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CARMEN A. TRUTANICH
City Attorney

REPORT NO. R 0 9 - 0 3 3 7

SEP 30 2009

REPORT RE:

**REVISED DRAFT ORDINANCE AMENDING CHAPTER 10 OF DIVISION 4 OF THE
LOS ANGELES ADMINISTRATIVE CODE TO ALLOW CERTAIN CITY EMPLOYEES
TO RETIRE WITH ENHANCED BENEFITS**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

On September 11, 2009, this office transmitted for your consideration a draft ordinance that would amend Chapter 10 of Division 4 of the Los Angeles Administrative Code (LAAC) to provide an Early Retirement Incentive Program (ERIP) to certain members of the Los Angeles City Employees' Retirement System (LACERS) and to increase the LACERS active employee retirement contribution rate. On September 18, 2009, the City Council approved the first reading of the draft ordinance, with a number of revisions. The second reading of the draft ordinance would occur in 30 days of the first reading.

However, the City Council adopted a motion on September 29, 2009, requesting the City Attorney to prepare and present a revised ERIP ordinance to ensure that the ordinance ultimately adopted by the City Council "...reflects any new information / materials contained in the new actuarial report...as well as to ensure the ERIP ordinance is consistent with the ERIP program as negotiated." The motion asked the

City Attorney to present the new ERIP ordinance at the City Council's meeting of September 30, 2009. We have drafted the revised ERIP ordinance and transmit it approved as to form and legality.

As we discussed in our September 11, 2009, report, the proposed ERIP resulted from negotiations between the City and various labor organizations as a way to encourage City employees to retire in order to reduce the City's work force and labor costs, and to decrease or eliminate the need for furloughs or layoffs of City employees. In order to fund the cost of this program, LACERS members have agreed to pay increased retirement contributions to LACERS.

The City Council has been authorized, in Charter section 1168, to make these changes by an ordinance which requires approval by not less than two-thirds of the membership of the Council, subject to the veto of the Mayor and override by three-fourths of the membership of the Council. This ordinance may not be finally adopted by the Council until the expiration of at least 30 days after its first presentation to the Council, nor until after a public hearing has been held.

An actuarial report that complies with the requirements of Government Code (Gov. Code) section 7507 was obtained and will be made available to the public at a public hearing at least two weeks prior to the ordinance's effective date. When this ordinance is first presented to the Council, the future cost of changes in retirement benefits, as determined by the actuary, shall be made public and an actuary shall be present to provide information as needed at this public meeting. If any revision or addendum to the actuarial report is necessary, it will be presented and made available to the public at another Council meeting at least two weeks prior to the ordinance's effective date. The final adoption of this ordinance cannot occur until at least 30 days after its first presentation to the Council and, as required by Gov. Code section 7507, shall not be placed on a consent calendar.

Gov. Code section 7507 further requires, upon the adoption of this ordinance, that the person with the responsibilities of a chief executive officer with the City shall acknowledge in writing that he or she understands the current and future cost of the benefit as determined by the actuary. Accordingly, when this ordinance is sent to the Mayor for his approval, the City Clerk shall also provide the Mayor with the enclosed acknowledgement for his signature. The City Clerk shall provide LACERS and the CAO with copies of the executed acknowledgement for their records and shall retain the original in the Council file.

If you have any questions regarding this matter, please contact Deputy City Attorney Brian Cheng of the Retirement Benefits Division at (213) 978-4400. He or another member of our staff will be available when you consider this matter to answer any questions you may have.

Sincerely,

CARMEN A. TRUTANICH, City Attorney

By. 
DAVID MICHAELSON
Chief Assistant City Attorney

DM:BC:lee
Transmittal

cc: The Honorable Antonio Villaraigosa, Mayor
Miguel Santana, City Administrative Officer
June Lagmay, City Clerk
Gerry Miller, Chief Legislative Officer
Los Angeles City Employees' Retirement System (LACERS)
Board of Administration of the Los Angeles City Employees' Retirement System

ACKNOWLEDGEMENT

[GOVERNMENT CODE SECTION 7507(d)]

As the Mayor of the City of Los Angeles, I acknowledge that I understand the current and future cost of the benefits, as determined by the actuary, that are to be provided under the Early Retirement Incentive Program that has been adopted.

Dated: _____

Antonio R. Villaraigosa

ORDINANCE NO. _____

An ordinance amending Chapter 10 of Division 4 of the Los Angeles Administrative Code to allow certain City employees to retire with enhanced benefits.

