponsor will contribute to ERS any overpayment that is not repaid by the member.

d. Administration of the 10-Year Certain Benefit.

i. Exceeding Cut-Off Dates/Calculation Errors. ERS proposes to correct this failure by discontinuing the benefit payments and attempting to recover the overpayments, plus 5% from the members. Any amounts not returned to ERS will be contributed by the Plan Sponsor to ERS.

ii. Pre-Mature Cut-Offs. ERS proposes to determine the amount of the underpayment, calculate 5% interest on the underpaid amount, and pay the total amount to the individual. The Retirement Office has already begun making corrective payments.

e. Incorrect Retirement Option. ERS proposes to recalculate the beneficiary's benefit under the correct retirement option, determine the amount of the underpayment and pay the underpayment, plus 85% interest to the individual. The Retirement Office has already made the corrective payment.

f. Optional Employee Elections. ERS proposes to correct this failure by amending the Plan document to authorize optional members to have the option to elect into ERS each season after termination of employment from the prior season. Prospectively, the Plan document has already been amended to specify that seasonal employees are no longer allowed to elect into ERS.

g. Back DROP Election by Beneficiary. ERS proposes to seek a refund of the back DROP lump sum benefit paid to each ineligible beneficiary, including interest, according to the following procedure. The Retirement Office would recalculate the pension benefit that each beneficiary would have been entitled to receive had he or she not elected the back DROP benefit. The beneficiary's monthly benefit will be increased accordingly. The Retirement Office would offset the amount of the refund by the amount of the additional pension benefit to which each beneficiary would have been entitled had he or she not elected the back DROP. If, after the appropriate amount is offset against the refund, the Retirement Office determines that the beneficiary received an underpayment, such amount shall be paid in a lump sum to the individual, plus 5% interest.

If a beneficiary received an overpayment as determined by the process described above, ERS will seek a refund of such amount. If the affected beneficiary does not refund the back DROP amount, then the Retirement Office will obtain the refund by reducing the beneficiary's monthly annuity benefit, as illustrated in Rev. Proc. 2013-12 Appendix B § 2.04(1)(a)(ii). To recover the overpayment, the Retirement Office will reduce the recalculated benefit to recoup the overpayment (over a period not longer than the remaining payment period), plus 5% interest. Any amounts not returned to ERS will be contributed by the Plan Sponsor to ERS.

h. Death Benefit. ERS proposes to discontinue the benefit payments to the four beneficiaries and request repayment of the overpayment. To calculate the overpayment, the Retirement Office will combine the lump sum back DROP amount and the total monthly payments paid to each beneficiary. This amount will be charged 5% interest. This figure will be decreased by any death benefit that was payable under the Ordinances and Rules. Any amounts not returned to ERS will be contributed by the Plan Sponsor to ERS.

i. Full-time Instead of Part-Time Credit Used to Calculate Benefit. ERS proposes to recalculate the spousebeneficiary's monthly benefit, determine the amount of the overpayment and request the repayment of the amount of the overpayment, plus interest at 5%, from the spousebeneficiary. The Retirement Office has already commenced corrective actions and has entered into an agreement with the spousebeneficiary to completely offset the

spouse beneficiary's benefit until the overpayment, plus interest, is recovered. Once the overpayment, plus interest, is recovered, the Retirement Office will resume the spouse beneficiary's monthly payments at the recalculated amount. Any amounts not returned to ERS will be contributed by the Plan Sponsor to ERS.

i. To correct the error related to the failure to pay the member's child the correct benefit amount, ERS proposes to calculate the amount that should have been paid to the child and pay that amount to the child, plus interest at 8% from the date the benefit should have been paid.

j. Benefit Paid to Wrong Individual. The Retirement Office has determined the amount of the overpayment paid to the surviving spouse and the underpayment that should have been paid to the member. The Retirement Office has commenced the member's monthly benefit payments and made a lump sum payment to the member consisting of the missed benefit payments, plus 5% interest. The Retirement Office has contacted the surviving spouse's beneficiary to recover the amount of the overpayment and will continue its efforts to recover the amount of the overpayment, plus 5% interest. If the Retirement Office is unable to recover the full amount of the overpayment plus interest, the Plan Sponsor will contribute the remaining amount to ERS.

k. Definition of Employee. Because ERS is a governmental pension plan, amendments to the Ordinances are made by a legislative body, the County Board of Supervisors. ERS has no authority to adopt amendments to the Ordinances. The amendment included in Exhibit 14-2, adopted by the County Board in December 2011, corrects the operational failures created by retroactively revising the definition of "employee" in Ordinance section 201.24(2.4) to permit state employees who receive all of their compensation from the state to be members of ERS. ERS requests retroactive effect of this amendment to correct the errors created by members participating in ERS who did not fit the definition of "employee" at the time of their participation.

l. IRS and Wisconsin Department of Revenue Levies. As noted above, because ERS is a governmental pension plan, amendments to the Ordinances are made by a legislative body, the County Board of Supervisors. ERS has no authority to adopt amendments to the Ordinances. ERS proposes to correct the error by adopting a retroactive amendment or a Rule allowing for compliance with federal and state tax levies and corrects the operational failures created by retroactively permitting ERS to comply with tax levies from the IRS and Wisconsin Department of Revenue.

m. Benefit Processing Issues. If it is determined that an error has occurred with regard to a member's benefit, ERS proposes to recalculate the member's monthly benefit and determine whether an overpayment or underpayment has occurred.

