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November 15, 2019

Jessica P. Culotti
Direct Dial: 414-298-8204
jculotti@reinhartlaw.com

SENT BY FACSIMILE
AND BY COURIER

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

[FAX: 855-843-3037]

Dear Mr. Hogan:

Re: Employees' Retirement System of the County of Milwaukee ("ERS")
EIN: 39-6005720 PN: 001
Control No: 911749223

Thank you for your considered review of the December 20, 2017 VCP submission from the Employees' Retirement System of the County of Milwaukee ("ERS") and your detailed response by letter dated August 27, 2019. We also thank you for allowing an extension in our response until November 18, 2019.

On behalf of ERS and the Pension Board of ERS as well as Milwaukee County, this letter replies to your response correspondence of August 27, 2019 and the information requests included therein. The exhibits accompanying our reply are described below. Finally, our responses to your information requests also are attached as exhibits.

Permit us first to respond to two overall issues. One is the interest rate for underpayments, and the other is the inclusion of de minimis exceptions to full correction for the VCP errors. Each is discussed below.

1. Interest Rates for Underpayments. We understand from your letter that there are two concerns with the proposed approach for underpayments: the use of simple versus compound interest and the rate. We understand that the IRS is disinclined to permit simple interest to be paid on underpayment corrections; therefore, the proposed underpayment corrections in the revised VCP narrative now utilizes a compounded interest rate. However, with regard to the rate itself for underpayment corrections, we respectfully request the opportunity to discuss with you for IRS

consideration the ERS actuarial equivalence rates, which include 7.5% (the actuarial equivalence effective January 1, 2020) and 7.75% (the actuarial equivalence from January 1, 2018 until December 31, 2019) as opposed to the 8% to which reference is made in your letter. We understand the IRS is disinclined to allow ERS to use 5% interest for underpayments as was proposed in the initial VCP submission. This rate has been removed from the revised VCP narrative for underpayments. However, we understand from our prior conversation that the IRS will agree to 5% compound interest for overpayments. This rate is included in the updated VCP narrative that is enclosed.

At present, the revised VCP narrative enclosed with this reply letter simply states that a compounded actuarial equivalent rate will be used for underpayments. We propose updating that rate after our discussion with you and following confirmation by the Pension Board and the Milwaukee County Board of Supervisors. The IRS has requested that, along with the Pension Board, a member of the County Board sign the VCP Compliance Statement. To that end, the County Board must engage in a meaningful discussion regarding the underpayment interest rate proposed in this revised VCP submission, which it has been unable to do given the consuming demands of its current budget process running until the end of November. Corporation Counsel's Office for Milwaukee County anticipates having a discussion with the County Board in the December cycle on the issue of interest rate for the VCP. We will follow-up with the IRS as soon as those discussions are completed.

2. De Minimis Amounts. Additionally, we are proposing to add de minimis amount exceptions to the proposed corrections for overpayments and underpayments. As you know, EPCRS provides an exception to full correction for small overpayments under $100 (*see* Rev. Proc. 2016-51, section 6.02(5)(c)). Similarly, EPCRS provides that small corrective distributions under $75 do not need to be paid if the reasonable costs of processing and delivering the corrective distribution would be more than the corrective distribution (*see* Rev. Proc. 2016-51, section 6.02(5)(b)). The County Board in adopting Ordinance section 201.24(8.24) (attached as part of Exhibit D-4) included exceptions to the general correction methods in the Ordinance by directing ERS not to recover overpayments under $165 and not to pay underpayments under $75. In accordance with this Ordinance, ERS proposes to use these small amount exceptions for the VCP corrections.

Enclosures:

Exhibit A	IRS Correspondence of August 27, 2019
Exhibit B	ERS Response to IRS Correspondence of August 27, 2019
Exhibit C	Revised Attachments to Form 14568. Please note that we did not provide redlined versions because they would be difficult to read given the number of revisions since the December 20, 2017 VCP submission. Please let us know if you would like redlined versions.
C-1	Attachment to Form 14568 Section II
C-2	Attachment to Form 14568 Section III
C-3	Attachment to Form 14568 Section IV

C-4	Attachment to Form 14568 Section V
<u>Exhibit D</u>	Amendments Described in Attachment to Form 14568 Section III.
D-1	*Failure 1*: Amendments to Rule 1017, adopted by the Pension Board on April 17, 2013.
D-2	*Failure 6*: DRAFT amendments to Rule 202, which will be adopted by the Pension Board.
D-3	*Failure 10*: Amendments to Ordinance section 201.24(2.4), adopted by the County Board of Supervisors on December 15, 2011.
D-4	*Failure 11*: Amendments to Ordinance section 201.24(11.7), adopted by the County Board of Supervisors on March 21, 2019.
D-5	*Failures 2, 12, 19, 23, 25*: DRAFT amendments to Ordinance sections 201.24(3.5), (4.5), (5.16), (7.1) and (11.11), which will be adopted by the County Board of Supervisors.
<u>Exhibit E</u>	Spreadsheets Supporting VCP
E-1	Sample Overpayment Calculation
E-2	Sample Underpayment Calculation

Thank you for your consideration.

REINHART BOERNER VAN DEUREN s.c.

BY Jessica Culotti

Jessica P. Culotti

MILWAUKEE COUNTY OFFICE OF CORPORATION COUNSEL

BY

Anne Berleman Kearney

Anne Berleman Kearney

Exhibit A

IRS Correspondence of August 27, 2019

INTERNAL REVENUE SERVICE

IRS

FAX TRANSMISSION
Cover Sheet

Date: August 27, 2019

To: Jessica P. Culotti

Address/Organization: Reinhart Boerner Van Deruren SC

Fax Number: (414) 298-8097 Office Number: 4142988204

From: Paul C. Hogan

Address/Organization: Internal Revenue Service TE/GE:EP-915 2nd Ave- MS 510, Seattle, WA 98174

Fax Number: (855) 843-3037 Office Number: 206-946-3472

Number of pages: 8 *Including cover page*

Subject: VCP Case 911749223

Dear Ms. Culotti:

See attached letter that requesting additional information that was faxed to the VCP Applicant. Contact me if you have any questions.

Department of the Treasury
Internal Revenue Service
Tax Exempt/Government Entities Division
IRS Employee Plans Voluntary Compliance- Paul C. Hogan
915 2nd Avenue-Mail Stop 510
Seattle, WA 98174-1081

Jessica P. Culotti
Reinhart Boerner Van Deuren S.C.
1000 North Walter St.-Suite 1700
Milwaukee, WI 53202-3197

Date:
August 27, 2019
VCP submission for:
Employees' Retirement System Of The County Of Milwaukee
Control number:
911749223
Employer ID number:
39-6005720
Plan number:
001
Person to contact/ID number:
Paul C. Hogan/ID #1000277812
Contact telephone number:
206-946-3472
Contact fax number:
855-843-3037
Group manager's name:
William Y. Kerr/ID# 1000220619
Group manager's telephone number:
214-413-5508

Dear Ms. Culotti:

I am enclosing a copy of a letter under the provisions of a Form 2848, Power of Attorney and Declaration of Representative included with the VCP submission listed above.

If you are an authorized representative and have questions about this case, you can contact me or my manager at the telephone numbers listed above. If you are an authorized appointee (listed on Form 8821), you don't represent the VCP applicant, and you should contact the VCP applicant to discuss any concerns you may have about this case.

Sincerely,

Paul C. Hogan

Digitally signed by Paul C. Hogan
Date: 2019.08.27 07:59:36 -07'00'

Internal Revenue Agent
EP Voluntary Compliance Program Coordinator

Enclosure:
Copy of letter to Timothy Coyne, Director Retirement Plan Services

Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
IRS Employee Plans: Voluntary Compliance
915 Second Avenue- Mail Stop 510
Seattle, WA 98174

Date:
August 27, 2019
Employer ID number:
39-6005720
VCP submission or closing agreement for:
Employees' Retirement System Of
The County Of Milwaukee
Plan number:
001
Control number:
911749223
Person to contact:
Name: Paul C. Hogan
ID number: 1000277812
Telephone: 206-946-3472
Fax: 855-843-3037
Manager's contact information:
Name: William (Buck) Y. Kerr
ID number: 1000220619
Telephone: 214-413-5508

Timothy Coyne, Director Retirement Plan Services
Employees' Retirement Plan Services Milwaukee County
of Human Resources
901 North 9th Street, Room 210
Milwaukee, WI 53233

Dear Mr. Coyne:

We reviewed your Voluntary Correction Program (VCP) submission or voluntary closing agreement request and determined we need more information.

If you included a Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization, with your submission, we sent a copy of this letter to the individuals you designated to receive written communications.

For us to continue processing this submission, you or your representative must provide the following items:

1. The submitted Form 8950, Item 6 indicates that interim late amender failures are part of the submission and that Form 14568-A, Sch1 has been included. I can't find this schedule in the documents you have submitted nor are interim amendments mentioned in the 12/20/17 listing of qualification failures. Please advise as to whether the form was completed correctly. Submit any missing information or items. If the form is incorrect then simply indicate that the answer to this item should have been "NO".

2. In numerous places, the narrative document attached to your representative's 12/20/17 letter, proposes correction methodologies that are inconsistent with the correction principles in Rev. Proc. 2016-51. Specifically, the request to increase underpayments amounts associated with corrective distributions by using 5% interest with no compounding of interest (i.e. Simple Interest) is not acceptable. Rev. Proc. 2016-51, Section 6.02(4)(d) clearly indicates that the interest rate used to increase a corrective distribution due to delayed payment must be the rate of interest associated with the Plan's definition of actuarial equivalence that was in effect when the various underpayment distributions should have been made. County Ordiance 201.24 (213) and Board Rule 1014(c) indicate that interest rate for actuarial equivalence is 8% during the various periods of failures. In this particular case, we can't accept a lower rate. The fact that the Pension Board or the County thinks it's too high of a rate does not mean we can simply accept the use of a lower rate. With regard to "simple" interest, it's not acceptable as a correction method. All examples in Appendix A and B of Rev. Proc. 2016-51 and various Fix-It-Guides published on irs.gov that explain how to correct various failures are determined using annual compound interest. We must also be consistent with other compliance statement that was issued for this plan back in 2016 that covered similar failures during much of the same time frames. That agreement called for the use of 8% and compound interest when increasing underpayment amounts due to delayed payment. Consider, also the consistency requirement in Rev. Proc. 2016-51, Section 6.02(3). Finally,

the narrative in your representative's 12/20/17 letter suggests that the Ordinances might be amended to provide for the use of 5% interest and "simple" interest when dealing with operational failures involving some problems with pension benefits that will be fixed via a corrective distribution. I must point out that plan terms don't supersede the IRS correction principles set forth in published guidance nor would they preclude a challenge from the IRS or plan participants in terms of whether the resolution of an operational failure involving a corrective distribution of an underpayment is reasonable and appropriate correction under the Employee Plans Compliance Resolution System (EPCRS). In any event, if you wish to receive a compliance statement from the IRS, the narrative must be revised throughout to indicate that the interest rate to be used to increase the underpayment amount is 8% and that annual compound interest will be used as well. Also, remove the sentence on page 22 of the narrative that indicates the plan will use 5% interest and simple interest when making corrective distributions that involve underpayments.

3. Eleven failures require corrective plan amendments. See Failure A (Failure 1), Failure D (Failure 4), F (Failure 6), Failure J (Failure 10), Failure K (Failure 11), Failure L, (Failure 12), Failure P (Failure 16), Failure Q (Failure 17), Failure S (Failure 19), Failure T (Failure 20), Failure Z (Failure 26). No corrective amendments have been included with the submission. I can't approve the submission without them as I would have no assurance that the corrective amendment is consistent with the described failure and whether it fixes resolves the specified problem. If a failure is to be resolved via a plan amendment, a copy of a proposed amendment must be submitted to me.

4. Some Failures call for a retroactive plan amendment, and also contain a back-up plan if the amendment is not adopted. This type of correction proposal is not acceptable. Instead you must present a single proposal for us to consider. Corrective plan amendments that are to be adopted by the County or the Pension Board should not be proposed as a correction proposal unless there has been some coordination with the appropriate parties and they have agreed to adopt such corrective plan amendments. If its not reasonably certain that the proposed amendments will be adopted then don't propose it as a correction method. Revise the narrative attachment in a few places so that only one correction proposal is presented.

5. Some failures with retroactive amendments seem to go beyond an administrative matter that can be adopted by the Pension Board and is creating additional benefits that would have to be adopted by the County Board. See Failure D (Failure 4), Failure Q (Failure 17), Failure S (Failure 19), Failure T (Failure 20), Failure U. (Failure 21). Revise the submission narrative and more clarification and certainly that the County Board will be adopting these amendments.

6. Various correction methodologies in the 12/20/17 narrative attachment often refer to "interest" or "applicable interest". I believe there should be consistent usage of the term and if the term is to be defined in another section of the narrative attachment there should be a clear reference to it. In various places, revise the correction narrative.

7. Failure B (Failure 2) See pages 1-2 and 12-13 of the narrative attachment associated with your representative's letter dated 12/20/17. The correction narrative for:
"(a)" is impacted by some of the preceding items. In addition, expand the narrative to say that "ERS will notify each affected individual the corrective distribution is taxable and not eligible for tax free rollover treatment;" This makes the correction consistent with Failure D.
"(b)", look to Item 6. In addition, expand the narrative to contain the methodology that will be used to adjust

future annuity payments. In the previous compliance statement, you approved the following: "Such reduction will be computed over the life expectancy of the individual participant using the Plan's written terms for actuarial equivalence, including the stated interest rate and mortality table."
"(c)" is unclear for a few reasons. Reference to "refund is not appropriate. In the 1st paragraph on page 13 Item 3, replace "refund" with "recover" in the 1st sentence. Revise the 4th sentence by deleting "refund" and replace with "BackDROP lump sum benefit adjusted with interest." Finally, revise the 5th sentence by deleting "against the refund".

Finally, what about the tax treatment of Lump Sum Back Drop Payment? Seems like it should be taxable, not subject to rollover, etc.... As this is an overpayment, what about the plan issuing the letter described in Rev. Proc. 2016-51, Section 6.06(1)? Please revise the correction narrative to contain additional narrative.

8. Failure C (Failure 3), Pages 2 & Pages 13-14, Correction narrative needs to be revised as discussed in earlier items in terms of interest, methodology for reducing future annuity payments and other matters. In addition, "(a)" narrative needs to be revised to add "ERS will notify each affected individual the corrective distribution is taxable and not eligible for tax free rollover treatment." This makes the correction consistent with Failure D.

9. Failure D (Failure 4), pages 2 and 14. The opening narrative for "(a)" on page 14 is not acceptable. ERS can't adopt an amendment that would permit affected plan participants to be entitled to benefits that were not approved by the County. Please delete it. In addition, the correction narrative needs to be revised as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

10. Failure E, (Failure 5), pages 2 and 14. The correction narrative needs to be revised as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

11. Failure F (Failure 6) Pages 3 & 15, I am concerned the described correction proposal creates a cash or deferred election which is not permitted in a defined benefit pension plan.

12. Failure G (Failure 7) Pages 3 & 15. The correction narrative needs to be revised as discussed in earlier items with regard to interest, and other matters. In addition, the narrative regarding the adjustment of future annuity payments should be removed since none of the beneficiaries are entitled to an annuity. Therefore, what is there to adjust?

13. Failure H (Failure 8) Pages 3 & 15-16. The correction narrative needs to be revised as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

14. Failure I (Failure 9) Pages 3-4 & 16. The correction narrative needs to be revised as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

15. Failure J (Failure 10) Pages 4 & 15. The correction narrative on page 15 appears to call for an amendment to be presented to the County by ERS or the Pension Board. This is not acceptable. You have to do more than simply "present" a plan amendment to the County. If its not certain that the County will adopt the amendment then this correction method should not be proposed.

16. Failure K (Failure 11) Pages 4 & 17. The correction narrative on page 15 appears to call for an amendment to be presented to the County by ERS or the Pension Board. This is not acceptable. You may to do more than simply "present" a plan amendment to the County. See Item 15.

17. Failure L (Failure 12), Pages 4 & 17 plus the 03/2818 letter from your representative. The correction proposal in your representative's letter dated 3/28/19 is not acceptable because it appears to cause additional operational failures that don't currently exist. This violates the correction principles in Rev. Proc. 2016-51, Section 6.02. With that said if the retroactive amendment is a targeted, limited amendment affecting just the six affected participants it might be OK if they are rank and file employees and the other conditions specified in Rev. Proc. 2016-51, Section 4.05 can be met. Finally, the narrative suggests that it's not certain if plan sponsor will adopt the necessary amendment. Please revise the correction narrative for this failure and don't forget to include the necessary plan amendment, if applicable. If you want to go back to the narrative in the 12/20/17 letter that's OK, however that narrative needs revision as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

18. Failure M (Failure 13) Pages 4 & 17. It should be removed from the submission. The failure was addressed in the prior compliance statement issued back in 2016.

19. Failure N (Failure 14) Pages 4 & 17. The correction narrative needs revision as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

20. Failure 0 (Failure 15), Pages 5 & 17-18. The correction narrative needs revision as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

21. Failure P (Failure 16) Page 5 and pages 18-19 Item a. There are a couple of specific matters:
(a) Item a. It's not clear from the narrative description as to how there is a failure to follow the plan's written terms. Even if it is, not providing interest due to the delayed payment is not reasonable correction as these requirements were not specified by plan terms.
(b) Item b. The correction narrative needs revision as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.
(c) Item c. It's not clear if the narrative on page 5 describes a failure to follow plan terms. Even if it is an operational failure, the failure to provide any additional benefits due to the delay in payment may not be reasonable and appropriate correction. Also, what is the authority to mandate a lump sum payment? Why not mandate the commencement of a survivor annuity?
(d) Item d. The correction narrative needs revision as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

22. Failure Q (Failure 17), pages 5-6 and page 19. I am not sure that the Pension Board can adopt this retroactive amendment as it seems beyond their authority and instead would have to be adopted by the County. Even if that's cleared up it may not be reasonable and appropriate correction as it would be inconsistent with the IRC and Income Tax regulations that require the plan to be operated consistent with the written terms of the plan and its too late to apply such an amendment retroactively unless it was adopted in 2017. See IRC 401(a) and Income Tax Regs. 1.401-1(a).

23. Failure R (Failure 18), Pages 6 & 19. Applicable interest is not defined. More importantly, the narrative

needs to fully describe what happens if the missing contributions are not contributed to the plan by the affected plan participants. While the 1st step would be the loss of service credits. Additional consequences presumably would involve removing them from the Plan and all applicable monies (Employee contributions and any amounts equal to present value amounts) would be transferred to the other retirement plan sponsored by the County.

24. Failure S (Failure 19), Pages 6 & 19. Not sure if the Board can adopt this amendment. See Item 5. The other major problem is the inclusion of a back up proposal. See Item 4. Finally, other revisions may be necessary due to earlier items mentioned in this letter.

25. Failure T (Failure 20), Pages 6 & 19. I am not sure that the Pension Board can adopt this retroactive amendment as it seems beyond their authority and instead would have to be adopted by the County. The other problem is that the Failure description is not clear nor is it clear as to whether it produced overstated or understated benefits for affected plan participants. Also, its not clear how the correction narrative resolves the problem. Part of the problem is that the narrative references pay periods not specifically mentioned in the Ordinances with regard to determining average final salary. The other major problem is the inclusion of a back up proposal. See Item 4.

26. Failure U (Failure 21), Pages 6 and 20. It's not clear from the narrative as to whether the affected plan participants were under or over paid as a result of their change in benefit form upon re-retirement. Note if the overpayments involved lump sum payments then the plan participant must be informed that the overpayment can't be rolled over and is not subject to favorable tax treatment. The correction narrative on page 20 needs revision due to other previous items in this letter. Finally, not clear if the prospective amendment can by adopted by ERS.

27. Failure V (Failure 22) Pages 7 and 20. The correction narrative on page 20 needs revision due to other previous items discussed in this letter.

28. Failure W (Failure 23) Pages 7 and 20-21. There are concerns with this Failure:
(a) 1st item, The correction narrative on page 20 needs revision due to other previous items in this letter.
(b) 2nd item. Correction narrative on page needs revision as you can't present an amendment to the County as previously discussed. Don't present this as a correction method unless the County is OK with it. If an amendment is presented as the correction method it will have to be a targeted amendment if such affected participant is or was a rank and file employee and if the amendment meets the requirements in section 4.05 of Rev. Proc. 2016-51.

29. Failure X (Failure 24) Pages 7 and 21. The correction narrative on page 21 needs revision due to other previous items in this letter. In terms of the narrative that would grant relief to the plan sponsor if Overpayments can't be recovered, that is not a reasonable proposal. The plan sponsor remains responsible for making sure the plan is reimbursed for all overpayments not recouped from affected plan participants. We can't waive this requirement especially if the plan is underfunded. See Rev. Proc. 2016-51, Section 6.06(3). Please revise the narrative to make by removing the offending language and add narrative that you have used for other failures where the overpayment is not repaid by affected plan participants.

VCP submission for: Employees' Retirement System Of The County Of Milwaukee

30. Failure Y (Failure 25) pages 7 and 21. This is a confusing failure. The main problem with the 1st correction proposal is that its prospective only. Not sure if that's reasonable as it suggests that past failures of IRC 401(a)(9) have not been corrected. The second problem associated with this Failure, is that it's not clear to me that some aspects of the narrative on page 7 have described an operational failure to comply with plan terms or the IRC.

31. Failure Z (Failure 26) page 8 and pages 21-22. Delete this item from the submission:
a. For "I" its not clear if the narrative describes an actual failure to follow plan terms, especially given that the County or plan lost on this matter given the December 2018 Arbitration ruling. If there is no failure to follow plan terms then we don't have an IRS qualification failure that can be fixed under EPCRS.
b. For "2", the failure description is confusing and I can't find any plan language in section 201.24 (5.15) that specifically excludes deputy sheriffs. If there is no failure to follow plan terms then we don't have an IRS qualification failure that can be fixed under EPCRS.

32. The correction narrative on pages 22-23 needs revision due to other previous items discussed in this letter.

33. The Sample computation included your representative's letter dated 12/20/17 is incomplete. Please include a more detailed sample calculation that hopefully is based upon revised correction proposals that are consistent with EPCRS correction principles. Given the number of failures, more than one "sample" may be necessary to comply with the revenue procedure requirements. See Rev. Proc. 2016-51, Section 11.03(5).

Provide all requested items to me within 21 days from the date of this letter using one of the methods below:

- Fax: You can fax your items to the number at the top of this letter.
- Mail: You can mail your items to the address at the top of this letter. Please be sure to keep a copy of the information.

The VCP submission or voluntary closing agreement request won't be complete until we receive all the items listed above.

Be sure the items are complete and well organized. It would be helpful if you would number the information you send us to correspond to the numbered items above.

If you need more time to respond, contact me by telephone, fax, or mail to request an extension. Your request should explain why you need the extension and how much time you need. We'll notify you of our decision to approve or deny your extension request.

If you have questions, call or fax me using the contact information shown at the top of this letter. You can also contact the manager shown at the top of this letter.

Thank you for your cooperation.

Sincerely,

Paul C. Hogan Digitally signed by Paul C. Hogan Date: 2019.08.27 07:35:46 -07'00'

Internal Revenue Agent
EP Voluntary Compliance Program Coordinator

Exhibit B

ERS Response to IRS Correspondence of August 27, 2019

Plan Name: Employees' Retirement System of the County of Milwaukee
EIN/PN: 39-6005720/001
Control No.: 911749223

1. **IRS Item 1**: The submitted Form 8950, Item 6 indicates that interim late amender failures are part of the submission and that Form 14568-A, Sch 1 has been included. I can't find this schedule in the documents you have submitted nor are interim amendments mentioned in the 12/20/17 listing of qualification failures. Please advise as to whether the form was completed correctly. Submit any missing information or items. If the form is incorrect then simply indicate that the answer to this item should have been "NO".

