ANALYSIS

This ordinance amends Title 5 – Personnel, of the Los Angeles County Code by:

- Adding a new section of the Code implementing the Replacement Benefits Plan to provide the annual retirement benefits otherwise earned by and payable to Members of the Los Angeles County Employees' Retirement Association (LACERA) but which are limited by IRS Code 415(b);
- Deleting Appendix 2 to Title 5, General Member Plan F; and
- Deleting Appendix 3 to Title 5, Safety Plan F.

ANDREA SHERIDAN ORDIN
County Counsel

By:
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Labor & Employment Division

HSM:asv

Requested: 07-19-09
Revised: 07-26-10

ORDINANCE NO. _____

An ordinance amending Title 5 - Personnel of the Los Angeles County Code, adding a new Chapter 5.95, Replacement Benefits Plan and removing Appendix 2, General Member Plan F and Appendix 3, Safety Member Plan F.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. A new Chapter 5.95 is hereby added to read as follows:

Chapter 5.95

REPLACEMENT BENEFITS PLAN

Sections:

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PART I. ESTABLISHMENT AND STATUS OF PLAN.

5.95.010 Establishment.

In accordance with County Employee Retirement Law ("CERL") Section 31899.4 and Internal Revenue Code ("IRC") Section 415(m), the County of Los Angeles, State of California, hereby establishes and adopts a plan entitled the "Los Angeles County Replacement Benefits Plan" ("Plan") to provide the annual retirement benefits otherwise earned by and payable to Members of the Los Angeles County Employees' Retirement Association ("LACERA") but which are limited by the rules of Section 415(b) of the IRC. The Retirement Plan is intended to be a tax qualified retirement plan under Section 401(a) of the Code and is a governmental plan as defined in Section 414(d) of the Code.

5.95.020 Effective Date.

This Plan shall be effective, for periods beginning as of _____, 2010, or with regard to a District, as of the date that this plan is adopted by that District, as provided herein.

5.95.030 Portion of the Retirement Plan.

This Plan shall be deemed a "portion" of the Retirement Plan solely to the extent required by, and within the meaning of, Section 415(m)(3) of the IRC as in effect on January 1, 2008, and not for any other purpose.

5.95.040 Purpose and Tax Status of this Plan.

A. In accordance with Section 415(m) of the IRC, this Plan is adopted, solely for the purpose of providing to Retired Members of LACERA, and to their Eligible Survivors, that part of the annual benefit otherwise payable under the Retirement Plan that exceeds the limitations on benefits imposed by Section 415(b) of the Code.

B. It is intended that this Plan be treated as an "exempt governmental deferred compensation plan" described in Section 3121(v)(3) of the Code; therefore payments under this Plan are not included as wages subject to Social Security and Medicare taxes.

C. No assets directly or indirectly relating to this Plan shall be held in trust, or otherwise held or set aside for the exclusive benefit of participants and their beneficiaries. This Plan shall be unfunded within the meaning of the federal income tax laws. The assets shall be general assets of the County as set forth in Part 8.

PART II. DEFINITIONS.

5.95.050 Plan Definitions.

Terms used in this Plan shall have the meaning set out below.

A. "Annuity Starting Date" means the date that a Retired Member or Eligible Survivor first begins receiving a monthly allowance from the Retirement Plan.

B. "Board of Supervisors" means the Board of Supervisors of the County of Los Angeles.

C. "CEO" means the office of the Chief Executive Officer of the County of Los Angeles.

D. "CERL" means the County Employees Retirement Law of 1937 as set out in the California Government Code.

E. "Commencement Date" means the date of commencement of participation in this Plan as set out in Section 5.95.070 hereof.

F. "County" means the County of Los Angeles, State of California.

G. "District" means any agency other than the County which is included in the Retirement Plan pursuant to the CERL, including the Superior Court of California, County of Los Angeles, and which has satisfied the requirements for participation set forth in Part 5 hereof.

H. "Effective Date" means the date this Plan is operative as set out in Section 5.95.020 hereof.

I. "Eligible Survivor" means the surviving spouse, surviving domestic partner (if registered under state law), surviving child or children, surviving parent or parents, or surviving beneficiary designated by the Member, to whom benefits are payable from LACERA on the death of the Member and whose benefits from the Retirement Plan are limited under IRC Section 415 (b).

J. "IRC" means the Internal Revenue Code of 1986, as amended, and any rules and regulations issued thereunder.

K. "LACERA" means the Los Angeles County Employees' Retirement Association, which is responsible for administering the Retirement Plan.

L. "Member" means a person who is included in the membership of LACERA under the applicable provisions of CERL and who is now, or will be in the future, eligible for a retirement benefit from the Retirement Plan.

M. "Participant" means a Retired Member who participates in this Plan pursuant to Part 3 hereof.

N. "Payment Date" means the first date during a Plan Year with respect to which payment begins under this Plan.

O. "Plan" means this Los Angeles County Replacement Benefits Plan.

P. "Plan F" means former General Plan F or Safety Plan F, previously established in appendices 2 and 3 to Title 5 of the County Code pursuant to CERL Section 31510 et seq., each of which was terminated in accordance with its terms in connection with the adoption of this Plan.

Q. "Plan Administrator" means the CEO. The CEO may contract with another party to act on behalf of the CEO.

R. "Plan Year" means the 12-month period beginning on January 1 and ending on December 31.

S. "Retired Member" means a Member who is receiving a retirement benefit under the applicable provisions of CERL.

T. "Retirement Plan" means the defined benefit retirement system established and maintained by the County and administered by LACERA pursuant to the CERL.

U. "Section 415" means IRC Section 415.

PART III. PARTICIPATION.

5.95.060 LACERA Members With Benefits Limited by Section 415(b).

A. Participation in this Plan is limited solely to Retired Members and Eligible Survivors whose benefits payable by the Retirement Plan are limited by Section 415(b) for periods on and after the Effective Date.

B. Unless and until a District participates in this Plan in accordance with all the condition in Part 5, no Member who is a current or former employee of that District shall be a Participant in this Plan, and no person who is an Eligible Survivor of such Member shall receive benefits under this Plan, except that if the Member also is a current or former County employee, the Member and any Eligible Survivors shall be entitled to an amount of benefits which is a percentage of total benefits calculated under the Plan, where that percentage is determined by dividing the annual amount of that Member's (or Eligible Survivor's) Retirement Plan benefits (prior to limitation by IRC Section 415) attributable to County service by the total of that Member's (or Eligible Survivor's) annual Retirement Plan benefits (prior to limitation by IRC Section 415).

