

ORDINANCE NO. _____

An ordinance amending Chapter 10 of Division 4 of the Los Angeles Administrative Code to enhance the disability retirement, death, and survivorship benefits for sworn peace officers who are Public Safety Officer Members of the Los Angeles City Employees' Retirement System.

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

Section 1. Subsection (a) of Section 4.1001 of the Los Angeles Administrative Code is amended to read as follows:

(a) For the purposes of Article 1 of Chapter 10 and Article 2 of Chapter 11 of Division 4 of the Los Angeles Administrative Code, the following words and phrases shall have the meaning ascribed to them in this Section unless elsewhere defined:

Accumulated Contributions. The total of the amounts paid into the Retirement Fund by the Member and any regular interest credited to the Member's account, as provided in Charter Section 1162(b).

Airport Peace Officer Member. A Member of Tier 1 of the Retirement System who: (i) while a City employee and on their retirement date was employed by the Department of Airports as a peace officer as defined in California Penal Code Section 830.1 and was appointed to that position before January 7, 2018; or (ii) on their retirement date was employed by the Fire Department as a firefighter, was appointed to that position before January 7, 2018, directly following employment by the Department of Airports as a peace officer as defined by California Section 830.1, and served as a firefighter for the Fire Department from the date of appointment until the date of retirement. An Airport Peace Officer Member shall include an individual who became a Member of Tier 1 of the Retirement System pursuant to Section 4.1080.2(b)(8). Notwithstanding anything in this subsection or elsewhere in this Code to the contrary, an Airport Peace Officer Member shall be ineligible for any enhanced benefits under Sections 4.1007(a), 4.1008.1 and 4.1010.1, and shall revert to status as a Tier 1 Member, if LACERS did not receive a lump sum payment of \$5,700, by cashier's check, on a post-tax basis, before January 8, 2019, or prior to the Member's retirement date, whichever was earlier.

Airport Peace Officer Former Member. A former Member of Tier 1 of the Retirement System who was eligible for, and elected to, remain in LACERS rather than transfer to LAFPP under Charter Section 1704 and LAAC Section 4.1002(e) and who: (i) while a City employee and on the date that they separated from City service or ceased to be a Member of the Retirement System was employed by the Department of Airports as a peace officer as defined in California Penal Code Section 830.1 and was appointed to that position before

January 7, 2018; or (ii) on the date they separated from City service or ceased to be a Member of the Retirement System was employed by the Fire Department as a firefighter, was appointed to that position before January 7, 2018, directly following employment by the Department of Airports as a peace officer as defined by California Section 830.1, and served as a firefighter for the Fire Department from the date of appointment until the date of separation. Notwithstanding anything in this subsection or elsewhere in this Code to the contrary, an Airport Peace Officer Former Member shall be ineligible for any enhanced benefits under Sections 4.1007(a), 4.1008.1 and 4.1010.1, and shall revert to status as a former Tier 1 Member or Tier 1 Member, as applicable, if LACERS did not receive a lump sum payment of \$5,700, by cashier's check, on a post-tax basis, before January 8, 2019, or prior to the Member's retirement date, whichever was earlier.

Airport Peace Officer Retired Member. A Member of Tier 1 of the Retirement System who, on their retirement date: (i) was employed by the Department of Airports as a peace officer as defined in California Penal Code Section 830.1, and was appointed to that position before January 7, 2018; or (ii) was employed by the Fire Department as a firefighter, and was appointed to that position before January 7, 2018, directly following employment by the Department of Airports as a peace officer as defined by California Section 830.1; and (iii) had paid to LACERS the \$5,700 mandatory additional contribution payment required by Section 4.1002(e)(2). An Airport Peace Officer Retired Member shall include an individual who became a Member of Tier 1 of the Retirement System pursuant to Section 4.1080.2(b)(8).

Annuity. Payments for life derived from the Accumulated Contributions of a Member as provided in this Article.

Base Amount. That portion of a Retirement Allowance resulting if cost of living amount is deducted therefrom.

Beneficiary. A person entitled to receive a benefit from the Retirement System.

Board of Administration or Board. The Board of Administration for the Los Angeles City Employees' Retirement System established in Charter Section 1104(b).

City Service or Service. Only those periods during which a Member received compensation from the City as an employee or during which the employee not only received Workers' Compensation benefits (Div. IV, Labor Code) for temporary disability on account of any injury or illness arising out of and in the course of employment with the City, but for which the employee also made contributions to the Retirement Fund as provided in Charter Section 1162. Notwithstanding the foregoing, a Member shall be entitled, at the time of death or

retirement, to receive credit for their years of service from the date such Member entered employment with the City of Los Angeles in a capacity that would entitle them to membership in the Retirement System.

City Service Credit or Service Credit. The time component of the formula used by the Retirement System for purposes of calculating benefits pursuant to applicable Los Angeles Administrative Code and Board Rules.

Compensation Earnable. The full salary, wage or compensation established for any position or office in City service for the particular period involved in any calculation required.

Continuous Service. Uninterrupted City Service except that discontinuance of such service of a Member for any cause whatever, followed by re-entrance into City Service within three (3) years from the date of such discontinuance, shall not be considered as a break in the continuity of service.

Cost of Living Amount. That portion of a Retirement Allowance resulting from adjustments made pursuant to Section 4.1022.

Dependent Parent. A person whom the Board of Administration, upon investigation and after a hearing in the matter, shall find is the parent of a Member to or for whom the Member, during the last year of their service, contributed at least one-half the necessary living expenses.

Domestic Partner. A person who has formed a valid domestic partnership by filing a Declaration of Domestic Partnership with the Retirement System, as authorized in Section 4.1009 herein, or with the State of California, as authorized in Family Code Section 298.5, or a person who has established a legal union which was validly formed in another jurisdiction that is substantially equivalent to a domestic partnership, as provided in Family Code Section 299.2. Domestic Partner shall not include a person who has established a domestic partnership pursuant to any other authority, unless expressly otherwise provided in this Article. A partnership shall be established, for purposes of this Article, on the date of the filing with the Retirement System or state.

Employee. Every person in the employ or service of the City of Los Angeles in any capacity or rank whatever at a regular salary, wage or compensation, and regardless of whether the position held by any such person is classified as an office or employment.

Larger Annuity. The annuity funded entirely by the Member as provided in Section 4.1021.

Member or Tier 1 Member. An employee of the City of Los Angeles who meets the membership requirements contained in Section 4.1002 of this Article.

Member, as used in this Article, shall mean a Member of Tier 1 unless otherwise specified. Notwithstanding the foregoing, a person who is no longer employed by the City, but who qualifies for reciprocity under Section 4.1096 and whose Tier 1 member contributions remain on deposit with the Retirement Fund may be considered to be a Member, but only to the limited extent necessary to comply with the reciprocity provisions contained in Section 4.1096.

Operative Date. Shall mean the "effective date," unless a different date is specified by any ordinance adopted pursuant to the provisions of Charter Section 1168.

Public Safety Officer Member. The following definition shall apply only to Article 1 of Chapter 10 of the Los Angeles Administrative Code. A Member of Tier 1 of the Retirement System who while a City employee and on their retirement date, which shall occur on or after March 25, 2022, was employed by the Police Department, Harbor Department, or Recreation and Parks Department as a peace officer as defined in California Penal Code Section 830.1 or Section 830.31. Public Safety Officer Member also shall include an Airport Peace Officer Member who elected not to make a one-time lump sum payment of \$5,700 on or before January 8, 2019 in exchange for the enhanced benefits provided by Sections 4.1007(a), 4.1008.1 and 4.1010.1 as set forth in Section 4.1002(e)(2). To the extent a Public Safety Officer Member qualifies retroactively for the enhanced benefits provided for in Sections 4.1008.2 and 4.1010.2, LACERS will adjust those benefits accordingly.

Public Safety Officer Former Member. The following definition shall apply only to Article 1 of Chapter 10 of the Los Angeles Administrative Code. A former Member of Tier 1 of the Retirement System who while a City employee and on the date that they separated from City Service or ceased to be a Member of the Retirement System, which shall occur on or after March 25, 2022, was employed by the Police Department, Harbor Department, or Recreation and Parks Department as a peace officer as defined in California Penal Code Section 830.1 or Section 830.31. Public Safety Officer Former Member also shall include an Airport Peace Officer Former Member who elected not to make a one-time lump sum payment of \$5,700 on or before January 8, 2019 in exchange for the enhanced benefits provided by Sections 4.1007(a), 4.1008.1 and 4.1010.1 as set forth in Section 4.1002(e)(2). To the extent a Public Safety Officer Former Member qualifies retroactively for the enhanced benefits provided for in Sections 4.1008.2 and 4.1010.2, LACERS will adjust those benefits accordingly.

Public Safety Officer Retired Member. The following definition shall apply only to Article 1 of Chapter 10 of the Los Angeles Administrative Code. A retired Member of Tier 1 of the Retirement System who while a City employee and on their retirement date, which shall occur on or after March 25, 2022, was employed by the Police Department, Harbor Department, or Recreation and Parks Department as a peace officer as defined in California Penal Code Section

830.1 or Section 830.31. Public Safety Officer Retired Member also shall include an Airport Peace Officer Retired Member who elected not to make a one-time lump sum payment of \$5,700 on or before January 8, 2019 in exchange for the enhanced benefits provided by Sections 4.1007(a), 4.1008.1 and 4.1010.1 as set forth in Section 4.1002(e)(2). To the extent a Public Safety Retired Member qualifies retroactively for the enhanced benefits provided for in Sections 4.1008.2 and 4.1010.2, LACERS will adjust those benefits accordingly.

Regular Interest. Interest credited to the individual account of each Member as provided in Charter Section 1162(b).

Reserve Basis. A system that provides for the accumulation and maintenance of a fund that will at all times be equal to the difference between the present value of the obligations assumed and the present value of the money to be received for paying such obligations, where such present values are estimated in accordance with accepted actuarial methods and on the basis of an assumed rate of interest and the mathematical probabilities of the occurrence of such contingencies as affect both the payment of the assumed obligations and the receipt of money with which they are to be paid.

Retirement Allowance or Allowance. An allowance granted under this Article, except for those allowances granted pursuant to Section 4.1010(a)(2), together with all subsequent adjustments thereto.

Retired Member or Retired Tier 1 Member. A former Member who is receiving a monthly benefit from Tier 1 of the Retirement System. A retired Member shall not be considered a Member for purposes of this Article and, if re-employed as authorized in Charter Section 1164, shall continue to be a retired Member.

Retirement Fund. The trust fund established for the Retirement System in Charter Section 1154.

Retirement System or System. The Los Angeles City Employees' Retirement System (LACERS).

Spouse. A person who is a party to a valid marriage.

Sec. 2. Section 4.1008 of the Los Angeles Administrative Code is amended to read as follows:

(a) **Application for Disability Retirement.** Any Member who has five (5) or more years of Continuous Service and who has become physically or mentally incapacitated and who is incapable, as a result thereof, of performing their duties, may be retired upon written application of such Member, of any person acting in their behalf, or of the head of the department in which such Member is employed. Where the

Member's incapacity has been continuous from the discontinuance of such service, any application for disability retirement may be made at any time within, but not exceeding, one (1) year after the discontinuance of the service of such employee or the termination of any duly authorized sick leave with pay.

(b) **Disability Determination.** The Board shall cause each Member who applies to be examined by, and a written report thereon rendered by, at least three (3) regularly licensed, practicing physicians selected by the Board, unless the Member is terminally ill, in which case the Board only shall require the Member to be examined by one (1) such physician selected by the Board. If, upon considering the report(s) of such physician(s) and such other evidence as shall have been presented to it, the Board finds that the Member has become physically or mentally incapacitated and is incapable, as a result thereof, of performing their duties, and if said Board finds that such disability was not due to intemperance or the willful misconduct of such Member, the Member shall be retired as of the date of the discontinuance of their service on account of such disability or termination of sick leave with pay.

(c) **Disability Retirement Allowance.** Any Member retired on account of disability shall receive a disability retirement allowance that shall consist of:

(1) An annuity which shall be the actuarial equivalent of their Accumulated Contributions at the time of their retirement, calculated in accordance with approved actuarial methods as of the date of retirement; and

(2) A pension which shall be in such an amount that the same, when added to that portion of their annuity not derived from additional contributions paid to provide a larger annuity at the time of retirement, shall be a sum which shall be equal to one-seventieth ($1/70$) of their Final Compensation, as presently herein defined, calculated as of the date of retirement, multiplied by the number of years of service of such Member.

If the sum resulting from this calculation should be an amount that represents less than one-third of the Member's Final Compensation, the disability retirement allowance shall be one-third of their Final Compensation.

(d) **Death of Applicant Prior to Board Action.** Whenever the Board shall have before it for consideration an application for disability retirement by a Member who died while they were waiting for the application to be processed and prior to the Board's receipt of the physician reports required under Subsection (b) of this section, a disability retirement may be granted on the basis of fewer than three medical reports or no such reports subject to the following provisions:

The Board must find:

(1) That the applicant was physically or mentally incapacitated since the discontinuance of service and incapable of performing the duties of their position; and

(2) That the disabling condition(s) and death of the applicant were not due to the applicant's intemperance or willful misconduct.

It shall be within the power of the Board to adopt all necessary rules to implement the provisions of this subsection including, but not limited to, rules regarding the type and quantity of evidence required to make the determination required herein.

In the event that an applicant's disability retirement is granted by the Board after their death, whether pursuant to the provisions of this subsection or based upon three or more reports that were obtained from physicians selected by the Board, and they leave a survivor eligible for a continuance of their disability retirement allowance as provided in Section 4.1012, the disability retirement allowance payable to such deceased Member shall be reduced so as to provide for a one hundred percent (100%) disability survivorship allowance as if such deceased applicant had elected to provide a continuing benefit under the provisions of Section 4.1015(a)(1).

(e) **Review of Disability Retirees.** The Board, from time to time in its discretion, may require any beneficiary under the age of sixty (60) years who shall have been retired because of disability to submit to medical examination by three (3) regularly licensed practicing physicians selected by the Board. Upon the basis of such examination and other proper evidence, said Board shall determine whether such beneficiary is still incapacitated for service in the position held by the beneficiary at the time of their retirement. If the Board shall determine that such beneficiary is not so incapacitated, they shall be restored to duty in the position held by them at the time of said retirement order, and, upon their return to active service, their retirement allowance shall be canceled.

The Board, at its discretion, may cancel a retirement allowance where a beneficiary fails, neglects, or refuses either to submit to a medical examination ordered by the Board or to return to active service when deemed no longer incapacitated and within such reasonable time as determined by the Board. In which event, the only right the beneficiary shall have as a former Member pursuant to Section 4.1004 of this Chapter is to receive a refund of their Accumulated Contributions, less any payments made on account of the annuity provided herein.

If the Board should determine that a beneficiary is no longer incapacitated, but the beneficiary cannot be restored to duty in the position held by them at the time of retirement due to the beneficiary's termination or resignation, the Board shall cancel their retirement allowance, and, as a former Member, they shall have the rights set forth in Section 4.1004, provided that, in the event they request a refund of contributions, the Accumulated Contributions shall be reduced by any payments made on account of the annuity provided herein.

(f) **Consensual Re-Employment in a Different Position.** Any person heretofore or hereafter retired for disability by the Board, even though incapable of performing the duties of the position from which they have been or shall be retired, may be re-employed in a different vacant position if the Board of Civil Service Commissioners were to find that they are capable of performing the duties of such position; provided, however, that such person may be so re-employed only with the consent of the appointing authority for such position and the written consent of such person. The Board of Civil Service Commissioners shall adopt rules and regulations to effectuate the purpose of the foregoing provisions. Upon the re-employment of such person, their disability retirement allowance shall cease, and, should they be eligible for membership in the Retirement System, they again shall become a Member of the Retirement System.

(g) **Rights and Obligations upon Re-Employment.** Any beneficiary who re-enters the service of the City, as provided in Subsection (e) or (f) herein, and again becomes a Member of the Retirement System, shall return to membership in Tier 1. The balance, if any, of their Accumulated Contributions, after deducting the annuity payments made to them on account of a disability retirement allowance, shall be credited to the individual account of such Member with the Retirement System, regardless of whether they become a Member of the Retirement System or of another City retirement system upon re-employment.

A beneficiary shall receive credit for services rendered prior to the date of their retirement in the same manner as though they had never been retired for disability, but the payment of a disability pension shall not constitute compensation from the City entitling them to service for the period it was paid. If otherwise eligible, a Member may purchase eligible service with another governmental entity for employment during periods in which they received a disability allowance.

(h) **Board Authority.** The Board shall have the power to hear and determine all matters pertaining to the granting or termination of any retirement allowance provided for in this section, and the determination of the Board shall be final and conclusive.

(i) **Loan Program for Disability Applicants.** The Board shall establish a loan program, by rule, for Members who have made application for disability retirement or upon whose behalf an application has been made in accordance with the provisions of this Chapter, provided that the loan program shall be in compliance with the provisions of Internal Revenue Code Section 72(p). The loan program further shall provide that in no event shall the amount of funds loaned to any Member exceed the amount of contributions and interest in the Member's LACERS account, and that, once a Board determination is made granting or denying a Member's disability application, no further funds shall be lent to the Member in connection with that application. Loan repayments will be suspended under this program as permitted under Section 414(u)(4) of the Internal Revenue Code.

(j) **Right to Make Back Contributions When Disability Application**

Denied. Any Member who has, at any time, filed an application for the benefit of a disability retirement, which application was thereafter denied by the Board of Administration upon a finding by said Board that the applicant had not become physically or mentally incapacitated so as to be incapable of performing their duties, shall have the right to designate up to six (6) months of the period while such application was pending for purposes of acquiring credit towards City Service as defined in Section 4.1001, subject to the following conditions:

(1) The designated period does not already entitle the Member to Service Credit.

(2) The maximum period to be designated is six (6) months or the actual period of time while the application for disability retirement was pending, whichever was less.

(3) If a Member has applied more than once for disability retirement, the cumulative total period to be designated may not exceed six (6) months or the time elapsed while applications were processed, whichever is fewer.

(4) The right granted herein shall be exercised in writing, filed with the Board, designating the period of City Service for which the Member desires to receive retirement credit, and must be accompanied by a single payment of back contributions or by an irrevocable agreement to pay such back contributions in installments. The back contributions to be paid shall be in an amount equal to all of the contributions which they would have made to the Retirement Fund had they been making contributions during such period, based upon such person's Compensation Earnable before the discontinuance of their service, together with all regular interest which, had they so made the same, would have been credited thereon prior to the date of such payment; provided, however, that in the case of such installment payments thereof, the same shall be made pursuant to rules which shall be adopted by the Board establishing minimum amounts to be paid and the period of time therefor, and providing the rate of interest which also shall be paid upon the unpaid balance of the same. Every Member who makes up back contributions as provided herein shall be allowed credit for the period of City Service designated in the declaration filed by them with the Board; provided, however, that should they, for any reason, cease to be a Member before making up the full amount thereof, they shall be allowed retirement credit, counter-calendarwise, for the same portion of such designated period as the amount made up by them is of such full amount, and provided further that, should they cease to be a Member by reason of their death, retirement credit shall be allowed for the whole period designated by them if their surviving spouse or Domestic Partner were to exercise the option which, under such circumstances, hereby is given to any surviving spouse or Domestic Partner to make a single payment of all of the unpaid installments with accrued interest thereon.