WHEREAS, the City of Los Angeles (City) is facing a financial emergency of historic proportions;

WHEREAS, the City wishes to reduce its General Fund payroll obligations;

WHEREAS, a large portion of the City's General Fund payroll budget is allocated to members of the Los Angeles City Employees' Retirement System (LACERS);

WHEREAS, incentivizing LACERS members to retire will aid the City's financial situation, thereby decreasing or eliminating the need for other measures such as furloughs and layoffs; and

WHEREAS, the goal of the Early Retirement Incentive Program is to separate 2,400 employees from City service as quickly as possible:

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 4.1033 of the Los Angeles Administrative Code is added to read:

Sec. 4.1033. Early Retirement Incentive Program

(a) Wherever "ERIP" is used in this chapter, it shall refer to the Early Retirement Incentive Program. Subject to the provisions and limitations set forth herein, an active City employee who is a member of the Los Angeles City Employees' Retirement System (LACERS) may be retired from the service of the City with the ERIP benefits set forth herein, provided that the LACERS member meets all of the requirements set forth herein to be eligible for retiring under the ERIP, and provided that his or her completed ERIP Election Form is received in the City Administrative Officer (CAO)'s office within the 45-day ERIP window period defined herein (ERIP Eligible Filers). Also subject to the provisions and limitations set forth herein, a City retiree who was an active LACERS member may receive the ERIP benefits set forth herein, provided that he or she retired on or after June 26, 2009, but prior to the ERIP Beginning Date defined herein, and he or she meets all of the requirements set forth herein to be eligible to receive the ERIP benefits as contemplated in the June 26, 2009, Council motion (Council File 09-1320) ("Grandfathered Participant," further defined below in Section 4.1033(a)(4)(i)). The 45-day ERIP window period shall begin on this ordinance's effective date (ERIP Beginning Date) and end on the 45th day thereafter

unless that 45th day falls on a weekend or a City holiday, in which case it shall end on the next day that is not a weekend or a City holiday (ERIP Ending Date). The ERIP Ending Date shall be included in the ERIP window period, so that the CAO's office shall continue to receive completed ERIP Election Forms until close of business on the ERIP Ending Date. The CAO's office shall establish the rules and procedures for receiving a completed ERIP Election Form, including what constitutes a completed ERIP Election Form and what constitutes the date and time the form was received by the CAO's office. In order for the ERIP to meet its goal of assisting with the City's financial situation while minimizing the impact on City services, the following provisions and limitations shall apply to the ERIP:

(1) Only LACERS members currently in an employed status with the City on the ERIP Beginning Date shall be eligible to submit an ERIP Election Form. LACERS members in a terminated status shall not be eligible to submit an ERIP Election Form. Former City employees, including but not limited to deferred vested former City employees, shall not be eligible to submit an ERIP Election Form. In addition, only persons belonging to at least one of the five ERIP "Groups" listed below in Sections 4.1033(b)(1) - (5) as of the ERIP Beginning Date shall be eligible to submit an ERIP Election Form. A person belonging to one of the ERIP Groups as of the ERIP Beginning Date may possibly change ERIP Groups prior to his or her effective date of retirement. However, a person who does not belong to any ERIP Group as of the ERIP Beginning Date shall not be eligible to submit an ERIP Election Form. Grandfathered Participants may be eligible to receive the ERIP benefits, but they need not submit an ERIP Election Form and their retirements are not considered retirements under the ERIP.

(2) A LACERS member eligible under Los Angeles Administrative Code Section 4.1052.2 (Government Service Buyback or GSB) to purchase time due to service in another government agency shall be allowed to include the purchased time in the determination of ERIP eligibility. For the purchased time to be included in the determination of ERIP eligibility, the LACERS member must follow the existing GSB purchasing policies, and the member must have completed the GSB purchase by the end of the City pay period that includes the ERIP Beginning Date. For reciprocal service under Los Angeles Administrative Code Section 4.1065 to be included in the determination of ERIP eligibility, the reciprocal time must be certified by the reciprocating system and the certification must be received by LACERS prior to the ERIP Beginning Date. Once so established, the LACERS member shall be entitled to use this reciprocal service in order to qualify for ERIP even if reciprocity is subsequently broken, such as by the member's inability to retire concurrently from the reciprocating system. When a person elects to submit an ERIP Election Form and retire under the ERIP, the person shall assume all risks that result from this election, including but not limited to the loss of the right to use his or her final compensation as determined by LACERS for purposes of computing final compensation earnable with the reciprocal system in the event that he or she is not able to retire concurrently

under both systems. Time purchased under Los Angeles Administrative Code Section 4.1052.1 (Public Service Buyback or PSB) shall not be included in the determination of ERIP eligibility.