   ERS Response: In the initial 2014 VCP Submission to the IRS, ERS included late amender failures for the failure to timely amend the Plan for compliance with the Pension Protection Act of 2006 and the Heroes Earnings Assistance and Relief Tax Act of 2008. As noted below, the IRS is correct that these failures were later corrected through the Compliance Statement dated June 23, 2016, which resolved the 2007 VCP submission. Because these errors were previously part of a Compliance Statement, there are no interim late amender failures in this VCP Submission and the answer on the Form 8950, Item 6 should have been "No."

2. **IRS Item 2**: In numerous places, the narrative document attached to your representative's 12/20/17 letter, proposes correction methodologies that are inconsistent with the correction principles in Rev. Proc. 2016-51. Specifically, the request to increase underpayments amounts associated with corrective distributions by using 5% interest with no compounding of interest (i.e. Simple Interest) is not acceptable. Rev. Proc. 2016-51, Section 6.02(4)(d) clearly indicates that the interest rate used to increase a corrective distribution due to delayed payment must be the rate of interest associated with the Plan's definition of actuarial equivalence that was in effect when the various underpayment distributions should have been made. County Ordinance 201.24(213) and Board Rule 1014(c) indicate that interest rate for actuarial equivalence is 8% during the various periods of failures. In this particular case, we can't accept a lower rate. The fact that the Pension Board or the County thinks it's too high of a rate does not mean we can simply accept the use of a lower rate. With regard to "simple" interest, it's not acceptable as a correction method. All examples in Appendix A and B of Rev. Proc. 2016-51 and various Fix-It-Guides published on irs.gov that explain how to correct various failures are determined using annual compound interest. We must also be consistent with other compliance statement that was issued for this plan back in 2016 that covered similar failures during much of the same time frames. That agreement called for the use of 8% and compound interest when increasing underpayment amounts due to delayed payment. Consider, also the consistency requirement in Rev. Proc. 2016-51, Section 6.02(3). Finally, the narrative in your representative's 12/20/17 letter suggests that the Ordinances might be amended to provide for the use of 5% interest and "simple" interest when dealing with operational failures involving some problems with pension benefits that will be fixed via a corrective distribution. I must point out that plan terms don't supersede the IRS correction principles set forth in published guidance nor would they preclude a challenge from the IRS or plan participants in terms of whether the resolution of an operational failure involving a corrective distribution of an underpayment is reasonable and appropriate correction under the Employee Plans Compliance Resolution System (EPCRS). In any event, if you wish to receive a compliance statement from the IRS, the

narrative must be revised throughout to indicate that the interest rate to be used to increase the underpayment amount is 8% and that annual compound interest will be used as well. Also, remove the sentence on page 22 of the narrative that indicates the plan will use 5% interest and simple interest when making corrective distributions that involve underpayments

ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect 5% compound interest for overpayments, which we understand is acceptable to the IRS. The Attachment has also been updated to reflect that the interest rate for underpayments will be the actuarial equivalence rate compounded (the references to 5% interest for underpayments have been deleted). However, as noted in the cover letter, ERS would appreciate the opportunity to discuss the recent ERS actuarial equivalence rate changes (from 8% to 7.75% to 7.50%) with the IRS.

3. **IRS Item 3**: Eleven failures require corrective plan amendments. See Failure A (Failure I), Failure D (Failure 4), F (Failure 6), Failure J (Failure 10), Failure K (Failure 11), Failure L, (Failure 12), Failure P (Failure 16), Failure Q (Failure 17), Failure S (Failure 19), Failure T (Failure 20), Failure Z (Failure 26). No corrective amendments have been included with the submission. I can't approve the submission without them as I would have no assurance that the corrective amendment is consistent with the described failure and whether it fixes resolves the specified problem. If a failure is to be resolved via a plan amendment, a copy of a proposed amendment must be submitted to me.

   ERS Response: Please see below with regard to each affected failure. The applicable corrective plan amendments are attached as Exhibits D-1 through D-5.

4. **IRS Item 4**: Some Failures call for a retroactive plan amendment, and also contain a back-up plan if the amendment is not adopted. This type of correction proposal is not acceptable. Instead you must present a single proposal for us to consider. Corrective plan amendments that are to be adopted by the County or the Pension Board should not be proposed as a correction proposal unless there has been some coordination with the appropriate parties and they have agreed to adopt such corrective plan amendments. If it is not reasonably certain that the proposed amendments will be adopted then don't propose it as a correction method. Revise the narrative attachment in a few places so that only one correction proposal is presented.

   ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect only one proposed correction method. We have coordinated with the applicable Boards, and we believe the amendments will be adopted.

5. **IRS Item 5**: Some failures with retroactive amendments seem to go beyond an administrative matter that can be adopted by the Pension Board and is creating additional benefits that would have to be adopted by the County Board. See Failure D (Failure 4), Failure Q (Failure 17), Failure S (Failure 19), Failure T (Failure 20), Failure U (Failure

21). Revise the submission narrative and more clarification and certainly that the County Board will be adopting these amendments.

ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect that the County Board will adopt the applicable Ordinance amendments.

6. **IRS Item 6**: Various correction methodologies in the 12/20/17 narrative attachment often refer to "interest" or "applicable interest". I believe there should be consistent usage of the term and if the term is to be defined in another section of the narrative attachment there should be a clear reference to it. In various places, revise the correction narrative.

   ERS Response: As fully explained in the response to IRS Item 2, the Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to clarify the terms "interest" and "applicable interest" (but reserving the specific interest rate as discussed in IRS Item 2).

7. **IRS Item 7**: Failure B (Failure 2) See pages 1-2 and 12-13 of the narrative attachment associated with your representative's letter dated 12/20/17. The correction narrative for:

   "(a)" is impacted by some of the preceding items. In addition, expand the narrative to say that "ERS will notify each affected individual the corrective distribution is taxable and not eligible for tax free rollover treatment;" This makes the correction consistent with Failure D.

   "(b)", look to Item 6. In addition, expand the narrative to contain the methodology that will be used to adjust future annuity payments. In the previous compliance statement, you approved the following: "Such reduction will be computed over the life expectancy of the individual participant using the Plan's written terms for actuarial equivalence, including the stated interest rate and mortality table."

   "(c)" is unclear for a few reasons. Reference to "refund is not appropriate. In the 1st paragraph on page 13 Item 3, replace "refund" with "recover" in the 1st sentence. Revise the 4th sentence by deleting "refund" and replace with "BackDROP lump sum benefit adjusted with interest." Finally, revise the 5th sentence by deleting "against the refund".

   Finally, what about the tax treatment of Lump Sum Back Drop Payment? Seems like it should be taxable, not subject to rollover, etc as this is an overpayment, what about the plan issuing the letter described in Rev. Proc. 2016-51, Section 6.06(1)? Please revise the correction narrative to contain additional narrative

   ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the changes requested by the IRS (but reserving the specific interest rate as discussed in IRS Item 2).

The IRS noted that the prior compliance statement ERS adjusted future annuity payments to recover the overpayment over the life of the member (see comment "b" above). Since the last compliance statement, the County Board carefully considered the overpayment issue and determined that it wanted an avenue whereby the County would pay interest on members' overpayments. The County Board adopted Ordinance section 201.24(8.24) (attached as part of Exhibit D-4) that provide members options for overpayments, including an option where the County Board would pay the interest. Given the County's willingness to pay a portion of the overpayment amounts, ERS would like to provide that same structure for overpayments in the VCP. The narrative in Section III reflects this structure.

With regard to Failure B(3), ERS determined that all but four affected beneficiaries were surviving spouses eligible to receive a Protective Survivorship Option under Ordinance section 201.24(7.1). ERS would prefer to allow these surviving spouses to retain their backDROPs instead of attempting to put the Plan the back into the position it would have been in had the error not occurred. Accordingly, the County Board will adopt an Ordinance amendment conforming the terms of the Plan to its operation for the affected years. For the four beneficiaries (all beneficiaries of one ERS member) who were not eligible for a Protective Survivorship Option or any annuity benefit from ERS, ERS proposes to recover the backDROP from those beneficiaries as it would with any other overpayment. These changes are reflected in the revised Attachment to Form 14568 - Section III attached as Exhibit C-2.

8. **IRS Item 8**: Failure C (Failure 3), Pages 2 & Pages 13-14, Correction narrative needs to be revised as discussed in earlier items in terms of interest, methodology for reducing future annuity payments and other matters. In addition, "(a)" narrative needs to be revised to add "ERS will notify each affected individual the corrective distribution is taxable and not eligible for tax free rollover treatment." This makes the correction consistent with Failure D.

   ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the changes requested by the IRS (but reserving the specific interest rate as discussed in IRS Item 2).

9. **IRS Item 9**: Failure D (Failure 4), pages 2 and 14. The opening narrative for "(a)" on page 14 is not acceptable. ERS can't adopt an amendment that would permit affected plan participants to be entitled to benefits that were not approved by the County. Please delete it. In addition, the correction narrative needs to be revised as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

   ERS Response: Upon further review, ERS has determined that the only errors are the result of ERS failing to cease benefits after the required time period and the appropriate method for correction is to recover the overpayments. The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect these changes.

10. **IRS Item 10**: Failure E, (Failure 5), pages 2 and 14. The correction narrative needs to be revised as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the changes requested by the IRS (but reserving the specific interest rate as discussed in IRS Item 2).

11. **IRS Item 11**: Failure F (Failure 6) Pages 3 & 15, I am concerned the described correction proposal creates a cash or deferred election which is not permitted in a defined benefit pension plan.

ERS Response: Because the affected employees are seasonal employees, ERS believes that the election provided to optional employees is not a cash or deferred election. Permit us to explain. Treasury Regulation section 1.401(k)-1(a)(3)(v) provides that

> a cash or deferred arrangement does not include a one-time irrevocable election made no later than the employee's first becoming eligible under the plan…to have contributions equal to a specified amount or percentage of the employee's compensation (including no amount of compensation) made by the employer…for the duration of the employee's employment with the employer.

The affected members disclosed under the VCP Submission are seasonal employees. As is common with these types of positions, seasonal employees terminate employment with the County each year. While some employees return to County employment multiple years in a row, neither the County nor the employee can know at the time of termination whether the individual will return the next year or whether the County will have available positions for all individuals. The Treasury Regulation states that the one-time election is for contributions to be made for the duration of the employee's employment. ERS considers these seasonal individuals' elections into ERS or decisions to remain in OBRA to be one-time elections for the duration of the employees' employment with the County, which duration constitutes each season because, after each season, the individual terminates employment without any promise of future employment.

The error disclosed on the VCP occurred because the ERS Plan document (by means of now repealed Rule 202) restricted members' election rights further than the Treasury Regulation necessitates by requiring members to withdraw from ERS before they could have another option to elect into ERS or remain in OBRA. However, as explained above, it does not appear that this restriction is required by the Treasury Regulation. Accordingly, ERS contends that the Pension Board may retroactively amend Rule 202 to provide for such an election at the time the employee commences employment with the County, which election would then end upon termination of employment. This amendment would correct the errors created under the more restrictive election rule in the Plan document.

Additionally, an optional (here, seasonal) employee's election into ERS is different than a simple election to defer compensation or receive the compensation immediately because members elect into ERS for reasons beyond just the contributions. ERS provides members with different benefits than OBRA. This further supports ERS's belief that the ability of optional employees to elect to participate in ERS is not a cash or deferred election.

For all these reasons, the enclosed correction narrative has been updated to provide that the Pension Board has or will adopt retroactive amendments that allow for optional employees to elect into ERS or remain in OBRA when they are reemployed by the County. The proposed amendments are attached as Exhibit D-2.

12. **IRS Item 12**: Failure G (Failure 7) Pages 3 & 15. The correction narrative needs to be revised as discussed in earlier items with regard to interest, and other matters. In addition, the narrative regarding the adjustment of future annuity payments should be removed since none of the beneficiaries are entitled to an annuity. Therefore, what is there to adjust?

    ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the changes requested by the IRS.

13. **IRS Item 13**: Failure H (Failure 8) Pages 3 & 15-16. The correction narrative needs to be revised as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

    ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the changes requested by the IRS(but reserving the interest rate as discussed in IRS Item 2).

14. **IRS Item 14**: Failure I (Failure 9) Pages 3-4 & 16. The correction narrative needs to be revised as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

    ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the changes requested by the IRS(but reserving the interest rate as discussed in IRS Item 2).

15. **IRS Item 15**: Failure J (Failure 10) Pages 4 & 15. The correction narrative on page 15 appears to call for an amendment to be presented to the County by ERS or the Pension Board. This is not acceptable. You have to do more than simply "present" a plan amendment to the County. If it is not certain that the County will adopt the amendment then this correction method should not be proposed.

    ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the changes requested by the IRS.

The County Board has already adopted an amendment correcting this failure. The applicable corrective plan amendments are attached are part of Exhibit D.

16. **IRS Item 16**: Failure K (Failure 11) Pages 4 & 17. The correction narrative on page 15 appears to call for an amendment to be presented to the County by ERS or the Pension Board. This is not acceptable. You may to do more than simply "present" a plan amendment to the County. See Item 15.

ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the changes requested by the IRS. The County Board has already adopted an amendment correcting this failure. The applicable corrective plan amendments are attached as part of Exhibit D.

17. **IRS Item 17**: Failure L (Failure 12), Pages 4 & 17 plus the 03/2818 letter from your representative. The correction proposal in your representative's letter dated 3/28/19 is not acceptable because it appears to cause additional operational failures that don't currently exist. This violates the correction principles in Rev. Proc. 2016-51, Section 6.02. With that said if the retroactive amendment is a targeted, limited amendment affecting just the six affected participants it might be OK if they are rank and file employees and the other conditions specified in Rev. Proc. 2016-51, Section 4.05 can be met. Finally, the narrative suggests that it's not certain if plan sponsor will adopt the necessary amendment. Please revise the correction narrative for this failure and don't forget to include the necessary plan amendment, if applicable. If you want to go back to the narrative in the 12/20/17 letter that's OK, however that narrative needs revision as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

ERS Response: The correction narrative has been updated to clarify the errors that occurred. While ERS agrees that EPCRS does not recommend corrections that result in additional errors, for this item, the corrections will either result in additional errors or in inconsistent treatment of members. ERS is recommending a correction that provides consistent treatment of members.

ERS believes that members who attain normal retirement age while in active service should be vested, even if they do not retire immediately from active service. To determine otherwise would result in members forfeiting a benefit simply because they are unaware they are eligible for a benefit and therefore do not apply before they terminate employment. This seems to be treating members inconsistently, which is contrary to EPCRS correction principles (*see* Rev. Proc. 2016-51, Section 1.02). ERS suggests a correction that results in treating all members as vested upon attaining normal retirement age in active service and amending the deferred vested plan provisions to recognize these members as deferred vested members. While this creates some required minimum distribution errors, ERS contends that this is preferable to inequitable treatment of members historically and going forward.

18. **IRS Item 18**: Failure M (Failure 13) Pages 4 & 17. It should be removed from the submission. The failure was addressed in the prior compliance statement issued back in 2016.

ERS Response: This item has been removed from the submission.

19. **IRS Item 19**: Failure N (Failure 14) Pages 4 & 17. The correction narrative needs revision as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the changes requested by the IRS(but reserving the interest rate as discussed in IRS Item 2).

20. **IRS Item 20**: Failure O (Failure 15), Pages 5 & 17-18. The correction narrative needs revision as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the changes requested by the IRS.

21. **IRS Item 21**: Failure P (Failure 16) Page 5 and pages 18-19 Item a. There are a couple of specific matters:

   a. Item a. It's not clear from the narrative description as to how there is a failure to follow the plan's written terms. Even if it is, not providing interest due to the delayed payment is not reasonable correction as these requirements were not specified by plan terms.

   b. Item b. The correction narrative needs revision as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

   c. Item c. It's not clear if the narrative on page 5 describes a failure to follow plan terms. Even if it is an operational failure, the failure to provide any additional benefits due to the delay in payment may not be reasonable and appropriate correction. Also, what is the authority to mandate a lump sum payment? Why not mandate the commencement of a survivor annuity?

   d. Item d. The correction narrative needs revision as discussed in earlier items with regard to interest, methodology for reducing future annuity payments and other matters.

ERS Response: For Items a, b and d, the Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the changes requested by the IRS (but reserving the interest rate).

For Item c, the failure to follow the Plan terms is due to the failure to pay out any death benefit by the required start date. The Plan terms only allow a survivor annuity to be paid out to a spouse who has attained age 60 following the death of the member in active service if that spouse has not remarried (*see* Ordinance section 201.24(6.4)). Similarly, a surviving child is eligible for an annuity up until age 18 or 22 if the child is in school. ERS needs to confirm this information before it can confirm eligibility for the spouse or child to receive the survivor annuity. Sometimes ERS does not receive any confirmation of the spouse's marital status or the child's school status after repeated letters requesting the information. Accordingly, ERS does not commence the survivor annuity. However, every beneficiary is entitled to a $2,000 death benefit if they are not entitled to any other survivor annuity (*see* Ordinance section 201.24(6.3)). Accordingly, for those who declined to provide ERS with information confirming their marital status by the required start date, ERS proposes to pay the $2,000 death benefit to these individuals, increased for the delay in payment using the Plan's actuarial equivalence rate. Similarly, for children who have attained age 22, ERS proposes to pay the $2,000 death benefit increased for the delay in payment using the Plan's actuarial equivalence rate. The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated accordingly.

22. **IRS Item 22**: Failure Q (Failure 17), pages 5-6 and page 19. I am not sure that the Pension Board can adopt this retroactive amendment as it seems beyond their authority and instead would have to be adopted by the County. Even if that's cleared up it may not be reasonable and appropriate correction as it would be inconsistent with the IRC and Income Tax regulations that require the plan to be operated consistent with the written terms of the plan and its too late to apply such an amendment retroactively unless it was adopted in 2017. See IRC 40l(a) and Income Tax Regs. 1.401-l(a).

    ERS Response: In reviewing the IRS's comments and the situation further, ERS has determined that this is not an error. The terms of the Plan document do not allow an individual who is not in active ERS service to elect a backDROP. ERS did not allow the individual to request a backDROP and instead properly paid the individual her annuity benefit without a backDROP. Accordingly, there was no error. This item was removed from the Attachment to Form 14568 -- Section II and Section III.

23. **IRS Item 23**: Failure R (Failure 18), Pages 6 & 19. Applicable interest is not defined. More importantly, the narrative needs to fully describe what happens if the missing contributions are not contributed to the plan by the affected plan participants. While the 1st step would be the loss of service credits. Additional consequences presumably would involve removing them from the Plan and all applicable monies (Employee contributions and any amounts equal to present value amounts) would be transferred to the other retirement plan sponsored by the County.

    ERS Response: Due to the differences between ERS and OBRA, it would be administratively difficult to transfer service credit between the two plans for these affected members. Accordingly, ERS is proposing to credit the members with the service credit for the years they elected into ERS and request the missing contributions (plus interest at 5% compounded annually) to be paid by the affected members. However, if the members fail to pay the contributions, the County will contribute the missing contributions, plus interest. ERS believes that 5% compound interest is appropriate in this situation because the membership accounts, where contributions are held, earn 5% interest (*see* Rule 403). The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated accordingly.

24. **IRS Item 24**: Failure S (Failure 19), Pages 6 & 19. Not sure if the Board can adopt this amendment. See Item 5. The other major problem is the inclusion of a back up proposal. See Item 4. Finally, other revisions may be necessary due to earlier items mentioned in this letter.

    ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to clarify that the County Board will adopt the Ordinance amendment (draft amendment included as part of Exhibit D), and the backup proposal has been deleted.

25. **IRS Item 25**: Failure T (Failure 20), Pages 6 & 19. I am not sure that the Pension Board can adopt this retroactive amendment as it seems beyond their authority and instead would have to be adopted by the County. The other problem is that the Failure description is not clear nor is it clear as to whether it produced overstated or understated benefits for affected plan participants. Also, its not clear how the correction narrative resolves the problem. Part of the problem is that the narrative references pay periods not specifically mentioned in the Ordinances with regard to determining average final salary. The other major problem is the inclusion of a back up proposal. See Item 4.

    ERS Response: In reviewing this situation further, ERS has determined that it is not an error. The Ordinance is not clear, and therefore subject to different interpretations. However, ERS previously made a determination of how the Ordinance should be interpreted, and that interpretation has been applied consistently to beneficiaries in administering the Plan. The County Board may decide to clarify the Ordinance going forward to codify the interpretation, but there is no operational error. This error has been removed from the VCP.

26. **IRS Item 26**: Failure U (Failure 21), Pages 6 and 20. It's not clear from the narrative as to whether the affected plan participants were under or over paid as a result of their change in benefit form upon re-retirement. Note if the overpayments involved lump sum payments then the plan participant must be informed that the overpayment can't be rolled over and is not subject to favorable tax treatment. The correction narrative on page 20 needs revision due to other previous items in this letter. Finally, not clear if the prospective amendment can by adopted by ERS.

    ERS Response: Both overpayments and underpayments resulted from this error. The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the IRS's comments (but reserving the specific interest rate as discussed in IRS Item 2).

27. **IRS Item 27**: Failure V (Failure 22) Pages 7 and 20. The correction narrative on page 20 needs revision due to other previous items discussed in this letter.

ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the changes requested by the IRS.

28. **IRS Item 28**: Failure W (Failure 23) Pages 7 and 20-21. There are concerns with this Failure:

a. 1st item, The correction narrative on page 20 needs revision due to other previous items in this letter.

b. 2nd item. Correction narrative on page needs revision as you can't present an amendment to the County as previously discussed. Don't present this as a correction method unless the County is OK with it. If an amendment is presented as the correction method it will have to be a targeted amendment if such affected participant is or was a rank and file employee and if the amendment meets the requirements in section 4.05 of Rev. Proc. 2016-51.

ERS Response: With regard to the first item, the Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect the changes requested by the IRS.

With regard to the second item, The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to reflect that the County Board has or will adopt an amendment (attached as part of Exhibit D) that is targeted to correct the specific affected individual.

29. **IRS Item 29**: Failure X (Failure 24) Pages 7 and 21. The correction narrative on page 21 needs revision due to other previous items in this letter. In terms of the narrative that would grant relief to the plan sponsor if Overpayments can't be recovered, that is not a reasonable proposal. The plan sponsor remains responsible for making sure the plan is reimbursed for all overpayments not recouped from affected plan participants. We can't waive this requirement especially if the plan is underfunded. See Rev. Proc. 2016-51, Section 6.06(3). Please revise the narrative to make by removing the offending language and add narrative that you have used for other failures where the overpayment is not repaid by affected plan participants.

ERS Response: Upon further discussion, ERS has determined this is not an error. Like all retirement plans, ERS ceases benefits as soon as it is aware of a member's or beneficiary's death. Accordingly, there is no failure to comply with the Plan document. However, ERS does have a process in place to attempt to recover the amounts paid after the member's death from the member's family, plus interest. If ERS cannot recover the amounts from the recipients, ERS notifies the County and the County contributes the amounts.

30. **IRS Item 30**: Failure Y (Failure 25) pages 7 and 21. This is a confusing failure. The main problem with the 1st correction proposal is that its prospective only. Not sure if that's reasonable as it suggests that past failures of IRC 401(a)(9) have not been corrected. The second problem associated with this Failure, is that it's not clear to me that some aspects of the narrative on page 7 have described an operational failure to comply with plan terms or the IRC.

ERS Response: The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2, have been updated to clarify the failure and to reflect the changes requested by the IRS.