C. Notwithstanding any other provision of the Plan, no Retired Member or Eligible Survivor shall be entitled to benefits under the Plan if he or she asserts a right to benefits under Plan F despite the termination of such plan.

5.95.070 Commencement of Participation.

On or after the Effective Date, a Retired Member shall commence participation in this Plan on the later of: (a) the Retired Member's retirement date; or (b) the first day of the first Plan Year for which LACERA has determined that the benefits payable to the Retired Member from the Retirement Plan will exceed the limits of Section 415(b). This date is the Commencement Date. Notwithstanding the foregoing, the Retired Member shall not commence participation in this Plan if he or she has not consented (if required by LACERA) to the release of any information necessary to calculate his or her benefit under Part 4.

5.95.080 Cessation of Member's Participation.

A. Participation in this Plan shall cease as of the first date for which benefits payable to the Retired Member from the Retirement Plan are no longer limited by Section 415(b) and, therefore, can be fully paid by the Retirement Plan. A Retired Member's participation shall also cease upon such Member's death or when the Retired Member's Retirement Plan benefits cease.

B. If a District withdraws from this Plan (on a voluntary or mandatory basis), then on or after the date of such withdrawal any Participant who is receiving benefits attributable to his or her employment with such District shall cease to receive such benefits. On the withdrawal of a District from this Plan, the District shall have sole and complete responsibility and liability for paying any benefits that may otherwise be due under this Plan due to such Participant's employment with the District, and the County shall have no responsibility or liability for any such benefits. If a Member was an

employee of both the District and the County, the benefits attributable to his or her County and District employment shall be determined in accordance with Section 5.95.060.B.

C. If a Retired Participant is reemployed by the County or a District and on reemployment his or her Retirement Plan benefits cease, then his or her benefits under this Plan also shall cease at that time.

5.95.090 Recommencement of Participation.

If a Participant has ceased participation in this Plan but at a later date the full payment of his or her Retirement Plan benefits for a Plan Year is again limited by Section 415(b), he or she shall recommence participation in that Plan Year, and shall cease participation as provided in Section 5.95.080 hereof.

5.95.100 Eligible Survivors.

A. On or after the Effective date, any Eligible Survivor of a Member shall be eligible to receive benefits under this Plan as of the later of: (a) the Member's death; or (b) the first day of the Plan Year for which LACERA has determined that the benefits payable to the Eligible Survivor from the Retirement Plan will exceed the limits of Section 415(b). The Eligible Survivor's benefits paid under this Plan shall cease as of the first date for which his or her Retirement Plan benefit is no longer limited by Section 415(b) and, therefore, can be fully paid by the Retirement Plan. The Eligible Survivor's benefits paid under this Plan shall recommence in a later Plan Year if full payment of his or her Retirement Plan benefits is again limited by Section 415(b) for that Plan Year, and shall thereafter cease as of the next date that full payment of the Retirement Plan

benefit is no longer limited by Section 415(b). Benefits also cease when the Eligible Survivor dies or otherwise is no longer eligible for Retirement Plan benefits. Notwithstanding the foregoing, an Eligible Survivor shall not receive benefits under this Plan if he or she has not consented (if required by LACERA) to the release of any information necessary to calculate his or her benefit under Part 4.

B. If a District withdraws from the Plan (on a voluntary or mandatory basis), no benefits shall be paid or due under this Plan on or after the date of such withdrawal to the Eligible Survivor to the extent those benefits are attributable to a Member's employment with that District. On the withdrawal of a District from this Plan, the District shall have sole and complete responsibility and liability for paying any benefits that may otherwise be due under this Plan that are attributable to employment with the District, the County shall have no responsibility or liability for any such benefits. If a Member was an employee of both the District and the County, the Benefits attributable to his or her County and District employment shall be determined in accordance with Section 5.95.060.B.

5.95.110 No One Else Shall Receive Benefits.

No one other than a person described in this Part shall receive any benefits under this Plan, except as required by domestic relations orders that has been determined to be qualified in accordance with Section 5.95.230 or as required by applicable law.

PART IV. RETIREMENT BENEFITS PAYABLE.

5.95.120 Amount of Benefit - Initial Determination.

A. The benefit (if any) paid under this Plan in any Plan Year shall be initially determined for each Participant and/or Eligible Survivor as soon as practicable after LACERA has determined that the benefit that would otherwise have been payable from the Retirement Plan for that Plan Year will be limited by IRC Section 415. The benefit payable under this Plan shall be equal to the difference between the benefit payable to a Participant or Eligible Survivor from the Retirement Plan as limited in accordance with IRC Section 415 and the Treasury Regulations thereunder, and the benefit that would have been payable but for that limitation.

B. For the purposes of calculating Plan benefits, the Plan Administrator may rely on calculations and determinations made by LACERA for purposes of administering the Retirement Plan in accordance with Section 415(b).

C. This Plan and the Retirement Plan shall be separate entities and shall be administered separately. In addition, separate checks may be provided for the benefits under this Plan and the Retirement Plan; the Plan Administrator shall provide separate tax reporting for the benefits paid under this Plan; and no assets of the Retirement Plan shall be used, directly or indirectly, to pay for benefits or administration or any other costs of this Plan.

5.95.130 Amount of Benefit – Redeterminations.

A. The Participant's or Eligible Survivor's benefit (if any) under this Plan shall be redetermined: (1) if the benefits that may be paid to him or her from the Retirement Plan are required to be recalculated in accordance with IRC Section 415(b) and the regulations thereunder, or (2) as otherwise necessary to ensure that the correct benefits are being paid under this Plan.

B. At the Plan Administrator's discretion, the amount of every Participant's and Eligible Survivor's benefits may be redetermined at any time there is a material change in the rules governing the maximum benefit limits established under Section 415(b) or a material change in Retirement Plan benefits.

C. If Retirement Plan benefits have ceased in accordance with Section 5.95.080 and then recommence in accordance with Section 5.95.090, a recalculation shall be made under this Section 5.95.130 as soon as administratively practicable after Retirement Plan benefits resume. Similar rules shall apply if the benefits of an Eligible Survivor under the Retirement Plan cease (or resume) under the Retirement Plan for any reason, including without limitation ceasing to be an Eligible Survivor.

D. For the purposes of any redeterminations made under this Section 5.95.130, the Plan Administrator may rely on calculations and determinations made by LACERA for purposes of administering the Retirement Plan in accordance with IRC Section 415(b).