(k) **WPERP Service.** Service with the Water and Power Employees' Retirement Plan (WPERP) shall not count towards Continuous Service for purposes of Subsection (a) of this section unless such service was transferred to the Retirement System pursuant to reciprocity under current Section 4.1095 or prior Section 4.1060. Service with the WPERP shall not be included as years of service in the calculation of the Member's disability retirement allowance pursuant to Subsection (c) of this section unless the Member has purchased credit for this WPERP service with the Retirement System or unless such service was transferred to the Retirement System pursuant to reciprocity under current Section 4.1095 or prior Section 4.1060.

(l) An Airport Peace Officer Member who applies for disability retirement shall be subject to Section 4.1008.1, and the provisions of this Section 4.1008 shall not apply.

Sec. 3. A new Subsection (m) is added to Section 4.1008 of the Los Angeles Administrative Code to read as follows:

(m) A Public Safety Officer Member who applies for disability retirement shall be subject to Section 4.1008.2, and the provisions of this Section and Section 4.1008.1 shall not apply.

Sec. 4. A new Section 4.1008.2 is added to the Los Angeles Administrative Code to read as follows:

Sec. 4.1008.2. Disability Retirement for Public Safety Officer Members.

(a) **Application for Disability Retirement.** Any Public Safety Officer Member who has completed Peace Officer Standards and Training and taken the Oath of Office, applying for a service-connected disability, or who has five (5) or more years of Continuous Service, applying for a nonservice-connected disability, who has become physically or mentally incapacitated and who is incapable, as a result thereof, of performing their duties, may be retired upon written application of such Member, or any person acting on their behalf, or on behalf of the head of the department wherein such Member is employed. Any such application may be made at any time within, but not exceeding, one (1) year after the discontinuance of the service of such employee or the termination of any duly authorized sick leave with payment, provided such incapacity has been continuous from the discontinuance of such service. No application may be filed under this Section 4.1008.2 prior to March 25, 2022.

(b) **Service-Connected Disability.** Upon the filing of their written application for a disability retirement allowance or upon the filing of a written application by any person acting on their behalf or on behalf of the head of the department wherein such Member is employed, any Public Safety Officer Member whom the Board shall determine has become physically or mentally incapacitated by reason of injuries received or sickness caused by the discharge of the duties of such person as an employee sworn in, as provided by Penal Code Section 830.1 or Section 830.31, to perform peace officer functions for the department wherein such Member is employed,

and who is incapable as a result thereof from performing their assigned duties, or those to which they would be assigned within their civil service classification if returned to duty, shall be retired by order of the Board from further active duty as a Public Safety Officer Member.

A Public Safety Officer Member's incapacity is caused by the discharge of their duties if there is clear and convincing evidence that the discharge of the Member's duties is the predominant cause of the incapacity.

A Public Safety Officer Member retired under the provisions of this subsection shall be paid thereafter a monthly service-connected disability retirement allowance in an amount which shall be equal to the same percentage of the Member's Final Compensation as the Board shall determine, from time to time, to be the percentage of their disability. Such retirement allowance shall be in an amount of not less than 30% and not more than 90% of the Retired Public Safety Officer Member's Final Compensation, but in no case shall the retirement allowance be less than the equivalent of 2% of Final Compensation for each year of Service of the Retired Public Safety Officer Member.

No Retired Public Safety Officer Member, while retired pursuant to this subsection, ever shall be paid any retirement allowance pursuant to Sections 4.1005 (Service Retirement) or 4.1006 (Deferred Service Retirement) or Subsection (c) of this section.

(c) **Nonservice-Connected Disability.** Upon the filing by any Public Safety Officer Member's written application for a disability retirement allowance who shall have five (5) or more years of Continuous Service, or upon the filing of a written application by any person acting on the Member's behalf, or on behalf of the head of the department wherein such Member is employed, for any Public Safety Officer Member whom the Board shall determine has become physically or mentally incapacitated by reason of injuries or sickness other than injuries received or sickness caused by the discharge of the duties of such person, and who is incapable as a result thereof from performing their assigned duties or those to which they would be assigned within the Member's civil service classification if returned to duty, shall be retired by order of the Board from further active duty as an employee. As a further condition of entitlement to such a retirement, the Board also shall determine that such disability was not due principally to or caused by intemperance or the willful misconduct of the Member intended to entitle them to a nonservice-connected disability retirement.

A Public Safety Officer Member retired under the provisions of this subsection shall be paid thereafter a monthly nonservice-connected disability retirement allowance in an amount which shall be equal to the same percentage of the Retired Public Safety Officer Member's Final Compensation as the Board shall determine, from time to time, to be the percentage of their disability, but such retirement allowance shall be in an amount of not less than 30% and not more than 50% of the Retired Public Safety Officer Member's Final Compensation.

No Public Safety Officer Member, while retired pursuant to this subsection, ever shall be paid any retirement pursuant either to Sections 4.1005 (Service Retirement) or 4.1006 (Deferred Service Retirement) or to Subsection (b) of this section.

(d) **Determination of Disability.** The Board shall have the power to hear and determine all matters pertaining to the granting and denying of any application for a disability retirement. The Board shall cause each Member who applies to be examined by, and a written report thereon rendered by, at least three (3) regularly licensed, practicing physicians selected by the Board, unless the Member is terminally ill, in which case the Board only shall require the Member to be examined by one such physician selected by the Board. The Board shall hold a hearing with respect to such application. The Board shall receive such other evidence relating to or concerning the Member's disability or claimed disability as may be presented.

The Board first shall determine whether or not the Member is incapable of performing their duties or those to which they would be assigned within the Member's civil service classification if returned to duty. If the Board were to determine that they are not so incapable, it then shall be the duty of the Board to deny the application. If the Board were to determine that they are so incapable, it then shall determine, pursuant to the language used in Subsections (b) and (c) of this section, whether their incapacity or disability is service-connected or nonservice-connected. The Board then shall determine the percentage of the Member's incapacity or disability, within the limitations prescribed in Subsections (b) and (c) of this section, and shall grant the application accordingly. If the Board were to determine that the incapacity or disability was principally due to or caused by voluntary action by the Member intended to entitle them to a nonservice-connected disability retirement allowance, or due to intemperance or the willful misconduct of such Member, as defined in rules promulgated by the Board, it then shall be the duty of the Board to deny the application. In the case of any Public Safety Officer Former Member, the Board, in order to grant any application filed by them for a disability retirement, also must determine, in addition to all of the foregoing, that any existing incapacity or disability upon their part occurred prior to the termination of their active status, and that such incapacity or disability had been continuous up to the date of the Board's determinations.

The Board upon its own motion or upon the written request of any Retired Public Safety Officer Member, retired pursuant to Subsections (b) or (c) of this section, shall have the power to consider new evidence pertaining to the case of any such Retired Member and to increase or decrease the percentage of their incapacity or disability within the limitations prescribed in Subsections (b) or (c) of this section. Any such increase or decrease shall be based only upon the injuries or sickness for which they were retired.

The Board shall adopt a disability rating schedule by rule to assist in standardizing disability retirement awards.

(e) **Death of Applicant Prior to Board Action.** If a Public Safety Officer Member dies while they were waiting for the application to be processed, the death and survivorship benefits payable to their survivor(s) shall be determined under Section 1010.2 herein.

(f) **Termination of Disability Retirements.** The Board shall have the power to hear and determine upon its own motion all matters pertaining to the termination or reduction of any disability retirement pursuant to the provisions of this subsection.

(1) **Retirements Granted to Persons Whose Active Status Terminated By Reason of Disability Retirement.** The retirement of any Retired Public Safety Officer Member, retired pursuant to Subsections (b) or (c) of this section and whose active status as an employee sworn in, as provided by Penal Code Section 830.1 or Section 830.31, to perform peace officer functions for the department wherein the Member is employed, had been terminated by reason of their retirement, shall cease when the incapacity or disability for which they had been retired shall cease and they either:

(A) shall have been restored to active duty as an employee sworn in, as provided by Penal Code Section 830.1 or Section 830.31, to perform peace officer functions for the department wherein the Member had been employed prior to retiring, in the same permanent rank which they had held as of the date of retirement; or

(B) shall have been ordered restored to active duty as an employee sworn in, as provided by Penal Code Section 830.1 or Section 830.31, to perform peace officer functions for the department wherein the Member had been employed prior to retiring, in such same permanent rank and shall have declined, refused or neglected to report therefor or to perform duties as such.

Provided, however, that any Retired Public Safety Officer Member who has been retired for more than five (5) years from the date of the Board's action by which they were retired may never be restored to active duty as a Public Safety Officer Member. After a Retired Public Safety Officer Member, who has been retired for more than five (5) years on a service-connected or nonservice-connected disability retirement, has been found to be no longer disabled, the Board shall adjust such Retired Public Safety Officer Member's retirement allowance to 30% of their Final Compensation. The adjusted allowance shall reflect such cost of living adjustments as would have occurred had the Retired Public Safety Officer Member's retirement allowance originally been based on such adjusted percentage.

(2) **Return to Active Duty from Disability Retirement.** A Public Safety Officer Member who the Board restored to active duty shall begin to earn time toward a service retirement (for the period they were receiving a service-

connected disability retirement) after one year back on active duty, provided no time is lost due to the disabling condition. If they complete one (1) to three (3) years of service, they shall receive credit for the time retired on a service-connected disability, to the extent the length of service following restoration matches the length of time on a service-connected disability retirement. After three (3) years of completed service after returning to duty, the Public Safety Officer Member shall receive Service Credit for the entire period they were on a service-connected disability retirement.

A Public Safety Officer Member who is restored to active duty from a nonservice-connected disability retirement may, after completing one (1) year of service, make contributions to restore their Service Credit for the period they received a disability retirement allowance, subject to requirements provided by Board rule.

(3) Retirements Granted to Public Safety Officer Former Members.

The retirement of any Retired Public Safety Officer Member, retired pursuant to Subsections (b) or (c) of this section, whose active status as an employee sworn in, as provided by Penal Code Section 830.1 or Section 830.31, to perform peace officer functions for the department wherein they were employed, had been terminated by reason of their resignation or discharge as such, shall cease when the incapacity or disability for which they received a disability retirement shall cease.

(g) Periodic Medical Examinations. Except in those instances in which the Board has determined that, due to the nature of the disability, no purpose would be served in having periodic medical examinations to determine whether or not a Retired Public Safety Officer Member is still disabled, all Retired Public Safety Officer Members on a disability retirement shall undergo medical examinations at periodic intervals on a schedule determined by the Board for the first five (5) years of disability retirement, and at any time thereafter.

Any Retired Public Safety Officer Member who has been retired for more than five (5) years on a service-connected or nonservice-connected disability retirement and who the Board found to be no longer disabled, or who has failed to submit to such medical examination as the Board may order within such reasonable time as the Board may determine, shall have their allowance adjusted by the Board to thirty percent (30%) of the Member's Final Compensation. The adjusted allowance shall reflect such cost of living adjustments as would have occurred had the Retired Public Safety Officer Member's pension originally been based on such adjusted percentage.

If a Retired Public Safety Officer Member resides outside of the State of California, the Board shall have the authority to order medical examinations of Retired Members at any place it may determine to be desirable. The Board shall have the authority to defray the reasonable cost of any such travel required if it determines that it would impose hardship on the person to be examined to travel to such place. The

definition of hardship and the documentation required to verify hardship shall be established by the Board.

(h) **Assessing Cost for Missed Medical Appointments.** The Board shall have the authority to establish a rule that assesses the cost of missed medical appointments on the Public Safety Officer Member applying for disability retirement or the Retired Public Safety Officer Member receiving a disability retirement allowance, where such missed appointments were not caused by factors beyond the control of the Public Safety Officer Member or Retired Public Safety Officer Member.

(i) **Re-application After Denial of Disability Retirement.** The Board shall establish reasonable rules governing the re-application by a Public Safety Officer Member for a disability retirement where an application has been denied and a new application has been filed subsequently for the same or similar medical reasons as those which were the basis of a previously denied application. A Public Safety Officer Former Member, whose status as an employee sworn in, as provided by Penal Code Section 830.1 and Section 830.31, to perform peace officer functions for the department wherein the Public Safety Officer Member was employed, had been terminated by reason of their resignation or discharge prior to the date that the Board determined to deny the original application, shall have no right to file a new application because the earlier denial, once final, established as a matter of law that they did not qualify for disability retirement at the time of the Board's determination.

(j) **Consensual Re-Employment in a Different Position.** Any person heretofore or hereafter retired for disability by the Board, even though incapable of performing the duties of the position from which they had been or shall be retired, may be re-employed in a different vacant position if the Board of Civil Service Commissioners were to find that they are capable of performing the duties of such position; provided, however, that such person may be so re-employed only with the consent of the appointing authority for such position and the written consent of such person. The Board of Civil Service Commissioners shall adopt rules and regulations to effectuate the purpose of the foregoing provisions. Upon the re-employment of such person, their disability retirement allowance shall cease, and, should they be eligible for membership in the Retirement System, they again shall become a Member of the Retirement System. Re-employment must occur within five (5) years of being granted a disability retirement.

(k) **Rights and Obligations upon Re-Employment.** Any Public Safety Officer Retired Member who re-enters the service of the City, as provided in Subsections (f) or (j) of this section, and again becomes a Member of the Retirement System, shall return to membership as a Public Safety Officer Member of Tier 1. The balance, if any, of the Public Safety Officer Retired Member's Accumulated Contributions, after deducting the annuity payments made to them on account of a disability retirement allowance, shall be credited to the individual account of such Member with the Retirement System, regardless of whether they become a Member of the Retirement System or of another City retirement system upon re-employment.

The Public Safety Officer Retired Member shall receive Service Credit for City Service prior to the date of their retirement in the same manner as though they had never been retired for disability. The payment of a disability retirement allowance shall not constitute compensation from the City entitling them to service for the period it was paid, except as provided in Section 4.1008.2(f)(2).

(l) **Exclusion for Intemperance or Willful Conduct.** In making its determinations and findings relative to Subsections (a), (b) and (c) of this section, the Board shall consider whether and to what extent the activity giving rise to the disability of a Public Safety Officer Member was caused or aggravated by such Member's willful misconduct. If the Board finds that the disability was caused or aggravated by such willful misconduct, the Board shall deny the Public Safety Officer Member's application for a disability retirement.

(m) **Board Authority.** The Board shall have the power to hear and determine all matters pertaining to the granting or termination of any retirement allowance provided for in this section. The determination of the Board shall be final and conclusive.

(n) **Loan Program for Public Safety Officer Member Disability Applicants.** The Board, by rule, shall establish a loan program for Public Safety Officer Members who have applied for disability retirement or upon whose behalf an application has been made in accordance with the provisions of this chapter, provided that the loan program shall be in compliance with the provisions of Internal Revenue Code Section 72(p) and any other applicable provisions of the Internal Revenue Code. The loan program further shall provide that in no event shall the amount of funds loaned to any Member exceed the amount of contributions and interest in the Member's LACERS account, and that, once a Board determination is made granting or denying a Member's disability application, no further funds shall be lent to the Member in connection with that application. Loan repayments will be suspended under this program as permitted under Section 414(u)(4) of the Internal Revenue Code.

(o) **Right to Make Back Contributions When Disability Application Denied.** Any Member who has, at any time, filed an application for the benefit of a disability retirement, which application was thereafter denied by the Board of Administration upon a finding by said Board that the applicant had not become physically or mentally incapacitated so as to be incapable of performing their duties, shall have the right to designate up to six (6) months of the period while such application was pending for purposes of acquiring credit towards City Service as defined in Section 4.1001, subject to the following conditions:

(1) The designated period does not already entitle the Member to Service Credit.

(2) The maximum period to be designated is six (6) months or the actual period of time while the application for disability retirement was pending, whichever was less.

(3) If a Member has applied more than once for disability retirement, the cumulative total period to be designated may not exceed six (6) months or the time elapsed while applications were processed, whichever is fewer.

(4) The right granted herein shall be exercised in writing, filed with the Board, designating the period of City Service for which the Member desires to receive retirement credit, and must be accompanied by a single payment of back contributions or by an irrevocable agreement to pay such back contributions in installments. The back contributions to be paid shall be in an amount equal to all of the contributions which they would have made to the Retirement Fund had they been making contributions during such period, based upon such person's Compensation Earnable before the discontinuance of their service, together with all regular interest which, had they so made the same, would have been credited thereon prior to the date of such payment; provided, however, that in the case of such installment payments thereof, the same shall be made pursuant to rules which shall be adopted by the Board establishing minimum amounts to be paid and the period of time therefor, and providing the rate of interest which also shall be paid upon the unpaid balance of the same. Every Member who makes up back contributions as provided herein shall be allowed credit for the period of City Service designated in the declaration filed by them with the Board; provided, however, that should they, for any reason, cease to be a Member before making up the full amount thereof, they shall be allowed retirement credit, counter-calendarwise, for the same portion of such designated period as the amount made up by them is of such full amount, and provided further that, should they cease to be a Member by reason of their death, retirement credit shall be allowed for the whole period designated by them if their surviving spouse or Domestic Partner were to exercise the option which, under such circumstances, hereby is given to any surviving spouse or Domestic Partner to make a single payment of all of the unpaid installments with accrued interest thereon.

(p) Disability Retirements for Public Safety Officer Former Members.

Any Public Safety Officer Former Member, who became separated from City Service or ceased to be a Member of the Retirement System because of termination of their employment for any reason including service retirement and shall believe that they are eligible to be paid a disability retirement allowance pursuant to this Section 4.1008.2, may file their written application for the payment of a disability retirement allowance within one (1) year from the date they ceased to be a Public Safety Officer Member, or one (1) year from their last day on active payroll. The Board, if it were to determine that the contingencies provided in this section for the payment of a disability retirement allowance had happened or occurred as to the Public Safety Officer Former Member prior to the date upon which they had ceased to be a Member, and if there is no legal bar or defense to the granting to them of such retirement or to any judicial action or proceeding which could be brought by them with respect thereto, shall grant them the retirement allowance in accordance with their written application.

Sec. 5. Section 4.1010 of the Los Angeles Administrative Code is amended in its entirety to read as follows:

Sec. 4.1010. Payments Upon Death of Member, Former Member, or Retired Member.

(a) **Death of Member before Retirement.** Upon the death of any Member before retirement:

(1) **Accumulated Contributions.** The Member's Accumulated Contributions shall be paid to such person or legal entity as the Member shall have nominated by written designation duly executed and filed with the Board of Administration or, if there be no such written designation of beneficiary, then to the surviving spouse or Domestic Partner of such deceased Member, or to the Member's children in the event there be no surviving spouse or Domestic Partner, or to the Member's parents in the event there be no surviving spouse or Domestic Partner or children. In the event there be no written designation of beneficiary, surviving spouse or Domestic Partner, children or parents, then said Accumulated Contributions shall be paid to the executor or administrator of the estate of such deceased Member, or to any other person or legal entity legally authorized to collect money due the decedent.