If an overpayment has occurred, ERS will request repayment of the overpayment from the affected member, plus 5%. If the member does not repay the overpayment, ERS will offset the member's future benefits, if any, in accordance with Rev. Proc. 2013-12 Appendix B § 2.04(1)(a)(ii). To recover the overpayment, the Retirement Office will reduce the recalculated benefit to recoup the overpayment (over a period not longer than the remaining payment period),

plus 5% interest. Any amounts not returned to ERS will be contributed by the Plan Sponsor to ERS.

If it is determined that an underpayment occurred, the Retirement Office will pay the member the amount of the underpayment, plus 5% interest, in a lump sum.

n. Payment of Deferred Vested Benefits to Non-Vested Members. ERS proposes to correct these operational errors by ceasing the members' monthly benefits, determining the amount of the overpayments and requesting the return of the overpayments from the members, plus 5% interest. If the members fail to return the full amount of overpayments, plus 5% interest, the County, as Plan Sponsor, will contribute the remaining amounts to ERS.

—PPA and HEART Amendments. ERS has submitted the proposed amendments attached as Exhibit 14-3 to the legislative body adopted the attached amendments (Exhibit 17-2) to comply with the required changes on May 22, 2014. for adoption with retroactive effective dates. Please note that the attached amendments also include amendments related to EGTRRA. The EGTRRA failure was submitted to the IRS on August 21, 2007 as part of the June 29, 2007 VCP filing.

o.

3. Expected Cost of Correction of Operational Errors. The Retirement Office is preparing an estimate of the cost of correcting all of the new operational errors outlined above. The estimate will be provided once finalized.

4. Calculations or Assumptions Used to Determine Amounts For Correction for Operational Errors. The Retirement Office will use ERS's normal plan assumptions to recalculate pension amounts for any individual who received an overpayment or underpayment as outlined above.

5. Methodology to Calculate Interest for Correction of Operational Errors. Any interest on amounts owed to ERS by the members described above as well as amounts that ERS owes to such members is currently calculated using a five percent interest rate. ERS determined that the five percent interest rate is reasonable under these particular circumstances for this specific purpose. See Ordinance section 201.24(3.5) (granting the Pension Board authority to set the interest rate for refunds of membership and savings accounts under ERS).

6. Sample Calculations of Operational Error Correction Method. The Retirement Office is preparing sample calculations. The sample calculations will be provided once finalized.

**THE COUNTY OF MILWAUKEE
EIN/PN: 39-6005720 / 001
EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE**

ATTACHMENT TO FORM 14568 - SECTION IV

Applicant's Proposed Procedures to Locate and Notify Former Employees or Beneficiaries

To the extent ERS is required, it will communicate with any affected former employee concerning the VCP correction by mailing a notice to the last known address of the former employee. To the extent ERS is unable to locate any former employee, it agrees to utilize, as applicable, commercial locator services, credit reporting locator services or Internet search tools to locate the former employees.

THE COUNTY OF MILWAUKEE
EIN/PN: 39-6005720 / 001
EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE

ATTACHMENT TO FORM 14568 - SECTION V
Applicant's Proposed Revision to Administrative Procedures

Explanation of How and Why Failures Occurred. The Pension Board has delegated authority to the Retirement Office to conduct the day-to-day administration of ERS. The Retirement Office is charged with administering a very large defined benefit retirement plan, and in light of the demands imposed on the Retirement Office in administering this plan, the Retirement Office could have been more fully staffed. Additionally, the Retirement Office has also experienced turnover within the Office and in the outside advisors retained to assist the Retirement Office with actuarial and other services. Furthermore, ERS recently changed computer systems and the newly installed system had errors in its initial programming. Those errors have been identified and have been fixed.

To the best information available at this time, ERS believes that the operational failures occurred because the Retirement Office did not have procedures in place (a) to identify and comply with the applicable rules of certain Ordinances and Rules; or (b) conduct necessary annual testing and to ensure that all provisions of ERS are properly administered.

Measures to be Implemented to Ensure Same Failures Do Not Continue to Occur. The Retirement Office's new computer system and attendant control measures ensure that compliance with all ERS governing plan documents is monitored on a regular basis. Additionally, the Retirement Office has a new manager who routinely utilizes Corporation Counsel and outside counsel to answer questions regarding proper administrative procedures.

8907192

1
2 **FROM THE OFFICE OF JOSPEH J. CZARNEZKI**

3 **MILWAUKEE COUNTY CLERK**

4 **County Ordinance No. 14-11**

5 **File No. 14-244**

6 **AN ORDINANCE**

7
8 To amend Chapter 201.24 of the Milwaukee County Code of General Ordinances as appropriate
9 to comply with federal legislative and regulatory changes related to tax-qualified retirement
10 plans that impact the Employees' Retirement System of the County of Milwaukee.

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

12 **Section 1.** Effective January 1, 2002, section 201.24(2.7) is amended to read as follows:

13 Earnable compensation shall mean total compensation that would be payable to a
14 member if he/she worked the full normal working time for his/her position, plus all
15 payments for authorized overtime but excluding payments in lieu of vacations, provided
16 that where service is credited during periods of absences as provided in section 2.9
17 hereof, the employee shall be considered to have earnable compensation during such
18 periods of absence equivalent to his/her earnable compensation as of the last month of
19 employment prior to the beginning of such absences. In cases where compensation
20 includes maintenance, the board shall fix the value of that ~~part~~ portion of the
21 compensation not payable in money. Where the county pays less than the full rate of
22 compensation for a position and the balance is payable by some other government,
23 company or individual, the amount paid by the county shall be considered the earnable
24 compensation for such period of service. The annual earnable compensation of each
25 member taken into account for determining all benefits provided under the system for
26 any year shall not exceed the annual compensation limit pursuant to Internal Revenue
27 Code section 401(a)(17); provided, however, that this limitation shall apply only with
28 respect to members who first commence participation in the system after 1995. The
29 annual compensation limit shall be adjusted annually for increases in the cost of living by
30 the Secretary of the Treasury or his/her delegate, except that the dollar increase in effect
31 on January 1 of any calendar year is effective for years beginning in such calendar year.
32 The "annual compensation limit" is two ~~one~~-hundred ~~fifty~~-thousand dollars
33 (\$~~201~~50,000.00), as indexed.