5.95.140 Timing of Payments.

A. Beginning on or after the Commencement Date, for each Plan Year benefits shall be paid under this Plan to a Participant or Eligible Survivor under one of the following methods as determined in the discretion of the Plan Administrator:

1. Benefits may be paid from this Plan beginning on or after the date in each Plan Year that the benefits paid to the Participant or Eligible Survivor from the Retirement Plan have reached the maximum annual benefit that the Retirement Plan can pay under Section 415(b) for that Plan Year. At the discretion of the Plan Administrator, the annual benefit may be paid: (a) in monthly installments over the remainder of the Plan Year so that the Participant or Eligible Survivor continues to receive the same monthly benefit that he or she was receiving from the Retirement Plan before the Payment Date; or (b) in a single sum.

2. Alternatively, beginning on the Payment Date determined by the Plan Administrator in its discretion, the annual benefit payable under this Plan may be prorated and evenly paid at the same time and in the same manner as benefits are paid from the Retirement Plan during the Plan Year.

B. Any periodic payments commencing under this Plan for a Plan Year shall continue through the end of the Plan Year, or (if earlier) the date that Participation ceases under Section 5.95.080 (or, for an Eligible Survivor, the date that benefits cease under Section 5.95.100).

5.95.150 Taxes.

The Plan Administrator shall have full authority to withhold any and all taxes that are or may be due from any and all amounts paid under the Plan (including but not limited to income and payroll taxes), to pay them to the appropriate government agency, and to file and distribute necessary or appropriate tax reports and forms.

5.95.160 District Retirees and Eligible Survivors.

No benefits attributable to District employment shall be owed, or be paid, under this Plan to any Participant (or his or her Eligible Survivor) who is a former employee of a District unless and until the District has first paid to the County the amount for which the County has invoiced the District for the benefits payable to such person, as provided in Part 5 hereof.

5.95.170 Determination Solely By Plan Administrator.

The Plan Administrator shall have sole authority and discretion to determine the amount of benefits (if any) payable under this Plan, provided that the Plan Administrator may rely on calculations and determinations made by LACERA for purposes of administering the Retirement Plan in accordance with IRC Section 415(b).

PART V. PARTICIPATION IN PLAN BY DISTRICTS.

5.95.180 Districts May Participate in this Plan.

A. Each District that is included in the Retirement Plan pursuant to the CERL may, subject to the approval of the County, be a participating employer in this Plan in order to provide benefits under this Plan for its employees or former employees whose benefits from the Retirement Plan are limited by Section 415(b). By electing to

participate in the Plan, a District agrees to be bound by all terms and conditions of the Plan.

B. Each District that is a participating employer in this Plan shall be listed on Appendix I to this Plan.

5.95.190 Actions Required for District to Participate in this Plan.

A. A District may become a participating employer in this Plan upon completion of the following actions:

1. The County's Board of Supervisors adopts a resolution, by majority vote, that approves participation in the Plan and approves any memorandum of understanding with respect to participation between the County and the District.

2. The governing body of the District adopts a resolution, by majority vote, providing that it elects to participate in this Plan and agrees to be bound by all of the terms and conditions of this Plan.

3. If required by the County, the governing body of the District enters into a memorandum of understanding with the County, as Plan Administrator, covering such issues that the County deems to be necessary or appropriate for the administration of this Plan, the payment of any amounts fixed and determined by the County for the payment of benefits under this Plan to former District employees, costs of administration, taxes, indemnification of the County for claims by current and former District employees, and any other reasonable and appropriate items.

4. The District designates the County, as Plan Administrator, as its agent to hold and pay out any amounts received by the County from the District to pay benefits to former District employees and their Eligible Survivors. No such funds shall be held by the County in trust or in any other manner on behalf of any Participant(s) or Eligible Survivor(s) but shall be held as general assets of the County in its capacity as agent of the District. If any funds paid to the County by a District are not paid by the County as benefits under this Plan or to provide for the cost of administration, for taxes or for other reasonable and appropriate items, such funds shall be returned to the District.

5. The District designates the County, as Plan Administrator, as the agent of the District for purposes of paying taxes and filing such forms and returns as are required by the Internal Revenue Service and any other tax agency. The District executes and files such forms and other documents as are deemed necessary or appropriate by the Plan Administrator in connection with this designation.

The Superior Court of California, County of Los Angeles is deemed to have satisfied the requirements of this subsection 5.95.190(A). It may cease participation in accordance with Section 5.95.210.

B. Each District that becomes a participating employer in this Plan shall: (1) at the time and in the manner determined by the County, provide to the County as Plan Administrator all necessary and appropriate information and data for Plan administration, and pay to the County all amounts fixed and determined by the County, as Plan Administrator, for benefits payable under this Plan to former employees of the

District and their Eligible Survivors, costs of administration, taxes and other reasonable and appropriate items; and (2) otherwise comply with the terms and conditions of this Plan.

5.95.200 Agreement to Indemnify the County and Other Districts.

By electing to participate in this Plan, a District agrees that it will indemnify and hold harmless the County and all other Districts that participate in this Plan from and against any and all direct or indirect liabilities, demands, claims, losses, costs and expenses including (without limitation) reasonable attorneys fees, that arise out of (directly or indirectly) or result from the District's withdrawal from this Plan.

5.95.210 Termination of District Participation in the Plan.

A. Voluntary Withdrawal.

Any District that participates in this Plan may cease such participation by taking the following actions:

1. The governing body of the District adopts a resolution, by majority vote, that provides that it withdraws from participation in this Plan and furnishes that resolution to the Board of Supervisors.

2. The District immediately pays to the County, as Plan Administrator, all amounts fixed and determined by the County for benefits payable under this Plan to former employees of the District and their Eligible Survivors through the date of withdrawal, costs of administration, taxes and other reasonable and appropriate items. Payment shall be at the time and in the manner as is fixed by the County.

3. At the sole discretion of the County, the District provides security, that the County deems sufficient, to provide for the payment of any and all direct or indirect liabilities, demands, claims, losses, costs and expenses including (without limitation) reasonable attorneys fees, that may be suffered by the County and all other Districts that participate in this Plan arising out of (directly or indirectly) or resulting from the District's withdrawal from this Plan.

B. Mandatory Withdrawal.

1. Any District that participates in this Plan shall cease such participation and be required to withdraw from this Plan if it fails, for 30 days after demand by the Plan Administrator to do any of the following: pay any amount that has been fixed and determined by such Plan Administrator as due and owing from the District under this Plan; provide such information or data that is requested by the Plan Administrator for purposes of administering this Plan (including but not limited to filing reports with the Internal Revenue Service); otherwise fails to comply with the terms of the Plan, any material provision of a memorandum of understanding or other written agreement that governs its participation in this Plan.

2. In the case of a cessation of participation under clause (1.) of this subsection (B), the District shall immediately pay to the County an administrative fee equal to the total direct and indirect cost to the County resulting from such cessation, as determined by the County in its sole discretion.