(3) Certain City employee classifications are excluded from the ERIP (Excluded Classifications). Certain other City employee classifications have an ERIP limitation number, meaning that the total number of a classification's ERIP Eligible Filers actually retiring under the ERIP, plus the number of that classification's Grandfathered Participants actually receiving the ERIP benefits, shall be limited in number (Limited Classification). The CAO shall make known these Excluded Classifications, Limited Classifications, and the Limited Classifications' ERIP limitation numbers.

(i) In the event that a Limited Classification's number of ERIP Eligible Filers and Grandfathered Participants exceeds the limitation number, the earliest initial date of LACERS membership (Initial LACERS Membership Date) shall be used to determine which ERIP Eligible Filers shall be allowed to retire under the ERIP and which Grandfathered Participants shall receive the ERIP benefits. The person with the earliest Initial LACERS Membership Date shall receive priority. If there is a tie in the earliest Initial LACERS Membership Date between two or more persons of the same Limited Classification, then the one with the longer time of employment in the Limited Classification at issue shall prevail. If there is also a tie in the time of employment in the Limited Classification at issue, then the one whose completed ERIP Election Form was first received by the CAO's office prevails. A Grandfathered Participant shall be deemed to have submitted (and the CAO's office shall be deemed to have received) a completed ERIP Election Form when the retirement application resulting in his or her retirement was first filed with LACERS.

(ii) If a Limited Classification's ERIP limitation number is reached, an ERIP waiting list shall be created for that Limited Classification. ERIP Eligible Filers on a Limited Classification's ERIP waiting list may be allowed to retire under the ERIP, and/or Grandfathered Participants on a Limited Classification's ERIP waiting list may be allowed to receive the ERIP benefits, if and to the extent that ERIP Eligible Filers with earlier Initial LACERS Membership Dates in the Limited Classification rescind their ERIP Election Forms, and/or the Limited Classification's ERIP limitation rate is increased. A Limited Classification's ERIP waiting list shall be ordered pursuant to the same Initial LACERS Membership Date priority and tiebreakers referenced above in Section 4.1033(a)(3)(i). A Grandfathered Participant shall be deemed to have submitted (and the CAO's office shall be deemed to have received) a completed ERIP Election Form when the retirement application resulting in his or her retirement was first filed with LACERS. After the 45-day ERIP window period has expired, the CAO's office shall notify any ERIP Eligible Filers

on a Limited Classification's waiting list who will not be allowed to retire under the ERIP. After the 45-day ERIP window period has expired, any LACERS member may elect to retire pursuant to standard, non-ERIP LACERS procedures and provisions. After the 45-day ERIP window period has expired, the CAO's office shall notify any Grandfathered Participants on a Limited Classification's waiting list who will not be allowed to receive the ERIP benefits.

(4) The ERIP shall have a limit of 2,400 persons, meaning that the total number of ERIP Eligible Filers actually retiring under the ERIP, plus the number of Grandfathered Participants actually receiving the ERIP benefits, shall be limited to 2,400. In the event that the total number of ERIP Eligible Filers and Grandfathered Participants exceeds 2,400, a first-come-first-served basis (ordered pursuant to the date and time the ERIP Election Form was received by the CAO's office) shall be used to determine which ERIP Eligible Filers shall be allowed to retire under the ERIP and which Grandfathered Participants shall be allowed to receive the ERIP benefits. A Grandfathered Participant shall be deemed to have submitted (and the CAO's office shall be deemed to have received) a completed ERIP Election Form when the retirement application resulting in his or her retirement was first filed with LACERS. Also in the event that the total number of ERIP Eligible Filers and Grandfathered Participants exceeds 2,400, a general ERIP waiting list shall be created. ERIP Eligible Filers on the general ERIP waiting list may be allowed to retire under the ERIP if and to the extent that earlier ERIP Eligible Filers rescind their ERIP Election Forms, and/or if City Council and the Office of the Mayor approve an increase of the 2,400 ERIP limit. (If there are any Grandfathered Participants on the general ERIP waiting list, it means that the 2,400 ERIP limit was reached within the number of Grandfathered Participants alone. A Grandfathered Participant on the general ERIP waiting list may be allowed to receive the ERIP benefits if and to the extent that City Council and the Office of the Mayor approve an increase of the 2,400 ERIP limit.) This general ERIP waiting list shall be separate from the waiting lists for the various Limited Classifications set forth above in Section 4.1033(a)(3)(ii). The CAO's office shall establish the rules and procedures for accepting ERIP Eligible Filers and Grandfathered Participants from the general ERIP waiting list and/or a Limited Classification's waiting list, and how the waiting lists shall operate in conjunction with each other. After the 45-day ERIP window period has expired, the CAO's office shall notify any ERIP Eligible Filers on a general ERIP waiting list who will not be allowed to retire under the ERIP. After the 45-day ERIP window period has expired, any LACERS member may elect to retire pursuant to standard, non-ERIP LACERS procedures and provisions. After the 45-day ERIP window period has expired, the CAO's office shall notify any Grandfathered Participants on the general ERIP waiting list who will not be allowed to receive the ERIP benefits.