(2) **Limited Pension.** In the event such Member shall have had at least one (1) year of City Service for which the Member is entitled to receive retirement credit, then a limited pension shall be paid as provided herein. The limited pension shall be paid in equal monthly payments of one-half (1/2) of the average monthly Compensation Earnable of such Member during the Member's last year of service. For each year of service, not to exceed six (6) years, two (2) monthly payments shall be paid, not to exceed a total of twelve (12) monthly payments for six (6) or more years of service. Such limited pension shall be paid to the surviving spouse or Domestic Partner of such deceased Member or to the minor children of such Member, in the event there shall be no surviving spouse or Domestic Partner. The payment to a minor child shall continue beyond the month the child reaches age eighteen (18) if the child was a minor on the date of the Member's death. In the event there be no surviving spouse or Domestic Partner or minor children, the limited pension shall be paid to the dependent parents of such Member. However, no limited pension shall be paid in the event the Board of Administration, upon investigation and after a hearing in the matter, finds that the death of such Member was due to or resulted from the intemperance or the willful conduct of such Member. In the event any such beneficiary should die before receiving the full amount of such limited pension, the same shall be continued to the persons who, in the order hereinabove set forth, qualify as beneficiaries thereof as of the date of death of such deceased beneficiary and who, within sixty (60) days after such date make demand for payment thereof; provided, however, that in the event no such demand is made

within such time, the said limited pension shall be deemed conclusively to have been terminated as of such date of death.

(3) Election of Optional Retirement Allowance When Member Eligible to Retire. In the event a Member was eligible to retire pursuant to the provisions of Section 4.1005 and the person or persons entitled to be paid the Member's limited pension is or are the same person or persons entitled to be paid, against the claims or demands of any and all other persons thereto, the full amount of the Member's Accumulated Contributions, then the person or persons entitled to be paid both the Member's limited pension and the Accumulated Contributions may, by a written instrument duly executed, acknowledged and filed with the Board of Administration, waive payment of such limited pension and such Accumulated Contributions and elect to be paid, in lieu thereof, the optional retirement allowance which would have been paid to the Member throughout the Member's life and continued, upon the Member's death, throughout the life or lives of the person or persons as the Member's designated survivor or survivors, had the Member, as of the day preceding their death, been retired pursuant to the provisions of Section 4.1015(a)(1) and designated such person or persons as the Member's survivor or survivors. In no event shall the benefits of this subsection be payable to any person after the allowance of a limited pension pursuant to the provisions of this subsection, nor shall the limited pension be payable to any person after the allowance of the benefits of this subsection. If any person elects to receive the optional retirement allowance provided in this subsection, no benefits shall be paid from the Family Death Benefit Plan established in Section 4.1090 of this chapter.

The duly appointed, qualified and acting guardian of the estate of a minor child or an incompetent shall make such waiver and election on behalf of such minor child or incompetent.

If a surviving spouse or Domestic Partner makes the election authorized herein, the annuity portion of the allowance to be paid shall be calculated on the basis of the Member's normal Accumulated Contributions as opposed to the sum of the Normal Contributions and the Survivor Contributions. The excess of the deceased Member's total Accumulated Contributions over the normal Accumulated Contributions at the time of death shall be paid to said surviving spouse or Domestic Partner or, at the option of such survivor, considered as additional contributions made to provide a larger annuity benefit.

The deceased Member's accrued vacation time, or any necessary portion thereof, as defined in Article 1, Chapter 6, Division 4 of this Code or an applicable memorandum of understanding, immediately preceding the day of the Member's death may be added to their total years of service in order to render the deceased Member eligible to have retired pursuant to Section 4.1005 at the time of death and to ensure their survivor qualifies for the survivorship benefits provided in this subsection. The benefit herein created shall be available at the

option of the eligible survivor of the deceased Member. The deceased Member's accrued vacation time may be utilized only for purposes of establishing eligibility to the survivorship benefits provided in this subsection and may not be used to create or affect other retirement rights provided in the City Charter or the Los Angeles Administrative Code.

(4) **Survivor Benefit Options.** Certain survivors of Members who die before retirement may be eligible to elect to receive a lifetime allowance pursuant to the provisions of Section 4.1011. The right to elect the benefit provided in Section 4.1011 is contingent upon an otherwise eligible survivor being entitled to receive all of the deceased Member's contributions because that benefit is provided in lieu of the payment of the Member's contributions and a limited pension, as authorized in this subsection.

(b) **Death of Former Member Before Retirement.** Upon the death of any former Member who had not yet retired and whose contributions remain on deposit:

(1) **Accumulated Contributions.** The former Member's Accumulated Contributions shall be paid to such person or legal entity as the former Member shall have nominated by written designation duly executed and filed with the Board of Administration or, if there be no such written designation of beneficiary, then to the surviving spouse or Domestic Partner of such deceased Member, or to the Member's children in the event there be no surviving spouse or Domestic Partner, or to the Member's parents in the event there be no surviving spouse or Domestic Partner or children. In the event there be no written designation of beneficiary, surviving spouse or Domestic Partner, children or parents, then said Accumulated Contributions shall be paid to the executor or administrator of the estate of such deceased Member, or to any other person or legal entity legally authorized to collect money due the decedent.

(2) **Optional Retirement Allowance.** In the event the surviving spouse or Domestic Partner of such former Member is entitled to be paid, against the claims or demands of any and all other persons thereto, the full amount of such former Member's Accumulated Contributions, and further provided that such former Member had completed five (5) or more years of Continuous Service with the City:

(i) **Eligible for Deferred Retirement.** If a former Member was eligible for deferred service retirement at the time of their death, then such surviving spouse or Domestic Partner may by a written instrument, duly executed, acknowledged and filed with the Board of Administration, waive payment of the Accumulated Contributions that would otherwise be payable under this subsection and elect to receive an optional retirement allowance equal to that which the former Member would have received had they retired under the provisions of Section 4.1015(a)(1) on the day prior to their death.

(ii) **Eligible for Future Deferred Retirement.** If a former Member was not eligible for deferred service retirement at the time of their death, then such surviving spouse or Domestic Partner may, by a written instrument duly executed, acknowledged and filed with the Board of Administration, waive payment of the Accumulated Contributions that would otherwise be payable under this subsection, and elect to wait until such time as the former Member would have been entitled to receive a service retirement allowance and then shall receive an optional retirement allowance equal to that which the former Member would have received had they retired under the provisions of Section 4.1015(a)(1) on the day first eligible to receive such benefit.

(c) **Death of Retired Member.** Upon the death of a retired Member:

(1) **Survivor Continuance Options.** Sections 4.1012, 4.1013, 4.1014 and 4.1015 contain provisions that authorize the payment of retirement allowances to specified survivors of retired Members. These benefits are generally referred to as continuance benefits because the benefit is based on a continuation to the survivor of some portion of the deceased retired Member's allowance.

(2) **Unused Contributions and Unpaid Retirement Allowance.** Upon the death of a retired Member or upon the death of all of the Member's survivors to whom a retirement allowance was paid, the unused contributions and any accrued but unpaid retirement allowance due the retiree shall be paid in the same manner as that provided in Subsection (a)(1) of this section for the payment of the Accumulated Contributions of a Member who dies before retirement; provided, however, that the retired Member or any survivors shall not have received a retirement allowance pursuant to which no refund of contributions is payable upon the death of the retiree or their last survivor, in which case no contributions shall be refundable. For the purpose of this Article, the phrase "unused contributions" shall be the remainder, if any, of the Accumulated Contributions of such deceased Member after deducting the total of all amounts paid on account of any annuity to such retiree and to their survivor or survivors, provided that there shall be no unused contributions in the event that the retiree or any survivors received a retirement allowance pursuant to which no refund of contributions is payable upon the death of the retiree or their last survivor.

The spouse or Domestic Partner who is receiving an allowance as a result of the death of a deceased Member, referred to as a survivor for purposes of this provision, may file a beneficiary designation with the Board of Administration naming a beneficiary or beneficiaries for any accrued but unpaid allowance payable upon the survivor's death and, subject to the limitations set forth below, for the deceased Member's unused contributions.

Upon the survivor's death, any accrued but unpaid allowance due the survivor shall be paid in the following order: (i) to the survivor's designated beneficiaries; (ii) if none, to the children of the survivor; (iii) if no children, to the parents of the survivor; (iv) if no parents, to the executor or administrator of the estate of the survivor; or (v) to any other person or legal entity legally entitled to collect money due to the survivor. Should the survivor leave no person or legal entity legally entitled to collect any accrued allowance, it shall be paid in the following order: (i) to the deceased Member's children; or (ii) if none, to the deceased Member's parents; or (iii) if none, to the executor or administrator of the estate of the Member; or (iv) to any other person or legal entity legally entitled to collect money due to the deceased Member.

If the deceased Member has failed to designate a beneficiary for the unused contributions or if the beneficiaries so designated by the deceased Member have all predeceased the survivor, then, upon the death of the survivor, the Board of Administration shall pay the unused contributions pursuant to the survivor's beneficiary designation on file with the Board. In the event the survivor has no beneficiary designation on file or the named beneficiaries have all predeceased the survivor, then the unused contributions shall be paid in the following order: (i) to the deceased Member's children; or (ii) if none, to the deceased Member's parents; or (iii) if none, to the executor or administrator of the estate of the survivor; or (iv) to any other person or legal entity legally entitled to collect money due to the deceased survivor.

(3) **Burial Allowance.** Upon the death of every retired Member, the sum of \$2,500.00 shall be paid to such person or legal entity as the retired Member shall have nominated by written designation, duly executed and filed with the Board of Administration; or to the surviving spouse or Domestic Partner of such deceased retired Member, in the event there be no designated beneficiary; or to their child or children, in the event there be no designated beneficiary or surviving spouse or Domestic Partner, provided that such payment shall be made only after satisfactory evidence has been presented to the Board showing that the expense of burial of the decedent has been paid or that the obligation to pay therefor has been assumed by a person or persons or an organization legally capable of contracting such obligation. The fact of burial, as evidenced by a certified copy of the death certificate, shall be sufficient evidence of compliance with the requirements stated in the foregoing sentence. While the purpose of this benefit is to provide a funeral allowance for the retired Member, the Retirement System shall have no responsibility to assure that this payment is used for that purpose.

In the event there be no designated beneficiary, surviving spouse or Domestic Partner, or child or children, or in the event the requirements herein stated with respect to the expense of burial of such retired Member have not been complied with within such time as said Board, in its discretion, may determine, then the payment of the amount specified in this subsection shall be

paid to the executor or administrator of the estate of such decedent, or to any other person or legal entity legally authorized to receive money due said decedent.

(d) **Reversion of Unclaimed Contributions to the Retirement Fund.** The right to payment of the Accumulated Contributions upon the death of the Member or former Member before retirement, as provided in Subsections (a) and (b) herein, and the right to payment of the Member's unused contributions, as provided in Subsection (c) herein, upon the later of the death of the retired Member or the Member's survivor to whom an allowance was paid, is a vested property right of the person(s) entitled to such payment; provided, however, that should the person(s) entitled thereto fail to claim this benefit within ten (10) years from the date of such death, the funds shall revert to the Retirement Fund, unless and until, the Board of Administration receives a valid belated claim for payment, determined at the sole discretion of the Board of Administration. Any death benefit payable shall be subject to mandatory minimum distribution as required by the Internal Revenue Code; provided that the funds that are required to be distributed shall revert to the Retirement Fund if the person(s) entitled to the funds refuses to cooperate in electing to be paid such funds or cannot be located and the Retirement System has followed Internal Revenue Service procedures to locate such person(s).

(e) Reserved.

(f) All benefits payable upon the death of an Airport Peace Officer Member, Airport Peace Officer Former Member, or Airport Peace Officer Retired Member, shall be determined by Section 4.1010.1, and the provisions of this section and Sections 4.1011, 4.1012, 4.1013, 4.1014 and 4.1015, shall not apply. The provisions of Section 4.1090 establishing the Family Death Benefit Plan shall apply only to the extent that it would not cause a survivor benefit to be paid that exceeds any limitations imposed by the Internal Revenue Code.

Sec. 6. A new Subsection (g) is added to Section 4.1010 of the Los Angeles Administrative Code to read as follows:

(g) All benefits payable upon the death of a Public Safety Officer Member, Public Safety Officer Former Member, or Public Safety Officer Retired Member, shall be determined by Section 4.1010.2, and the provisions of this Section and Sections 4.1010.1, 4.1011, 4.1012, 4.1013, 4.1014 and 4.1015, shall not apply. The provisions of Section 4.1090 establishing the Family Death Benefit Plan shall apply only to the extent that it would not cause a survivor allowance to be paid that exceeds any limitations imposed by the Internal Revenue Code.

Sec. 7. A new Section 4.1010.2 is added to the Los Angeles Administrative Code to read as follows:

Sec. 4.1010.2. Payments Upon Death of Public Safety Officer Member, Public Safety Officer Former Member, or Public Safety Officer Retired Member.

All benefits payable upon the death of a Public Safety Officer Member, Public Safety Officer Former Member, or Public Safety Officer Retired Member, as defined in Section 4.1001(a), shall be determined by this Section 4.1010.2, and the provisions of Sections 4.1010, 4.1010.1, 4.1011, 4.1012, 4.1013, 4.1014 and 4.1015, shall not apply. Notwithstanding anything to the contrary, no survivor allowance shall be paid under this Section 4.1010.2 to the extent it exceeds any limitations imposed by the Internal Revenue Code. The Board shall have the authority to adopt rules to implement this limitation.

(a) **Definitions.** As used in this section, the following words and phrases shall have the meaning ascribed to them in this subsection:

Accumulated Contributions. The total of the amounts paid into the Retirement Fund by the Public Safety Officer Member and any interest credited to the Member's account.

Assignment Pay. Assignment Pay means any additional gross monthly pay which, by reason of assignment to perform special duties or hazardous duties, in a higher class, position, grade, code or other title than the lowest thereof within the Public Safety Officer Member's permanent rank, shall be provided by ordinance or Memorandum of Understanding.

Dependent Child. Dependent Child means a person who is a child of a deceased Public Safety Officer Member or Public Safety Officer Retired Member, who, while under the age of 21 years, had become disabled, either prior to or after the date of death of such Member, from earning a livelihood for any cause or reason whatsoever. Such person shall be a Dependent Child only until they shall cease to be disabled from earning a livelihood. Should disability cease before the age of 22 years, the limitations set forth in Subsection (g) of this section shall be applicable.

Dependent Parent. Dependent Parent means a person who is a parent of a deceased Public Safety Officer Member or Public Safety Officer Retired Member and to or for whom such deceased Member, during at least one (1) year immediately preceding their death, contributed one-half or more of such Dependent Parent's necessary living expenses and who is unable to pay such expenses without the receipt of an allowance. Such person shall be a Dependent Parent only until they shall be able to pay their necessary living expenses.

Eligible Surviving Domestic Partner. Eligible Surviving Domestic Partner means a person whose Declaration of Domestic Partnership with the

Public Safety Officer Member was on file with the Board, as provided in Section 4.1009 of the Los Angeles Administrative Code, or whose domestic partnership with the Public Safety Officer Member was registered with the State of California, as authorized in Family Code Section 298.5, or who had established a legal union with the Public Safety Officer Member which was validly formed in another jurisdiction that is substantially equivalent to a domestic partnership, as provided in Family Code Section 299.2:

(1) for at least one (1) year prior to the date of the Public Safety Officer Member's nonservice-connected death;

(2) on the date of the Public Safety Officer Member's service-connected death;

(3) for at least one (1) year prior to the effective date of the Public Safety Officer Member's retirement upon a nonservice-connected disability retirement;

(4) on the effective date of the Public Safety Officer Member's service-connected disability retirement; or

(5) on the date of the Public Safety Officer Member's nonservice-connected death while on military leave.

In addition, on the date of the Member's death, this person must be the Domestic Partner of such Member.

Eligible Surviving Spouse. Eligible Surviving Spouse means a person who was married to the Public Safety Officer Member:

(1) for at least one (1) year prior to the date of their nonservice-connected death while a Public Safety Officer Member;

(2) on the date of the Public Safety Officer Member's service-connected death;

(3) for at least one (1) year prior to the effective date of the Public Safety Officer Member's retirement upon a nonservice-connected disability retirement;

(4) on the effective date of the Public Safety Officer Member's service-connected disability retirement; or

(5) on the date of the Public Safety Officer Member's nonservice-connected death while on military leave.

In addition, on the date of the Member's death, the person must be the spouse of such Member.

Eligible Survivor. Eligible Survivor means a person who is either an Eligible Surviving Spouse or an Eligible Surviving Domestic Partner as defined in this subsection.

Final Compensation. Final Compensation means an amount equivalent to a monthly average of salary actually earned during any twelve (12) consecutive months of service as a Member of the Retirement System, as designated by the Member. In the absence of such designation, the last twelve (12) consecutive months preceding the date upon which retirement would become effective shall be used as the basis for the calculation of Final Compensation.

For the purposes of determining Final Compensation for periods during which the Member receives less than full salary on account of injury or illness, pursuant to any applicable ordinance of the City, the Final Compensation shall be based upon the salary, including, if applicable, any Length of Service Pay, Special Pay, Assignment Pay or Hazard Pay, the Member would have received but for the injury or illness.

Included in the calculation of Final Compensation shall be Length of Service Pay, Special Pay, Assignment Pay and Hazard Pay actually earned during the twelve (12) consecutive months used to determine Final Compensation.

For those Members who retire from the department wherein they were employed while holding a rank no higher than Lieutenant: If Hazard Pay was not earned during all or any part of the twelve (12) consecutive months used to determine Final Compensation, then an amount equivalent to 10% of the Hazard Pay earned at the time of the termination of the last assignment of hazardous duties for each year in the aggregate of the assignment to hazardous duties shall be added to the Final Compensation, not to exceed ten (10) years in the aggregate. The total amount of Hazard Pay included in Final Compensation may not exceed 100% of the amount the Member would have earned had they been entitled to Hazard Pay during the entire 12-month period utilized in the calculation of Final Compensation.

Overtime compensation or payments of money to the member not designated as salary by an ordinance or Memorandum of Understanding shall not be considered for purposes of calculating Final Compensation.

If a Member has not completed twelve (12) consecutive months of service, then and in that event only shall the Final Compensation be calculated as a monthly average of all consecutive calendar months completed, and, if the

Member has completed less than one month of total service as a Member, the salary actually received shall be used to calculate its monthly equivalent.

Hazard Pay. Hazard Pay means any additional gross monthly pay which, by reason of assignment to perform helicopter duties, two-wheel motorcycle duties or any other hazardous duties, shall be provided by ordinance or Memorandum of Understanding

Length of Service Pay. Length of Service Pay means any additional gross monthly pay which, by reason of length of service, shall be provided by ordinance or by Memorandum of Understanding.

Member. Member means Public Safety Officer Member, Public Safety Officer Retired Member, or Public Safety Officer Former Member, as appropriate.

Minor Child. Minor Child means a person who is a natural child or an adopted child of a deceased Public Safety Officer Member or Public Safety Officer Retired Member but such person shall be a Minor Child only until such person shall attain the age of 18 years or until they reach the age of 22 years if such person is enrolled in school on a full-time basis as determined by the Board. Entitlement to the benefits of a Minor Child shall terminate if such person marries prior to reaching the age limit(s) provided herein.

Special Pay. Special Pay means any additional gross monthly pay which, by reason of assignment to perform special duties other than hazardous duties, shall be provided by ordinance or Memorandum of Understanding.

Year. Year means a period of 12 months or, in aggregating partial years for purposes of determining Service, means 365 days.

(b) **Benefits for Eligible Survivor.**

(1) **Member's Service-Connected Death.** The Eligible Survivor of a Public Safety Officer Member who shall die by reason of injuries received or sickness caused by the discharge of their duties while a Public Safety Officer Member, shall be paid for life a monthly allowance in an amount which shall be equal to 80% of the deceased Member's Final Compensation.