C. Responsibility of Districts for Benefits After Withdrawal.

Following the withdrawal from this Plan by a District (on a voluntary or involuntary basis), Part 3 shall govern: (i) the cessation of Participation in this Plan by, and the cessation of benefits payable under this Plan to, persons who are current or former employees of such a District that withdraws from this Plan; (ii) the cessation of benefits payable under this Plan to persons who are Eligible Survivors of persons who are current or former employees of such District; and (iii) the sole responsibility and liability of such District for paying any benefits that would be due and payable to any such person under this Plan.

PART VI. EXEMPTION FROM PROCESS; ASSIGNMENTS PROHIBITED.

5.95.220 Prohibition Against Assignment.

No benefit payable from the Plan to any Participant or Eligible Survivor or any other person shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void. No such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to execution, attachment or any process whatsoever for or against such person, except to such extent as may be permitted by Section 704.110 of the Code of Civil Procedure or as required by law. Any attachment or process applied to Retirement Plan benefits in accordance with law shall not automatically apply to benefits under this Plan, but must, expressly by its terms, be made applicable to the Plan.

5.95.230 Payment Upon Marital Dissolution or Legal Separation.

The provisions of Section 5.95.220 will not apply in the case of any property settlements upon marital dissolution or legal separation which are made in accordance with a "qualified" domestic relations order (DRO) issued in accordance with state domestic relations law. The provisions of Section 5.95.220 will apply in the case of any property settlement upon marital dissolution or legal separation which is made in accordance with a domestic relations order that is not qualified in accordance with this Section. For purposes of this Section, "DRO" or "domestic relations order" means any judgment, decree, or order made in accordance with state domestic relations law which relates to the provision of child support, spousal maintenance, or marital property rights of any spouse, former spouse, child, or other dependent of a Participant. A domestic relations order shall not be considered a qualified DRO with respect to this Plan if it: (a) requires the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan; (b) requires the Plan to provide increased benefits; or (c) otherwise requires the payment or funding of benefits in an amount or manner otherwise inconsistent with the terms of the Plan. In addition, in order for a DRO to be recognized as "qualified," the parties seeking to enforce the DRO must have properly notified and joined the Plan under applicable state law.

Consistent with Treasury Regulation Section 1.401(a)-13(g)(4)(iv), under which the total benefits payable to both the Participant and alternate payee from the Retirement Plan are considered benefits of the Participant for the purposes of applying the limitations of IRC section 415, the total benefit payable to the alternate payee and the Participant

under this Plan shall not exceed the total benefit that otherwise would be payable to the Participant alone as determined under Part 4.

The Plan Administrator shall establish administrative policies and procedures consistent with this Section for determining whether any judgment, order, or decree constitutes a qualified DRO.

PART VII. ADMINISTRATION.

5.95.240 Powers of the Plan Administrator.

The CEO shall administer the Plan, and in such capacity shall be the Plan Administrator. The CEO may agree with another party to act on behalf of the CEO as Plan Administrator with regard to all or any part of its duties under this Plan. In addition to the powers of the Plan Administrator specified elsewhere in the Plan, the Plan Administrator shall be responsible for the general administration and interpretation of the Plan and for carrying out its provisions, and shall have such powers as may be necessary or appropriate to discharge its duties hereunder, including, without limitation, the following:

A. The Plan Administrator may adopt such Plan regulations, interpretations, and procedures as it deems are necessary or appropriate for the effective operation of the Plan, provided such regulations, interpretations and procedures are consistent with the terms of the Plan.

B. The Plan Administrator shall have the right to delegate administrative duties with regard to the management and operation of the Plan, except that no employee or agent of the Plan Administrator, nor any third-party administrator hired by

the Plan Administrator, shall have the authority to modify this Plan or to make representations, warranties, or inducements that may provide benefits or any other payment other than as set forth in this Plan and the applicable Plan regulations. Any such representations, warranties, or inducements shall be null and void.

C. The Plan Administrator shall act with respect to this Plan separately and apart from any duties that he or she may have with respect to any other retirement plan.

D. The Plan Administrator shall determine all issues relating to the rights of Participants and Eligible Survivors and any other persons, and any legal representatives thereof, under the terms of the Plan, including but not limited to eligibility, the amount and time of payment of the benefit (if any) and the calculation of any benefit under the Plan.

E. The Plan Administrator shall determine any factual questions arising in connection with the Plan's operation or administration after such investigation or hearing as the Plan Administrator deems necessary and appropriate.

F. The Plan Administrator may engage legal, administrative, actuarial, investment, accounting, consulting or other services as the Plan Administrator deems necessary or appropriate.

G. The Plan Administrator may request and receive from Districts, Members, and Participants and other appropriate persons such information as necessary or appropriate for the proper administration of the Plan, including, without limitation, information to determine each Participant's eligibility to participate in the Plan and the benefits payable to each Participant or his or her Eligible Survivor.

5.95.250 Absolute Discretion of the Administrator.

The Plan Administrator (or anyone acting on its behalf) shall, in its sole and absolute discretion, make factual findings, construe and interpret the terms and conditions of the Plan, and any issue arising out of, relating to, or resulting from the administration and operation of the Plan, which interpretation or construction shall be final and binding on all parties, including, without limitation, any District, Member, Participant or Eligible Survivor. When making a determination or calculation, the Plan Administrator shall, in its sole and absolute discretion, be entitled to rely upon information furnished by Districts, Members, Participants, and Eligible Survivors or other individuals acting on their behalf.

5.95.260 Costs of Administration.

The costs of administration of the Plan shall be paid by the County and Districts. Such expenses shall include, but are not limited to, expenses for professional, legal, accounting, and other services and other necessary or appropriate costs of administration. No costs or expenses of administering this Plan shall be paid, directly or indirectly, by the Retirement Plan. Further, no assets of the Retirement Plan shall be used, directly or indirectly, to pay for benefits or administration or any other costs (direct or indirect) of this Plan.

5.95.270 Claims Review Procedure.

Any person who has a claim for benefits under this Plan and who does not receive such benefits must make a written claim for benefits with the Plan Administrator at the time and in the form and manner determined by the Plan Administrator. Within a

reasonable period of time, the Plan Administrator shall provide notice in writing to any person whose claim for benefits under the Plan is denied, and shall provide such person a review of its decision with respect to such claim, if requested in writing by the person who has made the claim.

5.95.280 Correction of Errors.

If an error or omission is discovered in the administration of the Plan, the Plan Administrator shall take such necessary or appropriate and equitable action as may be necessary or appropriate to correct the error. Such action shall include but not be limited to taking all reasonable or necessary action to recover overpayments of benefits under the Plan.