(i) A "Grandfathered Participant" is an ERIP-eligible City retiree whose effective date of retirement is on or after June 26, 2009, but before

the ERIP Beginning Date. As contemplated in the June 26, 2009, Council motion (Council File 09-1320), a Grandfathered Participant determined to be allowed to receive the ERIP benefits shall receive such applicable benefits. A Grandfathered Participant need not submit an ERIP Election Form to the CAO's office within the 45-day ERIP window period. Rather, to the extent a Grandfathered Participant is determined to be allowed to receive the ERIP benefits, the Grandfathered Participant shall automatically receive the applicable ERIP benefits for his or her ERIP "Group" (see Section 4.1033(b) below). The date to be used for the purpose of determining the proper ERIP Group for a Grandfathered Participant shall be his or her last day on the City payroll. (A City retiree who retired on or after June 26, 2009, but before the ERIP Beginning Date, who did not belong to any ERIP Group as of his or her last day on the City payroll is not a Grandfathered Participant and shall not be eligible to receive the ERIP benefits.) A Grandfathered Participant shall receive priority over ERIP Eligible Filers with regards to being within the general 2,400 ERIP limit, in that a Grandfathered Participant shall be deemed to have submitted (and the CAO's office shall be deemed to have received) a completed ERIP Election Form when the retirement application resulting in his or her retirement was first filed with LACERS. A Grandfathered Participant receiving the ERIP benefits shall count towards the 2,400 ERIP limit. However, a Grandfathered Participant in a Limited Classification shall not be guaranteed to receive the ERIP benefits. A Grandfathered Participant who, as of his or her last day on the City payroll, was in a classification determined to be a Limited Classification, shall not receive priority over ERIP Eligible Filers with regards to being within that Limited Classification's ERIP limitation number. Rather, the ERIP Eligible Filers and the Grandfathered Participants to be allowed within that Limited Classification's ERIP limitation shall be determined by the Initial LACERS Membership Date priority, tiebreakers, and waiting lists as set forth above in Section 4.1033(a)(3)(i) - (ii).

(5) An ERIP Eligible Filer may rescind his or her ERIP Election Form by delivering, to the CAO's office, a completed ERIP Rescission Form (as promulgated by the CAO's office) within seven (7) calendar days of delivery, to the ERIP Eligible Filer's address on file with LACERS, of notification that his or her ERIP Election Form has been approved. The ERIP Election Form may not be rescinded after the seven (7) calendar days have passed.

(6) To minimize the impact on City services, an ERIP Eligible Filer may not select his or her effective date of retirement under the ERIP. While Management may take the person's preferences into account, Management shall determine the effective date of retirement for a person retiring under the ERIP.

(i) The portion of Los Angeles Administrative Code Section 4.1020(a) stating that a person's effective date of retirement shall be not

less than 30 nor more than 60 days from and after the filing of the person's LACERS retirement application shall not apply to persons retiring under the ERIP.

(ii) Management's decision as to a person's effective date of retirement under the ERIP shall be final and binding, regardless of whether the ERIP Eligible Filer agrees with Management's decision. The ERIP Eligible Filer may be required to retire as soon as administratively possible, or may be required to continue working for the City for an extended period of time. The CAO may promulgate rules that Management shall follow regarding the effective dates of retirement for ERIP Eligible Filers.