34

35 **Section 2.** Effective January 1, 2007, or as noted below, the following shall be added to the end
36 of section 201.24(2.10):

37 To the extent required by the Heroes Earnings Assistance and Relief Tax Act of
38 2008 (HEART Act) and as applicable for the system, the following provisions
39 apply:

40

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

47 (b) Effective for payments made on or after January 1, 2009, compensation
48 for purposes of section 2.4 includes any differential wage payments (as
49 defined in Internal Revenue Code section 3401(h)(2)) to an individual
50 who does not currently perform services for the county by reason of
51 qualified military service while on active duty for a period of more than
52 thirty (30) days and represents all or a portion of the wages the
53 individual would have received from the county if the individual was
54 performing services for the county. Such differential wage payment
55 shall be treated as a payment of wages by the county to the member.

56 Qualified military service for the purposes of the above provisions is determined pursuant to
57 Internal Revenue Code section 414(u)(5).

58 **Section 3.** Effective January 1, 2003, section 201.24(4.6) is amended to read as follows:

59 (1) In order to receive a pension, a member shall file with the board a written application
60 therefor on a form prescribed by the board.

61 (2) A member who files with the board a completed application for benefits from the
62 system shall be entitled to have his benefits commence no later than the 60th day after
63 the close of the year in which the later of the following occurs:

64 (a) The member attains his normal retirement age; or

65 (b) The member terminates employment.

66 Notwithstanding the preceding, regardless of whether a member files an
67 application for benefits, in all events, payments shall commence no later than the

member's required beginning date, which is the April 1 following the calendar year in which the member attains age seventy and one-half (70 1/2) or, if later, the calendar year in which the member retires. All distributions made under sections (4.6) and (4.7) shall be determined and made in accordance with Internal Revenue Code section 401(a)(9) and corresponding Treasury regulations. Notwithstanding the other provisions of this section 4.6 and section 4.7, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of Ordinance section 201.24(4.8) that relate to section 242(b)(2) of TEFRA. For a retired member who attained age seventy and one-half (70 1/2) after December 31, 1987 and before January 1, 1989, payments shall commence not later than April 1, 1990.

(3) Benefits may not be distributed to any member under a method of payment which, as of the member's required beginning date, does not satisfy the minimum distribution requirements of Internal Revenue Code section 401(a)(9) and applicable Treasury regulations, including the minimum distribution incidental benefit requirements of proposed Treasury regulation Section 1.401(a)(9)-2, which the system hereby incorporates by reference. Life expectancy is computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations. Section II(6) permits a member to receive a pension in the form of an annuity (i.e., periodic payments payable at regular intervals). If a member receives his pension benefit in the form of an annuity, payments under the annuity shall satisfy the following requirements:

(a) The amount that must be distributed on or before the member's required beginning date (or, if the member dies before distributions begin, the date distributions are required to begin under sections 4.7(2)(a) or (b) below) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date; The amount to be distributed each year must be at least an amount equal to the quotient obtained by dividing the member's entire interest by the life expectancy of the member or the joint and last survivor expectancy of the member and designated beneficiary;

103 (b) Life expectancy (a joint life and last survivor expectancy), for purposes for
104 determining the period certain, shall be determined without recalculation of life
105 expectancy;

106 (c) Life expectancy of a member and the joint life expectancy of a member and
107 his beneficiary for all other purposes shall be determined in accordance with
108 applicable law and regulations, provided that the member or his spouse may
109 elect to recalculate life expectancy for one (1) or both lives no more frequently
110 than annually, provided such election is made prior to the member's required
111 distribution date;

112 (d) Once payments have begun over a period certain, the period certain may not
113 be lengthened even if the period certain is shorter than the maximum permitted;
114 and

115 (e) Annuity distributions must be paid in periodic payments made at intervals not
116 longer than one (1) year;

117 (f) Life (or joint and survivor) annuity payments will satisfy the minimum
118 distribution incidental benefit requirements of A-2 of Treasury regulation section
119 1.401(a)(9)-6; and

120 (g) Payments will either be nonincreasing or increase only as follows (and only if
121 so allowed by and provided for in other Ordinance provisions):

122 (i) By an annual percentage increase that does not exceed the annual
123 percentage increase in an eligible cost-of-living index (as defined under
124 A-14 of Treasury regulation section 1.401(a)(9)-6) for a twelve- (12-)
125 month period ending in the year during which the increase occurs or a
126 prior year;

127 (ii) By a percentage increase that occurs at specified times and does not
128 exceed the cumulative total of annual percentage increases in an eligible
129 cost-of-living index (as defined under A-14 of Treasury regulation section
130 1.401(a)(9)-6) since the annuity starting date, or if later, the date of the
131 most recent percentage increase, provided (in the case of a cumulative
132 increase), an actuarial increase may not be provided to reflect that
133 increases were not provided in the interim years;

134 (iii) To the extent of the reduction in the amount of the member's
135 payments to provide for a survivor benefit upon death, but only if there is
136 no longer a survivor benefit because the beneficiary whose life was being

137 used to determine the distribution period described in section 4.7(2) dies
138 or is no longer the member's beneficiary pursuant to a domestic relations
139 order within the meaning of Rule 1017;

140 (iv) To allow a beneficiary to convert the survivor portion of a joint and
141 survivor annuity into a single sum distribution upon the member's death;

142 (v) To pay increased benefits that result from an Ordinance amendment;
143 or

144 (vi) To the extent increases are otherwise permitted under A-14 of
145 Treasury regulation section 1.401(a)(9)-6.