5.95.290 Written Communications.

The Plan Administrator shall establish policies and procedures regarding written communications between the Plan and Participants and/or Eligible Survivors.

PART VIII. SOURCE OF BENEFITS.

5.95.300 Unfunded Plan.

A. The Plan shall be unfunded within the meaning of the federal tax laws. Ownership of any assets, whether cash or other investments which might be used to pay any amount under the Plan, shall at all times remain solely in the County or in the Districts (with the County acting as their agent). Participants and Eligible Survivors and any other persons who might be entitled to amounts under this Plan shall not have any property interest, preferred claims, liens, or any other beneficial interest whatsoever in any assets of the County or Districts, and shall have only general creditor status with

respect to the County and Districts. Any rights created under this Plan shall be mere unsecured contractual rights against the County, or the District, by which the Participant was formerly employed.

B. Benefits due under this Plan shall be paid by the County from its general assets, which are subject to the claims of the County's general creditors; with respect to benefits due to former employees of the Districts (or their Eligible Survivors), the County shall pay benefits from its general funds only after receiving money from the Districts to pay these benefits; any amounts received from a District shall be held as general assets of the County, which are Subject to the claims of the County's general creditors. The County shall also pay all costs, charges, and expenses relating to this Plan from the same asset sources.

5.95.310 No Employee Deferrals.

No employee contributions or deferrals shall be made or allowed under the Plan at any time. In accordance with Section 415(m), no election to defer compensation under this Plan shall be provided, at any time or in any manner, to any person.

5.95.320 No Use of Retirement Plan Assets.

County and District assets used to provide benefits under this Plan shall not be commingled with the monies of the Retirement Plan or any other qualified plans, nor shall this Plan ever receive or use any assets of the Retirement Plan. Notwithstanding the foregoing, in accordance with CERL Section 31899.4(d), and to the extent otherwise permitted by applicable law, LACERA will apply a credit toward or otherwise adjust County and District contributions to the Retirement Plan each year to reflect benefits

that are paid from this Plan rather than the Retirement Plan due to limits imposed by IRC Section 415(b). The amount of the credit or adjustment will be determined by a methodology acceptable to LACERA's actuary and such credit or adjustment will be implemented in compliance with applicable law.

PART IX. MISCELLANEOUS.

5.95.330 Applicable Law.

This Plan shall be governed by the laws of the State of California and applicable federal law.

5.95.340 No Service Rights.

Nothing in this Plan or in any resolution or regulation concerning this Plan shall be construed as giving to a Participant any right to continue employment with the County or any District.

5.95.350 Unclaimed Benefits.

The Plan Administrator shall establish policies and procedures with regard to unclaimed benefits.

5.95.360 Benefit Limits.

A. Nothing in this Plan shall be construed as creating an entitlement to any benefits greater than the difference between the amount of benefits that can be paid by the Retirement Plan without regard to the limitations of Section 415 and what can be provided by the Retirement Plan taking into account the limitations of Section 415.

B. Payment of a benefit under this Plan does not create any eligibility for any additional benefits provided by this Plan, by the Retirement Plan, or under any other program maintained by the County or Districts.

PART X. AMENDMENT OR TERMINATION OF PLAN.

5.95.370 Right to Amend.

Subject to its obligation to maintain a replacement benefit plan in accordance with Section 31899.4 of the CERL, the County has the right to amend or terminate this Plan at any time and in any manner for any reason whatsoever and may do so in its sole discretion.

5.95.380 Preservation of the Retirement Plan's Tax Status.

This Plan shall not in any way jeopardize the tax qualified status of the Retirement Plan. To maintain this qualified status, the County shall take all necessary or appropriate action, including but not limited to amending this Plan and the rules governing this Plan, solely for the purpose of complying with applicable federal tax laws and regulations.

5.95.390 Preservation of Section 415(m) Status.

The County shall have the authority to make appropriate amendments to the Plan in order to accommodate changes in the Internal Revenue Code and United States Treasury Regulations in a manner that will preserve the status of the Plan under Section 415(m) of the Internal Revenue Code.

SECTION 2. Appendix 2 to Title 5 (General Member Plan F*) is hereby deleted in its entirety.

~~Appendix 2 to Title 5~~

~~General Member Plan F*~~

~~* Editor's note: General Member Plan F was adopted by the board of supervisors November 14, 1989, and is codified herein at the request of the clerk of the board.~~

~~1.01 Adopted Purpose. The County of Los Angeles, pursuant to the order of its Board of Supervisors, adopts a profit sharing plan known as the County of Los Angeles General Member Plan F, effective as of January 1, 1990.~~

~~The County is adopting this Plan to provide, in conjunction with certain existing plans, approximately the same level of retirement benefits to new employees who will be subject to the limitations of Section 415 of the Code as such employees would receive under such other plans in the absence of such limitations, without affecting the rate of either member or employer contributions to the plans.~~

~~1.02 Definitions and Construction.~~

~~(a) Definitions. The following terms when used herein with initial capital letters, unless the context clearly indicates otherwise, shall have the following respective meanings:~~

~~(1) "Account" means a Participant's Account as specified in Section 6.02 of this appendix.~~

~~(2) "Adjustment Factor" means the cost-of-living adjustment factor prescribed by the Secretary of the Treasury under Section 415(d) of the Code for years beginning after 1987.~~

~~(3) "Administrative Committee" means the Board of Retirement of LACERA.~~

~~(4) "Administrator" or "Plan Administrator" means the Administrator of the Plan, as defined in Code Section 414(g), and shall be the Administrative Committee.~~

~~(5) "Beneficiary" means such person or persons as a Participant may designate under Section 8.01 to receive his interest under the Plan after his death.~~

~~(6) "Code" means the Internal Revenue Code of 1986, as amended.~~

~~(7) "County" means the County of Los Angeles and (i) any governmental entity of which the Los Angeles County Board of Supervisors is the governing body, and (ii) the Los Angeles Municipal Courts and the Los Angeles County Superior Court to the extent authorized by state law or rules of the court.~~

~~(8) "Defined Benefit Dollar Limitation" means, for any Plan Year or other Limitation Year, $90,000 adjusted by the Adjustment Factor, as of the January 1 falling within such Plan Year or Limitation Year.~~

~~(9) "Defined Benefit Plan" means a Qualified Plan other than a Defined Contribution Plan.~~

~~(10) "Defined Contribution Dollar Limitation" means, for any Plan Year or other Limitation Year, $30,000 or, if greater, one-fourth of the Defined Benefit Dollar Limitation in effect for such Plan Year or Limitation Year. If a short Limitation Year is created~~

because of a Plan amendment changing the Limitation Year to a different 12-consecutive-month period, the Defined Contribution Dollar Limitation for the short Limitation Year shall not exceed the amount determined in the preceding sentence multiplied by a fraction, the numerator of which is the number of months in the short Limitation Year and the denominator of which is 12.