For the purposes of the benefit provided in this Subsection (b)(1), a Public Safety Officer Member has died by reason of injuries received or sickness caused by the discharge of Public Safety Officer Member's duties if there is clear and convincing evidence that the discharge of the Member's duties was the predominant cause of their death.

(2) **Member's Nonservice-Connected Death.** The Eligible Survivor of a Public Safety Officer Member who shall have five (5) or more years of Service

and who shall die while a Public Safety Officer Member, by reason of injuries or sickness other than injuries received or sickness caused by the discharge of Public Safety Officer Member's duties, shall be paid for life a monthly allowance in an amount which shall be equal to 50% of the deceased Member's Final Compensation.

(3) **Member's Nonservice-Connected Death While on Military Leave.** The Eligible Survivor of a Public Safety Officer Member who, while on military leave, is killed as a result of the discharge of the Public Safety Officer Member's military duties, shall be paid for life, as a nonservice-connected survivor benefit, a monthly allowance in an amount which shall be equal to 50% of the deceased Member's Final Compensation. This benefit shall be paid in lieu of any benefits that would otherwise be payable under Subsections (b)(2), (b)(4) or (b)(5) of this section.

(4) **Nonservice-Connected Death of Member with Less than Five Years of Service.** In the event a Member dies of nonservice-connected causes before having completed five years of Service, the Eligible Survivor of the deceased Public Safety Officer Member, or the Member's Minor or Dependent Children if there is no Eligible Survivor, or the Member's Dependent Parents if there is no Eligible Survivor and no Minor or Dependent Children, shall be entitled to the Basic Death Benefit described in Subsection (b)(5) below.

(5) **Basic Death Benefit and Election.** The Basic Death Benefit shall consist of: (1) the return of a deceased Member's accumulated contributions to the Retirement System with accrued interest thereon, subject to the rights created by virtue of the Member's designation of a beneficiary as otherwise provided in the Retirement System; and (2) if the deceased Member had at least one year of Service, the deceased Member's Final Compensation multiplied by the number of completed years of Service, not to exceed six years, provided that said amount shall be paid in monthly installments of one-half of the deceased Member's Final Compensation.

An Eligible Survivor, or a guardian acting on behalf of the Minor or Dependent Children of a deceased Public Safety Officer if there is no Eligible Survivor, or Dependent Parents if there is no Eligible Survivor and no Minor or Dependent Children entitled to an allowance pursuant to any of the provisions of this section, where benefits are based upon the Member's death in active service, may elect to receive the Basic Death Benefit in lieu of the allowance provided and before the first payment of such allowance.

(6) **Retired Member's Death While on a Service-Connected Disability Retirement.** In the event a Public Safety Officer Retired Member dies while they are receiving a service-connected disability allowance pursuant to Section 4.1008.2, the Eligible Survivor shall be paid for life a monthly allowance in an amount which shall be equal to 80% of the allowance received by the

deceased Public Safety Officer Retired Member immediately preceding the date of the Public Safety Officer Retired Member's death, unless the death of the Retired Member occurs within three (3) years after the effective date of their allowance and is due to service-connected causes, in which case, the Eligible Survivor shall receive, or in a case where an option has been elected pursuant to Subsection (c) of this section, may elect to receive, 80% of the Retired Member's Final Compensation, as modified by the cost of living adjustments made pursuant to Section 4.1022. The benefit described in this Subsection (b)(6) may be modified as provided in Subsection (c) of this section.

(7) Retired Member's Death While on a Nonservice-Connected Disability Retirement. In the event a Public Safety Officer Retired Member dies while they are receiving a nonservice-connected disability allowance pursuant to Section 4.1008.2, the Eligible Survivor shall be paid for life a monthly allowance in an amount which shall be equal to 70% of the allowance received by the deceased Retired Member immediately preceding the date of the Public Safety Officer Retired Member's death. The benefit described in this Subsection (b)(7) may be modified as provided in Subsection (c) of this section.

(c) Optional Allowances for Eligible Survivor. At any time before the first payment of a service retirement allowance, a service-connected disability allowance or a nonservice-connected disability allowance, the Member may elect to receive, in lieu of their allowance as provided in Section 4.1007 (Service) or Section 4.1008.2 (Disability), the actuarial equivalent at that time of such allowance and of the allowance for the Eligible Survivor, as provided in Subsection (b) of this section, by electing an optional allowance payable throughout the balance of their life, with the proviso that upon their death such optional allowance shall be continued to the Member's Eligible Survivor in the proportional amount designated by the Member at the time of election of the option provided by this section.

The amount of such optional allowance shall be so calculated that the liability of LACERS at the date of retirement under the optional allowance shall be equal to the liability of LACERS at the same date under the allowance awarded in accordance with the provisions of Section 4.1007 (Service) or Section 4.1008.2 (Disability) and of the survivorship allowance provided by Subsection (b) of this section. For the purpose of this section, the liability of LACERS is defined as the present value, in accordance with tables adopted by the Board, of the allowances or optional allowances calculated by approved actuarial methods, and recommended by the Retirement System's actuary. In determining the actuarial equivalent of the allowance for an Eligible Survivor as provided pursuant to Subsection (b)(6) of this section, the equivalent of a survivorship allowance of 80% of the Retired Member's allowance shall be used in all cases.

The optional amounts, calculated in accordance with the foregoing subsection, shall provide a range of optional values such that the amount to be paid to the Eligible Survivor shall range from 75% to 100% of the allowance payable to the Member.

If a Public Safety Officer Retired Member, previously retired pursuant to the provisions of Section 4.1008.2, is reinstated to active duty upon termination of Public Safety Officer Retired Member's disability, the election to receive the optional allowance as herein provided shall be deemed cancelled as of the effective date of such reinstatement.

A Public Safety Officer Retired Member, previously retired on a disability allowance pursuant to the provisions of Section 4.1008.2, shall have the right to cancel any option previously elected by them pursuant to the provisions of this subsection in the event their allowance is subsequently adjusted as provided for in Section 4.1008.2.

(d) Additional Allowance Amounts for Additional Beneficiaries. Whenever any Public Safety Officer Member or Public Safety Officer Retired Member shall die and leave surviving them, in addition to an Eligible Survivor, a Minor Child or Children or a Dependent Child or Children of the deceased Member and the Eligible Survivor, then such Eligible Survivor shall be paid an additional monthly allowance in an amount which shall be equal to 25% of the allowance they as an Eligible Survivor would be entitled to receive pursuant to the provisions of Subsection (b) of this section while there is one Minor Child or Dependent Child, 40% while there are two Minor Children or Dependent Children or a combination, and 50% while there are three or more Minor Children or Dependent Children or a combination, and such additional monthly allowance shall be the exclusive property of such Eligible Survivor and not the property of any such Minor Child or Dependent Child.

Whenever any Public Safety Officer Member or Public Safety Officer Retired Member dies and leaves surviving them in addition to an Eligible Survivor, a Minor Child or Children or a Dependent Child or Children who are not the child or children of the Eligible Survivor, then the guardian(s) or conservator(s), as appropriate, of the estate(s) of any such Minor Child or Children or Dependent Child or Children shall be paid a monthly allowance in an amount which shall be equal to 25% of the allowance the Eligible Survivor would be entitled to pursuant to the provisions of Subsection (b) of this section while there is one Minor Child or Dependent Child, 40% while there are two Minor Children or Dependent Children or a combination, and 50% while there are three or more Minor Children or Dependent Children or a combination.

Whenever any Public Safety Officer Member or Public Safety Officer Retired Member dies and leaves surviving them, in addition to an Eligible Survivor, a Minor Child or Children or a Dependent Child or Children of the deceased Member and the Eligible Survivor and a Minor Child or Children or a Dependent Child or Children not the child or children of the Eligible Survivor, then a monthly allowance shall be paid in an amount which shall be equal to 25% of the allowance the Eligible Surviving Spouse would be entitled to pursuant to the provisions of Subsection (b) of this section while there is one Minor Child or Dependent Child, 40% while there are two Minor Children or Dependent Children or a combination, and 50% while there are three or more Minor Children or Dependent Children or a combination. The amount of such monthly allowance shall be divided by the number of Minor Children or Dependent Children and

shall be adjusted accordingly whenever any Minor or Dependent Child ceases to be such. The Eligible Survivor shall be paid the portion of such monthly allowance which shall be applicable to the number of Public Safety Officer Member's or Public Safety Officer Retired Member's Minor Children or Dependent Children and the same shall be their exclusive property. The guardian(s) or conservator(s), as appropriate, of the estate(s) of the Minor Children or Dependent Children who are not those of the Eligible Survivor shall be paid the portion of such monthly allowance which shall be applicable to such Minor Children or Dependent Children and the same shall be the exclusive property of such children.

If a Minor Child or Dependent Child is an adult who is capable of managing their financial affairs, the Board is not required to pay the guardian or conservator of the Minor Child or Dependent Child any benefits provided in this subsection, which are not the property of the Eligible Survivor but are the property of the Minor Child or Dependent Child. Dependent Child benefits payable under this subsection shall be paid pursuant to the provisions of Charter Section 1238, if applicable.

The additional allowance amounts provided in this subsection for persons other than an Eligible Survivor are to be calculated on the basis of the applicable Eligible Survivor allowance provided pursuant to Subsection (b) of this section, unmodified by any election that may have been made previously pursuant to the provisions of Subsection (c) of this section.

Additional allowance amounts are also subject to the limitation that the amount of any survivorship allowance provided in this section, after the additional payments provided in this subsection are added thereto, may not exceed 100% of the Final Compensation of the deceased Public Safety Officer Member or 100% of the Final Compensation of the deceased Retired Public Safety Officer Member, as modified by the cost of living adjustments made pursuant to Section 4.1022 since the date of retirement of the Public Safety Officer Retired Member. In case of excess, any additional allowance amounts shall be reduced to a level where the total amount of allowance is equal to such maximum.

(e) **Allowance for Minor or Dependent Children Where Member Had No Eligible Survivor.** Whenever any Public Safety Officer Member or Public Safety Officer Retired Member dies without leaving a Eligible Survivor, the guardian or conservator, as applicable, of the estate(s) of their Minor or Dependent Children shall be paid, until each such child shall cease to be a Minor or Dependent Child, a monthly allowance equal to the allowance an Eligible Survivor would have been eligible to receive pursuant to Subsection (b) of this section had an Eligible Survivor survived such Member. Whenever any Public Safety Officer Member or Retired Public Safety Officer Member shall die leaving an Eligible Survivor who thereafter shall die, the guardian or conservator, as applicable, of the estate(s) of their Minor or Dependent Children shall be paid, until each such child shall cease to be a Minor or Dependent Child, a monthly allowance equal to the allowance an Eligible Survivor would have been eligible to receive pursuant to Subsection (b) of this section. In any of the foregoing events and if

there were to be more than one Minor or Dependent Child, an equal share of such monthly allowance shall be paid for and on behalf of each such child to the guardian or conservator, as applicable, of the Public Safety Officer Member's or Public Safety Officer Retired Member's estate and shall be adjusted as each of them shall cease to be a Minor or Dependent Child in the manner set forth in Subsection (d) of this section. If payments are made pursuant to this Subsection (e), no additional allowance amounts shall be paid pursuant to Subsection (d) of this section. With regard to benefits payable to a Minor Child or Dependent Child who is an adult and capable of managing their financial affairs, the foregoing provisions requiring payment to a guardian or conservator of such child shall be disregarded and payment may be made directly to such adult child.

Dependent Child benefits payable under this subsection shall be paid pursuant to the provisions of Charter Section 1238, if applicable.

(f) **Allowance for Dependent Parents Where Member Had No Eligible Survivor.** Whenever any Public Safety Officer Member or Public Safety Officer Retired Member shall die without leaving an Eligible Survivor or a Minor or Dependent Child, a monthly allowance shall be paid to such Dependent Parents or to the survivor of them until each such Dependent Parent shall cease to be such. Any Dependent Parent who ceases to be such, but who thereafter again shall become unable to pay their necessary living expenses without an allowance, shall be entitled to have their allowance reinstated.

The total amount of an allowance payable to the Dependent Parents shall be the same as that to which an Eligible Survivor would have been entitled pursuant to Subsection (b) of this section.

(g) **Determinations With Respect to Cause of Death and Dependency.** The Board shall have the same power as that which has been given to it by Section 4.1008.2(d) and (f) in order to determine:

(1) whether a Public Safety Officer Member's death was service-connected or nonservice-connected for the purposes of Section 4.1010.2(b)(1) and (2);

(2) whether or not a child of a deceased Public Safety Officer Member or Public Safety Officer Retired Member is a Dependent Child; and

(3) whether or not any parent of a deceased Public Safety Officer Member or Public Safety Officer Retired Member is a Dependent Parent.

The Board also shall have the power to determine, from time to time, whether or not a child continues to be a Dependent Child, whether or not a parent continues to be a Dependent Parent and whether or not a Dependent Parent who had ceased to be such thereafter shall have become entitled to have their allowance reinstated. The Board

also shall have the power to determine whether a Minor Child or Dependent Child is an adult and capable of managing their financial affairs

(h) **Medical Reports and Hearings.** The power of the Board to determine whether a Public Safety Officer Member's death was service-connected or nonservice-connected, as provided in Subsection (g) of this section, hereafter may be exercised by it upon the basis of a written report from one regularly licensed and practicing physician selected by it, but the Board, in its discretion, may obtain such a report from more than one such physician. This determination may, at the option of the Board, be made without a hearing being held pursuant to the provisions of Subsection (g) of this section, provided that, should any decision made without a hearing being held adversely affect any person, such person may request and, upon such request, shall be granted a hearing before the Board at which such decision shall be reconsidered.

(i) **Distribution of Contributions.** Whenever a Public Safety Officer Member or Public Safety Officer Former Member dies prior to retirement without leaving a person or persons entitled to receive an allowance pursuant to Subsections (b), (c), (d), (e), or (f) of this section, then, and in that event, the Member's Accumulated Contributions shall be paid to such person or legal entity as the Member shall have nominated by written designation duly executed and filed with the Board; or, if there is no such designation, then to the Public Safety Officer Member's or Public Safety Officer Retired Member's surviving spouse or surviving Domestic Partner; or, if none, then to the Public Safety Officer Member's or Public Safety Officer Retired Member's children; or, if no children, then to the Public Safety Officer Member's or Public Safety Officer Retired Member's parents. In the event there is no written designation of beneficiary, surviving spouse or surviving Domestic Partner, children or parents, then the contributions shall be paid to the executor or administrator of the estate of such deceased Public Safety Officer Member or Public Safety Officer Former Member or to any other person or legal entity legally authorized to collect money due the decedent.

(j) **Burial Allowance.** Upon the death of every Public Safety Officer Retired Member, the sum of \$2,500.00 shall be paid to such person or legal entity as the Public Safety Officer Retired Member shall have nominated by written designation, duly executed and filed with the Board of Administration; or to the Eligible Survivor of such deceased Public Safety Officer Retired Member, in the event there be no designated beneficiary; or to Public Safety Officer Retired Member's child or children, in the event there be no designated beneficiary or Eligible Survivor, provided that such payment shall be made only after satisfactory evidence has been presented to the Board showing that the expense of burial of the decedent has been paid or that the obligation to pay therefor has been assumed by a person or persons or an organization legally capable of contracting such obligation. The fact of burial, as evidenced by a certified copy of the death certificate, shall be sufficient evidence of compliance with the requirements stated in the foregoing sentence. While the purpose of this benefit is to provide a funeral allowance for the deceased retiree, the Retirement System shall have no responsibility to assure that this payment is used for that purpose.

In the event there be no designated beneficiary, Eligible Survivor, or child or children, or in the event the requirements herein stated with respect to the expense of burial of such Public Safety Officer Retired Member have not been complied with within such time as the Board, in its discretion, may determine, then the payment of the amount specified in this subsection shall be paid to the executor or administrator of the estate of such decedent, or to any other person or legal entity legally authorized to receive money due said decedent.

(k) **Reversion of Unclaimed Contributions to the Retirement Fund.** The right to the payments set forth in this section is a vested property right of the person(s) entitled to such payment; provided, however, that should the person(s) entitled thereto fail to claim this benefit within ten (10) years from the date of such death, the funds shall revert to the Retirement Fund, unless and until, the Board of Administration receives a valid belated claim for payment, determined at the sole discretion of the Board of Administration. Any death benefit payable shall be subject to mandatory minimum distribution as required by the Internal Revenue Code, provided that the funds that are required to be distributed shall revert to the Retirement Fund if the person(s) entitled to the funds refuses to cooperate in electing to be paid such funds or cannot be located and the Retirement System has followed Internal Revenue Service procedures to locate such person(s).

(l) **Survivor Benefit Purchase Program for Public Safety Officer Retired Members.** A Public Safety Officer Retired Member may elect, after retirement, to provide a survivor benefit to a spouse or Domestic Partner subject to the following:

(1) **Member to Pay Full Cost.** The Public Safety Officer Retired Member shall pay the full actuarially determined cost of the survivor benefit through an actuarial reduction in their monthly retirement benefit.

(2) **Vesting Requirement.** The right to benefits under this program shall not vest until the Public Safety Retired Member survives at least one (1) year from the date the Public Safety Officer Retired Member makes an election to provide this benefit, unless the Board shall determine by a preponderance of the evidence that the Public Safety Officer Retired Member's death was accidental.

If the right to benefits has not vested before the date of the Public Safety Officer Retired Member's death and the accidental death exception does not apply, then no survivor benefit shall be provided by the Retirement System and the amount by which the Public Safety Officer Retired Member's monthly retirement benefits were reduced after making this election shall be paid as a lump sum to the spouse or Domestic Partner, provided that if the spouse or Domestic Partner has predeceased the Member, the lump sum shall be paid to the Member's estate.

(3) **Only One Election Allowed.** In order to minimize administrative costs to the Retirement System, a Public Safety Officer Retired Member may exercise this election only once. The Public Safety Officer Retired Member's election shall not apply to any interest in their pension benefit awarded by the court to another person, but only to the interest retained by the Public Safety Officer Retired Member. The election may be made only to provide a benefit for a spouse or Domestic Partner who is not already qualified to receive a benefit from the Retirement System upon the Public Safety Officer Retired Member's death. For purposes of this section, a domestic partnership must either be filed with the Retirement System or the California Secretary of State or be recognized as a valid domestic partnership in this state based upon the provisions of Section 299.2 of the Family Code or any successor provisions.

(4) **Irrevocable Election.** Once an election is made, it is irrevocable. The Public Safety Officer Retired Member's monthly retirement benefits will be permanently reduced and will not increase if the spouse or Domestic Partner predeceases the Public Safety Officer Retired Member or if their marriage or domestic partnership is otherwise terminated.

(5) **Survivor Benefit.** The benefit authorized by this Section consists of a percentage continuation of the Public Safety Officer Retired Member's monthly retirement benefit payable to the surviving spouse or Domestic Partner of the Member for the survivor's lifetime. In order to be eligible to receive the survivor benefit provided by this Section, the survivor must be either the spouse or Domestic Partner of the Member at the time the Member elected to provide this benefit and at the time of the Member's death. A survivor receiving a benefit under this section shall not be eligible for a health subsidy from the Retirement System. The payment of a survivor benefit provided by this section does not impact the payment of other survivor benefits from the Retirement System.

