MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 1 5 - 0 0 1 4

JAN 2 1 2015

REPORT RE:

DRAFT ORDINANCE AMENDING CHAPTER 10 OF DIVISION 4 OF THE LOS ANGELES ADMINISTRATIVE CODE TO MAINTAIN THE STATUS OF THE LOS ANGELES EMPLOYEE'S RETIREMENT SYSTEM AS A QUALIFIED GOVERNMENTAL DEFINED BENEFIT PLAN UNDER THE INTERNAL REVENUE CODE

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

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The ordinance revises the Los Angeles Administrative Code (LAAC) in order to make technical changes to the provisions governing the Los Angeles City Employees' Retirement System (LACERS). A copy of the draft ordinance was sent, pursuant to council Rule 38, to the Los Angeles City Employees' Retirement System and the City Administrative Office, and their comments have been incorporated.

In order to maintain the status of LACERS as a qualified governmental defined benefit plan under the Internal Revenue Code (IRC), an application for a favorable tax determination letter was requested from the Internal Revenue Service (IRS). The IRS, on August 11, 2014, issued a favorable tax determination letter upon LACERS' application, subject to the City's adoption of certain proposed amendments. The enclosed draft ordinance amends Chapter 10 of Division 4 of the LAAC in order to implement the amendments required by the IRS for compliance with the IRC. These amendments are technical in nature and do not change any of the benefits payable from LACERS.

Sections 1 through 3 amend the Chapter 10 provisions that apply to Tier 1, as required by the IRS. Sections 4 through 6 amend the Chapter 10 provisions that apply to Tier 2, as required by the IRS.

This ordinance may be adopted by the City Council pursuant to the provisions of Charter Section 1168, which requires approval by **not less than two-thirds** of the membership of the council, subject to the veto of the Mayor and the override by the Council by three-fourths of the council. The final adoption of this ordinance cannot occur until after a public hearing has been held and until at least the thirty-first day after its first presentation to the Council.

Since this ordinance does not modify retirement benefits, the requirements of Government Code Section 7507 do not apply.

If you have any questions regarding this matter, please contact Senior Assistant City Attorney Theresa Patzakis at (213) 978-6800. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By

DAVID MICHAELSON
Chief Assistant City Attorney

DM:TP:jc
Transmittal

cc: Los Angeles City Employees' Retirement System
Board of Administration, LACERS

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ORDINANCE NO. ________________

An ordinance amending Chapter 10 of Division 4 of the Los Angeles Administrative Code to maintain the status of Los Angeles Employees' Retirement System as a qualified governmental defined benefit plan under the Internal Revenue Code.

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

Section 1. Section 4.1000 of Article 1 in Chapter 10 of Division 4 of the Los Angeles Administrative Code is amended to add a new third paragraph to read as follows:

The Retirement System is established, as may be amended from time to time, as a qualified defined benefit plan intended to satisfy the provisions of Section 401(a) of the Internal Revenue Code as applicable under Section 414(d) of the Internal Revenue Code for a governmental plan and such other applicable provisions of the Internal Revenue Code, Treasury regulations, or other guidance.

Sec. 2. Subsection (a) of Section 4.1029 of Article 1 in Chapter 10 of Division 4 of the Los Angeles Administrative Code is amended by deleting the second paragraph.

Sec. 3. A new Section 4.1030.1 is added to Article 1 in Chapter 10 of Division 4 of the Los Angeles Administrative Code to read as follows:

Sec. 4.1030.1. Provisions Required for Retirement System Compliance with the Internal Revenue Code.

In order to maintain its status as a qualified governmental defined benefit plan under the Internal Revenue Code, the Retirement System is subject to the following provisions:

(a) In addition to any vesting protections under current provisions of the Retirement System, in the event of a full or partial termination of, or a complete discontinuance of employer contributions to, the plan, the accrued benefits of the affected members under the plan shall be 100% vested and nonforfeitable to the extent required by federal law.

(b) The Retirement Fund (the trust fund established for the Retirement System in Charter Section 1154) must not revert, and no contributions shall be permitted to be returned to the employer.

Sec. 4. Section 4.1050 of Article 2 in Chapter 10 of Division 4 of the Los Angeles Administrative Code is amended to add a new third paragraph read as follows:

The Retirement System is established, as may be amended from time to time, as a qualified defined benefit plan intended to satisfy the provisions of Section 401(a) of the Internal Revenue Code as applicable under Section 414(d) of the Internal Revenue Code for a governmental plan and such other applicable provisions of the Internal Revenue Code, Treasury regulations, or other guidance.

Sec. 5. Subsection (a) of Section 4.1076 of Article 2 in Chapter 10 of Division 4 of the Los Angeles Administrative Code is amended by deleting the second paragraph.

Sec. 6. A new Section 4.1077.1 is added to Article 2 in Chapter 10 of Division 4 of the Los Angeles Administrative Code to read as follows:

Sec. 4.1077.1. Additional Provisions Required for Retirement System Compliance with the Internal Revenue Code.

In order for the Retirement System to maintain its status as a qualified governmental defined benefit plan under the Internal Revenue Code, the Retirement System is additionally subject to the following provisions:

(a) In addition to any vesting protections under current provisions of the plan, in the event of a full or partial termination of, or a complete discontinuance of employer contributions to, the plan, the accrued benefits of the affected members under the plan shall be 100% vested and nonforfeitable to the extent required by federal law.

(b) The Retirement Fund (the trust fund established for the Retirement System in Charter Section 1154) must not revert, and no contributions shall be permitted to be returned, to the employer.

Sec. 7. This ordinance shall become effective upon publication pursuant to Charter Section 252.

Sec. 8. 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 introduced at the meeting of the Council of the City of Los Angeles on ______________________, and was passed **by a vote of not less than two-thirds** of all of its members, at its meeting of ______________________________.

HOLLY L. WOLCOTT, City Clerk

By ______________________________
Deputy

Approved ______________________

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Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By ______________________ for
THERESA PATZAKIS
Senior Assistant City Attorney

Date 1/21/15

File No. ______________________

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