(11) "Defined Contribution Plan" means a Qualified Plan which provides individual participant accounts for employer contributions, forfeitures, and gains or losses thereon, in accordance with Section 414(i) of the Code.

(12) "Disability" means disability as defined by the 1937 Act.

(13) "Eligible Employee" means an employee of the County who is first eligible to become a member of LACERA on or after January 1, 1990 and is a Participant of General Member Plan D.

(14) "Entry Date" means January 1, 1993, and the first day of every succeeding month.

(15) "Includable Compensation" means a Participant's total wages from the County as determined for purposes of Internal Revenue Service Form W-2, excluding, however: (A) moving expense reimbursements that are deductible by the Participant under Section 217 of the Code; (B) County contributions to any plan of deferred compensation that, before the application of Section 4.01, are not includable in the Participant's gross income; (C) distributions to the Participant from any plan of deferred compensation other than an unfunded, nonqualified plan of deferred compensation; (D) amounts realized under Section 83 of the Code with respect to restricted property that becomes freely transferable or is no longer subject to a substantial risk of forfeiture; and (E) any

~~other amounts which receive special tax benefits within the meaning of Section 1.415-2(d)(2) of the Treasury Regulations.~~

~~Notwithstanding the foregoing, the amount of a Participant's Includable Compensation taken into account under the Plan shall not exceed $200,000 multiplied by the Adjustment Factor.~~

~~(16) "LACERA" means the Los Angeles County Employees Retirement Association.~~

~~(17) "Limitation Year" means the 12-consecutive-month period used by a Qualified Plan for purposes of computing the limitations on benefits and annual additions under Section 415 of the Code. The Limitation Year for this Plan is the calendar year. If the Limitation Year is amended to a different 12-consecutive-month period, the new Limitation Year shall begin on a date within the Limitation Year in which the amendment is made.~~

~~(18) "Participant" means an Eligible Employee or former Eligible Employee who has become and continues to be a Participant of the Plan in accordance with the provisions of Section 2.01.~~

~~(19) "Plan" means the County of Los Angeles General Member Plan F, the terms and provisions of which are herein set forth, as the same may be amended, supplemented or restated from time to time.~~

~~(20) "Plan Year" means the 12-month period ending on June 30th of each year.~~

~~(21) "Qualified Plan" means an employee benefit plan that is qualified under Section 401(a) of the Code.~~

~~(22) "General Member Plan D" means that certain Defined Benefit Plan administered by LACERA pursuant to the 1937 Act and referred to as General Member Plan D.~~

~~(23) "Trust Fund" means the unsegregated portion of the trust fund established by the County pursuant to Section 31588 of the California Government Code in which the assets of the Plan are held.~~

~~(24) "Trustee" means the Board of Investments of LACERA.~~

~~(25) "Valuation Date" means, except as otherwise provided by the Administrative Committee, the last business day of each month.~~

~~(26) "Welfare Benefit Fund" means an organization described in paragraph (7), (9), (17) or (20) of Section 501(c) of the Code, a trust, corporation or other organization not exempt from federal income tax, or to the extent provided in Treasury Regulations, any account held for an employer by any person, which is part of a plan of an employer through which the employer provides benefits to employees or their beneficiaries, other than a benefit to which Sections 83(h), 404 (determined without regard to Section 404(b)(2)) or 404A applies, or to which an election under Section 463 applies.~~

~~(27) "1937 Act" means the County Employees Retirement Law of 1937, as amended.~~

~~(b) Construction.~~

~~(1) Unless the context otherwise indicates, the masculine wherever used herein shall include the feminine and neuter, the singular shall include the plural and words such as "herein," "hereof," "hereby," "hereunder" and words of similar import refer to the Plan as a whole and not any particular part thereof.~~

(2) Where headings have been supplied to portions of the Plan they have been supplied for convenience only and are not to be taken as limiting or extending the meaning of any of its provisions.

(3) Wherever the word "person" appears in the Plan, it shall refer to both natural and legal persons.

(4) Except to the extent federal law controls, the Plan shall be governed, construed and administered according to the laws of the state of California. All persons accepting or claiming benefits under the Plan shall be bound by and deemed to consent to its provisions.

2.01 Participation.

(a) Commencement of Participation. An Eligible Employee shall become a Participant in General Member Plan F on the first of either of the following occurrences: (i) the Entry Date following the fifth anniversary of the date of membership in General Member Plan D or (ii) the Entry Date next following the date on which the Participant is credited with five years of service in General Member Plan D. Such an Eligible Employee's participation shall become effective on and after such Entry Date.

(b) Duration of Participation. A Participant or former Participant shall remain a Participant so long as (1) he is an Eligible Employee, or (2) a portion of the Trust Fund is credited to his Account and held for his benefit by the Trustee. However, except as provided in Section 3.01, a Participant who ceases to be an Eligible Employee shall have no County contributions made on his behalf until he again commences participation pursuant to Section 2.01(a).

~~3.01 County Contributions.~~

~~(a) Amount of County Contributions. Subject to subsection (d) and, the limitations contained in Section 4.01, the Administrative Committee, upon the advice of the actuary for LACERA (the "Actuary"), shall determine the portion of the member contributions otherwise required under General Member Plan D (the "Proportion") that shall instead be contributed to this Plan for each Plan Year. Such member contributions shall only be credited to this Plan with respect to participants of General Member Plan D who are also Participants of this Plan and, in accordance with Section 414(h) of the Code, shall be treated for all purposes as if they had been made by the County. All determinations made by the Administrative Committee, the Trustee, and the Actuary concerning the Proportion to be contributed to General Member Plan F under this Section 3.01 shall be made in accordance with the following rules and such other rules as the Administrative Committee determines are necessary to achieve the purpose of the Plan, all of which rules shall be applied in a uniform and nondiscriminatory manner:~~

~~(1) Contributions to General Member Plan F shall be in the minimum amount necessary to ensure that the benefit provided by General Member Plan D to Participants of General Member Plan F does not exceed the defined benefit limits of Section 415 of the Code.~~

~~(2) Contributions to General Member Plan F shall not increase the total member or the total County contributions to the County retirement system.~~