(7) During the 45-day ERIP window period, LACERS shall not accept a non-ERIP retirement application from a person eligible for the ERIP, defined as a person who, as of the ERIP Beginning Date, belongs to at least one of the five ERIP Groups listed below in Sections 4.1033(b)(1) - (5). After the 45-day ERIP window period has expired, any LACERS member may elect to retire pursuant to standard, non-ERIP LACERS procedures and provisions.

(i) All applications for non-ERIP LACERS retirements submitted by persons eligible for the ERIP, and still pending as of the beginning of the 45-day ERIP window period, shall be held in abeyance for the duration of the 45-day ERIP window period. Such ERIP-eligible persons may elect to submit an ERIP Election Form, or, alternatively, they may wait until after the 45-day ERIP window period has expired, at which point their non-ERIP retirement applications shall continue to be processed. Such ERIP-eligible persons who elect to submit an ERIP Election Form shall not receive priority with respect to being within the 2,400 person ERIP limit, and shall not receive priority with respect to being within a Limited Classification's ERIP limitation number.

(8) Accumulated Sick and Vacation Time is not payable to persons retiring under the ERIP, and such persons shall not be entitled to a payment of Accumulated Sick and Vacation Time upon retirement. In addition to the ERIP benefits set forth below in Section 4.1033(b), which include the Separation Payments in Sections 4.1033(b)(4)(i) and 4.1033(b)(6), persons retiring under the ERIP shall receive a severance payment in the amount of what would be the person's Accumulated Sick and Vacation Time payment if the person were retiring pursuant to standard, non-ERIP retirement policies and procedures (Severance Payment). This Severance Payment and the applicable Separation Payment as set forth below in Sections 4.1033(b)(4)(i) and 4.1033(b)(6) shall be paid over two separate calendar years, with the City selecting the payment dates. This Severance Payment and the applicable Separation Payment as set forth below in Sections 4.1033(b)(4)(i) and 4.1033(b)(6) shall constitute, and be administered as, a Bona Fide Separation Pay Plan under Internal Revenue Code

Section 457(e)(11) because (A) these payments are payable only to a person who has submitted an ERIP Election Form during the 45-day ERIP window period and who actually has a severance from employment pursuant to the ERIP; (B) the amount payable does not exceed two times the person's annual rate of pay (taking into account only pay that does not exceed the maximum amount that may be taken into account under a qualified plan pursuant to Internal Revenue Code 401(a)(17) for the year in which the person has his or her severance from employment); and (C) the payments shall be completed by the end of the second calendar year following the calendar year in which the employee separates from City service. Any tax liabilities arising from any Severance Payments and/or Separation Payments shall be the sole responsibility of the person(s) receiving the payments.

(i) A Grandfathered Participant's retirement is not considered a retirement under the ERIP, even if he or she receives the ERIP benefits. Therefore, the above provisions pertaining to Accumulated Sick and Vacation Time and the Severance Payment do not apply to Grandfathered Participants who receive the ERIP benefits. Instead, a Grandfathered Participant who receives the ERIP benefits either has already received, or shall receive, his or her Accumulated Sick and Vacation Time payment, if any, pursuant to standard, non-ERIP retirement policies and procedures. Payment of Accumulated Sick and Vacation Time to such a Grandfathered Participant is not a retirement benefit. A Grandfathered Participant who receives the ERIP benefits shall not receive the Severance Payment, but shall receive the applicable Separation Payment as set forth below in Sections 4.1033(b)(4)(i) and 4.1033(b)(6). The applicable Separation Payment shall be paid over two separate calendar years (with the City selecting the payment dates), and shall constitute, and be administered as, a Bona Fide Separation Pay Plan under Internal Revenue Code Section 457(e)(11). Any tax liabilities arising from any Accumulated Sick and Vacation Time payments and/or Separation Payments shall be the sole responsibility of the person(s) receiving the payments.

(ii) The Severance Payment shall be paid by the City, and the cost of the Severance Payment shall remain a cost of the City. The Separation Payment shall also be paid by the City. However, the cost of the Separation Payment shall be an obligation of the LACERS members, and shall be recouped by the City through the provisions set forth below in Section 4.1033(a)(9)(i) - (iii).

(iii) Neither the Severance Payment nor the Separation Payment shall be considered a retirement benefit.