146 (h) Any additional benefits accruing to the member in a calendar year after the
147 first distribution calendar year will be distributed beginning with the first
148 payment interval ending in the calendar year immediately following the calendar
149 year in which such amount accrues.

150 (4) Requirements for annuity distributions that commence during a member's lifetime.

151 (a) Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse. If the
152 member's interest is being distributed in the form of a joint and survivor annuity
153 for the joint lives of the member and a nonspouse beneficiary, annuity payments
154 to be made on or after the member's required beginning date to the designated
155 beneficiary after the member's death must not at any time exceed the applicable
156 percentage of the annuity payment for such period that would have been
157 payable to the member as determined for individuals less than age seventy and
158 one-half (70 1/2) at the member's annuity starting date using the table set forth
159 in A-2 of section 1.401(a)(9)-6 of the Treasury regulations. If the form of
160 distribution combines a joint and survivor annuity for the joint lives of the
161 member and a nonspouse beneficiary and a period certain annuity, the
162 requirement in the preceding sentence will apply to annuity payments to be
163 made to the designated beneficiary after the expiration of the period certain.

164 (b) Period Certain Annuities. Unless the member's spouse is the sole designated
165 beneficiary and the form of distribution is a period certain and no life annuity, the
166 period certain for an annuity distribution commencing during the member's
167 lifetime may not exceed the applicable distribution period for the member under
168 the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury
169 regulations for the calendar year that contains the annuity starting date.

170 If the member's spouse is the member's sole designated beneficiary and the form
171 of distribution is a period certain and no life annuity, the period certain may not
172 exceed the longer of the member's applicable distribution period, as determined
173 under this section, or the joint life and last survivor expectancy of the member
174 and the member's spouse as determined under the Joint and Last Survivor Table
175 set forth in section 1.401(a)(9)-9 of the Treasury regulations.

176 **Section 4.** Effective January 1, 2003, section 201.24(4.7) is amended to read as follows:

177

178 (1) If the member dies after his required beginning date, as determined under section
179 4.6(2), or, if earlier, the date he commences an irrevocable annuity, any remaining benefit
180 must continue to be distributed at least as rapidly as under the method of distribution in
181 effect prior to the member's death.

182 (2) If the member dies before his distributions begin and before his required beginning
183 date, as determined under subsection 4.6(2), distribution of the member's entire benefit
184 shall be completed by December 31 of the calendar year containing the 5th anniversary
185 of the member's death, unless an election is made to receive distributions in accordance
186 with subsections (a) or (b) below.

187 (a) If any portion of the member's benefit is payable to a designated beneficiary,
188 distributions shall commence ~~may be made either (i) over the life of the~~
189 ~~designated beneficiary or (ii) over a period certain not greater than the life~~
190 ~~expectancy of the designated beneficiary commencing on or before December 31~~
191 ~~of the calendar year immediately following the calendar year in which the~~
192 ~~member died.~~

193 (b) If the designated beneficiary is the member's spouse, the date distributions
194 are required to begin in accordance with section (a) above shall not be earlier
195 than the later of (i) December 31 of the calendar year immediately following the
196 calendar year in which the member died, or (ii) December 31 of the calendar year
197 in which the member would have attained age seventy and one-half (70 1/2).

198 If the member has not made an election pursuant to this section by the time of his
199 death, the member's designated beneficiary must elect the method of distribution no
200 later than the earlier of (a) December 31 of the calendar year in which distributions
201 would be required to begin under this section, or (b) December 31 of the calendar year
202 which contains the 5th anniversary of the date of death of the member. If the member
203 has no designated beneficiary, or if the beneficiary fails to elect a method of distribution,

204 distribution of the member's entire interest must be completed by December 31 of the
205 calendar year containing the 5th anniversary of the member's death.

206 If the surviving spouse dies after the member, but before payments commence, the
207 above provisions, with the exception of subsection (b) above, shall be applied as if the
208 surviving spouse were the member.

209 (3) Requirements for Minimum Distributions Where Member Dies Before Date
210 Distributions Begin.

211 (a) Member Survived by Designated Beneficiary. If the member dies before the date
212 distribution of his interest begins and there is a designated beneficiary, the
213 member's entire interest will be distributed, beginning no later than the time
214 described in sections 4.7(2)(a) or (b), over the life of the designated beneficiary or
215 over a period certain not exceeding:

216 (i) The applicable distribution period determined under A-5 of Treasury
217 regulations section 1.401(a)(9)-5, unless the annuity starting date is before the
218 first distribution calendar year. For purposes of sections 4.6 and 4.7, the first
219 distribution calendar year is the calendar year immediately preceding the
220 calendar year which contains the member's required beginning date. For
221 distributions beginning after the member's death, the first distribution calendar
222 year is the calendar year in which distributions are required to begin under
223 section 4.7(2)(a) or (b).

224 (ii) The life expectancy of the designated beneficiary is determined using the
225 beneficiary's age as of the beneficiary's birthday in the calendar year that
226 contains the annuity starting date, if the annuity starting date is before the first
227 distribution calendar year.