31. **IRS Item 31**: Failure Z (Failure 26) page 8 and pages 21-22. Delete this item from the submission:

a. For "I" its not clear if the narrative describes an actual failure to follow plan terms, especially given that the County or plan lost on this matter given the December 2018 Arbitration ruling. If there is no failure to follow plan terms then we don't have an IRS qualification failure that can be fixed under EPCRS.

b. For "2", the failure description is confusing and I can't find any plan language in section 201.24 (5.15) that specifically excludes deputy sheriffs. If there is no failure to follow plan terms then we don't have an IRS qualification failure that can be fixed under EPCRS.

<u>ERS Response</u>:

a. Upon further review, ERS agrees that this was not a failure to follow the Plan's terms. Accordingly, it is not an error, and it has been removed from the VCP.

b. The Attachment to Form 14568 – Section II and Section III, attached as Exhibits C-1 through C-2 has been updated to address the IRS's comments related to other overpayment errors and to clarify the Ordinance's exclusion of collectively bargaining employees.

32. **IRS Item 32**: The correction narrative on pages 22-23 needs revision due to other previous items discussed in this letter.

ERS Response: This correction narrative has been updated.

33. **IRS Item 33**: The Sample computation included your representative's letter dated 12/20/17 is incomplete. Please include a more detailed sample calculation that hopefully is based upon revised correction proposals that are consistent with EPCRS correction principles. Given the number of failures, more than one "sample" may be necessary to comply with the revenue procedure requirements. See Rev. Proc. 2016-51, Section 11.03(5).

ERS Response: Attached as Exhibit E are sample calculations for both overpayments and underpayments that have been revised to be consistent with the revised correction methods as detailed by the IRS (subject to the interest rate discussion for underpayments noted in Item 2). The errors in the VCP result in either overpayments or underpayments. ERS will use the same procedure for each individual affected by each error: (1) determine the correct benefit amount, if any, under the Ordinances and Rules; (2) determine the underpayment or overpayment by subtracting what should have been received by what was received; and (3) calculating interest.

Exhibit C

Revised Attachments to Form 14568

Exhibit C-1

Attachment to Form 14568 Section II

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. Retirement Plan Services ("RPS") is responsible for the day-to-day administration of ERS. In addition to the violations reported in prior VCP filings, 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, RPS receives Income Withholding Support Orders sent by County support enforcement agencies requesting that RPS 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, RPS has generally complied with these orders and a basis exists to conclude that state law requires RPS to comply with these orders.

B. BackDROP Errors. Ordinance section 201.24(5.16) and ERS Rule 711 allow members remaining in County employment past their earliest retirement date to elect to receive a backDROP form of benefit upon actual retirement from County employment. This benefit form 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 backDROP 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 backDROP date. ERS Rule 713 provides that the interest rate applicable to calculating the backDROP 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.

A number of failures were discovered in the administration of the backDROP.

1. *Lump Sum BackDROP Payments Failed to Include Applicable Interest.* RPS discovered an error in the ERS computer system's calculation of interest on the backDROP payments. When calculating a backDROP benefit, ERS's computer system did not include interest on the member's final month of service with the County. For example, if the retiring member's last day on the payroll was the 20th of the month, 20 days of interest for that final month should have been included in the backDROP amount. This final partial month of service was not included in the final interest calculation.

2. *BackDROP Limitation Date.* In accordance with Ordinance section 201.24(5.16), when a member elects a backDROP, the member's benefit for purposes of

calculating his or her monthly benefit and backDROP lump sum benefit are effectively frozen as of the elected backDROP date. Ordinance section 201.24 (5.16) further provides that if a member elects a backDROP date that is on or after April 1, 2013, then the member's monthly benefit and the member's backDROP benefit will be calculated as of April 1, 2013 instead of the later elected backDROP date. RPS discovered that the backDROP limitation date of April 1, 2013 was not uniformly incorporated into all backDROP calculations. This error resulted in members receiving overpayments.

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

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. RPS discovered two categories of errors relating to the COLA adjustments:

1. *Failure to Apply COLAs to Benefits.* RPS 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 computer system at the time.

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

D. Administration of 10-Year Certain Benefit. Ordinance section 201.24(7.1) provides that members may choose an optional form of benefit outside of the single life annuity. One of those forms is a 10-year certain annuity that 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. Overpayments to beneficiaries resulted from calculation errors and the failure to cut-off monthly benefit payments after the required 120 payments were made.

E. Incorrect Retirement Option. Ordinance section 201.24(7.1) allows members to elect optional forms of benefit instead of receiving their benefits in the form of the default single life annuity. As part of their retirement applications, members elect these optional forms. RPS discovered members whose benefits were calculated under the wrong retirement option. The members elected one option, and their benefits were calculated and paid under a different option, resulting in overpayments and underpayments.

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 were previously allowed to elect into ERS or remain in OBRA. Rule 202 (now repealed) governed these elections and provided that the option to elect into ERS from OBRA may not be 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 terminate employment for several months and return each year. 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 of Rule 202 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. Annuity Paid to Multiple Beneficiaries. RPS discovered multiple errors arising out of the payment of an active member's death benefit. The member was not eligible to receive a death benefit in the form of an annuity because the member was in active service and had not completed the required paperwork to elect a Protective Survivorship Option under Ordinance section 201.24(7.1)(3). Accordingly, only the lump sum death benefit provided for by Ordinance section 201.24(6.3) was payable at the time of the member's death. However, RPS paid a death benefit in the form of an annuity. Additionally, the annuity was 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 (Option 7 is no longer available). The beneficiaries also received a backDROP and are included as part of the error explained in Section (B)(iii) above.

H. Incorrect Benefit Calculations. RPS discovered a number of errors related to incorrect benefit calculations. For example, some individuals' benefits were incorrect due to service credit calculation errors, while others had errors based on incorrect multipliers or errors related to the calculation of the members' compensation. These errors resulted in overpayments and underpayments.

I. Benefits Paid to Wrong Members. RPS discovered that some individuals' pension benefits were being paid to a different individual. For example, in one instance, the surviving spouse of an ERS member was incorrectly receiving her survivor 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.

J. Definition of Employee. Prior to the adoption of a resolution amending Ordinance section 201.24(2.4), which includes the definition of "Employee", the definition of Employee 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).

K. 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. RPS generally complies with these levies. However, Ordinance section 201.24(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, RPS's compliance with the levies violates the alienation of benefits prohibition in the Ordinances.

L. Payment of Deferred Vested Benefits to Non-Vested Members. Pursuant to Ordinance section 201.24(4.1), members who attain normal retirement age in active service are eligible for a normal pension benefit under that section. 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 (5-10 years depending on ERS enrollment date). 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). ERS has historically considered members who attain normal retirement age in active service to be eligible for benefits even if they are deferred vested members with less than the required years of service credit (*i.e.*, the members are autovested at the time they attain normal retirement age while in active service ("Autovested Members")). To not pay these benefits would produce an absurd result whereby members who retired directly from County service after autovesting would receive a benefit, but members who did not retire directly from County service would not receive a deferred vested benefit.

Errors were created when RPS paid deferred vested benefits to these Autovested Members because Ordinance section 201.24(4.5) requires members to have attained a certain number of years of credit to receive a deferred vested pension. These members do not have the required years of service.

Errors were also created when RPS failed to commence some Autovested Members' benefits by their required start dates.

A third error was created because RPS allowed some of these Autovested Members to receive a refund of their employee contributions. However, Ordinance section 201.24(3.5) prohibits members from receiving a refund of their contributions if they are eligible for the present receipt of a deferred vested benefit.

M. .

N. Use of Incorrect Mortality Tables. RPS discovered that some RPS staff members had not updated the benefit calculators they were using to reflect the correct mortality table. Accordingly, benefit computation errors occurred when an incorrect mortality table was used to calculate optional forms of benefit that were actuarially equivalent to ERS's normal form of benefit (a straight life annuity). This resulted in underpayments to members.

O. Offset of Benefits. Ordinance section 201.24(11.9) and Rule 1018 requires ERS to offset any disability or death benefits payable under the Ordinances and Rules by any amounts payable under workers' compensation or similar laws arising out of the same death or disability. There are two subcategories of errors that occurred.

1. Offset of Survivor Annuity. Ordinance section 201.24(6.1) provides for a spousal annuity for a deputy sheriff who dies in the course of ERS active employment. RPS determined for 1 beneficiary that RPS failed to appropriately offset the beneficiary's benefit in accordance with Ordinance section 201.24(11.9) and ERS Rule 1018.

2. Offset of Disability Benefits. The Ordinances provide for disability benefits for members who meet the criteria for either an accidental disability pension (Ordinance section 201.24(4.3)) or an ordinary disability pension (Ordinance section 201.24(4.4)). RPS determined that it failed to properly offset the members' disability benefits in accordance with Ordinance section 201.24(11.9) and ERS Rule 1018.

P. Death Benefits. During an internal audit, RPS discovered the following errors related to the payment of death benefits:

- *No Death Benefit Paid.* Ordinance section 201.24(6.3) provides for a lump sum death benefit if a member dies in active service and no other benefit is payable. For some beneficiaries, errors were created when RPS failed to pay the lump sum death benefits after the members died.

- *Overpayment of Survivor Annuities.* Some beneficiaries receiving survivor annuities in accordance with Ordinance section 201.24(6.4) received overpayments when their annuities were not stopped in accordance with the Ordinance's requirements. This resulted in overpayments.

- *Eligibility Questions.* A beneficiary may be eligible for either the Ordinance section 201.24(6.3) lump sum death benefit or for the Ordinance section 201.24(6.4) survivor annuity, but not both. Ordinance section 201.24(6.4) only applies to certain beneficiaries, and if a dependent spouse remarries, they are no longer eligible for the benefit. Children are eligible for the benefit based on their ages (up to age 22), and at a certain age, student status. Accordingly, RPS must receive certain information from the beneficiary before it can determine which survivor benefit should be paid or how long the benefit should be paid. In instances where the beneficiary does not provide the requested information by the required start date, RPS has not paid out a benefit.

- *Survivor Benefits Paid to Ineligible Members.* The Ordinances and Rules are not clear with regard to the definition of member and active service as it relates to death benefits. ERS's past practice has been to not pay out death benefits if the individual is not earning service credit in ERS at the time of death (*e.g.*, individual is in non-ERS covered employment or out on extended medical or other leave). However, RPS discovered one instance in which a beneficiary of a member who was not earning service credit in ERS at the time of death has received a survivor annuity under Ordinance section 201.24(6.4).

Q. .

R. Optional Employee - Required Contributions. Ordinance section 201.24(3.11) requires the majority of ERS members to make contributions to ERS. Additionally, Ordinance section 201.24(3.3) requires members who elect into ERS (who would otherwise be enrolled in OBRA) to make additional contributions. Contrary to these requirements, some members did not make the contributions for certain years. Because these members did not make the required contributions, the employees were not credited with the applicable service credit for those years.

S. Refunds of Membership Accounts upon Death. ERS members make employee contributions to ERS.[1] These contributions are held in a member's membership account. Ordinance section 201.24(3.5) provides that upon the death of an active member or a deferred vested member, the member's beneficiary will be paid, in a lump sum, the balance of the member's membership account upon the date of death. If the beneficiary is eligible for an annuity benefit due to the member's death, the beneficiary will receive that benefit. However, the Ordinance further provides that if the amount of the membership account at the date of a member's death exceeds the total of the amount of the annuity payments made to the beneficiary after all payments have been made, such excess shall be paid in a lump sum to the member's beneficiaries. Regardless of whether the beneficiary receives a refund of the membership account upon the death of the member or after all annuity payments are made, interest is payable on the membership account through the date of death. ERS has made some payments to beneficiaries using interest payable through the date of distribution instead of the date of death, resulting in overpayments.

T. .

U. Re-Retirements. Ordinance section 201.24(11.2) provides that upon reemployment of a retired member in an ERS-covered position, the member's pension benefit will cease and the member will again receive service credit. Additionally, Rule 1013 provides that a member may not change his or her form of benefit after the member's retirement effective date. When the member subsequently retires, RPS recalculates the member's benefit to account for the increased service credit earned during that subsequent period of service. Despite Rule 1013, RPS has in the past has allowed members to change their forms of benefit upon re-retirement. This has resulted in overpayments and underpayments.

V. Benefit Administration. RPS discovered that it overpaid five members. One member received an extra retroactive payment, two members received full month payments instead of partial month payments and two members were repaid for their offsets.

W. Corrections to 2007 VCP. While reviewing the errors reported as part of the 2007 VCP, RPS discovered that in correcting the mortality table errors reported on that VCP, RPS used a 9% backDROP interest rate instead of 8.5%, which was the correct interest rate at the time.

Additionally, one member's use of a 401(k) rollover to purchase service credit was reported to the IRS with a correction method of returning the Plan to the position it would have been in had the error not occurred. Pursuant to this correction method, ERS was to rescind his purchased service credit, recalculate his benefit and recover any overpaid amounts. This member is requesting that the Ordinances be retroactively amended to allow his rollover to purchase service credit.

X. .

Y. Minimum Distribution Incidental Benefit. Under the Code and corresponding Regulations, distribution options that are in the form of a joint and survivor annuity for the joint

[1] *See* Ordinance sections 201.24(3.3) and (3.11).

lives of a member and a non-spouse beneficiary must meet the minimum distribution incidental benefit ("MDIB") requirement. For ERS purposes, this requirement is applicable to retirements with optional forms of benefit under Ordinance section 201.24(7.1)(1) and the Protective Survivorship Option ("PSO") under Ordinance section 201.24(7.1)(3). Ordinance section 201.24(7.1)(2) provides that the optional forms of benefit will be the actuarial equivalent of the member's single life annuity. Ordinance section 201.24(4.6) incorporates by reference Code section 401(a)(9) and the applicable Treasury regulations, including the minimum distribution incidental benefit requirement.

Currently, under a PSO, a member who is eligible for retirement, but continues to work, may elect only a 100% joint and survivor annuity with a beneficiary that will commence upon the member's death in active service as if the member had retired immediately before death with this same election. An error occurred where a non-spouse beneficiary received an unreduced 100% joint and survivor benefit, which does not satisfy the MDIB requirements. Additional errors occurred when RPS only reduced two survivor annuities to the minimum amounts necessary to satisfy the MDIB requirements (e.g., 73%). However, these annuities are not provided for under the Plan because only the 100% survivor annuity is available.

Z. Transfer Errors. Ordinance section 201.24(5.15) provides for a .5% multiplier bonus for certain members who earned service credit on and after January 1, 2001. This provision also provides for the same multiplier bonus to apply to service credit up to 8 years earned prior to January 1, 2001 assuming the member earns 8 years of service after January 1, 2001. The first sentence of Ordinance section 201.24(5.15) states that the provisions of this section "shall apply to all members of the employees' retirement system eligible to accrue pension service credit as of January 1, 2001 who are not represented by a collective bargaining unit." Under this Ordinance, these bonuses are not applicable to years of service earned as a represented deputy sheriff whose benefits are subject to a collective bargaining agreement. Errors occurred when some represented deputy sheriffs' benefits were calculated to include this .5% multiplier increase.

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

A. Compliance with Domestic Relations Support Orders. This failure occurred in 2000 through 2013.

B. BackDROP Errors.

1. This failure occurred from approximately 2001-2012.

2. This failure occurred in approximately 2014 and 2015.

3. This failure occurred in approximately 2002, 2003 and 2004.

C. Cost of Living Adjustments.

1. This failure occurred in approximately 1985, 1993, 1996, 2001, 2004, 2008-2013.

2. This failure occurred in approximately 2008-2016.

D. Administration of 10-Year Certain Benefit. This failure occurred from approximately 2003-2009.

E. Incorrect Retirement Option. This failure occurred from approximately 2003-2017.

F. Allowing Optional Employees to Remain in OBRA After Electing into ERS. This failure occurred from approximately 1992 through 2013.

G. Annuity Paid to Multiple Beneficiaries. This failure occurred from approximately 2003-2014.

H. Incorrect Benefit Calculations. This failure occurred in approximately 1996, 2009 and from 2011-2016.

I. Benefits Paid to Wrong Members. This failure occurred from approximately 2008-2011 and in 2017.

J. Definition of Employee. This failure occurred from approximately 2009-2011.

K. IRS and Wisconsin Department of Revenue Levies. This failure occurred from approximately 2000-2013.

L. Payment of Deferred Vested Benefits to Non-Vested Members. This failure occurred from approximately 2011-2013.

M. .

N. Use of Incorrect Morality Table. This failure occurred from approximately 2009-2012.

O. Offset of Benefits. This failure occurred from approximately 2005-2016.

P. Death Benefits. This failure occurred from approximately 1981-2014.

Q. .

R. Optional Employees - Required Contributions. This failure occurred from approximately 2013 -2017.

S. Refunds of Membership Accounts upon Death. This failure occurred from approximately 2011-2017.

T. .

U. Re-Retirements. This failure occurred in approximately 2011, 2013, 2014 and 2017.

V. Benefit Administration. This failure occurred in approximately 2005, 2011, 2015, 2017 and 2018.

W. Corrections to 2007 VCP. This failure occurred in approximately 2016.

X. .

Y. Minimum Distribution Incidental Benefit. This failure occurred in approximately 2007, 2009 and 2015.

Z. Transfer Errors. These failures occurred in approximately 2014-2016.

3. Number of Participants Affected. RPS believes that:

A. Compliance with Domestic Relations Support Orders. This failure affected approximately 80 participants.

B. BackDROP Errors.

1. This failure affected approximately 1,724 members.

2. This failure affected approximately 13 members.

3. This failure affected approximately 5 members.

C. Cost of Living Adjustments. This failure affected approximately 350 members.

D. Administration of 10-Year Certain Benefit. This failure affected approximately 3 beneficiaries.

E. Incorrect Retirement Option. This failure affected approximately 6 members.

F. Allowing Optional Employees to Remain in OBRA After Electing into ERS. This failure affected approximately 144 members.

G. Annuity Paid to Multiple Beneficiaries. This failure affected approximately 4 beneficiaries.

H. Incorrect Benefit Calculations. This failure affected approximately 12 members and beneficiaries.

I. Benefits Paid to Wrong Members. This failure affected approximately 4 individuals.

J. Definition of Employee. This failure affected approximately 40 members.

K. IRS and Wisconsin Department of Revenue Levies. This failure affected approximately 11 members.

L. Payment of Deferred Vested Benefits to Non-Vested Members. This failure affected approximately 6 members.

M. .

N. Use of Incorrect Mortality Tables. This failure affected approximately 376 members.

O. Offset of Benefits. This failure affected approximately 6 members or beneficiaries.

P. Death Benefits. This failure affected approximately 65 beneficiaries.

Q. .

R. Optional Employee - Required Contributions. This failure affected approximately 25 members.

S. Refunds of Membership Accounts Upon Death. This failure affected approximately 21 beneficiaries.

T. .

U. Re-Retirements. This failure affected approximately 4 members.

V. Benefit Administration. This failure affected approximately 5 members.

W. Corrections to 2007 VCP. This failure affected approximately 12 members.

X. .

Y. Minimum Distribution Incidental Benefit. This failure affected approximately 3 beneficiaries.

Z. Transfer Errors. These failures affected approximately 9 members.

Exhibit C-2

Attachment to Form 14568 Section III

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 2016-51. 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 Support Orders. ERS proposes to correct this failure by retroactively amending the Plan document to authorize acceptance of these support orders. The Pension Board adopted an amendment to Rule 1017 allowing for these support orders at its April 17, 2013 meeting.

B. BackDROP Errors.

1. *Lump Sum BackDROP Payments Failed to Include Applicable Interest.* ERS proposes to correct this failure by determining the difference between the amount of interest the member should have received with his or her backDROP and the amount of interest the member actually received with his or her backDROP and pay that amount to the affected member unless the amount is below the de minimis amount of $75. The amounts distributed to the affected members will be increased due to the delayed payment using the Plan's provisions for actuarial equivalence through the date of correction. To the extent that any affected members have died, the corrective amounts will be distributed to their beneficiaries. RPS will notify each affected individual that the corrective distribution is taxable and not eligible for tax free rollover treatment.

2. *BackDROP Limitation Date.* ERS proposes to recalculate the affected members' benefits to reflect the backDROP date of April 1, 2013 and pay that benefit going forward. The Plan's records will be updated accordingly, and RPS will calculate the amount of benefit the member has been overpaid, adjusted for 5% compound interest. To recover past overpayments (in amounts higher than the de minimis amount of $165) paid to the affected members, RPS will provide members with a choice of two options as follows:[2]

Under the first option, the affected member will agree to repay the overpayment either in a lump sum or through offsetting their benefits and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest, through the date of repayment. RPS will then collect through either a lump sum or reduction in benefits the

[2] This method of recovering overpayments is in accordance with the recently adopted Ordinance section 201.24(8.24). ERS believes that this method of recovery is in accordance with EPCRS.

principal amount of the overpayment. The member will not be charged for the interest (*i.e.*, that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the members and will use that to offset the County's contributions to ERS the next year.

If members do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected members, including interest at 5% compounded. RPS will give members a choice to return the overpayment directly or have future annuity payments, if any, reduced by 25% (or 10% if the individual can show financial hardship) until the overpayment and interest are repaid. If any overpayment amounts owed to ERS cannot be recouped from the affected member, the County will make ERS whole through contributions.

3. *Back DROP Election by Beneficiary.* To correct this error, the County Board has adopted (or will adopt) retroactive amendments to Ordinance section 201.24(5.16) that conform the terms of the Plan to operation with respect to beneficiaries who were entitled to a Protective Survivorship Option under Ordinance section 201.24(7.1) and elected a backDROP during the years of 2002-2004.

However, for any beneficiary who was not entitled to a Protective Survivorship Option and elected a backDROP, RPS will seek recovery of the backDROP lump sum benefit paid to each ineligible beneficiary, including 5% compound interest. If any backDROP amounts owed to ERS cannot be recouped from the affected individuals, the County will make ERS whole through contributions. ERS has notified the beneficiaries that the backDROP lump sum payments are taxable and not eligible for rollover treatment.

C. Cost of Living Adjustments. To correct the errors, ERS proposes the following correction methods. RPS has already begun making these corrective payments.

1. *Failure to Apply COLAs to Benefits.* RPS has (or will) recalculate each affected member's benefit to include the applicable COLAs under the Plan. Going forward, the monthly pension benefit paid to these individuals will be increased to the appropriate amount under the Plan. RPS will also calculate each affected member's underpayment of benefits that should have been paid and distribute such amounts to the affected members unless the amount is below the de minimis amount of $75. The amounts distributed to the affected members has (or will be) increased due to the delayed payment using the Plan's provisions for actuarial equivalence through the date of correction. To the extent that any affected members have died, the corrective amounts will be distributed to their beneficiaries. RPS will notify each affected individual that the corrective distribution is taxable and not eligible for tax free rollover treatment.

2. *Paid Excess COLAs.* RPS will recalculate each affected members' benefits under the Plan and the Plan's records will be updated to reflect the reduced benefits. Going forward, the monthly pension benefit paid to these individuals will be decreased to the appropriate amount under the Plan. RPS will also calculate the amount of benefits the member has been overpaid, adjusted for 5% compound interest. To recover past overpayments (in

amounts higher than the de minimis amount of $165) paid to the affected members, RPS will provide members with a choice of two options as follows:

Under the first option, the affected member will agree to repay the overpayment either in a lump sum or through offsetting their benefits and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest, through the date of repayment. ERS will then collect through either a lump sum or reduction in benefits the principal amount of the overpayment. The member will not be charged for the interest (*i.e.*, that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the members and will use that to offset the County's contributions to ERS the next year.

If members do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected members, including interest at 5% compounded. RPS will give members a choice to return the overpayment directly or have future annuity payments, if any, reduced by 25% (or 10% if the individual can show financial hardship) until the overpayment and interest are repaid. If any overpayment amounts owed to ERS cannot be recouped from the affected member, the County will make ERS whole through contributions.