(9) The ERIP actuarial cost, as determined by the LACERS actuary, and the total cost of the Separation Payments shall, together, be known as the "ERIP Cost Obligation." The ERIP Cost Obligation shall be an obligation of the

LACERS members. The LACERS actuary has determined the preliminary ERIP Cost Obligation to be \$271 million, as presented in the actuarial report dated September 25, 2009, based on a projection of 2,229 ERIP Eligible Filers actually retiring and Grandfathered Participants actually receiving the ERIP benefits.

(i) LACERS members' payment of the ERIP Cost Obligation shall commence on July 1, 2011; and end on June 30, 2026, or when the ERIP Cost Obligation is fully paid, whichever comes first. The payment shall consist of a 1% increase in the LACERS active employee retirement contribution rate of 6% (of which 0.5% is the survivor contribution portion), so that the total LACERS active employee retirement contribution rate shall be 7% for all LACERS members. After all ERIP Eligible Filers actually retiring under the ERIP have retired, the LACERS actuary shall re-calculate the ERIP Cost Obligation based on the number of ERIP Eligible Filers actually retiring and Grandfathered Participants actually receiving the ERIP benefits, using the same methodology used to determine the preliminary ERIP Cost Obligation. However, the City reserves the right to increase the LACERS active employee contribution rate for new City hires, in accordance with all applicable laws and practices.

(ii) The LACERS active employee retirement contribution rate for LACERS members hired prior to 1983 (Defrayal Group) shall be adjusted to 6% (of which 0.5% is the survivor contribution portion) upon this ordinance's effective date. Commensurate with Section 4.1033(a)(9)(i) above, employees in the Defrayal Group shall have their retirement contribution increased from 6% to 7% on July 1, 2011. All savings from the elimination of defrayal shall be credited towards the payment of the ERIP Cost Obligation.

(iii) Once the City has recouped the ERIP Cost Obligation, the LACERS active employee retirement contribution rate shall be adjusted to 6% (of which 0.5% is the survivor contribution portion) for all City employees who were LACERS members as of the ERIP Beginning Date (including those in the Defrayal Group). However, the City reserves the right to increase the LACERS active employee retirement contribution rate for new City hires, in accordance with all applicable laws and practices.

(10) In order for the ERIP to meet its goal of assisting with the City's financial situation, the City intends to limit the backfilling of positions vacated due to retirements under the ERIP. Therefore, to the extent allowed under the City Charter, the Los Angeles Administrative Code, and any other applicable law: From July 1, 2009, to June 30, 2024, approval of both City Council and the Office of the Mayor shall be necessary prior to backfilling a position vacated due to retirements under the ERIP. The total number of City positions vacated due to retirements under the ERIP shall not be backfilled by more than 7% in the City

fiscal year 2010, nor by more than 6% in each of the City fiscal years 2011 through 2024. These backfill rates may be exceeded only if the cumulative prior years' actual backfill rate was less than the maximum cumulative rate allowed, pursuant to the Maximum Backfill Rates table below. For example, if the City backfills only 5% in fiscal year 2010, then the City's allowed backfill rate in a future year may be increased.

FISCAL YEAR	MAXIMUM BACKFILL RATES	
	IN ONE YEAR	BACKFILL CUMULATIVE
2010	7%	7%
2011	6%	13%
2012	6%	19%
2013	6%	25%
2014	6%	31%
2015	6%	37%
2016	6%	43%
2017	6%	49%
2018	6%	55%
2019	6%	61%
2020	6%	67%
2021	6%	73%
2022	6%	79%
2023	6%	85%
2024	6%	91%

(11) The ERIP shall not affect the existing LACERS requirement that, in order for a LACERS member to leave a continuance to a spouse or domestic partner, the marriage must have occurred, or the proper domestic partnership document(s) must have been filed with LACERS or with the State of California, at least one year prior to the LACERS member's effective date of retirement.

(12) Persons retiring under the ERIP shall be eligible to be employed by the City under the conditions set forth in City Charter Section 1164. However, persons retiring under the ERIP shall not be allowed to enter into a personal services contract with the City prior to July 1, 2011, unless the personal services contract is approved by City Council and the Office of the Mayor.

(b) Persons retiring pursuant to the ERIP shall receive benefits pursuant to the following terms. (For purposes of the ERIP, "Service" and "Service Credit" shall have the same meanings as those terms are defined in Los Angeles Administrative Code Section 4.1001.)