228 (b) No Designated Beneficiary. If the member dies before the date distributions
229 begin and there is no designated beneficiary as of September 30 of the year
230 following the year of the member's death, distribution of the member's entire
231 interest will be completed by December 31 of the calendar year containing the fifth
232 anniversary of the member's death.

233 (c) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the
234 member dies before the date distribution of his interest begins, the member's
235 surviving spouse is the member's sole designated beneficiary, and the surviving
236 spouse dies before distributions to the surviving spouse begin, this section will
237 apply as if the surviving spouse were the member, except that the time by which

238 distributions must begin will be determined without regard to section 4.7(2)(a)
239 above.

240 (34) The board shall, upon the member's written request, or in the case of a distribution
241 described in subsection (2)(b) above, upon written request of the member's surviving
242 spouse, may recalculate his and/or his spouse's life expectancy for purposes of
243 calculating the minimum distribution. The member must make such an election not later
244 than his required beginning date as defined in section 4.6(2). A member's surviving
245 spouse must make such an election no later than the December 31 date described in
246 subsection (2)(b) above. This election is irrevocable. A recalculation election applicable to
247 a joint life expectancy payment where the survivor is a nonspouse may not take into
248 account any adjustment to any life expectancy other than the member's life expectancy.
249 In the absence of a recalculation election, the system does not permit recalculation of
250 applicable life expectancy.

251

252 **Section 5.** Effective January 1, 2003, section 201.24(4.8)(4) is hereby amended to read as
253 follows:

254 (4) If a designation is revoked, any subsequent distribution must satisfy the requirements
255 of Internal Revenue Code section 401(a)(9) and the proposed regulations thereunder. If
256 a designation is revoked subsequent to the date distributions are required to begin, the
257 trust must distribute, by the end of the calendar year following the calendar year in
258 which the revocation occurs, the total amount not yet distributed which would have
259 been required to have been distributed to satisfy Internal Revenue Code section
260 401(a)(9) and the proposed regulations thereunder, including the minimum incidental
261 benefit requirements of ~~proposed regulation Section 401(a)(9)-2~~. Any changes in the
262 designation will be considered to be a revocation of the designation. However, the mere
263 substitution or addition of another beneficiary (one not named in the designation) under
264 the designation will not be considered to be a revocation of the designation, so long as
265 such substitution or addition does not alter the period over which distributions are to be
266 made under the designation, directly or indirectly (for example, by altering the relevant
267 measuring life).

268 **Section 6.** Effective January 1, 2008, section 201.24(12.1)(3) is hereby restated to read as
269 follows:

270 ~~(3) If a member has never participated in an includable arrangement which provides an~~
271 ~~annual addition as defined in section 12.2 (other than one (1) or more qualified defined~~
272 ~~benefit plans), the limitation in subsection 12.2(a) above is deemed satisfied if the annual~~

273 ~~benefit payable to the member is not more than one thousand dollars (\$1,000.00),~~
274 ~~multiplied by the member's number of years of service or parts thereof (not to exceed~~
275 ~~ten(10)).~~

276 (3) Notwithstanding anything else in this section to the contrary, the benefit otherwise
277 payable to a member under this system shall be deemed not to exceed the maximum
278 permissible benefit if:

279 (a) the retirement benefits payable for a limitation year under any form of benefit
280 with respect to such member under this system and under all other defined
281 benefit plans (without regard to whether a plan has been terminated) ever
282 maintained by the county do not exceed \$10,000 multiplied by a fraction – (i) the
283 numerator of which is the member's number of years (or part thereof, but not
284 less than one year) of service (not to exceed 10) with the county, and (ii) the
285 denominator of which is 10; and

286 (b) the county (or a predecessor employer) has not at any time maintained a
287 qualified defined contribution plan in which the member participated (for this
288 purpose, mandatory employee contributions under a defined benefit plan,
289 individual medical accounts under Internal Revenue Code section 401(h), and
290 accounts for postretirement medical benefits established under Internal Revenue
291 Code section 419A(d)(1) are not considered a separate defined contribution plan).

292 **Section 7.** Effective January 1, 2008, section 201.24(12.2)(1) is hereby amended to read as
293 follows:

294 (1) "Annual benefits" means the retirement benefit under the system which is payable
295 annually in the form of a straight life annuity. Except as provided in this section, a
296 benefit payable in a form other than a straight life annuity must be adjusted to an
297 actuarially equivalent straight life annuity that begins at the same time as such other
298 forms of benefit and is payable on the first day of each month, before applying the
299 limitations of this section XII. The interest rate assumption used to determine actuarial
300 equivalence shall be the greater of the interest rate determined pursuant to paragraph
301 (13) of section II or five (5) percent. The annual benefit does not include any benefits
302 attributable to employee contributions or rollover contributions or the assets transferred
303 or rolled over from a qualified plan that was not maintained by the county. For members
304 who make contributions to their membership accounts, to the extent the County does
305 not pick up these contributions and to the extent that such contributions are not
306 measured by Internal Revenue Code section 415(n), the annual benefit attributable to
307 such contributions shall be determined according to Internal Revenue Code section

308 411(c)(3) and the Treasury regulations thereunder. No actuarial adjustment to the
309 benefit is required for the following benefits:

310 (a)The value of survivor benefits payable to a surviving spouse under a qualified
311 joint and survivor annuity to the extent such benefits would not be payable if the
312 member's benefit were not paid in a qualified joint and survivor annuity;

313 (b)The value of benefits that are not directly related to retirement benefits; and