D. Administration of the 10-Year Certain Benefit. ERS proposes to correct these failures by discontinuing the erroneous benefit payments and recovering the overpayments, plus interest at 5% compounded. To recover past overpayments (in amounts higher than the de minimis amount of $165) paid to the affected beneficiaries, RPS will provide the beneficiaries with a choice of two options as follows:

Under the first option, the affected beneficiary will agree to repay the overpayment either in a lump sum or through a payment plan, and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest, through the date of repayment. RPS will then collect through either a lump sum or a payment plan the principal amount of the overpayment. The beneficiary will not be charged for the interest (*i.e.*, that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the beneficiaries and will use that to offset the County's contributions to ERS the next year.

If the beneficiaries do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected beneficiaries, including interest at 5% compounded annually. RPS will request that the beneficiaries return the overpayment directly or agree to a repayment plan. If any overpayment amounts owed to ERS cannot be recouped from the affected beneficiary, the County will make ERS whole through contributions.

E. Incorrect Retirement Option. ERS proposes to correct these failures in the following ways:

1. For overpayments, RPS will recalculate each affected members' benefits under the Plan to reflect the benefit option elected at the time of retirement, and the Plan's

records will updated to reflect the correct benefit option. Going forward, the monthly pension benefit paid to these individuals will be decreased to the appropriate amount under the Plan. To recover past overpayments (in amounts higher than the de minimis amount of $165) paid to the affected members, RPS will provide members with a choice of two options as follows:

Under the first option, the affected member will agree to repay the overpayment either in a lump sum or through offsetting their benefits and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest, through the date of repayment. ERS will then collect through either a lump sum or reduction in benefits the principal amount of the overpayment. The member will not be charged for the interest (*i.e.*, that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the members and will use that to offset the County's contributions to ERS the next year.

If members do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected members, including interest at 5% compounded. RPS will give members a choice to return the overpayment directly or have future annuity payments, if any, reduced by 25% (or 10% if the individual can show financial hardship) until the overpayment and interest are repaid. If any overpayment amounts owed to ERS cannot be recouped from the affected member, the County will make ERS whole through contributions.

2. For underpayments, RPS will recalculate each affected member's benefit to reflect the benefit option the member elected at the time of retirement, and the Plan's records will be updated to reflect the correct benefit option. Going forward, the monthly pension benefit paid to these individuals will be increased to the appropriate amount under the Plan. RPS will also calculate each affected member's underpayment of benefits that should have been paid had the Plan been operated correctly and distribute such amounts to the affected members unless the amount is below the de minimis amount of $75.

The amounts distributed to the affected members will be increased due to the delayed payment using the Plan's provisions for actuarial equivalence through the date of correction. To the extent that any affected members have died, the corrective amounts will be distributed to their beneficiaries. RPS will notify each affected individual that the corrective distribution is taxable and not eligible for tax free rollover treatment.

F. <u>Allowing Optional Employees to Remain in OBRA After Electing into ERS</u>. The Pension Board has adopted or will adopt retroactive amendments that conform the terms of the Plan to its operation with respect to optional members who upon reemployment after termination of employment have elected into ERS or have remained in OBRA.

G. <u>Annuity Paid to Multiple Beneficiaries</u>. ERS proposes to discontinue the benefit payments to the four beneficiaries and obtain repayment of the overpayment. To calculate the overpayment, RPS will combine the lump sum backDROP amount and the total monthly payments paid to each beneficiary. This amount will be charged interest at 5% compounded. This figure will be decreased by any death benefit that was payable under the Ordinances and Rules. To recover past overpayments (in amounts higher than the de minimis amount of $165) paid to the affected members, RPS will provide members with a choice of two options as follows:

Under the first option, the affected beneficiaries will agree to repay the overpayment either in a lump sum or through a payment plan and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest at 5% compounded, through the date of repayment. RPS will then collect through either a lump sum or a payment plan the principal amount of the overpayment. The beneficiary will not be charged for the interest (i.e., that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts and will use that to offset the County's contributions to ERS the next year.

If the beneficiaries do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected beneficiaries, including interest at 5% compounded annually. RPS will request that the beneficiaries return the overpayment directly or agree to a repayment plan. If any overpayment amounts owed to ERS cannot be recouped from the affected beneficiary, the County will make ERS whole through contributions.

H. Incorrect Benefit Calculations. ERS proposes to correct these failures in the following ways:

1. For overpayments, ERS proposes to recalculate the affected individuals' benefits in accordance with the Ordinances and Rules. The Plan's records will be updated to reflect the reduced benefits. Going forward, the monthly pension benefits paid to these individuals will be decreased to the appropriate amount under the Plan. To recover past overpayments (in amounts higher than the de minimis amount of $165) paid to the affected members, RPS will provide members with a choice of two options as follows:

Under the first option, the affected member will agree to repay the overpayment either in a lump sum or through offsetting their benefits and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest, through the date of repayment. RPS will then collect through either a lump sum or reduction in benefits the principal amount of the overpayment. The member will not be charged for the interest (*i.e.*, that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the members and will use that to offset the County's contributions to ERS the next year.

If members do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected members, including interest at 5% compounded. RPS will give members a choice to return the overpayment directly or have future annuity payments, if any, reduced by 25% (or 10% if the individual can show financial hardship) until the overpayment and interest are repaid. If any overpayment amounts owed to ERS cannot be recouped from the affected member, the County will make ERS whole through contributions.

2. For underpayments, ERS proposes to recalculate the affected individuals' benefits in accordance with the Ordinances and Rules. Going forward, the monthly pension benefit paid to these individuals will be increased to the appropriate amount under the Plan. RPS

will also calculate each affected member's underpayment of benefits that should have been paid had the Plan been operated correctly and distribute such amounts to the affected members unless the amount is below the de minimis amount of $75.

The amounts distributed to the affected members will be increased due to the delayed payment using the Plan's provisions for actuarial equivalence through the date of correction. To the extent that any affected members have died, the corrective amounts will be distributed to their beneficiaries. RPS will notify each affected individual that the corrective distribution is taxable and not eligible for tax free rollover treatment.

I. Benefits Paid to Wrong Members. To correct this error, ERS proposes to determine the amounts of the overpayments paid to the erroneous recipients and the underpayments that should have been paid to the correct individuals.

RPS will commence the monthly benefit payments to the correct individuals and pay those monthly annuity amounts to those individuals going forward. RPS will also calculate each affected member's underpayment of benefits that should have been paid had the Plan been operated correctly and distribute such amounts to the affected members unless the amount is below the de minimis amount of $75. The amounts distributed to the affected members will be increased due to the delayed payment using the Plan's provisions for actuarial equivalence through the date of correction. To the extent that any affected members have died, the corrective amounts will be distributed to their beneficiaries. RPS will notify each affected individual that the corrective distribution is taxable and not eligible for tax free rollover treatment.

RPS will cease any benefits that were paid to the wrong recipients and confirm whether those individuals are eligible for any benefit payments under the Plan going forward. Going forward, RPS will only pay the correct benefits under the Plan to those individuals. To make ERS whole for the overpayment amounts, RPS will provide members with a choice of two options as follows:

Under the first option, the affected member will agree to repay the overpayment either in a lump sum or through offsetting their benefits and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest, through the date of repayment. RPS will then collect through either a lump sum or reduction in benefits the principal amount of the overpayment. The member will not be charged for the interest (*i.e.*, that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the members and will use that to offset the County's contributions to ERS the next year.

If members do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected members, including interest at 5% compounded. RPS will give members a choice to return the overpayment directly or have future annuity payments, if any, reduced by 25% (or 10% if the individual can show financial hardship) until the overpayment and interest are repaid. If any overpayment amounts owed to ERS cannot be recouped from the affected member, the County will make ERS whole through contributions.

J. Definition of Employee. The County Board adopted Plan amendments in December 2011 that corrects the operational failures created by 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.

K. IRS and Wisconsin Department of Revenue Levies. The County Board adopted Plan amendments to Ordinance section 201.24(11.7) that allows ERS to comply with tax levies from the IRS and Wisconsin Department of Revenue.

L. Payment of Deferred Vested Benefits to Non-Vested Members. The County Board has adopted (or will adopt) retroactive plan amendments to clarify that members who attain Normal Retirement age while in active service are eligible for deferred vested pensions regardless of their years of service. The Plan amendments will also require members who vest due to attainment of Normal Retirement Age while in active County service to withdraw their contributions if the present value of their pension benefit under the Plan is less than $100 a month.

To correct the required minimum distribution failures that occurred, RPS will compute the affected members' retirement benefits under the Plan and distribute such amounts to the affected members unless the amount is below the de minimis amount of $75. Such distributions will include the amounts that should have been distributed during the period of failure had the Plan terms (as amended) and Code section 401(a)(9) minimum distribution rules been followed. The amounts distributed to the affected members will be increased due to the delayed payment using the Plan's provisions for actuarial equivalence through the date of correction. To the extent any affected members have died, the corrective distribution will be distributed to their beneficiaries. RPS will notify each participant or beneficiary in writing that the corrective distribution is taxable, is not subject to favorable tax treatment and specifically that it is not eligible for tax-free rollover.

M. .

N. Use of Incorrect Mortality Tables. RPS will recalculate each affected member's benefit taking care to follow the Plan provisions by using the correct mortality table. Going forward, the monthly benefit paid to these individuals will be raised to the appropriate amount that is consistent with the terms of the Plan. RPS will also compute the member's underpayment of benefits that should have been paid and distribute such amounts to the affected members unless the amount is below the de minimis amount of $75. The amounts distributed to the affected members will be increased due to the delayed payment using the Plan's provisions for actuarial equivalence through the date of correction. To the extent that any affected members have died, the corrective amounts will be distributed to their beneficiaries. RPS will notify each affected individual that the corrective distribution is taxable and not eligible for tax free rollover treatment.

O. Offset of Benefits. ERS proposes to correct these failures in the following ways:

1. Offset of Survivor Annuity. This beneficiary did not have an offset of her survivorship annuity. She filed a lawsuit against ERS and the County asserting that no offset

was required. The parties engaged in mediation. After mediation, the Pension Board, as fiduciary of ERS, and the County, as Plan Sponsor, considered the likelihood of success in continuing with litigation and agreed to settlement. The Pension Board and the County agreed to a settlement whereby it was determined that there should be no offset for past benefits received, but the going-forward benefit will be offset. Accordingly, ERS proposes that the IRS accept as full correction of this error the mediated settlement agreed to by the Pension Board and the County. The Pension Board views this settlement as one that comprises the correct benefit amount for this beneficiary, which ERS believes would be appropriately payable from the trust fund. The Pension Board sees this situation as analogous to a settlement whereby ERS would pay an individual a lump sum to settle a lawsuit.

2. Offset of Disability Benefits. For overpayments, RPS will recalculate the amount of each member's benefit with the applicable offset. Going forward, the monthly disability pension benefit paid to these individuals will be decreased to the appropriate amount under the Plan. To recover past overpayments (in amounts higher than the de minimis amount of $165) paid to the affected members, RPS will provide members with a choice of two options as follows:

Under the first option, the affected member will agree to repay the overpayment either in a lump sum or through offsetting their benefits and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest, through the date of repayment. RPS will then collect through either a lump sum or reduction in benefits the principal amount of the overpayment. The member will not be charged for the interest (*i.e.*, that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the members and will use that to offset the County's contributions to ERS the next year.

If members do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected members, including interest at 5% compounded. RPS will give members a choice to return the overpayment directly or have future annuity payments, if any, reduced by 25% (or 10% if the individual can show financial hardship) until the overpayment and interest are repaid. If any overpayment amounts owed to ERS cannot be recouped from the affected member, the County will make ERS whole through contributions.

P. Death Benefits. ERS proposes to correct these failures as follows:

- *No Death Benefit Paid.* RPS will pay each affected beneficiary the $2,000 lump sum death benefit that should have been paid had the Plan been operated correctly. The amounts distributed to the affected beneficiaries will be increased due to the delayed payment using the Plan's provisions for actuarial equivalence through the date of correction. To the extent that any affected beneficiaries have died, the corrective amounts will be distributed to their beneficiaries. RPS will notify each affected individual that the corrective distribution is taxable and not eligible for tax free rollover treatment.

- *Overpayment of Survivor Annuities.* RPS will cease payment of future benefits to the beneficiaries and recalculate the overpayments received by the beneficiaries. To recover past overpayments (in amounts higher than the de minimis amount of $165) paid to the affected individuals, RPS will provide beneficiaries with a choice of two options as follows:

Under the first option, the affected individual will agree to repay the overpayment either in a lump sum or through a payment plan and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest at 5% compounded annually, through the date of repayment. RPS will then collect through either a lump sum or a payment plan the principal amount of the overpayment. The individual will not be charged for the interest (*i.e.*, that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the individuals and will use that to offset the County's contributions to ERS the next year.

If beneficiaries do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected individuals, including interest at 5% compounded annually. RPS will give individuals a choice to return the overpayment in a lump sum or a monthly payment amount to recoup the overpayment. If any overpayment amounts owed to ERS cannot be recouped from the affected member, the County will make ERS whole through contributions.

- *Eligibility Questions.* ERS proposes to correct the failure to pay out a death benefit to a beneficiary by paying the $2,000 lump sum death benefit to each affected surviving spouse or surviving child who has attained age 22 (the age at which a surviving child is no longer eligible for a survivor pension). Such distribution will be increased due to the delayed payment using the Plan's provisions for actuarial equivalence from the required start date through the date of correction. To the extent that any affected individuals have died, the corrective distribution will be distributed to their beneficiaries. RPS will also notify each affected individual in writing that the corrective distribution is taxable, is not subject to favorable tax treatment, and specifically that it is not eligible for tax-free rollover.

- *Survivor Benefits Paid to Ineligible Members.* RPS will cease payment of future benefits to the beneficiary and recalculate the overpayments received by the beneficiary. To recover past overpayments (in amounts higher than the de minimis amount of $165) paid to the affected individual, RPS will provide them with a choice of two options as follows:

Under the first option, the affected individual will agree to repay the overpayment either in a lump sum or through a payment plan and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest at 5% compounded annually, through the date of repayment. RPS will then collect through either a lump sum or a payment plan the principal amount of the overpayment. The individual will not be charged for the interest (*i.e.*, that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the individuals and will use that to offset the County's contributions to ERS the next year.

If beneficiary does not elect the first option, RPS will attempt to recover the overpayment amounts from the affected individual, including interest at 5% compounded annually. RPS will give the individual a choice to return the overpayment in a lump sum or a monthly payment amount to recoup the overpayment. If any overpayment amounts owed to ERS cannot be recouped from the affected individual, the County will make ERS whole through contributions.

Q. .

R. Optional Employees – Required Contributions. ERS proposes to correct these errors by returning the Plan to the position it would have been in had the errors not occurred. RPS will credit the members with the service credit in ERS for the years that they elected into ERS and update ERS's records accordingly. RPS will also request that the affected members pay to ERS the amount of the required contributions that should have been made by each affected member to ERS, plus 5% interest compounded annually.[3] If the members do not pay the required contribution amounts, the County will contribute the amounts, plus interest, to ERS.

S. Refunds of Membership Accounts Upon Death. ERS proposes to correct these errors by retroactive amendment. The County Board has or will adopt the draft amendments attached to this submission which will retroactively amend the Ordinances to pay interest through the date of distribution instead of death and eliminate the option for the beneficiary to receive a survivor benefit and a refund of the remaining membership account balance.

T.

U. Re-Retirements. ERS proposes to correct these errors by returning the Plan to the position it would have been in had the errors not occurred. RPS proposes to contact the affected members and recalculate their benefits based on their initial retirement elections and pay those benefits going forward.

To correct the overpayments, RPS will recalculate each affected members' benefits under the Plan and the Plan's records will updated to reflect the reduced benefits. Going forward, the monthly pension benefit paid to these individuals will be decreased to the appropriate amount under the Plan. To recover past overpayments (in amounts higher than the de minimis amount of $165) paid to the affected members, RPS will provide members with a choice of two options as follows:

Under the first option, the affected member will agree to repay the overpayment either in a lump sum or through offsetting their benefits and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest, through the date of repayment. RPS will then collect through either a lump sum or reduction in benefits the principal amount of the overpayment. The member will not be charged for the interest (*i.e.*, that

[3] Rule 403 provides for 5% interest payable on contributions in a member's membership account. Because these contributions would have been in the members' membership accounts had they been paid correctly, ERS believes 5% compound interest is an appropriate interest amount.

will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the members and will use that to offset the County's contributions to ERS the next year.

If members do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected members, including interest at 5% compounded. RPS will give members a choice to return the overpayment directly or have future annuity payments, if any, reduced by 25% (or 10% if the individual can show financial hardship) until the overpayment and interest are repaid. If any overpayment amounts owed to ERS cannot be recouped from the affected member, the County will make ERS whole through contributions.

For underpayments, RPS will calculate each affected member's underpayment of benefits that should have been paid had the Plan been operated correctly and distribute such amounts to the affected members unless the amount is below the de minimis amount of $75. The amounts distributed to the affected members will be increased due to the delayed payment using the Plan's provisions for actuarial equivalence through the date of correction. To the extent that any affected members have died, the corrective amounts will be distributed to their beneficiaries. RPS will notify each affected individual that the corrective distribution is taxable and not eligible for tax free rollover treatment.

V. Benefit Administration. RPS will recalculate each affected members' benefits under the Plan and the Plan's records will updated to reflect the reduced benefits. Going forward, the monthly pension benefit paid to these individuals will be decreased to the appropriate amount under the Plan. To recover past overpayments (in amounts higher than the de minimis amount of $165) paid to the affected members, RPS will provide members with a choice of two options as follows:

Under the first option, the affected member will agree to repay the overpayment either in a lump sum or through offsetting their benefits and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest, through the date of repayment. RPS will then collect through either a lump sum or reduction in benefits the principal amount of the overpayment. The member will not be charged for the interest (*i.e.*, that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the members and will use that to offset the County's contributions to ERS the next year.

If members do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected members, including interest at 5% compounded. RPS will give members a choice to return the overpayment directly or have future annuity payments, if any, reduced by 25% (or 10% if the individual can show financial hardship) until the overpayment and interest are repaid. If any overpayment amounts owed to ERS cannot be recouped from the affected member, the County will make ERS whole through contributions.

W. Corrections to 2007 VCP. To correct the backDROP interest rate error, which resulted in overpayments, RPS will recalculate each affected members' benefits under the Plan and the Plan's records will updated to reflect the reduced benefits. Going forward, the monthly pension benefit paid to these individuals will be decreased to the appropriate amount under the Plan. To recover past overpayments (in amounts higher than the de minimis amount of $165) paid to the affected members, RPS will provide members with a choice of two options as follows:

Under the first option, the affected member will agree to repay the overpayment either in a lump sum or through offsetting their benefits and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest, through the date of repayment. RPS will then collect through either a lump sum or reduction in benefits the principal amount of the overpayment. The member will not be charged for the interest (*i.e.*, that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the members and will use that to offset the County's contributions to ERS the next year. If members do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected members, including interest at 5% compounded. RPS will give members a choice to return the overpayment directly or have future annuity payments, if any, reduced by 25% (or 10% if the individual can show financial hardship) until the overpayment and interest are repaid. If any overpayment amounts owed to ERS cannot be recouped from the affected member, the County will make ERS whole through contributions.

To correct the rollover error, the County, as Plan Sponsor, will adopt an Ordinance amendment that would retroactively amend the Ordinances to allow the member to have used a rollover from a prior employer's 401(k) plan to purchase service credit. Upon adoption of such an Ordinance amendment, ERS proposes that the correction required by the 2007 VCP Compliance Statement be revised to reflect this correction method.

X.

Y. <u>Minimum Distribution Incidental Benefit</u>. ERS proposes to correct the MDIB errors by reducing the beneficiaries' benefits to the 50% joint and survivor annuity option and paying those benefit amounts going forward. The Plan's records will be updated to reflect the reduced benefits. To recover past overpayments (in amounts higher than the de minimis amount of $165) paid to the affected beneficiaries, RPS will provide members with a choice of two options as follows:

Under the first option, the affected beneficiary will agree to repay the overpayment either in a lump sum or through offsetting their benefits and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest, through the date of repayment. RPS will then collect through either a lump sum or reduction in benefits the principal amount of the overpayment. The beneficiary will not be charged for the interest (*i.e.*, that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the beneficiaries and will use that to offset the County's contributions to ERS the next year. If beneficiaries do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected beneficiaries, including interest at 5% compounded. RPS will give beneficiaries a choice to return the overpayment directly or have future annuity payments, if any, reduced by 25% (or 10% if the individual can show financial hardship) until the overpayment and interest are repaid. If any overpayment amounts owed to ERS cannot be recouped from the affected beneficiary, the County will make ERS whole through contributions.

Additionally, the County Board has adopted or will adopt amendments to the Plan to codify that for purposes of satisfying the MDIB requirement, any member whose beneficiary's benefit will breach the MDIB limit, cannot elect a form of benefit that provides for more than a 50% joint and survivor annuity.

Z. Transfer Errors. RPS will recalculate each affected member's benefits under the Plan and the Plan's records will updated to reflect the reduced benefits. Going forward, the monthly pension benefit paid to these individuals will be decreased to the appropriate amount under the Plan. To recover past overpayments (in amounts higher than the de minimis amount of $165) paid to the affected members, RPS will provide members with a choice of two options as follows:

Under the first option, the affected member will agree to repay the overpayment either in a lump sum or through offsetting their benefits and the County will make a payment to ERS in the amount of the entire overpayment, adjusted for interest, through the date of repayment. RPS will then collect through either a lump sum or reduction in benefits the principal amount of the overpayment. The member will not be charged for the interest (*i.e.*, that will be paid through the interest portion of the County's contribution). RPS will separately track the repayment of the principal amounts from the members and will use that to offset the County's contributions to ERS the next year.

If members do not elect the first option, RPS will attempt to recover the overpayment amounts from the affected members, including interest at 5% compounded. RPS will give members a choice to return the overpayment directly or have future annuity payments, if any, reduced by 25% (or 10% if the individual can show financial hardship) until the overpayment and interest are repaid. If any overpayment amounts owed to ERS cannot be recouped from the affected member, the County will make ERS whole through contributions.

3. Expected Cost of Correction of Operational Errors. RPS 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. RPS will use ERS's normal plan assumptions to recalculate pension amounts for any individual who received an overpayment or underpayment as outlined above.

5. Sample Calculations of Operational Error Correction Method. Enclosed are sample calculations for both overpayments and underpayments. RPS will use the same calculation method for each affected member for all errors that require recalculations. To the extent that the wrong information (*e.g.*, multipliers, mortality table) was used to calculate the benefit, this information will be corrected and the overpayment or underpayment will be calculated.

Exhibit C-3

Attachment to Form 14568 Section IV

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.

Exhibit C-4

Attachment to Form 14568 Section V

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

<u>Explanation of How and Why Failures Occurred</u>. The Pension Board has delegated authority to RPS to conduct the day-to-day administration of ERS. RPS is charged with administering a very large defined benefit retirement plan, and in light of the demands imposed on RPS in administering this plan, RPS could have been more fully staffed. Additionally, RPS has also experienced turnover within the Office and in the outside advisors retained to assist RPS with actuarial and other services. Furthermore, ERS changed computer systems and the 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 RPS 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.

<u>Measures to be Implemented to Ensure Same Failures Do Not Continue to Occur</u>. RPS has implemented procedures, including significant peer review processes and routine audits of employee contributions, to ensure that compliance with all ERS governing plan documents is monitored on a regular basis. Additionally, the County has adopted Ordinance amendments that provide for benefits to start only on the first of a month. This will simplify administration and reduce errors.