(6) **Payment Options.** The Public Safety Officer Retired Member shall select the percentage of continuance that they desire to fund from the options provided by the Retirement System. These options shall be established by Board rule and shall provide a reasonable range of choices, subject to any limitations imposed by federal law. If no continuance is payable based on the provisions of Subdivision (2), then the amount paid by the Public Safety Officer Retired Member as a reduction in their monthly retirement benefit shall be refunded as provided therein.

(7) **Right to Review, Modify and Terminate the Program.** The City's right to review the program, as provided below, may not be exercised more often than every five (5) years.

To initiate a review, the City Administrative Officer (CAO) shall request the Retirement System to provide data relevant to the program's costs. If the CAO so requests after reviewing the data provided, an actuarial report shall be

obtained. As part of this review, the City Council shall have the authority, by ordinance, to enact modifications to the program necessary to maintain cost neutrality or to terminate the program if the program cannot be modified to maintain cost neutrality.

If the program is modified, the modifications shall not apply to Public Safety Officer Retired Members who elected this benefit before the effective date of the modifications. If the program is terminated, the Retirement System shall continue to administer the program for all Public Safety Officer Retired Members who elected benefits under the program prior to the termination date, but shall not allow Public Safety Officer Retired Members to elect benefits under the program after the termination date.

(8) Board's Authority to Adopt Rules and Administer the Program.

The Board shall administer this program and adopt any necessary rules, including the authority to establish any mortality assumptions required for the administration of the program.

Sec. 8. Subsection (a) of Section 4.1080.1 of the Los Angeles Administrative Code is amended to read as follows:

(a) For the purposes of Article 3 of Chapter 10 and Article 4 of Chapter 11 of Division 4 of the Los Angeles Administrative Code, the following words and phrases shall have the meaning ascribed to them in this section unless elsewhere defined:

Accumulated Contributions. The total of the amounts paid into the Retirement Fund by the Member and any regular interest credited to the Member's account, as provided in Charter Section 1162(b).

Annuity. Payments for life derived from the accumulated contributions of a Member as provided in this Article.

Base Amount. That portion of a retirement allowance resulting if cost of living amount is deducted therefrom.

Beneficiary. A person entitled to receive a benefit from the Retirement System.

Board of Administration or Board. The Board of Administration of the Los Angeles City Employees' Retirement System, established in Charter Section 1104(b).

City Service or Service. Only those periods during which a Member (1) received compensation from the City as an employee or (2) during which the employee both received Workers' Compensation benefits (Div. IV, Labor Code) for temporary disability on account of any injury or illness arising out of and in the

course of employment with the City, and made contributions to the Retirement Fund as provided in Charter Section 1162. Notwithstanding the foregoing, a Member shall be entitled, at the time of death or retirement, to receive credit for their years of service from the date such Member entered employment with the City of Los Angeles in a capacity that would entitle them to membership in the Retirement System.

City Service Credit or Service Credit. The time component of the formula used by the Retirement System for purposes of calculating benefits pursuant to applicable Los Angeles Administrative Code and Board Rules.

Compensation Earnable. The base salary established for service in any City position or office for the period involved in any calculation required, plus any items of compensation that are designated as pension based in an applicable Memorandum of Understanding or City ordinance. All other items of compensation shall be excluded from the calculation of compensation earnable.

Continuous Service. Uninterrupted City service except that discontinuance of such service for any cause whatever, followed by re-entrance into City service within three (3) years from the date of such discontinuance, shall not be considered as an interruption in the continuity of service.

Cost of Living Amount or COLA. That portion of a retirement allowance resulting from adjustments made pursuant to Section 4.1080.16.

Dependent Parent. A person who the Board of Administration, upon investigation and after a hearing in the matter, shall find is the parent of a Member to or for whom the Member, during the last year of his service, contributed at least one-half the necessary living expenses.

Domestic Partner. A person who has formed a valid domestic partnership by filing a Declaration of Domestic Partnership with the Retirement System, as authorized in Section 4.1080.9 herein, or with the State of California, as authorized in Family Code Section 298.5, or a person who has established a legal union which was validly formed in another jurisdiction that is substantially equivalent to a domestic partnership, as provided in Family Code Section 299.2. Domestic partner shall not include a person who has established a domestic partnership pursuant to any other authority, unless expressly otherwise provided in this Article. A partnership shall be established, for purposes of this Article, on the date of the filing with the Retirement System or state.

Employee. Every person in the employ or service of the City of Los Angeles in any capacity, rank, or office, at a regular salary, wage, or compensation.

Forfeit or Forfeiture shall have the meaning provided by Internal Revenue Code Section 401(a)(8).

Larger Annuity. The annuity funded entirely by the Member as provided in Section 4.1080.3(d).

Member or Tier 3 Member. An employee of the City of Los Angeles who meets the membership requirements contained in Section 4.1080.2. Notwithstanding the foregoing, a person who is no longer employed by the City but who qualifies for reciprocity under Section 4.1096 and whose Tier 3 Member contributions remain on deposit with the Retirement Fund may be considered to be a Member, but only to the limited extent necessary to comply with the reciprocity provisions contained in Section 4.1096. Member, as used in this article, shall mean a Member of Tier 3 unless otherwise specified.

Operative Date. The “effective date,” unless a different date is specified by any ordinance adopted pursuant to the provisions of Charter Section 1168.

Public Safety Officer Member. The following definition shall apply only to Article 3 of Chapter 10 of the Los Angeles Administrative Code. A Member of Tier 3 of the Retirement System who while a City employee and on their retirement date, which shall occur on or after March 25, 2022, was employed by the Police Department, Harbor Department, or Recreation and Parks Department as a peace officer as defined in California Penal Code Section 830.1 or Section 830.31. Public Safety Officer Member also shall include an Airport Peace Officer Member who elected not to make a one-time lump sum payment of \$5,700 on or before January 8, 2019 in exchange for the enhanced benefits provided by Sections 4.1007(a), 4.1008.1 and 4.1010.1 as set forth in Section 4.1002(e)(2). To the extent a Public Safety Officer Member qualifies retroactively for the enhanced benefits provided for in Sections 4.1080.8.1 and 4.1080.10.1, LACERS will adjust those benefits accordingly.

Public Safety Officer Former Member. The following definition shall apply only to Article 3 of Chapter 10 of the Los Angeles Administrative Code. A former Member of Tier 3 of the Retirement System who while a City employee and on the date that they separated from City Service or ceased to be a member of the Retirement System, which shall occur on or after March 25, 2022, was employed by the Police Department, Harbor Department, or Recreation and Parks Department as a peace officer as defined in California Penal Code Section 830.1 or Section 830.31. Public Safety Officer Former Member also shall include an Airport Peace Officer Former Member who elected not to make a one-time lump sum payment of \$5,700 on or before January 8, 2019 in exchange for the enhanced benefits provided by Sections 4.1007(a), 4.1008.1 and 4.1010.1 as set forth in Section 4.1002(e)(2). To the extent a Public Safety Officer Former Member qualifies retroactively for the enhanced benefits provided for in Sections 4.1080.8.1 and 4.1080.10.1, LACERS will adjust those benefits accordingly.

Public Safety Officer Retired Member. The following definition shall apply only to Article 3 of Chapter 10 of the Los Angeles Administrative Code. A retired Member of Tier 3 of the Retirement System who while a City employee and on their retirement date, which shall occur on or after March 25, 2022, was employed by the Police Department, Harbor Department, or Recreation and Parks Department as a peace officer as defined in California Penal Code Section 830.1 or Section 830.31. Public Safety Officer Retired Member also shall include an Airport Peace Officer Retired Member who elected not to make a one-time lump sum payment of \$5,700 on or before January 8, 2019 in exchange for the enhanced benefits provided by Sections 4.1007(a), 4.1008.1 and 4.1010.1 as set forth in Section 4.1002(e)(2). To the extent a Public Safety Officer Retired Member qualifies retroactively for the enhanced benefits provided for in Sections 4.1080.8.1 and 4.1080.10.1, LACERS will adjust those benefits accordingly.

Regular Interest. Interest credited to the individual account of each member as provided in Charter Section 1162(b).

Reserve Basis. A system which provides for the accumulation and maintenance of a fund which will at all times be equal to the difference between the present value of the obligations assumed and the present value of the money to be received for paying such obligations, where such present values are estimated in accordance with accepted actuarial methods and on the basis of an assumed rate of interest and the mathematical probabilities of the occurrence of such contingencies as affect both the payment of the assumed obligations and the receipt of money with which they are to be paid.

Retirement Allowance or Allowance. An allowance granted under this Article, together with all subsequent adjustments thereto, if any.

Retired Member or Retired Tier 3 Member. A former member who is receiving a monthly benefit from Tier 3 of the Retirement System. A retired member shall not be considered a member for purposes of this article and, if re-employed as authorized in Charter Section 1164, shall continue to be a retired member.

Retirement Fund. The trust fund established for the Retirement System in Charter Section 1154.

Retirement System or System. The Los Angeles City Employees' Retirement System (LACERS).

Spouse. A person who is a party to a valid marriage.

Sec. 9. Section 4.1080.8 of the Los Angeles Administrative Code is amended to read as follows:

(a) **Application for Disability Retirement.** Any Member who has five (5) or more years of Continuous Service and who has become physically or mentally incapacitated and who is incapable, as a result thereof, of performing their duties, may be retired upon written application of such Member, or any person acting their behalf, or of the head of the department in which such Member is employed. Where the Member's incapacity has been continuous from the discontinuance of such service, any application for disability retirement may be made at any time within, but not exceeding, one (1) year after the discontinuance of the service of such employee or the termination of any duly authorized sick leave with pay.

(b) **Disability Determination.** The Board shall cause each Member who applies for disability retirement to be examined by, and a written report thereon rendered by, at least three (3) regularly licensed, practicing physicians selected by the Board. If the Member is terminally ill, however, the Board only shall require the Member to be examined by one (1) such physician selected by the Board. If, upon considering the report(s) of such physician(s) and such other evidence as shall have been presented to it in connection with the disability retirement application, the Board finds that: (1) the Member has become physically or mentally incapacitated and is incapable, as a result thereof, of performing their duties; and (2) such disability was not due to intemperance or the willful misconduct of such Member, then the Board shall determine that the Member shall be retired as of the date of the discontinuance of their service on account of such disability or termination of sick leave with pay.

(c) **Disability Retirement Allowance.** Any Member retired on account of disability shall receive a disability retirement allowance that shall consist of:

(1) An annuity which shall be the actuarial equivalent of their Accumulated Contributions at the time of their retirement, calculated in accordance with approved actuarial methods as of the date of retirement; and

(2) A pension which shall be in such an amount that the same, when added to that portion of their annuity not derived from additional contributions paid to provide a larger annuity at the time of retirement, shall be a sum which shall be equal to one-seventieth ($1/70$) of their Final Compensation, as defined in Section 4.1080.1(b), calculated as of the date of retirement, multiplied by the number of years of City Service Credit of such Member.

If the sum resulting from this calculation should be an amount that represents less than one-third ($1/3$) of the Member's Final Compensation, the disability retirement allowance shall be one-third ($1/3$) of their Final Compensation.

(d) **Death of Applicant Prior to Board Action.** Whenever the Board shall have before it for consideration an application for disability retirement by a Member who

died while they were waiting for the application to be processed and prior to the Board's receipt of the physician reports required under Subsection (b) of this section, a disability retirement may be granted on the basis of fewer than three medical reports or no such reports subject to the following provisions:

The Board must find:

(1) That the applicant was physically or mentally incapacitated since the discontinuance of service and incapable of performing the duties of their position; and

(2) That the disabling condition(s) and death of the applicant were not due to the applicant's intemperance or willful misconduct.

The Board shall have the authority to adopt all necessary rules to implement the provisions of this subsection including, but not limited to, rules regarding the type and quantity of evidence required to make the determination required herein.

In the event that an applicant's disability retirement is granted by the Board after their death, whether pursuant to the provisions of this subsection or based upon three or more reports that were obtained from physicians selected by the Board, and they leave a survivor eligible for a continuance of their disability retirement allowance as provided in Section 4.1080.12, the disability retirement allowance payable to such deceased Member shall be reduced so as to provide for a one hundred percent (100%) disability survivorship allowance as if such deceased applicant had elected to provide a one hundred percent (100%) continuance benefit under the provisions of Section 4.1080.14(a)(1).

(e) **Review of Disability Retirees.** The Board, from time to time in its discretion, may require any beneficiary under the age of sixty (60) years who shall have been retired because of disability to submit to medical examination by one or more regularly licensed practicing physicians selected by the Board. Upon the basis of such examination and other proper evidence, said Board shall determine whether such beneficiary is still incapacitated for service in the position held by the beneficiary at the time of their retirement. If the Board determines that such beneficiary is not so incapacitated, the beneficiary shall be restored to duty in the position held by them at the time of the disability retirement order, and, upon their return to active service, their retirement allowance shall be canceled.

The Board, at its discretion, may cancel a retirement allowance where a beneficiary fails, neglects, or refuses either to submit to a medical examination ordered by the Board or to return to active service when deemed no longer incapacitated and within such reasonable time as determined by the Board. If the Board so determines, the only right that the beneficiary shall have as a former Member pursuant to Section 4.1080.4 of this article is to receive a refund of their Accumulated Contributions, less any payments made on account of the annuity provided herein.

If the Board should determine that a beneficiary is no longer incapacitated, but the beneficiary cannot be restored to duty in the position held by them at the time of retirement due to the beneficiary's termination or resignation, the Board shall cancel their retirement allowance, and, as a former Member, they shall have the rights set forth in Section 4.1080.4, provided that, in the event they requests a refund of contributions, the accumulated contributions shall be reduced by any payments made on account of the annuity provided herein.

(f) **Consensual Re-Employment in a Different Position.** Any person retired for disability by the Board, even though incapable of performing the duties of the position from which they have been or shall be retired, may be re-employed in a different vacant position if the Board of Civil Service Commissioners finds that they are capable of performing the duties of such position. Such person may be so re-employed only with the consent of the appointing authority for such position and the written consent of such person. The Board of Civil Service Commissioners shall adopt rules and regulations to effectuate the purpose of this subsection. Upon the re-employment of such person, their disability retirement allowance shall cease, and, should they be eligible for membership in the Retirement System, they again shall become a Member of the Retirement System.

(g) **Rights and Obligations upon Re-Employment.** Any beneficiary who retires for disability as a Tier 3 Member and subsequently re-enters the service of the City, as provided in Subsection (e) or (f) herein, and again becomes a Member of the Retirement System, shall return to membership in Tier 3. The balance, if any, of their Accumulated Contributions, after deducting the annuity payments made to them on account of a disability retirement allowance, shall be credited to the individual account of such Member with the Retirement System, regardless of whether they becomes a Member of the Retirement System or of another City retirement system upon re-employment. Upon returning to service from disability retirement, a Member may elect to make additional contributions to their individual retirement account, as provided by Board rule, in order to restore part or all of their annuity.

A beneficiary shall receive credit for services rendered prior to the date of their retirement in the same manner as though they had never been retired for disability, but the payment of a disability pension shall not constitute compensation from the City entitling them to Service for the period it was paid. If otherwise eligible, a Member may purchase eligible service with another governmental entity for employment during periods in which they received a disability allowance.

(h) **Board Authority.** The Board shall have the power to hear and determine all matters pertaining to the granting or termination of any retirement allowance provided for in this section, and the determination of the Board shall be final and conclusive.

(i) **Loan Program for Disability Applicants.** The Board shall establish a loan program, by rule, for Members who have made application for disability retirement or upon whose behalf an application has been made in accordance with the provisions

of this section, provided that the loan program shall be in compliance with the provisions of Internal Revenue Code Section 72(p). The loan program further shall provide that in no event shall the amount of funds loaned to any Member exceed the amount of contributions and interest in the Member's LACERS account, and that, once a Board determination is made granting or denying a Member's disability application, no further funds shall be loaned to the Member in connection with that application. Loan repayments will be suspended under this program as permitted under Section 414(u)(4) of the Internal Revenue Code.

(j) Right to Make Back Contributions When Disability Application

Denied. Any Member who has, at any time, filed an application for disability retirement that was denied by the Board of Administration upon a finding that the applicant had not become physically or mentally incapacitated so as to be incapable of performing their duties, shall have the right to designate up to six (6) months of the period while such application was pending for purposes of acquiring credit towards City Service as defined in Section 4.1080.1(a), subject to the following conditions:

(1) The designated period does not already entitle the Member to Service Credit.

(2) The maximum period to be designated is six (6) months or the actual period of time while the application for disability retirement was pending, whichever was less.

(3) If a Member has applied more than once for disability retirement, the cumulative total period to be designated may not exceed six (6) months or the time elapsed while applications were processed, whichever is fewer.

(4) The right granted herein shall be exercised in writing, filed with the Board, designating the period of City Service for which the Member desires to receive Service Credit, and must be accompanied by a single payment of back contributions or by an irrevocable agreement to pay such back contributions in installments. The back contributions to be paid shall be in an amount equal to all of the contributions which they would have made to the Fund had they been making contributions during such period, based upon such person's Compensation Earnable before the discontinuance of their service, together with all regular interest which, had they so made the same, would have been credited thereon prior to the date of such payment. Installment payments shall be made pursuant to rules adopted by the Board. Every Member who makes up back contributions as provided herein shall be allowed credit for the period of City Service designated in the declaration filed by them with the Board. If they cease to be a Member of the System before making up the full amount thereof, they shall be allowed Service Credit, counter-calendarwise, for the same portion of such designated period as the amount made up by them. If the Member ceases to be a Member by reason of their death, Service Credit shall be allowed for the whole period designated by them if their surviving spouse or Domestic Partner

exercises the option granted in this article to any surviving spouse or Domestic Partner to make a single payment of all of the unpaid installments with accrued interest thereon.

(k) **WPERP Service.** Service with the Water and Power Employees' Retirement Plan (WPERP) shall not count towards Continuous Service for purposes of Subsection (a) of this section. Service with the WPERP shall be included as years of service in the calculation of the Member's disability retirement allowance pursuant to Subsection (c) of this section, where such service was transferred to the Retirement System pursuant to reciprocity under current Section 4.1095 or former Section 4.1060. LACERS shall consider such service to the extent required by those Code sections.

Sec. 10. A new Subsection (l) is added to Section 4.1080.8 of the Los Angeles Administrative Code to read as follows:

(l) A Public Safety Officer Member who applies for disability retirement shall be subject to Section 4.1080.8.1, and the provisions of this Section 4.1080.8 shall not apply.

Sec. 11. A new Section 4.1080.8.1 is added to the Los Angeles Administrative Code to read as follows:

Sec. 4.1080.8.1. Disability Retirement for Public Safety Officer Members.

(a) **Application for Disability Retirement.** Any Public Safety Officer Member who has completed Peace Officer Standards and Training and taken the Oath of Office, applying for a service-connected disability, or who has five (5) or more years of Continuous Service, applying for a nonservice-connected disability, who has become physically or mentally incapacitated and who is incapable, as a result thereof, of performing their duties, may be retired upon written application of such Member, or any person acting on their behalf, or on behalf of the head of the department wherein such Member is employed. Any such application may be made at any time within, but not exceeding, one (1) year after the discontinuance of the service of such employee or the termination of any duly authorized sick leave with payment, provided such incapacity has been continuous from the discontinuance of such service. No application may be filed under this Section 4.1080.8.1 prior to March 25, 2022.