(1) "Group 1" LACERS members: This group consists of all full-time and part-time LACERS members who, as of the ERIP Beginning Date, would be

eligible for an unreduced or standard retirement with less than 33 years of Service.

(i) Each Group 1 member retiring under the ERIP shall receive 3 additional full-time years of Service and 3 additional full-time years of Service Credit.

(2) "Group 2" LACERS members: This group consists of all full-time and part-time LACERS members who, as of the ERIP Beginning Date, have a minimum of 33 years of Service but have not reached 55 years of age.

(i) Each Group 2 member retiring under the ERIP shall receive the additional amount of age credit necessary to be eligible for an unreduced or standard retirement. In addition, each Group 2 member retiring under the ERIP shall receive 3 additional full-time years of Service and 3 additional full-time years of Service Credit.

(3) "Group 3" LACERS members: This group consists of all full-time and part-time LACERS members who, as of the ERIP Beginning Date, have less than 33 years of Service and who are within 5 years of the age credit and/or Service necessary to be eligible for an unreduced or standard retirement. To be a member of Group 3, the amount of time that a LACERS member is lacking in age credit to be eligible for an unreduced or standard retirement, plus the amount of time that the member is lacking in Service to be eligible for an unreduced or standard retirement, must, in sum, not exceed 5 full-time years.

(i) Each Group 3 member retiring under the ERIP shall receive between a minimum of 3 full-time years and a maximum of 5 full-time years of additional age credit and/or both Service and Service Credit in order to be eligible for an unreduced or standard retirement. Between 3 full-time years and 5 full-time years, fractional years shall be calculated and prorated in determining the amount of additional age credit and/or both Service and Service Credit to be received.

(ii) Each Group 3 member retiring and receiving credit under the ERIP shall be provided with a written breakdown of the amount of age credit, and both Service and Service Credit.

(4) "Group 4" LACERS members: This group consists of all full-time and part-time LACERS members who, as of the ERIP Beginning Date, have a minimum of 33 years of Service and have reached a minimum of 55 years of age.

(i) Each Group 4 member retiring under the ERIP shall receive a Separation Payment of \$1,000.00 for each year of Service. The

Separation Payment for a fractional year shall be prorated. This Separation Payment shall not be considered a retirement benefit. This Separation Payment shall be paid by the City, which shall recoup the cost of the Separation Payment from the LACERS members as set forth above in Sections 4.1033(a)(9)(i) - (iii).

(ii) Any time purchased under Los Angeles Administrative Code Section 4.1052.2 (GSB) shall not be included in the calculation of the Separation Payment for Group 4 members. Any reciprocal time under Los Angeles Administrative Code Section 4.1065 shall not be included in the calculation of the Separation Payment for Group 4 members. Any time purchased under Los Angeles Administrative Code Section 4.1052.1 (PSB) shall not be included in the calculation of the Separation Payment for Group 4 members.

(5) "Group 5" LACERS members: This group consists of all full-time and part-time LACERS members whose first day of City employment was on or before December 31, 1982; whose retirement contribution rate is less than 6%; and who, as of the ERIP Beginning Date, are not within 5 years of the age and/or Service necessary to be eligible for an unreduced or standard retirement.

(i) Each Group 5 member retiring under the ERIP shall receive 5 additional full-time years of Service and 5 additional full-time years of Service Credit towards an early or reduced retirement.

(ii) The ERIP does not affect the retirement benefit reduction factors that apply to early or reduced retirements.

(6) Members of Groups 1, 2, 3, and 5 retiring under the ERIP shall each receive a Separation Payment of \$15,000.00. This Separation Payment shall not be considered a retirement benefit. This Separation Payment shall be paid by the City, which shall recoup the cost of the Separation Payment from the LACERS members as set forth above in Sections 4.1033(a)(9)(i) - (iii).

(c) The following provisions and limitations shall apply to the ERIP benefits set forth above in Section 4.1033(b):

(1) Any additional age credit provided under the ERIP shall be applied towards the 55-year minimum age requirement for LACERS retiree health subsidies. Any applicable additional Service and/or Service Credit provided under the ERIP shall count toward the retiree health subsidy formula. ERIP Group 5 members are not guaranteed eligibility for any LACERS retiree health subsidies.

(2) A person retiring under the ERIP whose applicable ERIP Group changes between the ERIP Beginning Date and the person's effective date of

retirement shall select the Group to which the person wishes to belong (that is, either the person's applicable Group as of the ERIP Beginning Date, or the person's applicable Group as of his or her effective date of retirement).