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Exhibit D

Amendments Described in Attachment to Form 14568 Sections III

Exhibit D-1

Amendments to Rule 1017

EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE

MINUTES OF THE APRIL 17, 2013 PENSION BOARD MEETING

1. Call to Order

   Chairman Mickey Maier called the meeting to order at 8:30 a.m. in Conference Room 1 of the Italian Community Center, 631 East Chicago Street, Milwaukee, Wisconsin 53202.

2. Roll Call

Members Present	Members Excused
Laurie Braun	Norb Gedemer
Dr. Brian Daugherty (Vice Chair)	Dean Muller
Aimee Funck	Dr. Sarah Peck
D.A. Leonard	
Mickey Maier (Chairman)	
Patricia Van Kampen	
Vera Westphal	

   Others Present
   Marian Ninneman, CEBS, CRC, ERS Manager
   Matthew Hanchek, Employee Benefits Administrator
   Daniel Gopalan, Fiscal Officer
   Marilyn Mayr, Prior Pension Board Member
   Ray Caprio, Marquette Associates, Inc.
   Brett Christenson, Marquette Associates, Inc.
   Steven Huff, Reinhart Boerner Van Deuren s.c.

3. Minutes—March Pension Board Meeting

The Pension Board reviewed the minutes of the March 20, 2013 Pension Board meeting.

The Pension Board unanimously approved the minutes of the March 20, 2013 Pension Board meeting. Motion by Mr. Leonard, seconded by Dr. Daugherty.

4. Investment Committee Report

The Chairman reported on the April 1, 2013 Investment Committee meeting.

Marquette first presented an overview on returns for March. The markets continue to perform well, however, the final numbers were not yet available.

The Investment Committee next discussed securities lending. In a follow-up discussion to the presentation given by a representative from BNY Mellon during the March 2013 Pension Board meeting, the relevant issues were sorted out, simplified and further discussed. BNY Mellon is closing down the current securities lending pooled account ERS currently participates in. BNY Mellon would like ERS to move into a separately managed account. The Investment Committee discussed in further detail the range of potential guidelines for the new separately managed account.

Marquette presented a handout of sample holdings from BYN Mellon, which reflected how ERS's program would be structured under BNY's updated securities lending program. Marquette's recommendation is to continue the securities lending program through BNY Mellon and move ERS into a separately managed account, with customized guidelines and risk equivalent to a money market account. The Investment Committee concurred that this was a reasonable approach.

The Investment Committee then discussed recommended investment policy guideline changes. Marquette provided recommended language to update ERS's current investment policy. The recommended updates conform to present percentages in asset allocation approved at the March 2013 Pension Board meeting.

The Investment Committee concluded with a discussion on replacement investment manager requests for proposals ("RFPs"). The Committee discussed issuing RFPs for U.S. small cap equity, international equity and international equity emerging markets. The searches in all categories will include both active management and passive index options.

RFPs were posted to the ERS website and published in *Pensions and Investments*. Marquette indicated there have been many responses to date. All responses are due by May 1, 2013. Marquette will review and summarize the information gathered on index funds and managers and provide high-level updates on proposals during closed session at the May 2013 Pension Board meeting. The Board will narrow the choices and condensed proposals will be discussed in further detail at the June 2013 Investment Committee meeting.

The Pension Board voted unanimously to approve continued participation in BNY Mellon's securities lending program through a separately managed account, with customized investment guidelines consistent with a money market fund. Motion by Ms. Funck, seconded by Ms. Braun.

The Pension Board voted unanimously to approve the updated investment policy guidelines as restated by Marquette, with updated investment allocation numbers. Motion by Dr. Daugherty, seconded by Mr. Leonard.

5. Audit Committee Report

Ms. Westphal reported on the April 10, 2013 Audit Committee meeting.

The Audit Committee first discussed the Baker Tilly audit. Wayne Morgan and Darlene Middleman from Baker Tilly provided an overview of the audit process and explained the new accounting pronouncements, which were introduced as new clarity standards. Baker Tilly also discussed the new pension standards under Governmental Accounting Standards Board ("GASB") Statement Nos. 67 and 68. Baker Tilly indicated they will work with ERS to implement these standards. Findings from the audit will be presented at the June 5, 2013 Audit Committee meeting.

The Audit Committee next discussed Pension Board Rule 1017, regarding compliance with domestic relations orders. Messrs. Grady and Huff provided background information on domestic relations orders and indicated the current Rule does not support honoring Income Withholding Support Orders from governmental agencies. The Audit Committee believes ERS has an obligation under state law to recognize such Support Orders and recommends adopting amended Pension Board Rule 1017 to remain in operational compliance.

The Pension Board unanimously approved amended Rule 1017, attached to these minutes as Exhibit A, to provide that a Support Order received from a support enforcement agency also qualifies as a domestic relations order, and to allow the Pension Board to delegate to the Retirement Office authority to perform various duties regarding domestic relations orders. Motion by Mr. Leonard, seconded by Ms. Funck.

The Audit Committee concluded the meeting with a discussion of Pension Board Rule 1049, regarding deferred retirements involving reciprocity agreements. Mr. Huff and Ms. Ninneman provided background on the current Rule. Because of various interpretations of intra-state reciprocity agreements between the County, City and State, deferred vested members applying for benefits from the County may have their benefits adversely affected by not meeting the 60-day distribution rules.

The amended Rule 1049 provides language that would allow ERS the flexibility to use a retirement effective date other than the first day of the month following attainment of a deferred member's Normal Retirement age to retain an eligible member's reciprocity benefits.

The Pension Board unanimously approved amended Rule 1049, attached to these minutes as Exhibit B, to allow the Retirement Office to commence a member's benefit within the 60-day period from other systems when the member has timely submitted an application for benefits, to allow for the retention of an eligible member's intra-state reciprocity benefits. Motion by Ms. Van Kampen, seconded by Dr. Daugherty.

6. Administrative Matters

The Chairman discussed upcoming conference and educational sessions.

The Chairman noted a request for approval of attendance by Mr. Grady at the 2013 Legal Education Conference, sponsored by the National Association of Public Pension Attorneys, to be held in Santa Fe, New Mexico on June 26-28, 2013. The Chairman noted that Mr. Grady has previously attended this conference which appears to be a good venue, providing beneficial training resources.

In response to a question from Mr. Leonard, Mr. Huff advised that he will also be attending the Conference.

The Pension Board unanimously approved the attendance of Mr. Grady at the 2013 NAPPA Legal Education Conference. Motion by Mr. Leonard, seconded by Ms. Funck.

The Chairman next asked if any other Board member received an invitation to the Adams Street Partners one-day annual client conference, to be held in Chicago in June 2013. The Chairman noted that he has attended this conference in the past and, therefore, received a direct invitation for attendance. The Chairman indicated that it is a notable conference, with discussions on the global investment marketplace and private equity. Because ERS is using Adams Street to manage, they will have presentations about companies in the ERS portfolio. Attendance to the conference is free, and Ms. Ninneman will distribute additional information to the Board members prior to the May 2013 Board meeting, where attendance approval will be requested.

In response to a question from Ms. Braun regarding attendance at the Training Institute, Ms. Ninneman advised that attendance by any Board member to any 2013 International Foundation of Employee Benefits Plans' conference was approved at a prior Board meeting.

The Chairman followed up by noting that the institutional investments and portfolio concepts courses held by the International Foundation are very good courses which line up well with ERS's investment philosophy and concepts. The Chairman would strongly recommend attendance by any interested Board member. Attendees may benefit by gaining common language, which would aid in decision-making by the Board.

In response to a question from Ms. Braun, Ms. Ninneman noted that, usually, two or three Board members have attended the International Foundation Annual Conference in past years.

The Chairman then asked the Board if there were any matters to discuss in closed session. The Board determined that a closed session was not necessary.

7. Pending Litigation

(a) *Stoker v. ERS*

The Pension Board took no action on this item.

(b) *AFSCME v. ERS*

The Pension Board took no action on this item.

(c) *Tietjen v. ERS*

The Pension Board took no action on this item.

(d) *Brillowski & Trades v. ERS*

The Pension Board took no action on this item.

(e) *AFSCME v. ERS*

The Pension Board took no action on this item.

(f) *FNHP et al v. Milwaukee County and ERS*

8. Report on Compliance Review

The Pension Board took no action on this item.

9. Adjournment

The meeting adjourned at 9:00 a.m.

Submitted by Steven D. Huff,
Secretary of the Pension Board

EXHIBIT A

AMENDMENT TO THE RULES OF THE PENSION BOARD OF THE EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE

RECITALS

1. Section 201.24(8.1) of the General Ordinances of Milwaukee County (the "Ordinances") provides that the Pension Board of the Employees' Retirement System of the County of Milwaukee (the "Pension Board") is responsible for the general administration and operation of the Employees' Retirement System of the County of Milwaukee ("ERS").

2. Ordinance section 201.24(8.6) allows the Pension Board to establish rules for the administration of ERS.

3. Ordinance section 201.24(11.7) generally provides for the non-alienation of pension benefits. The Pension Board previously codified an exception to the non-alienation rule in Rule 1017 for domestic relations orders ("DRO") satisfying the requirements of Rule 1017.

4. Periodically, ERS receives Income Withholding Support Orders ("Support Orders") from county child support enforcement agencies that may not qualify as DROs under Rule 1017.

5. The Pension Board believes that it is appropriate to comply with these Support Orders. These Support Orders are issued by county agencies to ensure support for children and former spouses and compliance with the Support Orders is consistent with the purpose of Rule 1017. To codify the ability to comply with the Support Orders, the Pension Board desires to amend Rule 1017 accordingly.

6. Additionally, subsection (2) of the Rule assigns the Pension Board a number of duties regarding DROs. The Pension Board has delegated to the Retirement Office the authority to perform these duties. The Pension Board desires to amend Rule 1017 to clarify this authority.

RESOLUTION

Effective April 17, 2013, pursuant to Ordinance section 201.24(8.6), the Pension Board hereby amends Rule 1017 to read as follows:

1017. Domestic relations orders.

Pursuant to section 201.24(11.7) of the Milwaukee County Code of General Ordinances, a member's pension benefit cannot be assigned, alienated, levied upon or subject to other legal process. However, the board will comply with a domestic relations order ("DRO") that directs the board to pay all or a portion of a member's pension benefit to a former spouse or child ("alternate payee"), provided the DRO satisfies the requirements outlined in subsection (1) below.

(1) *Requirements for a valid DRO.* The DRO must satisfy the following requirements:

(a) *DRO must specify certain facts.* The DRO must clearly specify certain facts:

[i] the name, address and social security number of the member and the alternate payee;

[ii] the amount or percentage of the member's benefits to be paid by the system to the alternate payee;

[iii] the number of payments or period to which such DRO applies;

[iv] the name of the system to which the DRO applies; and

[v] the date as of which such DRO is effective.

(b) *No payment until member in pay status.* The DRO must be an income assignment order that directs the board to pay to the alternate payee a portion of a member's monthly pension benefit that is in pay status. The DRO may not require the board or the system to make payment to an alternate payee on behalf of a member prior to the date that the member is actually receiving pension benefits from the system.

(c) *Purpose of payments.* Payment under the DRO shall be made solely for the purpose of providing alimony, maintenance or child support to a former spouse and/or child. The DRO cannot require payment to persons other than a member's former spouse or child and cannot be made for the purpose of a property division pursuant to a divorce.

(d) *Income Withholding Support Orders.* Notwithstanding the foregoing, a valid income withholding support order issued by a support enforcement agency of a governmental agency qualifies as a

DRO for purposes of this Rule and shall be treated as satisfying subsection (1)(a) above. A support order received by ERS shall be reviewed to confirm that subsections (b) and (c) are satisfied.

(2) *Procedures upon receipt of a DRO.*

(a) Upon receipt of a DRO, the board shall notify each person named in the DRO (at the address specified in the DRO) that a DRO has been received. The board may provide a copy of Rule 1017 to each party.

(b) If the board determines that the DRO complies with the applicable requirements of this Rule 1017, the board shall notify the persons named in the DRO and/or any representatives designated in writing by such persons.

(c) If the board determines that a DRO does not comply with the applicable requirements under Rule 1017, the board shall notify all parties that a determination has been made that the board cannot comply with the DRO. The notice shall describe the board's basis for determining that the DRO does not comply with Rule 1017.

(d) The board hereby delegates to the Retirement Office the authority to perform the duties described in this subsection (2).

(3) Payment procedure. If a DRO satisfies the requirements of subsection (1) above, the board will make the payment to an alternate payee pursuant to the DRO by submitting a payment to the clerk of court having jurisdiction over the DRO or to the appropriate governmental child support collection agency.

EXHIBIT B

AMENDMENT TO THE RULES OF THE PENSION BOARD OF THE EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE

RECITALS

1. Section 201.24(8.1) of the General Ordinances of Milwaukee County (the "Ordinances") provides that the Pension Board of the Employees' Retirement System of the County of Milwaukee (the "Pension Board") is responsible for the general administration and operation of the Employees' Retirement System of the County of Milwaukee ("ERS").

2. Ordinance section 201.24(8.6) allows the Pension Board to establish rules for the administration of ERS.

3. Wisconsin Statute section 40.30 (the "Statute") provides for intra-state reciprocity among retirement systems for certain Wisconsin public service employees. If a member meets the requirements, the member may elect to have his or her benefits calculated under the Statute. This election is codified in the Ordinances and Rules under Ordinance section 201.24(11.41).

4. One of the requirements of the Statute is that a member's benefit from ERS commence within 60 days of the member's benefit from all other systems.

5. Rule 1049 provides that for deferred vested members, a member's commencement of benefits ("Retirement Effective Date") occurs on the first day of the month following the member's eligibility, or if later, the first day of the month following the date the member has submitted all required paperwork.

6. Recently, the Retirement Office questioned how to handle a situation where a member's commencement date was postponed past the required 60 days solely due to the administrative procedures codified in Rule 1049.

7. The Pension Board desires to allow a member to have his or her benefits calculated under the Statute when the member has timely submitted his or her application, and the benefit commencement date is postponed solely due to administrative procedures. Accordingly, the Pension Board desires to amend Rule 1049 to allow the Retirement Office to commence a member's benefit within the 60-day period when the member timely submits his or her paperwork.

RESOLUTIONS

Effective April 17, 2013, pursuant to Ordinance section 201.24(8.6), the Pension Board hereby amends Rule 1049 to read as follows:

1049. Retirement Effective Date

(1) *Active Members.* For a member who retires directly from active service, Retirement Effective Date means the day after the day the member terminates County employment. An active member will elect a proposed Retirement Effective Date when the member completes a retirement application. This will be the member's Retirement Effective Date unless the member continues in County employment past the proposed Retirement Effective Date. If this occurs, the member's initial retirement application is void and the member must complete a new retirement application with a new proposed Retirement Effective Date.

(2) *Emergency Retirement.* For members who retire pursuant to the emergency retirement procedures, the member's Retirement Effective Date will be the day after the day the member terminates County employment. An emergency retiree elects a proposed Retirement Effective Date as part of the emergency retirement procedures. This will be the member's Retirement Effective Date unless the member continues in County employment past the proposed Retirement Effective Date. If this occurs, the member's emergency retirement request is void and the member must complete a new retirement application with a new proposed Retirement Effective Date.

(3) *Deferred Vested Members.*

(a) *Generally.* For deferred vested members who have submitted an application for retirement as required by Ordinance section 201.24(4.5), Retirement Effective Date means the later of:

(i) the first day of the month following the member's normal retirement date or, if authorized by the Pension Board, a date after the member has attained age 55; or

(ii) the first day of the month following the day all required paperwork is received by the Retirement Office.

A deferred vested member may elect a proposed Retirement Effective Date on the member's retirement application based on the above criteria. However, if the Retirement Office has not received all required paperwork by the proposed Retirement Effective Date, the member's Retirement Effective Date will be changed to the first day of the month following the month that the Retirement Office receives all required paperwork.

Notwithstanding the foregoing, if a member has requested that his or her pension benefit be calculated pursuant to Ordinance section 201.24(11.41) and s. 40.30, Wis. Stats., then the Retirement Office may adjust the member's Retirement Effective Date as necessary to comply with the 60-day commencement requirement of s. 40.30, Wis. Stats. The member's Retirement Effective Date shall be the date specified by the Retirement Office in this circumstance. However, it remains the member's responsibility to submit the necessary paperwork in a timely manner sufficient to comply with s. 40.30, Wis. Stats. If a member fails to submit the necessary paperwork in a timeframe and manner that will allow the Retirement Office to complete processing within the 60-day period described in s. 40.30, Wis. Stats., then the member may lose his or her ability to have his or her pension benefit calculated under s. 40.30, Wis. Stats.

(b) *Modification.* If, after filing an application for retirement under Ordinance section 201.24(4.5) but before ERS has commenced benefit payments to the member, a deferred vested member desires to modify the form of benefit or beneficiary designated on his or her retirement application, such member shall be permitted to make one (1) such modification within the requirements provided by this Rule. In order to be effective, a deferred vested member's amended application must be received by the Retirement Office prior to the last business day of the month before ERS commences benefit payments.

A deferred vested member who desires to modify his or her form of benefit or designated beneficiary under this Rule shall make such modification on the application form designated by the Retirement Office for receipt of a deferred vested pension. The amended application must be signed by the member and submitted to the Retirement Office to become effective.

A deferred vested member's Retirement Effective Date following a modification under this Rule shall be the later of:

(i) the first day of the month following the date on which the deferred vested member's initial complete application for retirement was received by the Retirement Office; or

(ii) the date following the day the required paperwork modifying the member's form of benefit or designated beneficiary is received and confirmed as complete by the Retirement Office.

SECRETARY'S CERTIFICATE

The undersigned, being the duly elected Secretary of the Pension Board of the Employees' Retirement System of the County of Milwaukee ("Pension Board"), and having personal knowledge of the actions taken by the Pension Board, does hereby certify that the attached resolution amending Rule 1017, marked as Exhibit A, and the attached resolution amending Rule 1049, marked as Exhibit B, were adopted at a regular monthly meeting of the Pension Board held on April 17, 2013, and such resolutions are in full force and effect.

Dated: April 17, 2013.

Certified by: Steven D. Huff

Steven D. Huff, Secretary

Pension Board of the Employees' Retirement System of the County of Milwaukee

Exhibit D-2

Draft Amendments to Rule 202

AMENDMENT TO THE RULES OF THE PENSION BOARD OF THE EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE

RECITALS

1. Section 201.24(8.1) of the Milwaukee County Code of General Ordinances (the "Ordinances") provides that the Pension Board of the Employees' Retirement System of the County of Milwaukee (the "Pension Board") is responsible for the general administration and operation of the Employees' Retirement System of the County of Milwaukee ("ERS").

2. Ordinance section 201.24(8.6) allows the Pension Board to establish rules for the administration of ERS.

3. The Internal Revenue Code requires tax-qualified retirement plans to be in writing and operated in accordance with the terms of their written plan documents. ERS previously discovered some operational errors that occurred in administering ERS. To correct these errors, ERS has been negotiating a Voluntary Correction Program compliance statement. ERS is proposing that some errors be corrected via retroactive Rule amendment.

4. One such error involves the administration of Rule 202, which prior to its repeal, allowed certain optional members to elect into ERS or remain in OBRA. ERS did not administer this election in accordance with the Rule.

5. The Pension Board desires to amend the Rule retroactively to conform the Rule to the administration.

RESOLUTIONS

1. Effective January 1, 1992, the Pension Board hereby amends Rule 202 to read as follows:

202. Optional membership.

(a) Employes whose salaries are paid in part by the State of Wisconsin.

(b) All interns, students and trainees employed on non-civil service positions.

(c) All resident physicians employed on non-civil service positions.

(d) Seasonal employes.

(e) Part-time employes whose part-time monthly salary is at least equal to fifty (50) percent of the full-time monthly rate, with the exception of part-time "regular appointees" hired at least on a half time basis who shall become mandatory members.

(f) Persons who previously have exercised their option not to become members and who pursuant to section 3(3) of the Retirement Act request to become members, and pass any medical examination required thereunder.

(g) Persons holding emergency appointments, except retired members of the county retirement system, upon their return to county employment.

The option to become a member may be exercised at any time but may not be thereafter revoked except by termination of employment. The employe shall be considered a member from the first of the month next following his date of application for membership.

2. Effective February 20, 2013, the Pension Board hereby amends Rule 202 to read as follows:

202. Optional membership.

(1) Employes whose salaries are paid in part by the State of Wisconsin.

(2) All interns, students and trainees employed on non-civil service positions.

(3) All resident physicians employed on non-civil service positions.

(4) Seasonal employees.

(a) Seasonal employees initially employed by the County on or after January 1, 2014, or seasonal employees whose service credit was terminated and return to County employment on or after January 1, 2014, are excluded from Optional Membership and shall be denied membership in ERS under Rule 203.

(b) Optional Membership includes seasonal employees who are members of ERS or OBRA on January 1, 2013, or are hired by the County as seasonal employees for the first time, or rehired after terminations of service credit, during the 2013 calendar year.

(c) Any seasonal employee who is a member of ERS or OBRA as of January 1, 2013, or is hired by the County as a seasonal employee during the 2013 calendar year, will be provided a final election opportunity. A member shall make a final election within sixty (60) days after the later of March 15, 2013 or the first day of the member's employment after January 1, 2013. If the individual is not employed by the County as a seasonal employee during 2013, but was a member of ERS or OBRA as of January 1, 2013, the individual shall have a final election opportunity at the time the individual returns to County employment as a seasonal employee, unless the individual's service credit was terminated prior to his or her return to County employment due to absence from County employment for five years pursuant to Ordinance section 203(4.5) or Ordinance section 201.24(2.11). In this final election, a seasonal employee shall have the opportunity to permanently elect into ERS. If elected, the seasonal employee shall remain an ERS member until the member withdraws from the system. If a seasonal employee does not affirmatively elect into ERS during the employee's election period, the employee shall be permanently enrolled in OBRA for the duration of the employee's County employment unless and until the employee commences employment covered by ERS.

(i) No Service Credit Transfer. Regardless of a seasonal employee's final election, all service credit previously earned by a seasonal employee shall remain in the system in which it was earned.

(ii) Minors. Any minor who makes a final election pursuant to this Rule shall have a parent or guardian consent to the final election.

(5) Part-time employes whose part-time monthly salary is at least equal to fifty (50) percent of the full-time monthly rate, with the exception of part-time "regular appointees" hired at least on a half time basis who shall become mandatory members.

(6) Persons who previously have exercised their option not to become members and who pursuant to section 3(3) of the Retirement Act request to become members, and pass any medical examination required thereunder.

(7) Persons holding emergency appointments, except retired members of the county retirement system, upon their return to county employment.

The option to become a member may be exercised at any time but may not be thereafter revoked except by termination of employment. The employe shall be considered a member from the first of the month next following his date of application for membership. A seasonal employee who is eligible for, and provided, a final election right under Rule 202(4)(c) shall no longer have an option to become a member under this paragraph after the seasonal employee's final election period.

3. Effective May 20, 2015, the Pension Board hereby repeals Rule 202.

Exhibit D-3

Amendments to Ordinance section 201.24(2.4)

FROM THE OFFICE OF JOSPEH J. CZARNEZKI

MILWAUKEE COUNTY CLERK

County Ordinance No. 11-22

File No. ORD 11-23

AN ORDINANCE

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

SECTION 1. Section 201.24(2.4) of the General Ordinances of Milwaukee County shall be revised to state in its entirety as follows:

> Employee shall mean any person regularly employed by the county at an annual wage or salary including any person who is employed by the state but receives part of his/her wage or salary from the county<u>, as well as any person regularly employed by the state but who was previously employed by the county and who has, pursuant to a state statute, continued to be a member of ERS during such state employment and for whom the state shall reimburse the county the employer required contributions related to such employee's membership</u>. In the event of a question arising as to the right of any person in the service of the county to be classified as an employee under this act, the decision of the board shall be final.