(b) **Service-Connected Disability.** Upon the filing of their written application for a disability retirement allowance or upon the filing of a written application by any person acting on their behalf or on behalf of the head of the department wherein such Member is employed, any Public Safety Officer Member whom the Board shall determine has become physically or mentally incapacitated by reason of injuries received or sickness caused by the discharge of the duties of such person as an employee sworn in, as provided by Penal Code Section 830.1 or Section 830.31, to perform peace officer functions for the department wherein such Member is employed, and who is incapable as a result thereof from performing their assigned duties, or those

to which they would be assigned within their civil service classification if returned to duty, shall be retired by order of the Board from further active duty as a Public Safety Officer Member.

A Public Safety Officer Member's incapacity is caused by the discharge of their duties if there is clear and convincing evidence that the discharge of the Member's duties is the predominant cause of the incapacity.

A Public Safety Officer Member retired under the provisions of this subsection shall be paid thereafter a monthly service-connected disability retirement allowance in an amount which shall be equal to the same percentage of the Member's Final Compensation as the Board shall determine, from time to time, to be the percentage of their disability. Such retirement allowance shall be in an amount of not less than 30% and not more than 90% of the Retired Public Safety Officer Member's Final Compensation, but in no case shall the retirement allowance be less than the equivalent of 2% of Final Compensation for each year of Service of the Retired Public Safety Officer Member.

No Retired Public Safety Officer Member, while retired pursuant to this Subsection, ever shall be paid any retirement allowance pursuant to Sections 4.1080.5 (Service Retirement) or 4.1080.6 (Deferred Service Retirement) or Subsection (c) of this section.

(c) **Nonservice-Connected Disability.** Upon the filing by any Public Safety Officer Member's written application for a disability retirement allowance who shall have five (5) or more years of continuous service, or upon the filing of a written application by any person acting on the Member's behalf, or on behalf of the head of the department wherein such Member is employed, for any Public Safety Officer Member whom the Board shall determine has become physically or mentally incapacitated by reason of injuries or sickness other than injuries received or sickness caused by the discharge of the duties of such person, and who is incapable as a result thereof from performing their assigned duties or those to which they would be assigned within the Member's civil service classification if returned to duty, shall be retired by order of the Board from further active duty as an employee. As a further condition of entitlement to such a retirement, the Board also shall determine that such disability was not due principally to or caused by intemperance or the willful misconduct of the Member intended to entitle them to a nonservice-connected disability retirement.

A Public Safety Officer Member retired under the provisions of this subsection shall be paid thereafter a monthly nonservice-connected disability retirement allowance in an amount which shall be equal to the same percentage of the Retired Public Safety Officer Member's Final Compensation as the Board shall determine, from time to time, to be the percentage of their disability, but such retirement allowance shall be in an amount of not less than 30% and not more than 50% of the Retired Public Safety Officer Member's Final Compensation.

No Public Safety Officer Member, while retired pursuant to this subsection, ever shall be paid any retirement pursuant either to Sections 4.1080.5 (Service Retirement) or 4.1080.6 (Deferred Service Retirement) or to Subsection (b) of this section.

(d) **Determination of Disability.** The Board shall have the power to hear and determine all matters pertaining to the granting and denying of any application for a disability retirement. The Board shall cause each Member who applies to be examined by, and a written report thereon rendered by, at least three (3) regularly licensed, practicing physicians selected by the Board, unless the Member is terminally ill, in which case the Board only shall require the Member to be examined by one (1) such physician selected by the Board. The Board shall hold a hearing with respect to such application. The Board shall receive such other evidence relating to or concerning the Member's disability or claimed disability as may be presented to it.

The Board first shall determine whether or not the Member is incapable of performing their duties or those to which they would be assigned within the Member's civil service classification if returned to duty. If the Board were to determine that they are not so incapable, it then shall be the duty of the Board to deny the application. If the Board were to determine that they are so incapable, it then shall determine, pursuant to the language used in Subsections (b) and (c) of this section, whether their incapacity or disability is service-connected or nonservice-connected. The Board then shall determine the percentage of the Member's incapacity or disability, within the limitations prescribed in Subsections (b) and (c) of this section, and shall grant the application accordingly. If the Board were to determine that the incapacity or disability was principally due to or caused by voluntary action by the Member intended to entitle them to a nonservice-connected disability retirement allowance, or due to intemperance or the willful misconduct of such Member, as defined in rules promulgated by the Board, it then shall be the duty of the Board to deny the application. In the case of any Public Safety Officer Former Member, the Board, in order to grant any application filed by them for a disability retirement, also must determine, in addition to all of the foregoing, that any existing incapacity or disability upon their part occurred prior to the termination of their active status, and that such incapacity or disability had been continuous up to the date of the Board's determinations.

The Board upon its own motion or upon the written request of any Retired Public Safety Officer Member, retired pursuant to Subsections (b) or (c) of this section, shall have the power to consider new evidence pertaining to the case of any such Retired Member and to increase or decrease the percentage of their incapacity or disability within the limitations prescribed in Subsections (b) or (c) of this section. Any such increase or decrease shall be based only upon the injuries or sickness for which they were retired.

The Board shall adopt a disability rating schedule by rule to assist in standardizing disability retirement awards.

(e) **Death of Applicant Prior to Board Action.** If a Public Safety Officer Member dies while they were waiting for the application to be processed, the death and survivorship benefits payable to their survivor(s) shall be determined under Section 4.1080.10.1 herein.

(f) **Termination of Disability Retirements.** The Board shall have the power to hear and determine upon its own motion all matters pertaining to the termination or reduction of any disability retirement pursuant to the provisions of this subsection.

(1) **Retirements Granted to Persons Whose Active Status Terminated By Reason of Disability Retirement.** The retirement of any Retired Public Safety Officer Member, retired pursuant to Subsections (b) or (c) of this section and whose active status as an employee sworn in, as provided by Penal Code Section 830.1 or Section 830.31, to perform peace officer functions for the department wherein the Member is employed, had been terminated by reason of their retirement, shall cease when the incapacity or disability for which they had been retired shall cease and they either:

(A) shall have been restored to active duty as an employee sworn in, as provided by Penal Code Section 830.1 or Section 830.31, to perform peace officer functions for the department wherein the Member had been employed prior to retiring, in the same permanent rank which they had held as of the date of retirement; or

(B) shall have been ordered restored to active duty as an employee sworn in, as provided by Penal Code Section 830.1 or Section 830.31, to perform peace officer functions for the department wherein the Member had been employed prior to retiring, in such same permanent rank and shall have declined, refused or neglected to report therefor or to perform duties as such.

Provided, however, that any Retired Public Safety Officer Member who has been retired for more than five (5) years from the date of the Board's action by which they were retired may never be restored to active duty as a Public Safety Officer Member. After a Retired Public Safety Officer Member, who has been retired for more than five (5) years on a service-connected or non-service-connected disability retirement, has been found to be no longer disabled, the Board shall adjust such Retired Public Safety Officer Member's retirement allowance to 30% of their Final Compensation. The adjusted allowance shall reflect such cost of living adjustments as would have occurred had the Retired Public Safety Officer Member's retirement allowance originally been based on such adjusted percentage.

(2) **Return to Active Duty from Disability Retirement.** A Public Safety Officer Member who the Board restored to active duty shall begin to earn time toward a service retirement (for the period they were receiving a service-

connected disability retirement) after one year back on active duty, provided no time is lost due to the disabling condition. If they complete one (1) to three (3) years of service, they shall receive credit for the time retired on a service-connected disability, to the extent the length of service following restoration matches the length of time on a service-connected disability retirement. After three (3) years of completed service after returning to duty, the Public Safety Officer Member shall receive credit for the entire period they were on a service-connected disability retirement.

A Public Safety Officer Member who is restored to active duty from a nonservice-connected disability retirement may, after completing one (1) year of service, make contributions to restore their Service Credit for the period they received a disability retirement allowance, subject to requirements provided by Board rule.

(3) **Retirements Granted to Public Safety Former Members.** The retirement of any Retired Public Safety Officer Member, retired pursuant to Subsections (b) or (c) of this Section, whose active status as an employee sworn in, as provided by Penal Code Section 830.1 or Section 830.31, to perform peace officer functions for the Department wherein they were employed, had been terminated by reason of their resignation or discharge as such, shall cease when the incapacity or disability for which they received a disability retirement shall cease.

(g) **Periodic Medical Examinations.** Except in those instances in which the Board has determined that, due to the nature of the disability, no purpose would be served in having periodic medical examinations to determine whether or not a Retired Public Safety Officer Member is still disabled, all Retired Public Safety Officer Members on a disability retirement shall undergo medical examinations at periodic intervals on a schedule determined by the Board for the first five (5) years of disability retirement, and at any time thereafter.

Any Retired Public Safety Officer Member who has been retired for more than five (5) years on a service-connected or nonservice-connected disability retirement and who the Board found to be no longer disabled, or who has failed to submit to such medical examination as the Board may order within such reasonable time as the Board may determine, shall have their allowance adjusted by the Board to thirty percent (30%) of the Member's Final Compensation. The adjusted allowance shall reflect such cost of living adjustments as would have occurred had the Retired Public Safety Officer Member's pension originally been based on such adjusted percentage.

If a Retired Public Safety Officer Member resides outside of the State of California, the Board shall have the authority to order medical examinations of Retired Members at any place it may determine to be desirable and shall have the authority to defray the reasonable cost of any such travel required if it is determined that it would impose hardship on the person to be examined to travel to such place. The definition of

hardship and the documentation required to verify hardship shall be established by the Board.

(h) **Assessing Cost for Missed Medical Appointments.** The Board shall have the authority to establish a rule that assesses the cost of missed medical appointments on the Public Safety Officer Member applying for disability retirement or the Retired Public Safety Officer Member receiving a disability retirement allowance, where such missed appointments were not caused by factors beyond the control of the Public Safety Officer Member or Retired Public Safety Officer Member.

(i) **Re-application After Denial of Disability Retirement.** The Board shall establish reasonable rules governing the re-application by a Public Safety Officer Member for a disability retirement where an application has been denied and a new application has been filed subsequently for the same or similar medical reasons as those which were the basis of a previously denied application. A Public Safety Officer Former Member, whose status as an employee sworn in, as provided by Penal Code Section 830.1 or Section 830.31, to perform peace officer functions for the department wherein the Public Safety Officer Member was employed, had been terminated by reason of their resignation or discharge prior to the date that the Board determined to deny the original application, shall have no right to file a new application because the earlier denial, once final, established as a matter of law that they did not qualify for disability retirement at the time of the Board's determination.

(j) **Consensual Re-Employment in a Different Position.** Any person heretofore or hereafter retired for disability by the Board, even though incapable of performing the duties of the position from which they have been or shall be retired, may be re-employed in a different vacant position if the Board of Civil Service Commissioners were to find that they are capable of performing the duties of such position; provided, however, that such person may be so re-employed only with the consent of the appointing authority for such position and the written consent of such person. The Board of Civil Service Commissioners shall adopt rules and regulations to effectuate the purpose of the foregoing provisions. Upon the re-employment of such person, their disability retirement allowance shall cease, and, should they be eligible for membership in the Retirement System, they again shall become a Member of the Retirement System. Re-employment must occur within five (5) years of being granted a disability retirement.

(k) **Rights and Obligations upon Re-Employment.** Any Public Safety Officer Retired Member who re-enters the service of the City, as provided in Subsections (f) or (j) of this section, and again becomes a Member of the Retirement System, shall return to membership as a Public Safety Officer Member of Tier 3. The balance, if any, of the Public Safety Officer Retired Member's Accumulated Contributions, after deducting the annuity payments made to them on account of a disability retirement allowance, shall be credited to the individual account of such Member with the Retirement System, regardless of whether they become a Member of the Retirement System or of another City retirement system upon re-employment.

The Public Safety Officer Retired Member shall receive Service Credit for City Service prior to the date of their retirement in the same manner as though they had never been retired for disability. The payment of a disability retirement allowance shall not constitute compensation from the City entitling them to service for the period it was paid, except as provided in Section 4.1080.8.1(f)(2).

(l) **Exclusion for Intemperance or Willful Conduct.** In making its determinations and findings relative to Subsections (a), (b) and (c) of this section, the Board shall consider whether and to what extent the activity giving rise to the disability of a Public Safety Officer Member was caused or aggravated by such Member's willful misconduct. If the Board finds that the disability was caused or aggravated by such willful misconduct, the Board shall deny the Public Safety Officer Member's application for a disability retirement.

(m) **Board Authority.** The Board shall have the power to hear and determine all matters pertaining to the granting or termination of any retirement allowance provided for in this section. The determination of the Board shall be final and conclusive.

(n) **Loan Program for Public Safety Officer Member Disability Applicants.** The Board, by rule, shall establish a loan program for Public Safety Officer Members who have applied for disability retirement or upon whose behalf an application has been made in accordance with the provisions of this Chapter, provided that the loan program shall be in compliance with the provisions of Internal Revenue Code Section 72(p) and any other applicable provisions of the Internal Revenue Code. The loan program further shall provide that in no event shall the amount of funds loaned to any Member exceed the amount of contributions and interest in the Member's LACERS account, and that, once a Board determination is made granting or denying a Member's disability application, no further funds shall be lent to the Member in connection with that application. Loan repayments will be suspended under this program as permitted under Section 414(u)(4) of the Internal Revenue Code.

(o) **Right to Make Back Contributions When Disability Application Denied.** Any Member who has, at any time, filed an application for the benefit of a disability retirement, which application was thereafter denied by the Board of Administration upon a finding by said Board that the applicant had not become physically or mentally incapacitated so as to be incapable of performing their duties, shall have the right to designate up to six (6) months of the period while such application was pending for purposes of acquiring credit towards City Service as defined in Section 4.1080.1, subject to the following conditions:

(1) The designated period does not already entitle the Member to Service Credit.

(2) The maximum period to be designated is six (6) months or the actual period of time while the application for disability retirement was pending, whichever is fewer.

(3) If a Member has applied more than once for disability retirement, the cumulative total period to be designated may not exceed six (6) months or the time elapsed while applications were processed, whichever is fewer.

(4) The right granted herein shall be exercised in writing, filed with the Board, designating the period of City Service for which the Member desires to receive retirement credit, and must be accompanied by a single payment of back contributions or by an irrevocable agreement to pay such back contributions in installments. The back contributions to be paid shall be in an amount equal to all of the contributions which they would have made to the Retirement Fund had they been making contributions during such period, based upon such person's Compensation Earnable before the discontinuance of their service, together with all regular interest which, had they so made the same, would have been credited thereon prior to the date of such payment; provided, however, that in the case of such installment payments thereof, the same shall be made pursuant to rules which shall be adopted by the Board establishing minimum amounts to be paid and the period of time therefor, and providing the rate of interest which also shall be paid upon the unpaid balance of the same. Every Member who makes up back contributions as provided herein shall be allowed credit for the period of City Service designated in the declaration filed by them with the Board; provided, however, that should they, for any reason, cease to be a Member before making up the full amount thereof, they shall be allowed retirement credit, counter-calendarwise, for the same portion of such designated period as the amount made up by them is of such full amount, and provided further that, should they cease to be a Member by reason of their death, retirement credit shall be allowed for the whole period designated by them if the Member's surviving spouse or domestic partner were to exercise the option which, under such circumstances, hereby is given to any surviving spouse or Domestic Partner to make a single payment of all of the unpaid installments with accrued interest thereon.

(p) Disability Retirements for Public Safety Officer Former Members.

Any Public Safety Officer Former Member, who became separated from City Service or ceased to be a Member of the Retirement System because of termination of their employment for any reason including service retirement and shall believe that they are eligible to be paid a disability retirement allowance pursuant to this Section 4.1080.8.1, may file their written application for the payment of a disability retirement allowance within one (1) year from the date they ceased to be a Public Safety Officer Member, or one (1) year from their last day on active payroll. The Board, if it were to determine that the contingencies provided in this section for the payment of a disability retirement allowance had happened or occurred as to the Public Safety Officer Former Member prior to the date upon which they had ceased to be a Member, and if there is no legal bar or defense to the granting to them of such retirement or to any judicial action or proceeding which could be brought by them with respect thereto, shall grant them the retirement allowance in accordance with their written application.

Sec. 12. Section 4.1080.10 of the Los Angeles Administrative Code is amended to read as follows:

Sec. 4.1080.10. Payments Upon Death of Member, Former Member, or Retired Member.

(a) **Death of Member before Retirement.** Upon the death of any Member before retirement:

(1) **Accumulated Contributions.** The Member's Accumulated Contributions shall be paid to such person or legal entity as the Member shall have nominated by written designation duly executed and filed with the Board of Administration or, if there be no such written designation of beneficiary, then to the surviving spouse or Domestic Partner of such deceased Member, or to the Member's children in the event there be no surviving spouse or Domestic Partner, or to the Member's parents in the event there be no surviving spouse or Domestic Partner or children. In the event there be no written designation of beneficiary, surviving spouse or Domestic Partner, children or parents, then said Accumulated Contributions shall be paid to the executor or administrator of the estate of such deceased Member, or to any other person or legal entity legally authorized to collect money due the decedent.

(2) **Limited Pension.** In the event such Member shall have had at least one (1) year of City Service for which the Member is entitled to receive Service Credit, then a limited pension shall be paid as provided herein. The limited pension shall be paid in equal monthly payments of one-half (1/2) of the average monthly Compensation Earnable of such Member during the Member's last year of service. For each year of service, not to exceed six (6) years, two (2) monthly payments shall be paid, not to exceed a total of twelve (12) monthly payments for six (6) or more years of service. Such limited pension shall be paid to the surviving spouse or Domestic Partner of such deceased Member or to the minor children of such Member, in the event there shall be no surviving spouse or Domestic Partner. The payment to a minor child shall continue beyond the month the child reaches age eighteen (18) if the child was a minor on the date of the Member's death. In the event there be no surviving spouse or Domestic Partner or minor children, the limited pension shall be paid to the dependent parents of such Member. However, no limited pension shall be paid in the event the Board of Administration, upon investigation and after a hearing in the matter, finds that the death of such Member was due to or resulted from the intemperance or the willful conduct of such Member. In the event any such beneficiary dies before receiving the full amount of such limited pension, the limited pension shall be continued to the persons who, in the order hereinabove set forth, qualify as beneficiaries as of the date of death of the deceased beneficiary and who, within sixty (60) days after such date make demand for payment thereof; provided, however, that in the event no such demand is made

within such time, the said limited pension shall be deemed conclusively to have been terminated as of such date of death.

(3) **Election of Optional Retirement Allowance when Member Eligible to Retire.** In the event a Member was eligible to retire pursuant to the provisions of Section 4.1080.5 and the person or persons entitled to be paid the Member's limited pension is or are the same person or persons entitled to be paid, against the claims or demands of any and all other persons thereto, the full amount of such Member's Accumulated Contributions, then the person or persons entitled to be paid both the Member's limited pension and Accumulated Contributions may, by a written instrument duly executed, acknowledged and filed with the Board of Administration, waive payment of such limited pension and such accumulated contributions and elect to be paid, in lieu thereof, the optional retirement allowance which would have been paid to such Member throughout the Member's life and continued, upon the Member's death, throughout the life or lives of such person or persons as the Member's designated survivor or survivors, had the Member, as of the day preceding the Member's death, been retired pursuant to the provisions of Section 4.1080.14(a)(1) and designated such person or persons as the Member's survivor or survivors. In no event shall the benefits of this subsection be payable to any person after the allowance of a limited pension pursuant to the provisions of this subsection, nor shall the limited pension be payable to any person after the allowance of the benefits of this subsection. If any person elects to receive the optional retirement allowance provided in this subsection, no benefits shall be paid from the Family Death Benefit Plan established in Section 4.1090 of this chapter.