314 (c)For members who at retirement do not have the value of the cost of living
315 adjustment described in section 5.7 included in their Internal Revenue Code
316 section 415 compliance calculation, tThe value of an automatic benefit increase
317 feature, provided the form of benefit is not subject to Internal Revenue Code
318 section 417(e)(3), would otherwise satisfy the limitations of this section XII, and
319 the amount payable under the form of benefit in any limitation year shall not
320 exceed the limits of this section XII and Internal Revenue Code section 415(b)
321 applicable at the annuity starting date. For this purpose, an automatic benefit
322 increase feature is included in a form of benefit if the form of benefit provides for
323 automatic, periodic increases to the benefits paid in that form-post-retirement
324 cost-of-living-increases-made-in-accordance-with-Internal-Revenue-Code-section
325 415(d)-and-applicable-Treasury-Regulations.

326 The determination of the annual benefit shall take into account Social Security
327 supplements described in Internal Revenue Code section 411(a)(9).

328 The determination of actuarial equivalence of forms of benefit other than a straight life
329 annuity shall be made in accordance with the following section 12.2(1)(a) or (b).

330 (a) Benefit Forms Not Subject to Internal Revenue Code Section 417(e)(3): The
331 straight life annuity that is actuarially equivalent to the member's form of benefit
332 shall be determined under this section 12.2(1) if the form of the member's benefit
333 is either (1) a nondecreasing annuity (other than a straight life annuity) payable
334 for a period of not less than the life of the member (or, in the case of a qualified
335 pre-retirement survivor annuity, the life of the surviving spouse), or (2) an annuity
336 that decreases during the life of the member merely because of (a) the death of
337 the survivor annuitant (but only if the reduction is not below fifty (50) percent of
338 the benefit payable before the death of the survivor annuitant), or (b) the
339 cessation or reduction of Social Security supplements or qualified disability
340 payments (as defined in Internal Revenue Code section 401(a)(11)).

341 (i) Limitation Years Beginning Before July 1, 2007. For limitation years
342 beginning before July 1, 2007, the actuarially equivalent straight life

343 annuity is equal to the annual amount of the straight life annuity
344 commencing at the same annuity starting date that has the same actuarial
345 present value as the member's form of benefit computed using whichever
346 of the following produces the greater annual amount:

347 (I) The interest rate specified in Rule 1014(c)(2) and the mortality table
348 specified in Rule 1014(c)(1) for adjusting benefits in the same form; and
349 (II) a five (5) percent interest rate assumption and the applicable mortality
350 table defined in Internal Revenue Code section 417(e) for that annuity
351 starting date.

352 (ii) Limitation Years Beginning on or After July 1, 2007. For limitation
353 years beginning on or after July 1, 2007, the actuarially equivalent straight
354 life annuity is equal to the greater of (1) the annual amount of the straight
355 life annuity (if any) payable to the member under the system commencing
356 at the same annuity starting date as the member's form of benefit; and (2)
357 the annual amount of the straight life annuity commencing at the same
358 annuity starting date that has the same actuarial present value as the
359 member's form of benefit, computed using a five (5) percent interest rate
360 assumption and the applicable mortality table defined in Internal Revenue
361 Code section 417(e) for that annuity starting date.

362 (b) Benefit Forms Subject to Internal Revenue Code Section 417(e)(3): The
363 straight life annuity that is actuarially equivalent to the member's form of benefit
364 shall be determined under this paragraph if the form of the member's benefit is
365 other than a benefit form described in section 12.2(1)(a). In this case, the
366 actuarially equivalent straight life annuity shall be determined as follows:

367 (i) Annuity Starting Date in Limitation Years Beginning After 2005. The
368 actuarially equivalent straight life annuity is equal to the greatest of (I) the
369 annual amount of the straight life annuity commencing at the same
370 annuity starting date that has the same actuarial present value as the
371 member's form of benefit, computed using the interest rate specified in
372 Rule 1014(c)(2) and the mortality table specified in Rule 1014(c)(1) for
373 adjusting benefits in the same form; (II) the annual amount of the straight
374 life annuity commencing at the same annuity starting date that has the
375 same actuarial present value as the member's form of benefit, computed
376 using a five and one-half (5.5) percent interest rate assumption and the
377 applicable mortality table defined in Internal Revenue Code section

378 417(e); and (III) the annual amount of the straight life annuity
379 commencing at the same annuity starting date that has the same actuarial
380 present value as the member's form of benefit, computed using the
381 applicable interest rate defined in Internal Revenue Code section 417(e)
382 and the applicable mortality table defined in Internal Revenue Code
383 section 417(e), divided by one and five one-hundredths (1.05).

384 (ii) Annuity Starting Date in Limitation Years Beginning in 2004 or 2005. If
385 the annuity starting date of the member's form of benefit is in a limitation
386 year beginning in 2004 or 2005, and if the IRS so requires, the actuarially
387 equivalent straight life annuity is equal to the annual amount of the
388 straight life annuity commencing at the same annuity starting date that
389 has the same actuarial present value as the member's form of benefit,
390 computed using whichever of the following produces the greater annual
391 amount: (I) the interest rate specified in Rule 1014(c)(2) and the mortality
392 table (or other tabular factor) specified in Rule 1014(c)(1) for adjusting
393 benefits in the same form; and (II) a five and one-half (5.5) percent
394 interest rate assumption and the applicable mortality table defined in Rule
395 1014(b)(1).