SECTION 2. The provisions of this ordinance shall be effective upon passage and publication.

Adopted by the Milwaukee County Board of Supervisors

December 15, 2011

Exhibit D-4

Amendments to Ordinance section 201.24(11.7)

A resolution/ordinance by Supervisor Schmitt and County Executive Abele, to amend Section 201.24 of the Milwaukee County Code of General Ordinances regarding the Employees' Retirement System to improve the accuracy of benefit calculations, and to provide procedures to resolve payment errors, by recommending adoption of the following:

AN AMENDED RESOLUTION/ORDINANCE

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

WHEREAS, the ERS must adhere to its written plan document (the Ordinances and Rules) so that it maintains its tax-qualified status as granted by the Internal Revenue Service (IRS); and

WHEREAS, the IRS provides retirement plan sponsors an opportunity to self-report errors in the administration of the plan through the Voluntary Correction Program (VCP), which reduces the potential for penalties if the errors were otherwise discovered via an IRS audit; and

WHEREAS, the County filed a VCP with the IRS in 2007 related to several errors in the administration of the plan; the IRS issued their compliance statement in June 2016, and ERS finalized all corrections in December 2016, making it one of the longest open VCPs in recollection; and

WHEREAS, additional errors discovered as part of an internal 2012 audit as well as errors discovered by the staff in the Retirement Plan Services Division, Department of Human Resources, were reported to the IRS in a supplemental VCP filing dated April 22, 2014; and

WHEREAS, the 2014 Supplemental VCP was amended in December 2017 to reflect new errors discovered in the Baker Tilly Agreed Upon Procedures Review authorized by the Milwaukee County Board of Supervisors (County Board), and the County Pension Board, to help identify pension errors and develop procedures to help eliminate future errors; and

WHEREAS, the County Board hereby recognizes that eligible retirees deserve to be paid an accurate pension that reflects the benefits accrued in their service to the County; and

WHEREAS, the Committee on Personnel, at its meeting of November 29, 2018, recommended adoption of File No. 18-802 (vote 4-0); and

WHEREAS, the Committee on Finance and Audit (F&A), at its meeting of December 6, 2018, recommended adoption of File No. 18-802 (vote 7-0); and

WHEREAS, the Milwaukee County Board of Supervisors, at its meeting of December 13, 2018, referred File No. 18-802 back to the Committee on Finance and Audit (vote 16-0); and

WHEREAS, the Committee on F&A, at its meeting of February 1, 2019, recommended adoption of File No. 18-802 as amended with F&A Amendment I (vote 5-1); and

WHEREAS, the Pension Study Commission, at its meeting of February 4, 2019, recommended adoption of File No. 18-802 as amended by the Committee on Finance and Audit on February 1, 2019 (vote 3-0); and

WHEREAS, the Milwaukee County Board of Supervisors, at its meeting of February 7, 2019, referred File No. 18-802 back to the Committee on Finance and Audit (vote 15-3); and

WHEREAS, the Committee on Finance and Audit, at its meeting of March 14, 2019, recommended adoption of File No. 18-802 as amended with F&A Amendments II and III (vote 4-2); now, therefore,

BE IT RESOLVED, the Milwaukee County Board of Supervisors authorizes the Department of Administrative Services, working in conjunction with the Comptroller, Office of the Comptroller, and Corporation Counsel, Office of Corporation Counsel, to process an appropriation transfer from the Pension Obligation Bond Reserve (Fund 0010 Account 0899) for up to $2.5 million to Org. Unit 1950 – Employee Fringe Benefits to provide the anticipated funding to effectuate this resolution/ordinance; and

BE IT FURTHER RESOLVED, the County Board of Supervisors does hereby adopt the following:

AN AMENDED ORDINANCE

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

Section 1. Section 201.24(2.19) is amended as follows:

2.19. - Retirement.

Retirement shall mean termination of employment after a member has fulfilled all requirements for a pension. For all new applications filed on or after ~~January~~ July 1, 2019, all ~~R~~retirements, including disability retirements, as well as any other benefit enhancements, such as those conferred under section 201.24(5.16) and related ERS ordinances and rules, shall ~~be considered as~~ only commence~~ing~~ on the first day of the month immediately following a member's last day of employment (or authorized leave of absence, if later), and any retirement or annuity benefit payable to a member or beneficiary shall terminate~~ing~~ upon the last day of the month of the date of death of retiree or beneficiary under option.

Section 2. Section 201.24(2.22) is deleted and recreated as follows:

2.22. - ~~Masculine and feminine pronouns.~~

~~The masculine pronoun shall include the feminine~~.

RPS

RPS (may also be referred to as the Retirement Office elsewhere in the Ordinances and Rules) shall mean Retirement Plan Services, the County department that maintains the general ledger and related books of the retirement system, administers the pension payroll, conducts retirement seminars, prepares estimates and processes benefits for retirees and surviving beneficiaries of the retirement system, and otherwise executes any administrative plan function delegated to it by the Pension Board or authorized by the County.

Section 3. Section 201.24(2.23) is created as follows:

2.23. - Masculine and feminine pronouns

The masculine pronoun shall include the feminine.

Section 4. Section 201.24(3.1) is amended as follows:

3.1. - County Contributions

(1) *Budget year contributions.* The Pension Board shall furnish to the county executive, prior to June 1 of each year:

(a) An estimated budget contribution required by the county, including contributions required under section 3.3, to pay the following year's cost and to amortize the amount of unfunded obligation of the county over such period of years as determined from time to time by the county board ~~(e.g., in 1984, estimate the cost to be incurred in 1985, which will be payable in 1986)~~; and

(b) The established actuarial assumptions supporting said required amount. The county executive shall submit an informational report to the committees on finance and audit and personnel for consideration during the June committee cycle, providing for an estimated contribution amount for the next year's budget and shall include this pension contribution amount in the executive budget as transmitted to the county board. The final amount appropriated in the adopted budget by the county board shall be the estimated contribution to be expensed in the budget year~~., but paid to the system in the next following budget year (e.g., in 1984, an estimate will be made for the amount to be expensed in 1985 but paid in 1986).~~

(c) Beginning with the first quarter ending after 201.24(8.24) takes effect, ~~September 30, 2018~~, any contribution required from the County under applicable law and regulations resulting from the County's assumption of liability for overpayments made from the Retirement System in lieu of collection of such overpayments from members or beneficiaries or related to any other payment due to the Retirement System by the member or beneficiary under this Ordinance, including section 201.24(8.24) or any other applicable law or regulation, shall be calculated and contributed as described below.

As soon as practicable but in no case later than two weeks following the end of a quarter, RPS shall submit to the Comptroller and the Director of the Department of Administrative Services a report of the aggregate overpayments and interest falling under Option 1 as determined under section 201.24(8.24)(3)(c)(i), in addition to all other payments by the County required under subsection 8.24(5) or 8.24(6) (together, "Aggregate Contribution").

The Aggregate Contribution shall be paid by the County to ERS by no later than twenty business days following the end of the prior quarter from the Pension Obligation Bond Reserve or other authorized source of funds. Payments from the Pension Obligation Bond Reserve shall be approved by the Comptroller and the Director of the Department of Administrative Services.

(d) For overpayments, RPS shall maintain an accounting of all amounts ~~owed and paid by the County or any member or beneficiary under section 201.24(8.24)(3). The total amount~~ collected by RPS on behalf of the County from members or beneficiaries under Option 1 as specified in subsection 8.24(3)(c)(i), whether by VLS, VRP, or VOP as specified in subsection 8.24(3)(h)~~;~~.

i. Collections in the current year~~,~~ shall reduce the actual amount contributed from the County's General Fund to the ERS Trust as ~~County's annual contribution~~ required under subsection 3.1(1)(b) in the subsequent year (if any) dollar for dollar. ~~Separately,~~ At the same time, any transfer under subsection 3.1 (1)(b) occurs in the subsequent year, any reduction made to the County's annual contribution under this subsection shall be separately transferred from the County's General Fund to the Pension Obligation Bond Fund.~~the total aggregate amount collected by RPS on behalf of the County from members or beneficiaries under Option 1 as specified in subsection 8.24(3)(c)(i), whether by VLS, VRP, or VOP as specified in subsection 8.24(3)(h), in the current year, shall be transferred at the same time any transfer under subsection 3.1(1)(b) occurs in the subsequent year, to the Pension Obligation Bond Fund; and where~~ the amount collected on behalf of the County from members or beneficiaries under Option 1 as specified in subsection 8.24(3)(c)(i) in the current year exceeds the County's required annual contribution under subsection 3.1(1)(b) in the subsequent year, any portion of the required transfer to the Pension Obligation Fund that remains after an offsetting reduction to the annual contribution under subsection 3.1(1)(b) shall be paid by the ERS Trust. RPS shall also collect, record and invest recoupment moneys recovered from members or beneficiaries under Option 2 in the ERS Trust, per subsection 8.24(3)(c)(ii), as directed by the Pension Board.

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

(~~d~~ e) RPS shall also collect, record, and invest recoupment monies recovered from members or beneficiaries under Option 2 in the ERS Trust, per subsection 8.24(3)(c)(ii), as directed by the Pension Board.

Section 5. Section 201.24(8.21) is deleted and recreated as follows:

~~8.21. - Delegation of authority.~~

~~The secretary of the pension board is delegated the authority to implement all collective bargaining agreements which amend any provision with this ordinance governing the employes' retirement system or which create new benefits or result in different computations for entitlements as such relates to the members of specific collective bargaining unit. All provisions of such collective bargaining agreements as applicable to specific members and relating to the employes' retirement system are hereby incorporated by reference within this ordinance for the purpose of this delegation of authority.~~

8.21. – RPS Authorization.

(1) General Powers - RPS performs ~~is authorized to act on behalf of the Pension Board with respect to the~~ general administration of the Employees' Retirement System for the Pension Board. RPS shall report to the pension board at each meeting of any material actions taken as reasonably adjudged by RPS under the circumstances in existence at the time of the report.

(2) Collective Bargaining Agreements - RPS is authorized to implement all collective bargaining agreements which amend any provision within this ordinance governing the Employees' Retirement System or which create new benefits or result in different computations for entitlements as such relates to the members of specific collective bargaining units. All provisions of such collective bargaining agreements as applicable to specific members and relating to the Employees' Retirement System are hereby incorporated by reference within this ordinance for the purpose of this delegation of authority.

(3) In taking any actions or refraining from taking action, RPS must operate in conformity with the Ordinances and Pension Board Rules.

Section 6. Section 201.24(8.24) is created as follows:

8.24. Correction of Underpayment and Overpayment of Benefits

(1) General – In the event that a benefit paid to a member or beneficiary is determined to be incorrect, RPS shall take appropriate action under this subsection and the Ordinances and Rules to: (i) correct such error; (ii) calculate and pay the correct benefit amount on a prospective basis, including any net impact of multiple corrections, without regard to subsection 201.24(8.24)(6); and (iii) maintain the federal tax-qualified status of the retirement system under the Internal Revenue Code.

(2) Erroneous Underpayments – Unless the underpaid amount is less than the de minimis threshold amount set forth in subsection 8.24(5) below, if the benefit paid to a member or beneficiary is determined to be less than that to which the member or beneficiary is entitled under the provisions of this ordinance, RPS shall authorize a single sum corrective payment in an amount equal to: (i) the total amount of the underpayment for the claim period (as defined in subsection 8.24(6)); plus (ii) applicable interest (as defined in subsection 8.24(4)), calculated as of the date of each such correction.

(3) Erroneous Overpayments – If the benefit paid to a member or beneficiary is determined to be greater than that to which the member or beneficiary is entitled under the provisions of this ordinance, the following shall apply:

(a) Notice of Overpayment – RPS shall provide a written "Notice of Overpayment" to the member and/or beneficiary of the overpayment within two months of determining that an overpayment occurred. Such Notice shall specify the following substantive information:

- the currently payable incorrect monthly pension benefit (if any),
- the correct monthly pension benefit absent any collection offset (if any),
- an explanation of the benefit determination error and overpayment,
- the Total Amount Owed in principal and interest,
- the Overpayment Options as defined in subsection 8.24(3)(c),
- the expected monthly benefit amount under either Overpayment Option if the recoupment is not paid off in a VLS under subsection 8.24(3)(h)(i), and
- an explanation of interest applicable under subsection 8.24(4).

The Notice shall also include the following process-related information:

- a member may meet with a representative of ERS in-person to review relevant documents, to receive an explanation related to the correction and collection, and/or to receive an explanation of the Overpayment Collection Options;
- the member or beneficiary should consult with an attorney before selecting either Overpayment Collection Option;
- the member or beneficiary shall be given a reasonable time to consult with an attorney, which in no case shall be less than seven (7) days after the date the Notice is mailed;
- the beneficiary or member shall be given no less than seven (7) days to revoke the selection of an Overpayment Collection Option following the date of execution of the Overpayment Collection Form;
- the process to request an exception to a monthly overpayment collection amount under subsection 8.24(3)(g);
- the appeal process for challenging a benefit correction and/or IOP under Option 2; and
- contact information for RPS.

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

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

i. Option 1: For the exclusive benefit of the ERS trust, if the member or beneficiary signs an Overpayment Collection Option Form selecting Option 1, on behalf of the overpaid member or beneficiary, whether newly-identified or currently in a recoupment process as of the effective date of this provision, the County shall make payment to the ERS trust of the TAO (i.e., the amount of the overpayment plus all interest applicable under subsection 8.24(4) through the date of repayment, as ~~proscribed~~ prescribed in subsection 3.1(1)(c)), and RPS shall recoup from the member or beneficiary an amount equal to the total amount of the overpayment for the claim period (as defined in subsection 8.24(6)), but not applicable interest (as defined in subsection 8.24(4)), referred to herein as the "Principal Amount Owed" or "PAO."

Under Option 1, a member or beneficiary must agree to the benefit correction, accept the County's payment of the TAO on the member's behalf and, agree to waive any and all claims and rights to challenge the benefit correction and recoupment, whether by a VLS, VRP, or VOP as defined in subsection 8.24(3)(h). Under Option 1, the member is only responsible for the PAO, and if a VRP or VOP is required, ~~the~~ no interest on the PAO will ~~not begin to~~ accrue ~~for one year (a grace period) and it will be at the lower County Interest Rate under subsection 8.24(4).~~

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

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

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

ii. Option 2: For the exclusive benefit of the ERS trust, if the member or beneficiary signs an Overpayment Collection Option Form selecting Option 2 or is placed into Option 2 as authorized under subsection 8.24(3)(b) after failing to make an affirmative election within thirty (30) days of the date the Notice is mailed, RPS shall collect from the member or beneficiary an amount equal to: (i) the total amount of the overpayment for the claim period (as defined in subsection 8.24(6)); plus (ii) applicable interest (as defined in subsection 8.24(4)), calculated as of the date of each such overpayment through the date the County would have made payment to the ERS trust on behalf of the member of beneficiary under Option 1, referred to herein together as the "Total Amount Owed" or "TAO," as detailed below, plus (iii) additional Pension Interest as specified in subsection 8.24(4) if a VRP, VOP, or IOP defined under subsection 8.24(3)(h) is required.

Under Option 2, a member or beneficiary wishes to potentially dispute the benefit correction now or in the future, and therefore, the member of beneficiary rejects the County's payment of the TAO on the member's behalf and refuses to waive any and all claims and rights to challenge the benefit correction and recoupment. Under Option 2, the member or beneficiary will be responsible for the entire amount of the TAO, and if a VRP, VOP, or IOP is required, as well as interest on the entire TAO that will continue to accrue ~~(no grace period)~~ at the higher Pension Interest Rate under subsection 8.24(4).

Under Option 2, corrected benefit payments, along with any VRP, VOP, or IOP, shall continue unless and until the member or beneficiary obtains a final, favorable judgment from a court of competent jurisdiction and/or before an appropriate administrative body, or enters into a binding settlement agreement, whereby the benefit correction, overpayment collection, and/or applicable interest is deemed to be in error or otherwise inapplicable; should such occur, RPS shall calculate the appropriate adjustments to the member's monthly benefit, collection amount, and/or interest and effectuate and account for those adjustments as soon as practicable.

(d) Other Waiver of Repayment – Notwithstanding anything else to the contrary in this section 201.24, RPS shall waive the collection of any overpayment if TAO is below the de minimis threshold as set forth in subsection 8.24(5). The above notwithstanding, there shall be no reduction or waiver of any repayment if the overpayment is the direct or indirect result of the member's or beneficiary's fraud, material misrepresentation or material omission as determined by RPS.

(e) Collection Administered by RPS – RPS shall commence overpayment collection as specified herein, beginning with the next full month following the receipt of the Overpayment Collection Option Form or the next full month following the 30th day after mailing of the Notice of Overpayment, regardless of whether any action or appeal is filed to challenge any element of, calculation of, or process related to the correction of the monthly benefit amount and/or collection of any overpayment and/or any applicable interest.

(f) Calculation of Monthly Overpayment Collection Amount – The monthly overpayment collection amount shall be based upon the PAO under Option 1 or the TAO under Option 2, and shall be no less than as ~~proscribed~~ prescribed under the monthly repayment guidelines established by the Wisconsin Department of Employee Trust Funds under Wis. Stat. § 40.08. RPS shall implement and update ERS guidelines by January 1 of each year using the most recent, effective version of Wis. Stat. § 40.08 and Wisconsin Department of Employee Trust Funds guidelines. In all cases, payments shall be applied first to applicable Pension Interest, then County Interest, as further defined in subsection 8.24(4), and then, respectively, to the PAO under Option 1 or the TAO under Option 2.

(g) Exceptions to Monthly Overpayment Collection Amount – If the member or beneficiary presents verifiable documentation to RPS within 30 days of the commencement of the collection or prior to the commencement of the collection that either:

i. such member or beneficiary's adjusted gross household income is at or below the federal poverty threshold as established by the United States Department of Health and Human Services, then the monthly repayment amount shall not exceed five percent (5%) of the member or beneficiary's total monthly pension benefit; or

ii. such member or beneficiary is entitled to an equitable adjustment to their monthly repayment amount, as determined by RPS, which shall be unappealable to the Pension Board, based upon (a) the financial status of the member or beneficiary and their household; (b) the amount of the overpayment; (c) the amount of the monthly benefit payment; (d) the culpability of the member or beneficiary in the circumstances that gave rise to the overpayment; (e) extraordinary medical or long-term care expenses; (f) whether the member or beneficiary supports claimed dependents; and (g) fairness to taxpayers.

Documentation required to be submitted by the member or beneficiary to qualify for either adjustment under subsection 8.24(3)(g) shall include, but is not limited to, the member or beneficiary's (and similar documents related to the member or beneficiary's household if the member or beneficiary does not live alone) most recent IRS Form 1040 and a complete disclosure of all member or beneficiary assets including investments, real estate, savings, checking, or any other assets, as well as the same documents and statement of assets for any claimed dependent and/or spouse. Nothing in this subsection shall operate to reduce the total TAO or PAO owed, in addition to any applicable interest, as defined below in subsection 8.24(4). This subsection applies regardless of which Overpayment Collection Option a member or beneficiary selects under subsection 8.24(3)(c). RPS and/or the Pension Board may promulgate additional procedures and documentation mandates under this subsection.

(h) Collection Methods – Overpayments may be collected by any of the following methods, listed in order of preference:

i. Method 1 – Lump Sum: whether a member or beneficiary elects Option 1 or 2 under subsection 8.24(3)(c), the PAO or TAO may be collected through a timely Voluntary Lump Sum ("VLS") payment by the member or beneficiary. If a VLS is made to the ERS trust by the specified deadline, then ongoing monthly pension benefits, if any, shall be paid at the corrected amount. If a VLS is made to the ERS trust after the specified deadline, then the next monthly pension benefit should be adjusted to account for additional amounts owed, if any, and following that adjustment, monthly benefits shall be paid at the corrected amount.

ii. Method 2 – Voluntary Repayment Plan or Voluntary Offset Plan: whether a member or beneficiary elects Option 1 or 2 under subsection 8.24(3)(c), the PAO or TAO may be collected through either a "Voluntary Repayment Plan" ("VRP"), where there is no longer any ongoing benefit payment, under which the member or beneficiary agrees to make equal monthly direct payments through an electronic fund transfer or similar means to the ERS trust, or through a "Voluntary Offset Plan" ("VOP"), where benefit payments are ongoing, under which the member or beneficiary agrees in writing that each future monthly benefit payment will be reduced by a specific amount that shall be no less than that required under subsections 8.24(3)(f) and (g). If a member or beneficiary enters into either type of voluntary agreement, such agreement may provide for repayment over a shorter period and/or in a greater amount than otherwise required under subsections 8.24(3)(f) and (g).

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

(i) Failure to Repay –

i. If the member or beneficiary fails to make a payment under a VLS, or VRP, and such payment is outstanding for thirty days, RPS shall commence such recoupment by an IOP in the manner set forth herein.

ii. If the member or beneficiary refuses, despite reasonable efforts, to enter into a VLS or VRP when an overpayment exists with no future benefits are payable, and any amount remains outstanding for more than thirty days, RPS shall report the same to the County and ERS, which each may elect to collect any amounts remaining through legal action.

iii. Upon the death of member or beneficiary that becomes known to ERS, the County or ERS may elect to attempt to collect any remaining amount owed from the estate or from future benefits payable to any remaining beneficiary.

iv. Outstanding Collection amounts, where no reasonable method of collection is available to the County or RPS, may be written off after a period of five years, if owed to the County under Option 1. Any uncollected amounts owed to the ERS trust under Option 2, where no reasonable method of collection is available, may be written off after a period of five years. Such written off balances under Option 2, shall require payment by the County.

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

(4) Applicable Interest –

(a) The calculation of underpayments and overpayments, including the calculation of a TAO, shall include simple interest at a rate of five percent (5%) per annum on the underpaid or overpaid amount from the date of incorrect payment(s) through the applicable period of payment to the member by the trust in the case of an underpayment, or to the trust by the County or member in the case of an overpayment, also known as the "Pension Interest Rate" or "PIR." The above notwithstanding, to the extent that a different interest rate is mandated by the Internal Revenue Service pursuant to the terms of a VCP submission under Ordinance section 8.23, such rate shall be the applicable interest rate or "PIR" (if referring to the interest portion of the TAO, also known as "Pension Interest" or "PI").

(b) If the member or beneficiary selects Option 1 under subsection 8.24(3)(c)(i), once an overpayment is repaid to the trust by the County under subsection 3.1(1)(c), and the member or beneficiary is placed into an either a VRP or VOP under subsection 8.24(3)(h)(ii), RPS shall not apply ~~a simple~~ interest ~~rate of five percent (5%) per annum commencing one year~~ after the VRP or VOP begins, to the remaining balance of the PAO, over the entire repayment period~~,~~. ~~also known as the "County Interest Rate" or "CIR" (if referring to the interest payable under this Subsection, also known as "County Interest" or "CI").~~

(5) De Minimis Amounts –

(a) Overpayments. RPS shall waive a member's or beneficiary's repayment obligation if the total of all overpayments is less than $165.00, inclusive of applicable interest under subsection 8.24(4).

(b) Underpayments. If the total underpayment payable to a member or beneficiary is $75 or less (inclusive of applicable interest under subsection 8.24(4)), RPS will not pay such amounts to the member or beneficiary.

(6) Claim Period – This subsection 8.24(6) applies only to benefit payments made on or after ~~January~~ July 1, 2019. Any claim related to a benefit payment made on or after ~~January~~ July 1, 2019, must be initiated by the aggrieved party in writing on or before the sixth anniversary of the date on which the payment is issued by the retirement system. For purposes of this subsection, a payment shall be a single benefit payment or any single periodic payment if the benefit is paid in an installment or annuity form. Any claim with respect to a periodic payment shall apply to each subsequent periodic payment. A timely claim made during the claim period shall remain valid during the period of appeal (to the pension board or any court of law) and through final disposition of such appeal even if such disposition occurs after the sixth anniversary of the date of payment. This

subsection 8.24(6) shall not apply to: (i) any matter that is subject to a binding settlement agreement or commitment of correction; (ii) any matter currently before a court of competent jurisdiction; (iii) any matter that has been finally adjudicated by a court of competent jurisdiction; or (iv) any matter that is subject to a contrary directive by the IRS through its Employee Plans Compliance Resolution System.