(3) A person retiring under the ERIP who belongs to a certain ERIP Group due to the purchase of GSB time may attempt to change his or her Group by requesting a refund of the GSB time purchased, provided that the request for refund is consistent with existing GSB program policies. To change Groups in this manner, the request for refund must be approved by LACERS prior to the person's effective date of retirement.

(4) A person's ERIP service retirement allowance may never exceed his or her Final Compensation as defined in Los Angeles Administrative Code Section 4.1010. This provision is intended to comport with Los Angeles Administrative Code Section 4.1022(b).

(5) A person eligible under the GSB program to purchase time due to service in another government agency shall be allowed to apply the purchased time towards additional Service Credit under an ERIP retirement. For the purchased GSB time to be applied towards additional Service Credit, the person must follow the existing GSB purchasing policies, and must have completed the GSB purchase prior to his or her effective date of retirement. This section is not meant to supersede or otherwise affect Section 4.1033(b)(4)(ii) above, which provides that any time purchased under the GSB program shall not be included in the calculation of the Separation Payment for Group 4 members.

(6) The ERIP does not extend any deadlines for purchasing Service Credit under any Service Credit purchase programs, including GSB, PSB, Back Contributions, and Re-deposits. All such purchases must be paid off prior to the LACERS member's effective date of retirement.

(7) If person is approved by the CAO's office for retirement under the ERIP, but the person dies prior to his or her effective date of retirement, the person's eligible spouse, as defined in Los Angeles Administrative Code Section 4.1044(a), or qualified domestic partner, as defined in Los Angeles Administrative Code Section 4.1044.4, if any, shall be entitled to survivorship benefits as if the person retired under the ERIP with a 100% continuance to his or her survivor.

(8) Any benefit payable pursuant to the ERIP is subject to the requirements and limitations applicable to benefits payable from a qualified governmental pension plan under Internal Revenue Code (Code) Sections 401(a) and 414(d), and the regulations and guidance issued under those Code Sections. Therefore, any ERIP benefits may be adjusted, as necessary, to maintain the tax qualified status of LACERS.

(9) To work toward the ERIP being cost-neutral to the City, an "ERIP 1% Reduction" shall apply to all ERIP Eligible Filers actually retiring under the ERIP and all Grandfathered Participants actually receiving the ERIP benefits (with the exception of ERIP Group 4 members, as noted below). The ERIP 1% Reduction means that, for each ERIP Eligible Filer actually retiring under the ERIP and each Grandfathered Participant actually receiving the ERIP benefits, his or her entire retirement allowance, including the ERIP benefits, shall be reduced by 1%. The formula for calculating such a person's actual retirement allowance shall be: The person's full retirement allowance, including ERIP benefits (that is, the person's full retirement allowance, including the ERIP benefits, before the ERIP 1% Reduction) multiplied by 0.99. For example, for Groups 1, 2, and 3, the person's actual retirement allowance shall be:

$$\frac{[\text{Final Compensation} \times \text{Service Credit} \times \text{Retirement Factor of } 0.0216]}{0.99}$$

For Group 5, the person's actual retirement allowance shall be:

$$\frac{[\text{Final Compensation} \times \text{Service Credit} \times \text{Retirement Factor of } 0.0216]}{[\text{Reduction Factor}] \times 0.99}.$$

The Reduction Factor is the standard LACERS Early Retirement Reduction Factor.

The ERIP 1% Reduction shall not apply to members of ERIP Group 4.

(d) Unless otherwise specified, the provisions in the City Charter and the Los Angeles Administrative Code pertaining to LACERS shall not be affected by the ERIP.

(e) It is the intent of the City and the LACERS Unions that the ERIP be envisioned as cost-neutral to the City. The increase in the employee retirement contribution rate and the elimination of defrayal (Sections 4.1033(a)(9)(i) – (ii) above), along with the ERIP 1% Reduction (Section 4.1033(c)(9) above), are mechanisms designed for working toward cost-neutrality.

(f) If the government of the United States or a final court of competent jurisdiction determines that one or more provisions of this chapter pertaining to the ERIP are unlawful or invalid, the remaining provisions shall remain in full force and effect.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By Brian I. Cheng
BRIAN I. CHENG
Deputy City Attorney

Date Sept. 30, 2009

File No. _____