~~(b) Allocation of County Contributions. Subject to subsection (d) and the limitations contained in Section 4.01 with respect to a Plan Year, a portion of the member contributions made for each Participant to General Member Plan D shall be allocated to the General Member Plan F Account of each such Participant who was an Eligible Employee during such Plan Year by multiplying the member's contributions to General Member Plan D by the Proportion determined under subparagraph (a) above.~~

~~(c) Payments to Trustee. Each County contribution made pursuant to this Section 3.01 shall be transmitted by the County to the Trustee on the date provided by the 1937 Act. Such County contributions shall be paid by the County to the Trustee and contributed to the Trust Fund without regard to the amount of the County's current or accumulated profits or revenues.~~

~~(d) Adjustment of Contribution.~~

~~(1) If it is determined prior to payment of all contributions for a Plan Year that the amount to be allocated to a Participant's Account pursuant to subsection (b) would cause the limitations set forth in Section 4.01(a) to be exceeded, then the Proportion for such Participant for such Plan Year, and the corresponding allocation under subsection (b), shall be reduced to the extent possible to avoid excess allocation. The portion of the contribution to this Plan so reduced shall be contributed to General Member Plan D on behalf of such Participant.~~

~~(2) If an amount is allocated to a suspense account pursuant to Section 4.01(c)(1), then the Proportion for such Participant for the following Plan Year under subsection (b), shall be reduced by the amount of the allocation from the suspense account to be made~~

~~to such Participant for such Plan Year. The portion of the contribution to this Plan so reduced shall be contributed to General Member Plan D on behalf of such Participant.~~

~~4.01 Limitation on Allocation.~~

~~(a) Notwithstanding any provision of the Plan to the contrary, but subject to subsection (d), if the Annual Addition (as hereinafter defined) of a Participant for any Limitation Year exceeds the lesser of the Defined Contribution Dollar Limitation or 25% of the Includable Compensation of such Participant for the Limitation Year (the "Maximum Annual Addition"), the excess Annual Addition attributable to this Plan shall not be allocated to the Participant's Account for the Plan Year, but shall be subject to the provisions of subsection (c). Each Participant entitled to share in the allocations under Section 3.01 for a Limitation Year shall be subject to this section for such Limitation Year. The limitations contained in this section shall apply on an aggregate basis to all Defined Contribution Plans and all Defined Benefit Plans (whether or not any of such plans have terminated) established by the County. Notwithstanding the foregoing, the percentage limitation specified in the first sentence of this subsection shall not apply to any contribution for medical benefits (within the meaning of Section 419(f)(2) of the Code) after a Participant's termination of employment that is otherwise treated as an Annual Addition under Section 415(l)(1) of the Code.~~

~~(b) Annual Addition. The Annual Addition of each Participant for a Limitation Year shall equal the sum of the following amounts with respect to all Qualified Plans and Welfare Benefit Funds maintained by the County:~~

~~(1) The amount of County contributions with respect to the Limitation Year allocated to the Participant's accounts;~~

~~(2) The amount, if any, carried forward pursuant to subsection (c) or a similar provision in another Qualified Plan and allocated to the Participant's accounts;~~

~~(3) The amount, if any, of a Participant's voluntary nondeductible contributions for the Limitation Year;~~

~~(4) The amount allocated to an individual medical account (as defined in Section 415(1)(2) of the Code) that is part of a Defined Benefit Plan or an annuity plan; and~~

~~(5) The amount attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Section 419A(d)(3) of the Code) under a Welfare Benefit Fund.~~

~~A corrective allocation shall be considered an Annual Addition for the Limitation Year to which it relates.~~

~~(c) Excess Allocations.~~

~~(1) If the Participant is not covered under another Defined Contribution Plan or a Welfare Benefit Fund maintained by the County during the Limitation Year and the amount otherwise allocable to his Account exceeds the Maximum Annual Addition prescribed in subsection (a), the County contributions which result from a reasonable error in estimating the Participant's Includable Compensation or from any other facts and circumstances to which Section 1.415-6(b)(6) of the Treasury Regulations would be applicable and which cause the Participant's Annual Addition to exceed the Maximum Annual Addition shall be held in a suspense account in the Trust Fund to be carried~~

forward and allocated in subsequent Limitation Years as provided in Section 3.01. Such suspense account shall not participate in the allocation of the net income or net loss of the Trust Fund under the Plan.

(2) This paragraph applies if, in addition to this Plan, the Participant is covered under another Defined Contribution Plan or a Welfare Benefit Fund maintained by the County during the Limitation Year.

(A) The Annual Addition which may be credited to a Participant's Account under this Plan for any such Limitation Year will not exceed the Maximum Annual Addition reduced by the Annual Addition credited to a Participant's accounts under the other Defined Contribution Plans and Welfare Benefit Funds for the same Limitation Year. If the Annual Addition with respect to the Participant under the other Defined Contribution Plans and Welfare Benefit Funds maintained by the County is less than the Maximum Annual Addition and the County contribution that would otherwise be contributed or allocated to the Participant's Account under this Plan would cause the Annual Addition for the Limitation Year to exceed the Maximum Annual Addition, the amount contributed or allocated under such other Defined Contribution Plans and Welfare Benefit Funds shall first be reduced so that the Annual Addition under all such Defined Contribution Plans and Welfare Benefit Funds for the Limitation Year will equal the Maximum Annual Addition. If the aggregate Annual Addition with respect to the Participant under such other Defined Contribution Plans and Welfare Benefit Funds cannot be reduced, or if the aggregate Annual Addition with respect to the Participant under such other Defined Contribution Plans and Welfare Benefit Funds after the maximum possible reduction is

~~equal to or greater than the Maximum Annual Addition, no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year. An excess Annual Addition will be reduced in the manner described in subparagraph (B).~~

~~(B) As soon as administratively feasible after the end of the Limitation Year, the Maximum Annual Addition for the Limitation Year shall be determined on the basis of the Participant's actual Includable Compensation for the Limitation Year. If a Participant's Annual Addition under this Plan and such other Defined Contribution Plans and Welfare Benefit Funds would result in the Annual Addition exceeding the Maximum Annual Addition for the Limitation Year, then, except as provided in subparagraph (A), the excess amount will be deemed to consist of the Annual Addition last allocated. In making this determination, the Annual Addition attributable to a Welfare Benefit Fund shall be deemed to have been allocated first regardless of the actual date of allocation. If an excess amount was allocated to a Participant on an allocation date of this Plan that coincides with an allocation date of another plan, the excess amount attributed to this Plan will be the product of:~~

~~(i) he total excess amount allocated as of such date; multiplied by~~

~~(ii) The ratio of the Annual Addition allocated to the Participant for the Limitation Year as of such date under this Plan to the total Annual Addition allocated to the Participant for the Limitation Year as of such date under this and all the other Defined Contribution Plans.~~

~~Any excess amount attributed to this Plan shall be disposed in the manner described in paragraph (1).~~

(d) Aggregate Benefit Limitation. If the County maintains, or at any time maintained, one or more Defined Benefit Plans covering any Participant in this Plan, the sum of the Defined Benefit Fraction (defined in paragraph (1)) and the Defined Contribution Fraction (defined in paragraph (2)) for any Limitation Year shall equal no more than 1.00. The Annual Addition under any Defined Contribution Plans (other than this Plan) will be reduced first, then the rate of accrual under the Defined Benefit Plans will be reduced, and then the Annual Addition under this Plan will be reduced in order to meet this limitation.