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

Section 7. Section 201.24(11.7) is amended as follows:

11.7. - Exemption of funds and benefits from taxation, execution and assignment.

All moneys and assets of the retirement system and all benefits and pensions and every portion thereof, both before and after payment to any member or beneficiary, granted under the retirement system shall be exempt from any state, county, or municipal tax, and from attachment or garnishment process, and shall not be seized, taken, detained or levied upon by virtue of any executions, or any process or proceeding whatsoever issued out of or by any court of this state, for the payment and ratification in whole and in part of any debt, claim, damage, demand or judgment against any member of or beneficiary under the retirement system, and no member of or beneficiary under the retirement system shall have any right to assign his benefit or allowance, or any part thereof, either by way of mortgage or otherwise, provided, however, that the pension board may at its option and under rules and regulations promulgated by it permit retired members to assign a portion of their pension for the regular monthly payment of medical, surgical and hospital care. The exemption from taxation contained herein shall not apply with respect to any tax on income. This section shall not prohibit the forfeiture or garnishment of benefits and pensions pursuant to:

(a) Applicable requirements of Wisconsin Statutes or Milwaukee County Ordinances;

(b) RPS's compliance with a lien, levy or similar request for payment imposed on the member or beneficiary by the Internal Revenue Service; or

(c) RPS's compliance with a lien, levy or similar request for payment imposed on the member or beneficiary by the Wisconsin or other state Department of Revenue.

Section 8. Section 201.24(11.8) is amended as follows:

11.8. - ~~Protection against fraud.~~ Falsification or Absence of Information and Records.

(a) Protection Against Fraud - Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record(s) of this retirement system in any attempt to defraud such system as a result of such act shall be guilty of a misdemeanor, and shall be punishable therefor under the laws of the state. Should any change or error in the records result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the information and records been correct, the board shall correct such error, and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

(b) Missing Information – In the event that the records containing information necessary to calculate a member's or beneficiary's benefits under the system are missing, RPS may make reasonable estimates of such information as necessary to calculate the member's or beneficiary's benefits. Any such calculations based upon reasonable estimates shall be presumed correct and binding upon the member or beneficiary. The above notwithstanding, should any information and records subsequently become available, any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the information and records been correct, the Pension Board shall correct such error, and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. If the corrected amount results in an overpayment greater than the de minimis threshold as set forth in subsection 8.24(5), RPS shall seek to recoup any overpayment in the manner set forth in subsection 8.24(3).

Section 9. Section 201.24(8.6) is amended as follows:

8.6. Rules and regulations.

Subject to the limitations of this ordinance, the Pension Board shall, from time to time, establish rules and regulations for the administration of the funds created by this ordinance and for the transaction of its business. To the extent the terms of a Rule conflict with an Ordinance, the Ordinance's terms shall apply.

Section 10.

Effective Date. Each provision of this Act shall be effective as of the date stated therein. If no such date is stated, the provision shall be effective upon passage and publication as ~~proscribed~~ prescribed by law. The Pension Board or RPS may, as appropriate, delay the disposition of any matter pending the establishment or amendment of interpretive Rules issued pursuant to section 8.6. In no event shall such delay invalidate the effective date or applicability of such provision.

Section 11.

Savings Clause. If any provision of this Act is found to be invalid or unenforceable by any court of competent jurisdiction or is subject to a contrary directive by the IRS through its Employee Plans Compliance Resolution System, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

srb
03/14/19
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Milwaukee County

County Courthouse
901 N. 9th Street, Rm. 105
Milwaukee, WI 53233

Signature Copy

Ordinance: 18-802

File Number: 18-802

A resolution/ordinance to amend Section 201.24 of the Milwaukee County Code of General Ordinances regarding the Employees' Retirement System to improve the accuracy of benefit calculations, and to provide procedures to resolve payment errors. **(Referred to the Committees on Personnel, and Finance and Audit (F&A); Pension Board; and Pension Study Commission) (10/29/18 F&A Meeting: Laid Over to the Call of the Chairperson) (12/13/18 CB Meeting: Referred to F&A) (02/07/19 CB Meeting: Referred to F&A, and Corporation Counsel for Legal Opinion)**

The attached resolution or ordinance was adopted by the Milwaukee County Board of Supervisors on 3/21/2019 by the following vote:

Ayes: 10 Cullen, Haas, Logsdon, Moore Omokunde, Ortiz-Velez, Schmitt, Sebring, Staskunas, Wasserman, and Lipscomb Sr.

Noes: 6 Johnson Jr., Martin, Nicholson, Shea, Taylor , and Weishan Jr.

Excused: 2 Alexander, and Dimitrijevic

Certification to County Board Passage Theodore Lipscomb Sr. **Date** MAR 2 1 2019

Certification of County Board Passage George Christenson **Date** MAR 2 1 2019

I approve the attached resolution or ordinance. Chris Abele **Date** 4/17/19

Received by County Clerk's Office George Christenson **Date** APR 2 3 2019

Certification of Publication George Christenson

Date MAY 0 2 2019

Exhibit D-5

Draft Amendments to Ordinance sections 201.24(3.5), (4.5), (5.16), (7.1) and (11.11)

File No.

(Journal,)

A RESOLUTION

WHEREAS, the Employees' Retirement System of the County of Milwaukee ("ERS") is a tax-qualified governmental retirement plan that must comply with the applicable provisions of the Internal Revenue Code of 1986 (the "Code"); and

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

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

WHEREAS, after conducting a compliance audit of the ERS's operations, ERS discovered several operational errors; and

WHEREAS, ERS has been working with the IRS to negotiate a Voluntary Correction Program ("VCP") compliance statement to formally correct these and other violations; and

WHEREAS, ERS is proposing that some of the errors be corrected via retroactive Ordinance amendment; and

WHEREAS, the Pension Board voted __ - ___ on ________________, 2019 to recommend adoption of this ordinance amendment; and

WHEREAS, the Pension Study Commission reviewed the actuary's report on _______, _____, 2019 and has recommended the County Board adopt the proposed changes (Vote X-X); and

NOW THEREFORE, BE IT RESOLVED, that sections ______ are amended to clarify______.

BE IT FURTHER RESOLVED, that to ensure the above-noted revisions are properly codified, the Milwaukee County Board of Supervisors hereby adopts the following:

AN ORDINANCE

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

SECTION 1. Effective_______, Section 201.24(3.5) of the General Ordinances of Milwaukee County is amended as follows:

Notwithstanding the following, a member shall not be eligible to receive a refund of the portion of his membership account attributable to accumulated contributions contributed under section 3.11 if the member's employment was terminated due to fault or delinquency on the member's part under section 4.5 or if the member or a beneficiary of the member is eligible, at the time the request for a refund is made, for the present receipt of any monthly annuity benefit under sections 4.1, 4.5, 6.1, 6.2, 6.4, 7.1 or 7.2 of the chapter 201.24 of the ordinances. However, prior to [DATE], a member whose employment terminated after reaching normal retirement age and whose pension benefit, as calculated pursuant Ordinance section 201.24(4.1), was below one-hundred ($100) per month, may have elected to receive a refund of the member's membership account instead of receiving an annuity.

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

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

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

(a) Lump sum payment.

(b) Life annuity with full cash refund or on a term certain basis.

(c) Installments of a designated amount or over a designated period of time.

If under any of the above options a benefit becomes payable to some other person as a result of the death of the retired member, payment shall be made to the beneficiary designated by the member or, in the absence of a valid designation, than as provided in section 2.16.

SECTION 2. Effective October 1, 1987 Section 201.24(4.5) of the General Ordinances of Milwaukee County is amended as follows:

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

(2) Notwithstanding the foregoing provisions of this section 4.5, any member whose last period of continuous membership began on or after January 1, 1971, but prior to January 1, 1982, shall not be eligible for a deferred vested pension if his employment is terminated prior to his completion of six (6) years of service. Also, notwithstanding the foregoing provisions of this section 4.5 any member who first became a member of the system on and after January 1, 1982, shall not be eligible for a deferred vested pension if his employment is terminated prior to his completion of ten (10) years of service. However, any member who attains normal retirement age as defined in Ordinance section 201.24(2.18) while in active ERS-covered County employment shall be vested and eligible for a deferred vested benefit if the member terminates County employment prior to retirement.

(3) Notwithstanding the foregoing provisions of this section, any nonrepresented Doyne employe who was a member of the employe's retirement system and any member who was represented by the Federation of Nurses & Health Professionals when they voluntarily resigned their employment between September 1, 1995, and December 31, 1995, at the time of, and in lieu of, a layoff from county service as a direct result of the sale/lease of John L. Doyne Hospital and employes of the School of Nursing who resign from county service in lieu of being laid off due to the closure of the School of Nursing who left county service with seven (7) or more years of service shall be vested for a deferred vested pension.

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

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

(6) Notwithstanding the general rule that only an ERS member in active ERS-covered employment may elect a backDROP at retirement, a surviving spouse who was eligible for and received a Protective Survivorship Option under Ordinance section 201.24(7.1)(3) may elect a backDROP if such backDROP was previously elected between January 1, 2002 and December 31, 2004.

SECTION 4. Effective December 1, 2015, Section 201.24(7.1) of the General Ordinances of Milwaukee County is amended as follows:

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

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

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

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

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

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

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

(3) Any member in active service who, pursuant to section 4.1 or a collective bargaining agreement, has attained eligibility to retire and receive a pension may elect a protective survivorship option by selecting the one hundred (100%) or fifty (50%) percent survivor benefit in the manner hereinafter set forth, which option shall then become effective at the member's death with the same force and effect as if such member had retired under such option immediately prior to his or her death. The election of such option shall be in writing on a form prescribed by the board and may be revoked at any time prior to retirement. If the designated beneficiary shall die or if the designated beneficiary is the member's spouse and a divorce is granted prior to the member's retirement, the election shall be automatically revoked. If any member eligible to elect an option shall die in active service, without electing a one

hundred (100%) survivor benefit, the member's surviving spouse shall be paid a survivorship pension equal to the amount that would have been payable if such member had retired and elected a one hundred (100%) survivor benefit immediately prior to his or her death.

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

(5) Notwithstanding the foregoing, if a member elects a non-spouse beneficiary to receive a joint and survivor annuity and the benefit is subject to the Internal Revenue Code's minimum distribution incidental benefit requirements, the member will only be eligible to elect a survivor benefit in a form that does not exceed the Code requirements. If a member elects a form of benefit that does not comply with such requirements, ERS will automatically reduce the member's benefit to the highest survivor benefit option the member was eligible to elect.

SECTION 5. Section 201.24(11.11) of the General Ordinances of Milwaukee County is amended as follows:

Effective January 1, 2002, for payments made prior to July 1, 2007, subject to all other requirements contained within the ordinances and rules with regard to purchases of service credit, at a member's request, and consistent with the requirements of applicable Internal Revenue Code provisions, a member may use amounts held in the member's name pursuant to Milwaukee County's Internal Revenue Code section 457 deferred compensation plan, a prior employer's Internal Revenue Code section 401(k) plan or an individual retirement account described in Internal Revenue Code section 408 to purchase permissive service credit, as described in Rule 207 of the employees retirement system, or to repurchase previously forfeited service credit for which the member received a benefit distribution from the employees retirement system pursuant to section 11.1.

Exhibit E

Spreadsheets Supporting VCP

Exhibit E-1

Sample Overpayment Calculation

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Member		Beneficiary			
First Name		First Name			
Last Name		Last Name			
Birth Date		Birth Date			
Actual Age	68	Actual Age	68		
Age in Retirement Year	54	Age in Retirement Year	54	Age Diff	0
Age in BD Year	49	Age at BD	49	Age Diff	0
Death Date	N/A	Death Date	N/A		

Pension		Union Code	NR
Clock	109230	BD Date	1/3/1997
Type	ERS Normal Retirement	Term Date	1/21/2002
Type Option	Option 6 (10 Year Certain and Life)	Retire Date	1/22/2002
Benefit Annuity	Normal Annuity	Part Acct Enroll Date	2/24/1971
If BD, Years of Cola	5	Adjusted Enroll Date	N/A

New Monthly Amount:	6457.69
Total One Time Payment:	270333.66

New Monthly Amount:	1205.04
Total One Time Payment:	6900.18

Work History	
FAS	9022.17

Benefit Calc			
Group A: Multiple FAS		SVC	FAS * SVC * Multi
0.02000	9686.17230	11.75412	2277.04863
			FAS * SVC * Multi
0.02500	9686.17230	17.43755	4222.57784
Group C: Multiple FAS		SVC	FAS * SVC * Multi
			0.00000
Sum Total			6499.62648

6499.626476

Use for Early Penalty Only			
Constant	Month Early	V3 Early Penalty	Est Early Penalty
0.004167	0	0.272030281	0

Previous Values		Corrected Values	
DEF BEN Max Benefit	N/A	Calculated Max Benefit	$4,731.53
UP-84 Factor	0.9822	GAM Factor	0.989
V3 Original Monthly Base Benefit	$4,647.31	Corrected Monthly Base Benefit	$4,679.48
V3 COLA	$86.08	Corrected COLA	$92.61
V3 Military COLA	$1.08	Corrected Military COLA	0.98
Last Updt Dt	12/22/2016	Last Updt Dt	N/A
Updated By	AbbeyMoreno	Updated By	N/A

COLA Month:		
COLA Month:	January	
Military COLA Mor	January	

Over Payments		Under Payments	
Interest Rate	0.05	Interest Rate	0.08
Interest Per Day	0.0136990%	Interest Per Day	0.02191800%
Interest Thru	12/30/2016	Interest Thru	12/30/2016

This section is configurable to what is decided between the parties

Record Counts	
Total Disbursemen	175
Total Over Under	179
Total Months between RD and Last Payment Date	179

Reviewer	
Approved by:	
Approved by:	

Comments	
1	
3	

1	2	3	4	5	6	7	8	9
Row Number	Monthly Disbursement	Original Gross	Corrected Gross	Difference	Interest	Over/Under	Count	Comment
1	2/28/2002	333450.23	370676.08	37225.85	80033.77	Under	0	Backdrop Month
2	2/28/2002	5869.75	6807.9	938.15	2016.98	Under	1	Partial Month
3	3/31/2002	4734.47	5147.43	412.96	882.76	Under	1	31-Mar-02

4	4/30/2002	4734.47	5147.43	412.96	877.35	Under	1	30-April-2002 Error: Disbursement value is not matching Monthly Base Benefit
5	5/31/2002	4734.47	5147.43	412.96	872.77	Under	1	31-May-02
6	6/30/2002	4734.47	5147.43	412.96	867.86	Under	1	30-Jun-02
7	7/31/2002	4734.47	5147.43	412.96	862.78	Under	1	31-Jul-02
8	8/31/2002	4734.47	5147.43	412.96	857.7	Under	1	31-Aug-02
9	9/30/2002	4734.47	5147.43	412.96	852.78	Under	1	30-Sep-02
10	10/31/2002	4734.47	5147.43	412.96	847.7	Under	1	31-Oct-02
11	11/30/2002	4734.47	5147.43	412.96	842.79	Under	1	30-Nov-02
12	12/31/2002	4734.47	5147.43	412.96	837.71	Under	1	31-Dec-02
13	1/31/2003	4821.63	5241.02	419.39	807.99	Under	1	31-Jan-03
14	2/28/2003	4821.63	5241.02	419.39	803.54	Under	1	28-Feb-03
15	3/31/2003	4821.63	5241.02	419.39	798.61	Under	1	31-Mar-03
16	4/30/2003	4821.63	5241.02	419.39	793.84	Under	1	30-Apr-03
17	5/31/2003	4821.63	5241.02	419.39	788.91	Under	1	31-May-03
18	6/30/2003	4821.63	5241.02	419.39	784.14	Under	1	30-Jun-03
19	7/31/2003	4821.63	5241.02	419.39	779.21	Under	1	31-Jul-03
20	8/31/2003	4821.63	5241.02	419.39	774.28	Under	1	31-Aug-03
21	9/30/2003	4821.63	5241.02	419.39	769.51	Under	1	30-Sep-03
22	10/31/2003	4821.63	5241.02	419.39	764.58	Under	1	31-Oct-03
23	11/30/2003	4821.63	5241.02	419.39	759.81	Under	1	30-Nov-03
24	12/31/2003	4821.63	5241.02	419.39	754.89	Under	1	31-Dec-03
25	1/31/2004	4908.79	5334.61	425.82	727.93	Under	1	31-Jan-04
26	2/29/2004	4908.79	5334.61	425.82	723.45	Under	1	29-Feb-04
27	3/31/2004	4908.79	5334.61	425.82	718.67	Under	1	31-Mar-04
28	4/30/2004	4908.79	5334.61	425.82	714.04	Under	1	30-Apr-04
29	5/31/2004	4908.79	5334.61	425.82	709.26	Under	1	31-May-04
30	6/30/2004	4908.79	5334.61	425.82	704.63	Under	1	30-Jun-04
31	7/31/2004	4908.79	5334.61	425.82	699.84	Under	1	31-Jul-04
32	8/31/2004	4908.79	5334.61	425.82	695.06	Under	1	31-Aug-04
33	9/30/2004	4908.79	5334.61	425.82	690.43	Under	1	30-Sep-04
34	10/31/2004	4908.79	5334.61	425.82	685.65	Under	1	31-Oct-04
35	11/30/2004	4908.79	5334.61	425.82	681.02	Under	1	30-Nov-04
36	12/31/2004	4908.79	5334.61	425.82	676.23	Under	1	31-Dec-04
37	1/31/2005	4995.95	5428.2	432.25	651.88	Under	1	31-Jan-05
38	2/28/2005	4995.95	5428.2	432.25	647.69	Under	1	28-Feb-05
39	3/31/2005	4995.95	5428.2	432.25	643.04	Under	1	31-Mar-05
40	4/30/2005	4995.95	5428.2	432.25	638.55	Under	1	30-Apr-05
41	5/31/2005	4995.95	5428.2	432.25	633.91	Under	1	31-May-05
42	6/30/2005	4995.95	5428.2	432.25	629.41	Under	1	30-Jun-05
43	7/31/2005	4995.95	5428.2	432.25	624.77	Under	1	31-Jul-05
44	8/31/2005	4995.95	5428.2	432.25	620.12	Under	1	31-Aug-05
45	9/30/2005	4995.95	5428.2	432.25	615.63	Under	1	30-Sep-05
46	10/31/2005	4995.95	5428.2	432.25	610.98	Under	1	31-Oct-05
47	11/30/2005	4995.95	5428.2	432.25	606.49	Under	1	30-Nov-05
48	12/31/2005	4995.95	5428.2	432.25	601.84	Under	1	31-Dec-05
49	1/31/2006	5083.11	5521.79	438.68	579.94	Under	1	31-Jan-06
50	2/28/2006	5083.11	5521.79	438.68	575.87	Under	1	28-Feb-06
51	3/31/2006	5083.11	5521.79	438.68	571.36	Under	1	31-Mar-06
52	4/30/2006	5083.11	5521.79	438.68	566.99	Under	1	30-Apr-06
53	5/31/2006	5083.11	5521.79	438.68	562.48	Under	1	31-May-06
54	6/30/2006	5083.11	5521.79	438.68	558.12	Under	1	30-Jun-06
55	7/31/2006	5083.11	5521.79	438.68	553.61	Under	1	31-Jul-06
56	8/31/2006	5083.11	5521.79	438.68	549.1	Under	1	31-Aug-06
57	9/30/2006	5083.11	5521.79	438.68	544.73	Under	1	30-Sep-06
58	10/31/2006	5083.11	5521.79	438.68	540.22	Under	1	31-Oct-06
59	11/30/2006	5083.11	5521.79	438.68	535.86	Under	1	30-Nov-06
60	12/31/2006	5083.11	5521.79	438.68	531.35	Under	1	31-Dec-06
61	1/31/2007	5170.27	5615.38	445.11	511.75	Under	1	31-Jan-07
62	2/28/2007	5170.27	5615.38	445.11	507.79	Under	1	28-Feb-07
63	3/31/2007	5170.27	5615.38	445.11	503.41	Under	1	31-Mar-07
64	4/30/2007	5170.27	5615.38	445.11	499.17	Under	1	30-Apr-07
65	5/31/2007	5170.27	5615.38	445.11	494.79	Under	1	31-May-07
66	6/30/2007	5170.27	5615.38	445.11	490.55	Under	1	30-Jun-07
67	7/31/2007	5170.27	5615.38	445.11	486.17	Under	1	31-Jul-07
68	8/31/2007	5170.27	5615.38	445.11	481.79	Under	1	31-Aug-07
69	9/30/2007	5170.27	5615.38	445.11	477.55	Under	1	30-Sep-07
70	10/31/2007	5170.27	5615.38	445.11	473.17	Under	1	31-Oct-07
71	11/30/2007	5170.27	5615.38	445.11	468.93	Under	1	30-Nov-07
72	12/31/2007	5170.27	5615.38	445.11	464.55	Under	1	31-Dec-07
73	1/31/2008	5257.43	5708.97	451.54	447.11	Under	1	31-Jan-08
74	2/29/2008	5257.43	5708.97	451.54	443.13	Under	1	29-Feb-08
75	3/31/2008	5257.43	5708.97	451.54	438.87	Under	1	31-Mar-08
76	4/30/2008	5257.43	5708.97	451.54	434.75	Under	1	30-Apr-08
77	5/31/2008	5257.43	5708.97	451.54	430.49	Under	1	31-May-08
78	6/30/2008	5257.43	5708.97	451.54	426.37	Under	1	30-Jun-08
79	7/31/2008	5257.43	5708.97	451.54	422.12	Under	1	31-Jul-08
80	8/31/2008	5257.43	5708.97	451.54	417.86	Under	1	31-Aug-08
81	9/30/2008	5257.43	5708.97	451.54	413.74	Under	1	30-Sep-08
82	10/31/2008	5257.43	5708.97	451.54	409.48	Under	1	31-Oct-08