396 If the member's chosen form of benefit is subject to Internal Revenue
397 Code section 417(e)(3) and the annuity starting date of the member's
398 benefit is on or after the first day of the first limitation year beginning in
399 2004 and before December 31, 2004, the application of this section
400 12.2(1)(b)(ii) shall not cause the amount payable under the member's
401 form of benefit to be less than the benefit calculated under the system,
402 taking into account the limitations of this section XII, except that the
403 actuarially equivalent straight life annuity is equal to the annual amount of
404 the straight life annuity commencing at the same annuity starting date
405 that has the same actuarial present value as the member's form of benefit,
406 computed using whichever of the following produces the greatest annual
407 amount:

408 (I) the interest rate specified in Rule 1014(c)(2) and the mortality
409 table (or other tabular factor) specified in Rule 1014(c)(1) for
410 adjusting benefits in the same form;

411 (II) the applicable interest rate defined in Internal Revenue Code
412 section 417 and the applicable mortality table defined in Internal
413 Revenue Code section 417; and

414 (III) the applicable interest rate defined in Internal Revenue Code
415 section 417 (as in effect on the last day of the last limitation year
416 beginning before January 1, 2004, under provisions of the system
417 then adopted and in effect) and the applicable mortality table
418 defined in Internal Revenue Code section 417.

419 **Section 8.** Effective January 1, 2002, section 201.24(12.3)(2) is amended to read as follows:

420 (2) If the annual benefit of the member commences on or after age sixty-two (62),
421 the general limitations of subsection (1) above shall apply. The defined benefit dollar
422 limitation shall be adjusted if the annuity starting date of the member's benefit is
423 before age 62.

424 (a) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement
425 Before Age 62.

426 (i) Limitation Years Beginning Before July 1, 2007. If the annuity
427 starting date for the member's benefit is prior to age 62 and occurs in a
428 limitation year beginning before July 1, 2007, the defined benefit dollar
429 limitation for the member's annuity starting date is the annual amount of
430 a benefit payable in the form of a straight life annuity commencing at the
431 member's annuity starting date that is the actuarial equivalent of the
432 defined benefit dollar limitation (adjusted under section 12.3(1) for years
433 of participation less than ten (10), if required) with actuarial equivalence
434 computed using a five (5) percent interest rate assumption and the 1994
435 GAR mortality table.

436 (ii) Limitation Years Beginning on or After July 1, 2007. If the annuity
437 starting date for the member's benefit is prior to age 62 and occurs in a
438 limitation year beginning on or after July 1, 2007, the defined benefit
439 dollar limitation for the member's annuity starting date is the lesser of: [a]
440 the annual amount of a benefit payable in the form of a straight life
441 annuity commencing at the member's annuity starting date that is the
442 actuarial equivalent of the defined benefit dollar limitation (adjusted
443 under section 12.3(1) for years of participation less than ten (10), if
444 required) with actuarial equivalence computed using a five (5) percent

445 interest rate and the applicable Internal Revenue Code section 417(e)
446 mortality table effective for that annuity starting date and [b] the defined
447 benefit dollar limitation (adjusted under section 12.3(1) for years of
448 participation less than ten (10), if required) multiplied by the ratio of the
449 annual amount of the immediately commencing straight life annuity
450 under the system at the member's annuity starting date to the annual
451 amount of the immediately commencing straight life annuity under the
452 system at age sixty-two (62), both determined without applying the
453 limitations of this section XII (and expressing the participant's age based
454 on completed calendar months as of the annuity starting date).

455 (b) Notwithstanding the other requirements of this section 12.3, no
456 adjustment shall be made to the defined benefit dollar limitation to reflect the
457 probability of a member's death between the annuity starting date and age sixty-
458 two (62) if benefits are not forfeited upon the death of the member prior to the
459 annuity starting date. To the extent benefits are forfeited upon death before the
460 annuity starting date, such an adjustment shall be made.

461 (c) Notwithstanding the other requirements of this section 12.3, no
462 adjustment shall be made to the defined benefit dollar limitation for
463 commencement of a benefit before age sixty-two (62) for a distribution on
464 account of a member's becoming disabled by reason of a personal injury or
465 sickness, or as a result of the death of a member.

466 **Section 9.** Effective January 1, 2002, section 201.24(12.3)(3) is amended to read as follows:

467 (3) ~~Except as provided in this paragraph, if the annual benefit of the member~~
468 ~~commences prior to age sixty-two (62), the defined benefit dollar limitation shall~~
469 ~~be the actuarial equivalent of an annual benefit beginning at age sixty-two (62).~~
470 ~~To determine actuarial equivalence, the interest rate assumption is the greater of~~
471 ~~the rates specified in paragraph (13) of section II or five (5) percent. In the event~~
472 ~~the annual benefit of the member commences between age fifty-five (55) and~~
473 ~~sixty-two (62), the actuarial reduction of the defined benefit dollar limitation shall~~
474 ~~not result in a dollar limitation which is less than seventy-five thousand dollars~~
475 ~~(\$75,000.00). In the event the annual benefit of the member commences prior to~~
476 ~~age fifty-five (55), the defined benefit dollar limitation shall be the greater of (a)~~
477 ~~the amount which is the actuarial equivalent of a seventy-five thousand dollar~~
478 ~~(\$75,000.00) annual benefit commencing at age fifty-five (55); or (b) the actuarial~~
479 ~~equivalent of the defined benefit dollar limitation beginning at age sixty-two (62),~~

480 both calculated using the interest rate specified in the second sentence of this
481 section ~~12.3(3)~~. Notwithstanding the provisions of this section 12.3(2), the
482 defined benefit dollar limitation of a "qualified member" shall not be actuarially
483 adjusted. For purposes of this section, a "qualified member" is a member whose
484 years of service taken into account in determining his benefit include at least
485 fifteen (15) years of service as a full-time employee of any department of the
486 county which provides police protection, firefighting services, or emergency
487 medical services for any area within the jurisdiction of the county or is a member
488 of the armed forces of the United States.