The duly appointed, qualified and acting guardian of the estate of a minor child or an incompetent shall make such waiver and election on behalf of such minor child or incompetent.

If a surviving spouse or domestic partner makes the election authorized herein, the annuity portion of the allowance to be paid shall be calculated on the basis of the Member's normal Accumulated Contributions as opposed to the sum of the Normal Contributions and the Survivor Contributions. The excess of the deceased Member's total accumulated contributions over the normal Accumulated Contributions at the time of death shall be paid to said surviving spouse or Domestic Partner or, at the option of such survivor, considered as additional contributions made to provide a Larger Annuity benefit.

The deceased Member's accrued vacation time, or any necessary portion thereof, as defined in Article 1, Chapter 6, Division 4 of this Code or an applicable memorandum of understanding, immediately preceding the day of the Member's death may be added to their total years of service in order to render the deceased Member eligible to have retired pursuant to Section 4.1005 at the time of death and to ensure their survivor qualifies for the survivorship benefits provided in this subsection. The benefit herein created shall be available at the

option of the eligible survivor of the deceased Member. Accrued vacation time of a deceased Member may be utilized only for purposes of establishing eligibility to the survivorship benefits provided herein and may not be used to create or affect other retirement rights provided in the City Charter or the Los Angeles Administrative Code.

(4) **Survivor Benefit Options.** Certain survivors of Members who die before retirement may be eligible to elect to receive a lifetime allowance pursuant to the provisions of Section 4.1080.11. The right to elect the benefit provided in Section 4.1080.11 is contingent upon an otherwise eligible survivor being entitled to receive all of the deceased Member's contributions because that benefit is provided in lieu of the payment of the Member's contributions and a limited pension, as authorized in this subsection.

(b) **Death of Former Member before Retirement.** Upon the death of any former Member who had not yet retired and whose contributions remain on deposit:

(1) **Accumulated Contributions.** The former Member's Accumulated Contributions shall be paid to the person or legal entity the former Member shall have nominated by written designation duly executed and filed with the Board of Administration or, if there be no written designation of beneficiary, then to the surviving spouse or Domestic Partner of the deceased Member, or to the Member's children in the event there be no surviving spouse or Domestic Partner, or to the Member's parents in the event there be no surviving spouse or Domestic Partner or children. In the event there be no written designation of beneficiary, surviving spouse or Domestic Partner, children or parents, then the Accumulated Contributions shall be paid to the executor or administrator of the estate of such deceased Member, or to any other person or legal entity legally authorized to collect money due the decedent.

(2) **Optional Retirement Allowance.** In the event the surviving spouse or Domestic Partner of the former Member is entitled to be paid, against the claims or demands of any and all other persons thereto, the full amount of such former Member's Accumulated Contributions, and further provided that such former Member had completed five (5) or more years of Continuous Service with the City:

(i) **Eligible for Deferred Retirement.** If a former Member was eligible for deferred service retirement at the time of their death, then such surviving spouse or Domestic Partner may by a written instrument, duly executed, acknowledged and filed with the Board of Administration, waive payment of the Accumulated Contributions that would otherwise be payable under this subsection and elect to receive an optional retirement allowance equal to that which the former Member would have received had they retired under the provisions of Section 4.1080.14(a)(1) on the day prior to their death.

(ii) **Eligible for Future Deferred Retirement.** If a former Member was not eligible for deferred service retirement at the time of their death, then the Member's surviving spouse or Domestic Partner may, by a written instrument duly executed, acknowledged and filed with the Board of Administration, waive payment of the Accumulated Contributions that would otherwise be payable under this subsection, and elect to wait until such time as the former Member would have been entitled to receive a service retirement allowance and then shall receive an optional retirement allowance equal to that which the former Member would have received had they retired under the provisions of Section 4.1080.14(a)(1) on the day first eligible to receive such benefit.

(c) **Death of Retired Member.** Upon the death of a retired Member:

(1) **Survivor Continuance Options.** Sections 4.1080.12, 4.1080.13, and 4.1080.14 contain provisions that authorize the payment of retirement allowances to specified survivors of retired Members. These benefits are generally referred to as continuance benefits because the benefit is based on a continuation to the survivor of some portion of the deceased retired Member's allowance.

(2) **Unused Contributions and Unpaid Retirement Allowance.** Upon the death of a retired Member or upon the death of all of the Member's survivors to whom a retirement allowance was paid, the unused contributions and any accrued but unpaid retirement allowance due the retiree shall be paid in the same manner as that provided in Subsection (a)(1) of this section for the payment of the Accumulated Contributions of a Member who dies before retirement; provided, however, that the retired Member or any survivors shall not have received a retirement allowance pursuant to which no refund of contributions is payable upon the death of the retiree or the retiree's last survivor, in which case no contributions shall be refundable. For the purpose of this article, the phrase "unused contributions" shall be the remainder, if any, of the Accumulated Contributions of the deceased Member after deducting the total of all amounts paid on account of any annuity to such retiree and to the retiree's survivor or survivors, provided that there shall be no unused contributions in the event that the retiree or any survivors received a retirement allowance pursuant to which no refund of contributions is payable upon the death of the retiree or the retiree's last survivor.

The spouse or Domestic Partner who is receiving an allowance as a result of the death of a deceased Member, referred to as a survivor for purposes of this provision, may file a beneficiary designation with the Board of Administration naming a beneficiary or beneficiaries for any accrued but unpaid allowance payable upon the survivor's death and, subject to the limitations set forth below, for the deceased Member's unused contributions.

Upon the survivor's death, any accrued but unpaid allowance due to the survivor shall be paid in the following order: (i) to the survivor's designated beneficiaries; (ii) if none, to the children of the survivor; (iii) if no children, to the parents of the survivor; (iv) if no parents, to the executor or administrator of the estate of the survivor; or (v) to any other person or legal entity legally entitled to collect money due to the survivor. Should the survivor leave no person or legal entity legally entitled to collect any accrued allowance, it shall be paid in the following order: (i) to the deceased Member's children; or (ii) if none, to the deceased Member's parents; or (iii) if none, to the executor or administrator of the estate of the Member; or (iv) to any other person or legal entity legally entitled to collect money due to the deceased Member.

If the deceased Member has failed to designate a beneficiary for the unused contributions or if the beneficiaries so designated by the deceased Member have all predeceased the survivor, then, upon the death of the survivor, the Board of Administration shall pay the unused contributions pursuant to the survivor's beneficiary designation on file with the Board. In the event the survivor has no beneficiary designation on file or the named beneficiaries have all predeceased the survivor, then the unused contributions shall be paid in the following order: (i) to the deceased Member's children; or (ii) if none, to the deceased Member's parents; or (iii) if none, to the executor or administrator of the estate of the survivor; or (iv) to any other person or legal entity legally entitled to collect money due to the deceased survivor.

(3) **Burial Allowance.** Upon the death of every retired Member, the sum of two thousand five hundred dollars (\$2,500.00) shall be paid to one (1) and only one (1) person or legal entity as the retired Member shall have nominated by written designation, duly executed and filed with the Board of Administration; or to the surviving spouse or Domestic Partner of such deceased retired Member, in the event there be no designated beneficiary; or to the Member's child or children, in the event there be no designated beneficiary or surviving spouse or Domestic Partner, provided that such payment shall be made only after satisfactory evidence has been presented to the Board showing that the expense of burial of the decedent has been paid or that the obligation to pay therefor has been assumed by a person or persons or an organization legally capable of contracting such obligation. The fact of burial, as evidenced by a certified copy of the death certificate, shall be sufficient evidence of compliance with the requirements stated in the foregoing sentence. While the purpose of this benefit is to provide a funeral allowance for the deceased retiree, the Retirement System shall have no responsibility to assure that this payment is used for that purpose.

In the event there be no designated beneficiary, surviving spouse or Domestic Partner, or child or children, or in the event the requirements herein stated with respect to the expense of burial of such retired Member have not been complied with within such time as said Board, in its discretion, may

determine, then the payment of the amount specified in this Subsection shall be paid to the executor or administrator of the estate of such decedent, or to any other person or legal entity legally authorized to receive money due said decedent.

(d) **Forfeiture of Unclaimed Contributions to the Retirement Fund.** The right to payment of the Accumulated Contributions upon the death of the Member or former Member before retirement, as provided in Subsections (a) and (b) herein, and the right to payment of the Member's unused contributions, as provided in Subsection (c) herein, upon the later of the death of the retired Member or the Member's survivor to whom an allowance was paid, is a vested property right of the person(s) entitled to such payment; provided, however, that should the person(s) entitled thereto fail to claim this benefit within ten (10) years from the date of such death, the funds shall be forfeited to the Retirement Fund, unless and until the Board of Administration receives a valid belated claim for payment, determined at the sole discretion of the Board of Administration. Any death benefit payable shall be subject to mandatory minimum distribution as required by the Internal Revenue Code, provided that the funds that are required to be distributed shall be forfeited to the Retirement Fund if the person(s) entitled to the funds refuses to cooperate in electing to be paid such funds or cannot be located and the Retirement System has followed Internal Revenue Service procedures to locate such person(s).

Sec. 13. A new Subsection (e) is added to Section 4.1080.10 of the Los Angeles Administrative Code to read as follows:

(e) All benefits payable upon the death of a Public Safety Officer Member, Public Safety Officer Former Member, or Public Safety Officer Retired Member, shall be determined by Section 4.1080.10.1, and the provisions of this section and Sections 4.1080.11, 4.1080.12, 4.1080.13, and 4.1080.14, shall not apply. The provisions of Section 4.1090 establishing the Family Death Benefit Plan shall apply only to the extent that it would not cause a survivor allowance to be paid that exceeds any limitations imposed by the Internal Revenue Code.

Sec. 14. A new Section 4.1080.10.1 is added to the Los Angeles Administrative Code to read as follows:

Sec. 4.1080.10.1. Payments Upon Death of Public Safety Officer Member, Public Safety Officer Former Member, or Public Safety Officer Retired Member.

All benefits payable upon the death of a Public Safety Officer Member, Public Safety Officer Former Member, or Public Safety Officer Retired Member, as defined in Section 4.1080.1, shall be determined by this Section 4.1080.10.1, and the provisions of Sections 4.1080.10, 4.1080.11, 4.1080.12, 4.1080.13, and 4.1080.14 shall not apply. Notwithstanding anything to the contrary, no survivor allowance shall be paid under this Section 4.1080.10.1 to the extent it exceeds any limitations imposed by the Internal

Revenue Code. The Board shall have the authority to adopt rules to implement this limitation.

(a) **Definitions.** As used in this section, the following words and phrases shall have the meaning ascribed to them in this subsection:

Accumulated Contributions. The total of the amounts paid into the Retirement Fund by the Public Safety Officer Member and any interest credited to the Member's account.

Assignment Pay. **Assignment Pay** means any additional gross monthly pay which, by reason of assignment to perform special duties or hazardous duties, in a higher class, position, grade, code or other title than the lowest thereof within the Public Safety Officer Member's permanent rank, shall be provided by ordinance or Memorandum of Understanding.

Dependent Child. Dependent Child means a person who is a child of a deceased Public Safety Officer Member or Public Safety Officer Retired Member, who, while under the age of 21 years, had become disabled, either prior to or after the date of death of such Member, from earning a livelihood for any cause or reason whatsoever. Such person shall be a Dependent Child only until they shall cease to be disabled from earning a livelihood. Should disability cease before the age of 22 years, the limitations set forth in Subsection (g) of this section shall be applicable.

Dependent Parent. Dependent Parent means a person who is a parent of a deceased Public Safety Officer Member or Public Safety Officer Retired Member and to or for whom such deceased Member, during at least one (1) year immediately preceding the Public Safety Officer Member's or Public Safety Officer Retired Member's death, contributed one-half or more of such Dependent Parent's necessary living expenses and who is unable to pay such expenses without the receipt of an allowance. Such person shall be a Dependent Parent only until they shall be able to pay their necessary living expenses.

Eligible Surviving Domestic Partner. Eligible Surviving Domestic Partner means a person whose Declaration of Domestic Partnership with the Public Safety Officer Member was on file with the Board, as provided in Section 4.1009 of the Los Angeles Administrative Code, or whose domestic partnership with the Public Safety Officer Member was registered with the State of California, as authorized in Family Code Section 298.5, or who had established a legal union with the Public Safety Officer Member which was validly formed in another jurisdiction that is substantially equivalent to a domestic partnership, as provided in Family Code Section 299.2:

(1) for at least one (1) year prior to the date of the Public Safety Officer Member's nonservice-connected death;

(2) on the date of the Public Safety Officer Member's service-connected death;

(3) for at least one (1) year prior to the effective date of the Public Safety Officer Member's nonservice-connected disability retirement;

(4) on the effective date of the Public Safety Officer Member's service-connected disability retirement; or

(5) on the date of the Public Safety Officer Member's nonservice-connected death while on military leave.

In addition, on the date of the Member's death, the person must be the Domestic Partner of such Member.

Eligible Surviving Spouse. Eligible Surviving Spouse means a person who was married to the Public Safety Officer Member:

(1) for at least one year prior to the date of the Public Safety Officer Member's nonservice-connected death while a Public Safety Officer Member;

(2) on the date of the Public Safety Officer Member's service-connected death;

(3) for at least one (1) year prior to the effective date of the Public Safety Officer Member's retirement upon a nonservice-connected disability retirement;

(4) on the effective date of the Public Safety Officer Member's service-connected disability retirement; or

(5) on the date of the Public Safety Officer Member's nonservice-connected death while on military leave.

In addition, on the date of the Member's death, the person must be the spouse of such Member.

Eligible Survivor. Eligible Survivor means a person who is either an Eligible Surviving Spouse or an Eligible Surviving Domestic Partner as defined in this subsection.

Final Compensation. Final Compensation means an amount equivalent to a monthly average of salary actually earned during any thirty-six (36) consecutive months of service as a Member of the Retirement System, as designated by the Member. In the absence of such designation, the last thirty-six

(36) consecutive months preceding the date upon which retirement would become effective shall be used as the basis for the calculation of Final Compensation.

For the purposes of determining Final Compensation for periods during which the Member receives less than full salary on account of injury or illness, pursuant to any applicable ordinance of the City, the Final Compensation shall be based upon the salary, including, if applicable, any Length of Service Pay, Special Pay, Assignment Pay or Hazard Pay, the Member would have received but for the injury or illness.

Included in the calculation of Final Compensation shall be Length of Service Pay, Special Pay, Assignment Pay and Hazard Pay actually earned during the thirty-six (36) consecutive months used to determine Final Compensation.

For those Members who retire from the Department wherein they were employed while holding a rank no higher than Lieutenant: If Hazard Pay was not earned during all or any part of the thirty-six (36) consecutive months used to determine Final Compensation, then an amount equivalent to 10% of the Hazard Pay earned at the time of the termination of the last assignment of hazardous duties for each year in the aggregate of the assignment to hazardous duties shall be added to the Final Compensation, not to exceed ten (10) years in the aggregate. The total amount of Hazard Pay included in Final Compensation may not exceed 100% of the amount the Member would have earned had they been entitled to Hazard Pay during the entire thirty-six (36) month period utilized in the calculation of Final Compensation.

Overtime compensation or payments of money to the member not designated as salary by an ordinance or Memorandum of Understanding shall not be considered for purposes of calculating Final Compensation.

If a Member has not completed thirty-six (36) consecutive months of service, then and in that event only shall the Final Compensation be calculated as a monthly average of all consecutive calendar months completed, and, if the Member has completed less than one month of total service as a Member, the salary actually received shall be used to calculate its monthly equivalent.

Hazard Pay. Hazard Pay means any additional gross monthly pay which, by reason of assignment to perform helicopter duties, two-wheel motorcycle duties or any other hazardous duties, shall be provided by ordinance or Memorandum of Understanding

Length of Service Pay. Length of Service Pay means any additional gross monthly pay which, by reason of length of service, shall be provided by ordinance or by Memorandum of Understanding.

Member. Member means Public Safety Officer Member, Public Safety Officer Retired Member, or Public Safety Officer Former Member, as appropriate.

Minor Child. Minor Child means a person who is a natural child or an adopted child of a deceased Public Safety Officer Member or Public Safety Officer Retired Member but the person shall be a Minor Child only until such person shall attain the age of 18 years or until they reach the age of 22 years if such person is enrolled in school on a full-time basis as determined by the Board. Entitlement to the benefits of a Minor Child shall terminate if such person marries prior to reaching the age limit(s) provided herein.

Special Pay. Special Pay means any additional gross monthly pay which, by reason of assignment to perform special duties other than hazardous duties, shall be provided by ordinance or Memorandum of Understanding.

Year. Year means a period of 12 months or, in aggregating partial years for purposes of determining Service, means 365 days.

(b) **Benefits for Eligible Survivor.**

(1) **Member's Service-Connected Death.** The Eligible Survivor of a Public Safety Officer Member who dies by reason of injuries received or sickness caused by the discharge of the Public Safety Officer Member's duties while a Public Safety Officer Member, shall be paid for life a monthly allowance in an amount which shall be equal to 80% of the deceased Member's Final Compensation.

For the purposes of the benefit provided in this Subsection (b)(1), a Public Safety Officer Member has died by reason of injuries received or sickness caused by the discharge of the Public Safety Officer Member's duties if there is clear and convincing evidence that the discharge of the Member's duties were the predominant cause of the Public Safety Officer Member's death.

(2) **Member's Nonservice-Connected Death.** The Eligible Survivor of a Public Safety Officer Member who has five (5) or more years of Service and who dies while a Public Safety Officer Member, by reason of injuries or sickness other than injuries received or sickness caused by the discharge of the Public Safety Officer Member's duties, shall be paid for life a monthly allowance in an amount which shall be equal to 50% of the deceased Member's Final Compensation.

(3) **Member's Nonservice-Connected Death While on Military Leave.** The Eligible Survivor of a Public Safety Officer Member who, while on military leave, is killed as a result of the discharge of the Public Safety Officer Member's military duties shall be paid for life, as a

nonservice-connected survivor benefit, a monthly allowance in an amount which shall be equal to 50% of the deceased Member's Final Compensation. This benefit shall be paid in lieu of any benefits that would otherwise be payable under Subsections (b)(2), (b)(4) or (b)(5) of this section.

(4) Nonservice-Connected Death of Member with Less than Five Years of Service. In the event a Member dies of nonservice-connected causes before having completed five years of Service, the Eligible Survivor of the deceased Public Safety Officer Member, or the Member's Minor or Dependent Children if there is no Eligible Survivor, or the Member's Dependent Parents if there is no Eligible Survivor and no Minor or Dependent Children, shall be entitled to the Basic Death Benefit described in Subsection (b)(5) below.