83	11/30/2008	5257.43	5708.97	451.54	405.36	Under	1	30-Nov-08
84	12/31/2008	5257.43	5708.97	451.54	401.11	Under	1	31-Dec-08
85	1/31/2009	5344.59	5802.56	457.97	385.7	Under	1	31-Jan-09
86	2/28/2009	5344.59	5802.56	457.97	381.96	Under	1	28-Feb-09
87	3/31/2009	5344.59	5802.56	457.97	377.82	Under	1	31-Mar-09
88	4/30/2009	5344.59	5802.56	457.97	373.82	Under	1	30-Apr-09
89	5/31/2009	5344.59	5802.56	457.97	369.68	Under	1	31-May-09
90	6/30/2009	5344.59	5802.56	457.97	365.68	Under	1	30-Jun-09
91	7/31/2009	5344.59	5802.56	457.97	361.54	Under	1	31-Jul-09
92	8/31/2009	5344.59	5802.56	457.97	357.4	Under	1	31-Aug-09
93	9/30/2009	5344.59	5802.56	457.97	353.4	Under	1	30-Sep-09
94	10/31/2009	5344.59	5802.56	457.97	349.26	Under	1	31-Oct-09
95	11/30/2009	5344.59	5802.56	457.97	345.26	Under	1	30-Nov-09
96	12/31/2009	5344.59	5802.56	457.97	341.12	Under	1	31-Dec-09
97	1/31/2010	5431.75	5896.15	464.40	327.61	Under	1	31-Jan-10
98	2/28/2010	5431.75	5896.15	464.40	323.97	Under	1	28-Feb-10
99	3/31/2010	5431.75	5896.15	464.40	319.95	Under	1	31-Mar-10
100	4/30/2010	5431.75	5896.15	464.40	316.06	Under	1	30-Apr-10
101	5/31/2010	5431.75	5896.15	464.40	312.04	Under	1	31-May-10
102	6/30/2010	5431.75	5896.15	464.40	308.15	Under	1	30-Jun-10
103	7/31/2010	5431.75	5896.15	464.40	304.12	Under	1	31-Jul-10
104	8/31/2010	5431.75	5896.15	464.40	300.10	Under	1	31-Aug-10
105	9/30/2010	5431.75	5896.15	464.40	296.21	Under	1	30-Sep-10
106	10/31/2010	5431.75	5896.15	464.40	292.19	Under	1	31-Oct-10
107	11/30/2010	5431.75	5896.15	464.40	288.29	Under	1	30-Nov-10
108	12/31/2010	5431.75	5896.15	464.40	284.27	Under	1	31-Dec-10
109	1/31/2011	5518.91	5989.74	470.83	272.53	Under	1	31-Jan-11
110	2/28/2011	5518.91	5989.74	470.83	269.00	Under	1	28-Feb-11
111	3/31/2011	5518.91	5989.74	470.83	265.09	Under	1	31-Mar-11
112	4/30/2011	5518.91	5989.74	470.83	261.30	Under	1	30-Apr-11
113	5/31/2011	5518.91	5989.74	470.83	257.39	Under	1	31-May-11
114	6/30/2011	5518.91	5989.74	470.83	253.61	Under	1	30-Jun-11
115	7/31/2011	5518.91	5989.74	470.83	249.70	Under	1	31-Jul-11
116	8/31/2011	5518.91	5989.74	470.83	245.78	Under	1	31-Aug-11
117	9/30/2011	5518.91	5989.74	470.83	242.00	Under	1	30-Sep-11
118	10/31/2011	5518.91	5989.74	470.83	238.09	Under	1	31-Oct-11
119	11/30/2011	5518.91	5989.74	470.83	234.30	Under	1	30-Nov-11
120	12/31/2011	5518.91	5989.74	470.83	230.39	Under	1	31-Dec-11
121	1/31/2012	5606.07	6083.33	477.26	220.31	Under	1	31-Jan-12
122	2/29/2012	5606.07	6083.33	477.26	216.75	Under	1	29-Feb-12
123	3/31/2012	5606.07	6083.33	477.26	212.95	Under	1	31-Mar-12
124	4/30/2012	5606.07	6083.33	477.26	209.26	Under	1	30-Apr-12
125	5/31/2012	5606.07	6083.33	477.26	205.46	Under	1	31-May-12
126	6/30/2012	5606.07	6083.33	477.26	201.78	Under	1	30-Jun-12
127	7/31/2012	5606.07	6083.33	477.26	197.97	Under	1	31-Jul-12
128	8/31/2012	5606.07	6083.33	477.26	194.17	Under	1	31-Aug-12
129	9/30/2012	5606.07	6083.33	477.26	190.48	Under	1	30-Sep-12
130	10/31/2012	5606.07	6083.33	477.26	186.68	Under	1	31-Oct-12
131	11/30/2012	5606.07	6083.33	477.26	183.00	Under	1	30-Nov-12
132	12/31/2012	5606.07	6083.33	477.26	179.19	Under	1	31-Dec-12
133	1/31/2013	5693.23	6176.92	483.69	170.66	Under	1	31-Jan-13
134	2/28/2013	5693.23	6176.92	483.69	167.32	Under	1	28-Feb-13
135	3/31/2013	5693.23	6176.92	483.69	163.62	Under	1	31-Mar-13
136	4/30/2013	5693.23	6176.92	483.69	160.03	Under	1	30-Apr-13
137	5/31/2013	5693.23	6176.92	483.69	156.33	Under	1	31-May-13
138	6/30/2013	5693.23	6176.92	483.69	152.75	Under	1	30-Jun-13
139	7/31/2013	5693.23	6176.92	483.69	149.05	Under	1	31-Jul-13
140	8/31/2013	5693.23	6176.92	483.69	145.34	Under	1	31-Aug-13
141	9/30/2013	5693.23	6176.92	483.69	141.76	Under	1	30-Sep-13
142	10/31/2013	5693.23	6176.92	483.69	138.06	Under	1	31-Oct-13
143	11/30/2013	5693.23	6176.92	483.69	134.48	Under	1	30-Nov-13
144	12/31/2013	5693.23	6176.92	483.69	130.77	Under	1	31-Dec-13
145	1/31/2014	5780.39	6270.51	490.12	123.69	Under	1	31-Jan-14
146	2/28/2014	5780.39	6270.51	490.12	120.43	Under	1	28-Feb-14
147	3/31/2014	5780.39	6270.51	490.12	116.83	Under	1	31-Mar-14
148	4/30/2014	5780.39	6270.51	490.12	113.34	Under	1	30-Apr-14
149	5/31/2014	5780.39	6270.51	490.12	109.74	Under	1	31-May-14
150	6/30/2014	5780.39	6270.51	490.12	106.25	Under	1	30-Jun-14
151	7/31/2014	5780.39	6270.51	490.12	102.65	Under	1	31-Jul-14
152	8/31/2014	5780.39	6270.51	490.12	99.04	Under	1	31-Aug-14
153	9/30/2014	5780.39	6270.51	490.12	95.55	Under	1	30-Sep-14
154	10/31/2014	5780.39	6270.51	490.12	91.95	Under	1	31-Oct-14
155	11/30/2014	5780.39	6270.51	490.12	88.46	Under	1	30-Nov-14
156	12/31/2014	5780.39	6270.51	490.12	84.86	Under	1	31-Dec-14
157	1/31/2015	5867.55	6364.1	496.55	79.12	Under	1	31-Jan-15
158	2/28/2015	5867.55	6364.1	496.55	75.95	Under	1	28-Feb-15
159	3/31/2015	5867.55	6364.1	496.55	72.44	Under	1	31-Mar-15
160	4/30/2015	5867.55	6364.1	496.55	69.04	Under	1	30-Apr-15
161	5/31/2015	5867.55	6364.1	496.55	65.53	Under	1	31-May-15

162	6/30/2015	5867.55	6364.1	496.55	62.14	Under	1	30-Jun-15
163	7/31/2015	5867.55	6364.1	496.55	58.63	Under	1	31-Jul-15
164	8/31/2015	5867.55	6364.1	496.55	55.12	Under	1	31-Aug-15
165	9/30/2015	5867.55	6364.1	496.55	51.73	Under	1	30-Sep-15
166	10/31/2015	5867.55	6364.1	496.55	48.22	Under	1	31-Oct-15
167	11/30/2015	5867.55	6364.1	496.55	44.82	Under	1	30-Nov-15
168	12/31/2015	5867.55	6364.1	496.55	41.31	Under	1	31-Dec-15
169	1/31/2016	5954.71	6457.69	502.98	36.82	Under	1	31-Jan-16
170	2/29/2016	5954.71	6457.69	502.98	33.62	Under	1	29-Feb-16
171	3/31/2016	5954.71	6457.69	502.98	30.21	Under	1	31-Mar-16
172	4/30/2016	5954.71	6457.69	502.98	26.90	Under	1	30-Apr-16
173	5/31/2016	5954.71	6457.69	502.98	23.48	Under	1	31-May-16
174	6/30/2016	5954.71	6457.69	502.98	20.17	Under	1	30-Jun-16
175	7/31/2016	5954.71	6457.69	502.98	16.76	Under	1	31-Jul-16
176	8/31/2016	5954.71	6457.69	502.98	13.34	Under	1	31-Aug-16
177	9/30/2016	5954.71	6457.69	502.98	10.03	Under	1	These values are projected
178	10/31/2016	5954.71	6457.69	502.98	6.61	Under	1	These values are projected
179	11/30/2016	5954.71	6457.69	502.98	3.31	Under	1	These values are projected

	Original	Corrected	Difference	Interest
Non BD	952472.3	1034516.15	82043.85	71030.19
BD	333450.23	370676.08	37225.85	80033.77
Sum Total	1285922.53	1405192.23	119269.70	151063.96

Total One Time Payment	270333.66

New Monthly Amount	6457.69

Exhibit E-2

Sample Underpayment Calculation

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Member		Beneficiary			
First Name		First Name			
Last Name		Last Name			
Birth Date		irth Date			
Actual Age	72	Actual Age	76		
Age in Retirement Year	60	Age in Retirement Year	63	Age Diff	3
Age in BD Year	58	Age at BD	61	Age Diff	3
Death Date	N/A	Death Date	6/5/2006		

New Monthly Amount:	1297.53
Total One Time Payment:	1983.55

Pension		Union Code	DC
Clock	107072	BD Date	3/10/2001
Type	ERS Normal Retirement	Term Date	5/20/2003
Type Option	Option 4 (25% Joint and Survivor Annuity)	Retire Date	5/21/2003
Benefit Annuity	Normal Annuity	Part Acct Enroll Date	8/9/1983
If BD, Years of Cola	2	Adjusted Enroll Date	N/A

Work History	
FAS	3217.11

Benefit Calc			
Group A: Multiplie	FAS	SVC	FAS * SVC * Multi
0.02000	3196.72750	17.58888	1124.53713
			FAS * SVC * Multi
			0.00000
Group C: Multiplie	FAS	SVC	FAS * SVC * Multi

Use for Early Penalty Only	

	0.00000
Sum Total	1124.53713

1124.537128

Constant	Month Early	V3 Early Penalty
0.004167	0	0.092164255

Previous Values		**Corrected Values**	
DEF BEN Max Benefit	N/A	Calculated Max Benefit	$1,020.90
UP-84 Factor	0.97296	GAM Factor	0.9777
V3 Original Monthly Base Benefit	$993.29	Corrected Monthly Base Benefit	$998.13
V3 COLA	$19.87	Corrected COLA	$19.96
V3 Military COLA	N/A	Corrected Military COLA	N/A
Last Updt Dt	12/8/2016	Last Updt Dt	N/A
Updated By	AbbeyMoreno	Updated By	N/A

COLA Month:		
COLA Month:	March	
Military COLA Mon	N/A	

Over Payments		**Under Payments**	
Interest Rate	0.05	Interest Rate	0.08
Interest Per Day	0.0136990%	Interest Per Day	0.02191800%
Interest Thru	12/16/2016	Interest Thru	12/16/2016

This section is configurable to what is decided between the parties

Record Counts	
Total Disbursemen	161
Total Over Under	164
Total Months between RD and Last Payment Date	162

Reviewer	
Approved by:	
Approved by:	

Comments	
1	
3	

1	2	3	4	5	6	7	8
Row Number	Monthly Disbursement	Original Gross	Corrected Gross	Difference	Interest	Over/Under	Count
1	6/30/2003	28524.79	29328.78	803.99	1498.96	Under	1
2	6/30/2003	2066.06	1406.4	-659.66	-1229.87	Over	2
3	7/31/2003	1033.03	1038.05	5.02	9.3	Under	1
4	8/31/2003	1033.03	1038.05	5.02	9.24	Under	1
5	9/30/2003	1033.03	1038.05	5.02	9.18	Under	1
6	10/31/2003	1033.03	1038.05	5.02	9.13	Under	1
7	11/30/2003	1033.03	1038.05	5.02	9.07	Under	1
8	12/31/2003	1033.03	1038.05	5.02	9.01	Under	1
9	1/31/2004	1033.03	1038.05	5.02	8.56	Under	1
10	2/29/2004	1033.03	1038.05	5.02	8.5	Under	1
11	3/31/2004	1052.9	1058.01	5.11	8.6	Under	1
12	4/30/2004	1052.9	1058.01	5.11	8.54	Under	1
13	5/31/2004	1052.9	1058.01	5.11	8.49	Under	1
14	6/30/2004	1052.9	1058.01	5.11	8.43	Under	1
15	7/31/2004	1052.9	1058.01	5.11	8.37	Under	1
16	8/31/2004	1052.9	1058.01	5.11	8.32	Under	1
17	9/30/2004	1052.9	1058.01	5.11	8.26	Under	1
18	10/31/2004	1052.9	1058.01	5.11	8.2	Under	1
19	11/30/2004	1052.9	1058.01	5.11	8.15	Under	1
20	12/31/2004	1052.9	1058.01	5.11	8.09	Under	1
21	1/31/2005	1052.9	1058.01	5.11	7.68	Under	1
22	2/28/2005	1052.9	1058.01	5.11	7.63	Under	1
23	3/31/2005	1072.77	1077.97	5.20	7.71	Under	1
24	4/30/2005	1072.77	1077.97	5.20	7.66	Under	1
25	5/31/2005	1072.77	1077.97	5.20	7.6	Under	1
26	6/30/2005	1072.77	1077.97	5.20	7.55	Under	1

27	7/31/2005	1072.77	1077.97	5.20	7.49	Under	1
28	8/31/2005	1072.77	1077.97	5.20	7.43	Under	1
29	9/30/2005	1072.77	1077.97	5.20	7.38	Under	1
30	10/31/2005	1072.77	1077.97	5.20	7.32	Under	1
31	11/30/2005	1072.77	1077.97	5.20	7.27	Under	1
32	12/31/2005	1072.77	1077.97	5.20	7.21	Under	1
33	1/31/2006	1072.77	1077.97	5.20	6.85	Under	1
34	2/28/2006	1072.77	1077.97	5.20	6.8	Under	1
35	3/31/2006	1092.64	1097.93	5.29	6.87	Under	1
36	4/30/2006	1092.64	1097.93	5.29	6.81	Under	1
37	5/31/2006	1092.64	1097.93	5.29	6.76	Under	1
38	6/30/2006	1092.64	1097.93	5.29	6.71	Under	1
39	7/31/2006	1092.64	1097.93	5.29	6.65	Under	1
40	8/31/2006	1092.64	1097.93	5.29	6.6	Under	1
41	9/30/2006	1092.64	1097.93	5.29	6.54	Under	1
42	10/31/2006	1092.64	1097.93	5.29	6.49	Under	1
43	11/30/2006	1092.64	1097.93	5.29	6.44	Under	1
44	12/31/2006	1092.64	1097.93	5.29	6.38	Under	1
45	1/31/2007	1092.64	1097.93	5.29	6.06	Under	1
46	2/28/2007	1092.64	1097.93	5.29	6.01	Under	1
47	3/31/2007	1112.51	1117.89	5.38	6.06	Under	1
48	4/30/2007	1112.51	1117.89	5.38	6.01	Under	1
49	5/31/2007	1112.51	1117.89	5.38	5.96	Under	1
50	6/30/2007	1112.51	1117.89	5.38	5.91	Under	1
51	7/31/2007	1112.51	1117.89	5.38	5.85	Under	1
52	8/31/2007	1112.51	1117.89	5.38	5.8	Under	1
53	9/30/2007	1112.51	1117.89	5.38	5.75	Under	1
54	10/31/2007	1112.51	1117.89	5.38	5.7	Under	1
55	11/30/2007	1112.51	1117.89	5.38	5.64	Under	1
56	12/31/2007	1112.51	1117.89	5.38	5.59	Under	1
57	1/31/2008	1112.51	1117.89	5.38	5.3	Under	1
58	2/29/2008	1112.51	1117.89	5.38	5.26	Under	1
59	3/31/2008	1132.38	1137.85	5.47	5.29	Under	1
60	4/30/2008	1132.38	1137.85	5.47	5.24	Under	1

61	5/31/2008	1132.38	1137.85	5.47	5.19	Under	1
62	6/30/2008	1132.38	1137.85	5.47	5.14	Under	1
63	7/31/2008	1132.38	1137.85	5.47	5.09	Under	1
64	8/31/2008	1132.38	1137.85	5.47	5.04	Under	1
65	9/30/2008	1132.38	1137.85	5.47	4.99	Under	1
66	10/31/2008	1132.38	1137.85	5.47	4.94	Under	1
67	11/30/2008	1132.38	1137.85	5.47	4.89	Under	1
68	12/31/2008	1132.38	1137.85	5.47	4.84	Under	1
69	1/31/2009	1132.38	1137.85	5.47	4.58	Under	1
70	2/28/2009	1132.38	1137.85	5.47	4.54	Under	1
71	3/31/2009	1152.25	1157.81	5.56	4.56	Under	1
72	4/30/2009	1152.25	1157.81	5.56	4.52	Under	1
73	5/31/2009	1152.25	1157.81	5.56	4.47	Under	1
74	6/30/2009	1152.25	1157.81	5.56	4.42	Under	1
75	7/31/2009	1152.25	1157.81	5.56	4.37	Under	1
76	8/31/2009	1152.25	1157.81	5.56	4.32	Under	1
77	9/30/2009	1152.25	1157.81	5.56	4.27	Under	1
78	10/31/2009	1152.25	1157.81	5.56	4.22	Under	1
79	11/30/2009	1152.25	1157.81	5.56	4.17	Under	1
80	12/31/2009	1152.25	1157.81	5.56	4.12	Under	1
81	1/31/2010	1152.25	1157.81	5.56	3.9	Under	1
82	2/28/2010	1152.25	1157.81	5.56	3.86	Under	1
83	3/31/2010	1172.12	1177.77	5.65	3.87	Under	1
84	4/30/2010	1172.12	1177.77	5.65	3.82	Under	1
85	5/31/2010	1172.12	1177.77	5.65	3.77	Under	1
86	6/30/2010	1172.12	1177.77	5.65	3.73	Under	1
87	7/31/2010	1172.12	1177.77	5.65	3.68	Under	1
88	8/31/2010	1172.12	1177.77	5.65	3.63	Under	1
89	9/30/2010	1172.12	1177.77	5.65	3.58	Under	1
90	10/31/2010	1172.12	1177.77	5.65	3.53	Under	1
91	11/30/2010	1172.12	1177.77	5.65	3.49	Under	1
92	12/31/2010	1172.12	1177.77	5.65	3.44	Under	1
93	1/31/2011	1172.12	1177.77	5.65	3.25	Under	1
94	2/28/2011	1172.12	1177.77	5.65	3.21	Under	1

95	3/31/2011	1191.99	1197.73	5.74	3.21	Under	1
96	4/30/2011	1191.99	1197.73	5.74	3.16	Under	1
97	5/31/2011	1191.99	1197.73	5.74	3.12	Under	1
98	6/30/2011	1191.99	1197.73	5.74	3.07	Under	1
99	7/31/2011	1191.99	1197.73	5.74	3.02	Under	1
100	8/31/2011	1191.99	1197.73	5.74	2.97	Under	1
101	9/30/2011	1191.99	1197.73	5.74	2.93	Under	1
102	10/31/2011	1191.99	1197.73	5.74	2.88	Under	1
103	11/30/2011	1191.99	1197.73	5.74	2.83	Under	1
104	12/31/2011	1191.99	1197.73	5.74	2.79	Under	1
105	1/31/2012	1191.99	1197.73	5.74	2.63	Under	1
106	2/29/2012	1191.99	1197.73	5.74	2.59	Under	1
107	3/31/2012	1211.86	1217.69	5.83	2.58	Under	1
108	4/30/2012	1211.86	1217.69	5.83	2.54	Under	1
109	5/31/2012	1211.86	1217.69	5.83	2.49	Under	1
110	6/30/2012	1211.86	1217.69	5.83	2.44	Under	1
111	7/31/2012	1211.86	1217.69	5.83	2.4	Under	1
112	8/31/2012	1211.86	1217.69	5.83	2.35	Under	1
113	9/30/2012	1211.86	1217.69	5.83	2.31	Under	1
114	10/31/2012	1211.86	1217.69	5.83	2.26	Under	1
115	11/30/2012	1211.86	1217.69	5.83	2.21	Under	1
116	12/31/2012	1211.86	1217.69	5.83	2.17	Under	1
117	1/31/2013	1211.86	1217.69	5.83	2.04	Under	1
118	2/28/2013	1211.86	1217.69	5.83	2.00	Under	1
119	3/31/2013	1231.73	1237.65	5.92	1.98	Under	1
120	4/30/2013	1231.73	1237.65	5.92	1.94	Under	1
121	5/31/2013	1231.73	1237.65	5.92	1.89	Under	1
122	6/30/2013	1231.73	1237.65	5.92	1.85	Under	1
123	7/31/2013	1231.73	1237.65	5.92	1.80	Under	1
124	8/31/2013	1231.73	1237.65	5.92	1.76	Under	1
125	9/30/2013	1231.73	1237.65	5.92	1.71	Under	1
126	10/31/2013	1231.73	1237.65	5.92	1.67	Under	1
127	11/30/2013	1231.73	1237.65	5.92	1.63	Under	1
128	12/31/2013	1231.73	1237.65	5.92	1.58	Under	1

129	1/31/2014	1231.73	1237.65	5.92	1.47	Under	1
130	2/28/2014	1231.73	1237.65	5.92	1.43	Under	1
131	3/31/2014	1251.6	1257.61	6.01	1.41	Under	1
132	4/30/2014	1251.6	1257.61	6.01	1.37	Under	1
133	5/31/2014	1251.6	1257.61	6.01	1.33	Under	1
134	6/30/2014	1251.6	1257.61	6.01	1.28	Under	1
135	7/31/2014	1251.6	1257.61	6.01	1.24	Under	1
136	8/31/2014	1251.6	1257.61	6.01	1.19	Under	1
137	9/30/2014	1251.6	1257.61	6.01	1.15	Under	1
138	10/31/2014	1251.6	1257.61	6.01	1.11	Under	1
139	11/30/2014	1251.6	1257.61	6.01	1.06	Under	1
140	12/31/2014	1251.6	1257.61	6.01	1.02	Under	1
141	1/31/2015	1251.6	1257.61	6.01	0.94	Under	1
142	2/28/2015	1251.6	1257.61	6.01	0.90	Under	1
143	3/31/2015	1271.47	1277.57	6.10	0.87	Under	1
144	4/30/2015	1271.47	1277.57	6.10	0.83	Under	1
145	5/31/2015	1271.47	1277.57	6.10	0.79	Under	1
146	6/30/2015	1271.47	1277.57	6.10	0.74	Under	1
147	7/31/2015	1271.47	1277.57	6.10	0.70	Under	1
148	8/31/2015	1271.47	1277.57	6.10	0.66	Under	1
149	9/30/2015	1271.47	1277.57	6.10	0.62	Under	1
150	10/31/2015	1271.47	1277.57	6.10	0.57	Under	1
151	11/30/2015	1271.47	1277.57	6.10	0.53	Under	1
152	12/31/2015	1271.47	1277.57	6.10	0.49	Under	1
153	1/31/2016	1271.47	1277.57	6.10	0.43	Under	1
154	2/29/2016	1271.47	1277.57	6.10	0.39	Under	1
155	3/31/2016	1291.34	1297.53	6.19	0.35	Under	1
156	4/30/2016	1291.34	1297.53	6.19	0.31	Under	1
157	5/31/2016	1291.34	1297.53	6.19	0.27	Under	1
158	6/30/2016	1291.34	1297.53	6.19	0.23	Under	1
159	7/31/2016	1291.34	1297.53	6.19	0.19	Under	1
160	8/31/2016	1291.34	1297.53	6.19	0.15	Under	1
161	9/30/2016	1291.34	1297.53	6.19	0.1	Under	1
162	10/31/2016	1291.34	1297.53	6.19	0.06	Under	1

163	11/30/2016	1291.34	1297.53	6.19	0.02 Under	1

	Original	Corrected	Difference	Interest
Non BD	189307	189550.33	243.33	-562.73
BD	28524.79	29328.78	803.99	1498.96
Sum Total	217831.79	218879.11	1047.32	936.23

Total One Time Payment	1983.55

New Monthly Amount	1297.53

New Monthly Amount:	1205.04
Total One Time Payment:	6900.18

Est Early Penalty
0