489 **Section 10.** Effective January 1, 2002, section 201.24(12.4)(1) is amended to read as follows:

490 (1) The annual addition to a member's savings account and membership account for
491 any limitation year shall not exceed the lesser of:

492 (a) ~~The greater of thirty thousand dollars (\$30,000.00) or twenty-five (25)~~
493 ~~percent of the defined benefit dollar limitation recited in Internal Revenue~~
494 ~~Code Section 415(b)(1)(A) for such year.~~ The defined contribution dollar
495 limitation provided in Internal Revenue Code section 415(c)(1)(A), or such
496 successor provision of the Internal Revenue Code, as adjusted for cost of
497 living adjustments pursuant to Internal Revenue Code section 415(d); or

498 (b) ~~Twenty-five (25)~~ One hundred (100) percent of the compensation paid or
499 made available to the member for such year.

500 **Section 11.** Effective January 1, 2002, section 201.24(12.6) is amended to read as follows:

501 The defined benefit dollar limitation shall equal One Hundred Sixty Thousand Dollars
502 (\$160,000.00) ~~is ninety thousand dollars (\$90,000.00)~~. Effective January 1, 1988 and each
503 January 1 thereafter, the ~~ninety thousand~~ dollar limitation shall be adjusted by
504 multiplying such limit by the cost of living adjustment factor prescribed by the Secretary
505 of the Treasury under Internal Revenue Code section 415(d). The new dollar limitation
506 shall apply to limitation years ending within the calendar year of the date of adjustment.

507 **Section 12.** Effective January 1, 2001, section 201.24(12.8) is hereby amended to read as
508 follows:

509 Compensation, for the purposes of this section, means "participant's compensation," as
510 defined in ~~IRS~~ Internal Revenue Code section 415(c)(3) and the regulations thereunder,
511 including elective contributions made by the County on behalf of the member that are

512 not includable in income under ~~IRS~~Internal Revenue Code sections 125, 132(f)(4),
513 401(h)(2), ~~402(a)(8)(e)(3)~~, 402(h) or 403(b).

514 **Section 13.** Effective January 1, 2008, section 201.24(12.8) is hereby amended to read as
515 follows:

516 Compensation, for the purposes of this section, means "participant's compensation," as
517 defined in ~~IRS~~ Internal Revenue Code section 415(c)(3) and paid prior to the member's
518 severance from employment and the regulations thereunder, including elective
519 contributions made by the County on behalf of the member that are not includable in
520 income under ~~IRS~~ Internal Revenue Code sections 125, 132(f)(4), 401(h)(2), ~~402(a)(8)(e)(3)~~,
521 402(h) or 403(b).

522 **Section 14.** Effective January 1, 2002, section 201.24(13.3) is amended to read as follows:

523 An eligible retirement plan is an individual retirement account described in Internal
524 Revenue Code section 408(a), an individual retirement annuity described in Internal
525 Revenue Code section 408(b), an individual retirement annuity described in Internal
526 Revenue Code section 403(a), ~~or a~~ qualified trust described in Internal Revenue Code
527 section 401(a), that accepts the distributee's eligible rollover distribution, an eligible
528 deferred compensation plan described in Internal Revenue Code section 457(b) which is
529 maintained by an eligible employer described in Internal Revenue Code section
530 457(e)(1)(A), or an annuity contract described in Internal Revenue Code section 403(b).
531 ~~However, in the case of an eligible rollover distribution to a distributee's surviving~~
532 ~~spouse, an eligible retirement plan is an individual retirement account or individual~~
533 ~~retirement account or an individual retirement annuity.~~

534 **Section 15.** Effective January 1, 2010, the following shall be added to the end of section
535 201.24(13.3):

536 Effective for eligible rollover distributions made on or after January 1, 2008, an eligible
537 retirement plan shall also mean a Roth individual retirement account described in
538 Internal Revenue Code section 408A provided that eligible rollover distributions made
539 on or after January 1, 2008 are subject to the adjusted gross income limits of Internal
540 Revenue Code section 408A(c)(3)(B), as applicable, and the distribution rules of Internal
541 Revenue Code section 408A(d)(3). For a distributee who is a nonspouse designated
542 beneficiary, the direct rollover may be made only to an individual retirement account or
543 annuity described in Internal Revenue Code section 408(a) or 408(b) that is established
544 on behalf of the designated beneficiary for the purpose of receiving the distribution as
545 an inherited individual retirement account or annuity pursuant to the provisions of
546 Internal Revenue Code section 408(d)(3)(C).

547 **Section 16.** Effective January 1, 2010, section 201.24(13.4) of the Milwaukee County Code of
548 General Ordinances is amended to read as follows:

549 A distributee includes a member or former member. In addition, the member's or former
550 member's surviving spouse and the member's or former member's spouse or former
551 spouse who is the alternate payee under a qualified domestic relations order, as defined
552 in Internal Revenue Code section 414(p), are distributees with regard to the interest of
553 the spouse or former spouse. A distributee also includes a member or former member's
554 nonspouse beneficiary.

555 **Section 17.** The provisions of this ordinance shall be effective as set forth above, but in
556 any event no later than upon passage and publication.

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Adopted by the Milwaukee County Board of Supervisors

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May 22, 2014

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