(5) Basic Death Benefit and Election. The Basic Death Benefit shall consist of: (1) the return of a deceased Member's accumulated contributions to the Retirement System with accrued interest thereon, subject to the rights created by virtue of the Member's designation of a beneficiary as otherwise provided in the Retirement System; and (2) if the deceased Member had at least one year of Service, the deceased Member's Final Compensation multiplied by the number of completed years of Service, not to exceed six (6) years, provided that said amount shall be paid in monthly installments of one-half of the deceased Member's Final Compensation.

An Eligible Survivor, or a guardian acting on behalf of the Minor or Dependent Children of a deceased Public Safety Officer if there is no Eligible Survivor, or Dependent Parents if there is no Eligible Survivor and no Minor or Dependent Children entitled to an allowance pursuant to any of the provisions of this section, where benefits are based upon the Member's death in active service, may elect to receive the Basic Death Benefit in lieu of the allowance provided and before the first payment of such allowance.

(6) Retired Member's Death While on a Service-Connected Disability Retirement. In the event a Public Safety Officer Retired Member who dies while the Public Safety Officer Retired Member is receiving a service-connected disability allowance pursuant to Section 4.1080.8.1, the Eligible Survivor shall be paid for life a monthly allowance in an amount which shall be equal to 80% of the allowance received by the deceased Public Safety Officer Retired Member immediately preceding the date of the Public Safety Retired Officer Member's death, unless the death of the Retired Member occurs within three (3) years after the effective date of their allowance and is due to service-connected causes, in which case, the Eligible Survivor shall receive, or in a case

where an option has been elected pursuant to Subsection (c) of this section, may elect to receive, 80% of the Retired Member's Final Compensation, as modified by the cost of living adjustments made pursuant to Section 4.1080.17. The benefit described in this Subsection (b)(6) may be modified as provided in Subsection (c) of this section.

(7) **Retired Member's Death While on a Nonservice-Connected Disability Retirement.** In the event a Public Safety Officer Retired Member dies while the Public Safety Officer Retired Member is receiving a nonservice-connected disability allowance pursuant to Section 4.1080.8.1, the Eligible Survivor shall be paid for life a monthly allowance in an amount which shall be equal to 70% of the allowance received by the deceased Retired Member immediately preceding the date of the Public Safety Officer Retired Member's death. The benefit described in this Subsection (b)(7) may be modified as provided in Subsection (c) of this section.

(c) **Optional Allowances for Eligible Survivor.** At any time before the first payment of a service allowance, a service-connected disability allowance or a nonservice-connected disability allowance, the Member may elect to receive, in lieu of their allowance as provided in Section 4.1080.7 (Service) or Section 4.1080.8.1 (Disability), the actuarial equivalent at that time of such allowance and of the allowance for the Eligible Survivor, as provided in Subsection (b) of this section, by electing an optional allowance payable throughout the balance of their life, with the proviso that upon their death such optional allowance shall be continued to the Member's Eligible Survivor in the proportional amount designated by the Member at the time of election of the option provided by this section.

The amount of such optional allowance shall be so calculated that the liability of LACERS at the date of retirement under the optional allowance shall be equal to the liability of LACERS at the same date under the allowance awarded in accordance with the provisions of Section 4.1080.7 (Service) or Section 4.1080.8.1 (Disability) and of the survivorship allowance provided by Subsection (b) of this section. For the purpose of this section, the liability of LACERS is defined as the present value, in accordance with tables adopted by the Board, of the allowances or optional allowances calculated by approved actuarial methods, and recommended by the Retirement System's actuary. In determining the actuarial equivalent of the allowance for an Eligible Survivor as provided pursuant to Subsection (b)(6) of this section, the equivalent of a survivorship allowance of 80% of the retiree's allowance shall be used in all cases.

The optional amounts, calculated in accordance with the foregoing subsection, shall provide a range of optional values such that the amount to be paid to the Eligible Survivor shall range from 75% to 100% of the allowance payable to the Member.

If a Public Safety Officer Retired Member, previously retired pursuant to the provisions of Section 4.1080.8.1, is reinstated to active duty upon termination of the

Public Safety Officer Retire Member's disability, the election to receive the optional allowance as herein provided shall be deemed cancelled as of the effective date of such reinstatement.

A Public Safety Officer Retired Member, previously retired on a disability allowance pursuant to the provisions of Section 4.1080.8.1, shall have the right to cancel any option previously elected by them pursuant to the provisions of this Subsection in the event the Public Safety Officer Retired Member's allowance is subsequently adjusted as provided for in Section 4.1080.8.1.

(d) Additional Allowance Amounts for Additional Beneficiaries.

Whenever any Public Safety Officer Member or Public Safety Officer Retired Member shall die and leave surviving them, in addition to an Eligible Survivor, a Minor Child or Children or a Dependent Child or Children of the deceased Member and the Eligible Survivor, then such Eligible Survivor shall be paid an additional monthly allowance in an amount which shall be equal to 25% of the allowance they as an Eligible Survivor would be entitled to receive pursuant to the provisions of Subsection (b) of this section while there is one Minor Child or Dependent Child, 40% while there are two Minor Children or Dependent Children or a combination, and 50% while there are three or more Minor Children or Dependent Children or a combination, and such additional monthly allowance shall be the exclusive property of such Eligible Survivor and not the property of any such Minor Child or Dependent Child.

Whenever any Public Safety Officer Member or Public Safety Officer Retired Member dies and leaves surviving them in addition to an Eligible Survivor, a Minor Child or Children or a Dependent Child or Children who are not the child or children of the Eligible Survivor, then the guardian(s) or conservator(s), as appropriate, of the estate(s) of any such Minor Child or Children or Dependent Child or Children shall be paid a monthly allowance in an amount which shall be equal to 25% of the allowance the Eligible Survivor would be entitled to pursuant to the provisions of Subsection (b) of this section while there is one Minor Child or Dependent Child, 40% while there are two Minor Children or Dependent Children or a combination, and 50% while there are three or more Minor Children or Dependent Children or a combination.

Whenever any Public Safety Officer Member or Public Safety Officer Retired Member dies and leaves surviving them, in addition to an Eligible Survivor, a Minor Child or Children or a Dependent Child or Children of the deceased Member and the Eligible Survivor and a Minor Child or Children or a Dependent Child or Children not the child or children of the Eligible Survivor, then a monthly allowance shall be paid in an amount which shall be equal to 25% of the allowance the Eligible Surviving Spouse would be entitled to pursuant to the provisions of Subsection (b) of this section while there is one Minor Child or Dependent Child, 40% while there are two Minor Children or Dependent Children or a combination, and 50% while there are three or more Minor Children or Dependent Children or a combination. The amount of such monthly allowance shall be divided by the number of Minor Children or Dependent Children and shall be adjusted accordingly whenever any Minor or Dependent Child ceases to be

such. The Eligible Survivor shall be paid the portion of such monthly allowance which shall be applicable to the number of Public Safety Officer Member's or Public Safety Officer Retired Member's Minor Children or Dependent Children and the same shall be their exclusive property. The guardian(s) or conservator(s), as appropriate, of the estate(s) of the Minor Children or Dependent Children who are not those of the Eligible Survivor shall be paid the portion of such monthly allowance which shall be applicable to such Minor Children or Dependent Children and the same shall be the exclusive property of such children.

If a Minor Child or Dependent Child is an adult who is capable of managing their financial affairs, the Board is not required to pay the guardian or conservator of the Minor Child or Dependent Child any benefits provided in this subsection, which are not the property of the Eligible Survivor but are the property of the Minor Child or Dependent Child. Dependent Child benefits payable under this subsection shall be paid pursuant to the provisions of Charter Section 1238, if applicable.

The additional allowance amounts provided in this subsection for persons other than an Eligible Survivor are to be calculated on the basis of the applicable Eligible Survivor allowance provided pursuant to Subsection (b) of this section, unmodified by any election that may have been made previously pursuant to the provisions of Subsection (c) of this section.

Additional allowance amounts are also subject to the limitation that the amount of any survivorship allowance provided in this section, after the additional payments provided in this subsection are added thereto, may not exceed 100% of the Final Compensation of the deceased Public Safety Officer or 100% of the Final Compensation of the deceased Retired Public Safety Officer, as modified by the cost of living adjustments made pursuant to Section 4.1080.17 since the date of retirement of the Retired Member. In case of excess, any additional allowance amounts shall be reduced to a level where the total amount of allowance is equal to such maximum.

(e) Allowance for Minor or Dependent Children Where Member Had No Eligible Survivor. Whenever any Public Safety Officer Member or Public Safety Officer Retired Member dies without leaving a Eligible Survivor, the guardian or conservator, as applicable, of the estate(s) of their Minor or Dependent Children shall be paid, until each such child shall cease to be a Minor or Dependent Child, a monthly allowance equal to the allowance an Eligible Survivor would have been eligible to receive pursuant to Subsection (b) of this section had an Eligible Survivor survived such Member. Whenever any Public Safety Officer or Retired Public Safety Officer dies leaving an Eligible Survivor who thereafter shall die, the guardian or conservator, as applicable, of the estate(s) of the Public Safety Officer's or Retired Public Safety Officer's Minor or Dependent Children shall be paid, until each such child shall cease to be a Minor or Dependent Child, a monthly allowance equal to the allowance an Eligible Survivor would have been eligible to receive pursuant to Subsection (b) of this section. In any of the foregoing events and if there were to be more than one Minor or Dependent Child, an equal share of such monthly allowance shall be paid for and on behalf of each such

child to the guardian or conservator, as applicable, of the Public Safety Officer's or Retired Public Safety Officer's estate and shall be adjusted as each of them shall cease to be a Minor or Dependent Child in the manner set forth in Subsection (d) of this section. If payments are made pursuant to this Subsection (e), no additional allowance amounts shall be paid pursuant to Subsection (d) of this section. With regard to benefits payable to a Minor Child or Dependent Child who is an adult and capable of managing their financial affairs, the foregoing provisions requiring payment to a guardian or conservator of such child shall be disregarded and payment may be made directly to such adult child.

Dependent Child benefits payable under this subsection shall be paid pursuant to the provisions of Charter Section 1238, if applicable.

(f) **Allowance for Dependent Parents Where Member Had No Eligible Survivor.** Whenever any Public Safety Officer Member or Public Safety Officer Retired Member shall die without leaving an Eligible Survivor or a Minor or Dependent Child, a monthly allowance shall be paid to such Dependent Parents or to the survivor of them until each such Dependent Parent shall cease to be such. Any Dependent Parent who ceases to be such, but who thereafter again shall become unable to pay their necessary living expenses without an allowance, shall be entitled to have their allowance reinstated.

The total amount of an allowance payable to the Dependent Parents shall be the same as that to which an Eligible Survivor would have been entitled pursuant to Subsection (b) of this section.

(g) **Determinations With Respect to Cause of Death and Dependency.** The Board shall have the same power as that which has been given to it by Section 4.1080.8.1(d) and (f) in order to determine:

(1) whether a Public Safety Officer Member's death was service-connected or nonservice-connected for the purposes of Section 4.1080.10.1(b)(1) and (2);

(2) whether or not a child of a deceased Public Safety Officer Member or Public Safety Officer Retired Member is a Dependent Child; and

(3) whether or not any parent of a deceased Public Safety Officer Member or Public Safety Officer Retired Member is a Dependent Parent.

The Board also shall have the power to determine, from time to time, whether or not a child continues to be a Dependent Child, whether or not a parent continues to be a Dependent Parent and whether or not a Dependent Parent who had ceased to be such thereafter shall have become entitled to have their allowance reinstated. The Board also shall have the power to determine whether an adult Minor Child or Dependent Child is capable of managing their own financial affairs.

(h) **Medical Reports and Hearings.** The power of the Board to determine whether a Public Safety Officer Member's death was service-connected or nonservice-connected, as provided in Subsection (g) of this section, hereafter may be exercised by it upon the basis of a written report from one regularly licensed and practicing physician selected by it, but the Board, in its discretion, may obtain such a report from more than one such physician. This determination may, at the option of the Board, be made without a hearing being held pursuant to the provisions of Subsection (g) of this section, provided that, should any decision made without a hearing being held adversely affect any person, such person may request and, upon such request, shall be granted a hearing before the Board at which such decision shall be reconsidered.

(i) **Distribution of Contributions.** Whenever a Public Safety Officer Member or Public Safety Officer Former Member dies prior to retirement without leaving a person or persons entitled to receive an allowance pursuant to Subsections (b), (c), (d), (e), or (f) of this section, then, and in that event, the Member's Accumulated Contributions shall be paid to such person or legal entity as the Member nominated by written designation duly executed and filed with the Board; or, if there is no such designation, then to the Public Safety Officer Member's or Public Safety Officer Former Member's surviving spouse or surviving Domestic Partner; or, if none, then to the Public Safety Officer Member's or Public Safety Officer Former Member's children; or, if no children, then to the Public Safety Officer Member's or Public Safety Officer Former Member's parents. In the event there is no written designation of beneficiary, surviving spouse or surviving Domestic Partner, children or parents, then the contributions shall be paid to the executor or administrator of the estate of such deceased Public Safety Officer Member or Public Safety Officer Former Member or to any other person or legal entity legally authorized to collect money due the decedent.

(j) **Burial Allowance.** Upon the death of every retired Member, the sum of \$2,500.00 shall be paid to such person or legal entity as the retired Member shall have nominated by written designation, duly executed and filed with the Board of Administration; or to the Eligible Survivor of such deceased retired Member, in the event there be no designated beneficiary; or to the Public Safety Officer Retired Member's child or children, in the event there be no designated beneficiary or Eligible Survivor, provided that such payment shall be made only after satisfactory evidence has been presented to the Board showing that the expense of burial of the decedent has been paid or that the obligation to pay therefor has been assumed by a person or persons or an organization legally capable of contracting such obligation. The fact of burial, as evidenced by a certified copy of the death certificate, shall be sufficient evidence of compliance with the requirements stated in the foregoing sentence. While the purpose of this benefit is to provide a funeral allowance for the deceased retiree, the Retirement System shall have no responsibility to assure that this payment is used for that purpose.

In the event there be no designated beneficiary, Eligible Survivor, or child or children, or in the event the requirements herein stated with respect to the expense of burial of such retired Member have not been complied with within such time as the Board, in its discretion, may determine, then the payment of the amount specified in this

subsection shall be paid to the executor or administrator of the estate of such decedent, or to any other person or legal entity legally authorized to receive money due said decedent.

(k) **Reversion of Unclaimed Contributions to the Retirement Fund.** The right to the payments set forth in this section is a vested property right of the person(s) entitled to such payment; provided, however, that should the person(s) entitled thereto fail to claim this benefit within ten (10) years from the date of such death, the funds shall revert to the Retirement Fund, unless and until, the Board of Administration receives a valid belated claim for payment, determined at the sole discretion of the Board of Administration. Any death benefit payable shall be subject to mandatory minimum distribution as required by the Internal Revenue Code, provided that the funds that are required to be distributed shall revert to the Retirement Fund if the person(s) entitled to the funds refuses to cooperate in electing to be paid such funds or cannot be located and the Retirement System has followed Internal Revenue Service procedures to locate such person(s).

(l) **Survivor Benefit Purchase Program for Public Safety Officer Retired Members.** A Public Safety Officer Retired Member may elect, after retirement, to provide a survivor benefit to a spouse or Domestic Partner subject to the following:

(1) **Member to Pay Full Cost.** The Public Safety Officer Retired Member shall pay the full actuarially determined cost of the survivor benefit through an actuarial reduction in their monthly retirement benefit.

(2) **Vesting Requirement.** The right to benefits under this program shall not vest until the Public Safety Retired Member survives at least one (1) year from the date the Public Safety Retired Member makes an election to provide this benefit, unless the Board shall determine by a preponderance of the evidence that the Public Safety Officer Retired Member's death was accidental.

If the right to benefits has not vested before the date of the Public Safety Officer Retired Member's death and the accidental death exception does not apply, then no survivor benefit shall be provided by the Retirement System and the amount by which the Public Safety Officer Retired Member's monthly retirement benefits were reduced after making this election shall be paid as a lump sum to the spouse or Domestic Partner, provided that if the spouse or Domestic Partner has predeceased the Member, the lump sum shall be paid to the Member's estate.

(3) **Only One Election Allowed.** In order to minimize administrative costs to the Retirement System, a Public Safety Officer Retired Member may exercise this election only once. The Public Safety Officer Retired Member's election shall not apply to any interest in their pension benefit awarded by the court to another person, but only to the interest retained by the Public Safety Officer Retired Member. The election may be made only to provide a benefit for

a spouse or Domestic Partner who is not already qualified to receive a benefit from the Retirement System upon the Public Safety Officer Retired Member's death. For purposes of this section, a domestic partnership must either be filed with the Retirement System or the California Secretary of State or be recognized as a valid domestic partnership in this state based upon the provisions of Section 299.2 of the Family Code or any successor provisions.

(4) **Irrevocable Election.** Once an election is made, it is irrevocable. The Public Safety Officer Retired Member's monthly retirement benefits will be permanently reduced and will not increase if the spouse or Domestic Partner predeceases the Public Safety Officer Retired Member or if the marriage or domestic partnership is otherwise terminated.

(5) **Survivor Benefit.** The benefit authorized by this section consists of a percentage continuation of the Public Safety Officer Retired Member's monthly retirement benefit payable to the surviving spouse or Domestic Partner of the Member for the survivor's lifetime. In order to be eligible to receive the survivor benefit provided by this section, the survivor must be either the spouse or Domestic Partner of the Member at the time the Member elected to provide this benefit and at the time of the Member's death. A survivor receiving a benefit under this section shall not be eligible for a health subsidy from the Retirement System. The payment of a survivor benefit provided by this section does not impact the payment of other survivor benefits from the Retirement System.

(6) **Payment Options.** The Public Safety Officer Retired Member shall select the percentage of continuance that they desire to fund from the options provided by the Retirement System. These options shall be established by Board rule and shall provide a reasonable range of choices, subject to any limitations imposed by federal law. If no continuance is payable based on the provisions of Subdivision (2), then the amount paid by the Public Safety Officer Retired Member as a reduction in their monthly retirement benefit shall be refunded as provided therein.

(7) **Right to Review, Modify and Terminate the Program.** The City's right to review the program, as provided below, may not be exercised more often than every five (5) years.

To initiate a review, the City Administrative Officer (CAO) shall request the Retirement System to provide data relevant to the program's costs. If the CAO so requests after reviewing the data provided, an actuarial report shall be obtained. As part of this review, the City Council shall have the authority, by ordinance, to enact modifications to the program necessary to maintain cost neutrality or to terminate the program if the program cannot be modified to maintain cost neutrality.

If the program is modified, the modifications shall not apply to Public Safety Officer Retired Members who elected this benefit before the effective date of the modifications. If the program is terminated, the Retirement System shall continue to administer the program for all Public Safety Officer Retired Members who elected benefits under the program prior to the termination date, but shall not allow Public Safety Officer Retired Members to elect benefits under the program after the termination date.

(8) **Board's Authority to Adopt Rules and Administer the Program.** The Board shall administer this program and adopt any necessary rules, including the authority to establish any mortality assumptions required for the administration of the program.

Sec. 15. Pursuant to Charter Section 252(i) and Charter Section 1168(b), this ordinance shall take effect upon publication.

Sec. 16. 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.

Approved as to Form and Legality

HYDEE FELDSTEIN SOTO, City Attorney

By


ALEXANDRA DE RIVERA
Deputy City Attorney

Date

May 1, 2023

File No. _____

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than two-thirds** of all its members.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____