(1) "Defined Benefit Fraction" means a fraction, the numerator of which is the Projected Annual Benefit (as defined in subparagraph (3)) of the Participant under all Defined Benefit Plans maintained by the County determined as of the close of the Limitation Year pursuant to Treasury Regulations under Section 415 of the Code, and the denominator of which is the lesser of: (A) 140% of the Participant's average Includable Compensation for the three consecutive Plan Years of service that produce the highest average Includable Compensation; or (B) 125% of the Defined Benefit Dollar Limitation, determined as of the close of the Limitation Year.

(2) "Defined Contribution Fraction" means a fraction, the numerator of which is the sum of the Annual Additions allocated to the Participant's accounts for the applicable Limitation Year and each prior Limitation Year, and the denominator of which is the sum of the lesser of the following products for each Limitation Year in which the Participant was an employee (regardless of whether a Defined Contribution Plan was in existence for such Limitation Year): (A) the Defined Contribution Dollar Limitation effective for the

~~Limitation Year, multiplied by 125% or (B) 35% of the Participant's Includable Compensation for such Limitation Year.~~

~~(3) For purposes of this subsection, the term "Projected Annual Benefit" means the annual benefit (as defined in Section 415(b)(2) of the Code) to which a Participant would be entitled under the terms of a Defined Benefit Plan maintained by the County, assuming:~~

~~(A) The Participant will continue employment until his normal retirement age under the Defined Benefit Plan (or current age, if later); and~~

~~(B) The Participant's Includable Compensation for the current Limitation Year and all other relevant factors used to determine benefits under the Defined Benefit Plan will remain constant for all future Limitation Years.~~

~~(4) For purposes of this subsection, a Participant's nondeductible contributions to a Defined Benefit Plan shall be treated as being part of a separate Defined Contribution Plan.~~

~~(e) Aggregation of Plans. For purposes of applying the limitations set forth in this section, all Defined Benefit Plans ever maintained by the County shall be treated as one Defined Benefit Plan, and all Defined Contribution Plans ever maintained by the County shall be treated as one Defined Contribution Plan.~~

~~5.01 Return of Contributions to County.~~

~~(a) Except as provided in subsection (B) of this section, the assets of the Plan shall never inure to the benefit of the County and shall be held for the exclusive purpose of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan.~~

~~(b) If any contribution to the Plan is made by the County due to a mistake of fact, such contribution shall, to the extent permitted by applicable law, upon the request of the County, be returned to the County within one year after it is made. That portion of the contribution which is wages due to the Participant shall in turn be returned to the Participant by the County.~~

~~6.01 Investment of Plan Assets. The assets of the Plan held in the Trust Fund shall be invested in the same manner as the assets of General Member Plan D.~~

~~6.02 Accounts. The Administrative Committee shall establish an Account for each Participant to reflect the County contributions that are made to the Plan on his behalf. Separate records shall be maintained for each such Account showing the amount of County contributions to each such Account, payments and withdrawals therefrom and the amount of income, expenses, gains, and losses attributable thereto. The interest of each Participant hereunder at any time shall consist of his Account balance (as determined in Section 6.03) as of the last preceding Valuation Date plus credits and minus debits to such Account since that Valuation Date.~~

~~6.03 Valuation of Trust Fund.~~

~~(a) As of each Valuation Date, the Trustee shall determine the fair market value of all securities or other property held in the Trust Fund. Any assets held in the Trust Fund for which the market value is not readily ascertainable shall be valued at such amount as shall be deemed by the Trustee to represent the fair value thereof. The valuation shall include income accrued but not received, unrealized gains and losses, as well as accrued expenses and other charges applicable to the Trust Fund subject to the limit defined in the following sentence. The proportion of such expenses and other charges in relation to the Trust Fund shall not exceed the proportion which the total of the same categories of charges for all retirement plans administered by LACERA have to the total retirement assets held by LACERA.~~

~~(b) The valuation thus derived in subsection (a) shall be the basis for determining the net rate of return available for allocation to Participants (the "Rate"). The Trustee shall determine the Rate in accordance with the Generally Accepted Accounting Principles.~~

~~(c) After each Valuation Date, the Rate determined in subsection (b) shall be applied to the Account of each Participant (whether living or dead) by multiplying the Account balance by the Rate and then adding the product thus derived to the balance. The sum thus derived shall be the Account value as of the Valuation Date. The total of all such individual Account values shall equal the value of the Trust Fund.~~

~~(d) The reasonable and equitable decision of the Trustee as to the value of the Trust Fund as of each Valuation Date shall be conclusive and binding upon all persons having any interest, direct or indirect, in such Fund.~~

~~7.01 Vesting. The interest of a Participant in his Account shall be 100% vested and nonforfeitable at all times.~~

~~8.01 Designation of Beneficiary. The Beneficiaries of the Participant under this Plan shall be the same as the Beneficiaries designated under General Member Plan D. If the Participant designates no Beneficiaries in General Member Plan D, then his Beneficiaries are those as provided for Participants of General Member Plan D by the 1937 Act. Beneficiaries shall be treated for all purposes under General Member Plan F and enjoy the same rights and obligations as though they were subject to General Member Plan D.~~

~~8.02 Failure to Designate Beneficiary. In the event a Participant has not designated a Beneficiary, or in the event no Beneficiary survives a Participant, the distribution of the Participant's interest in the Trust Fund (if any) upon his death shall be made as provided in the 1937 Act.~~

~~9.01 Events Permitting Distributions. A Participant's Account balance becomes distributable only after his termination of employment, qualification for a service retirement benefit under the 1937 Act, disability or death. The timing and form of the distribution shall be in accordance with this section and Section 9.02.~~

~~9.02 Calculation of General Member Plan F Benefit Offset Value. The Administrative Committee upon the recommendation of the Trustee taking into consideration the advice of the Actuary, shall determine the annuity value of the General Member Plan F benefit to determine the reduction of the annuity provided by General Member Plan D (the "Benefit Offset Value") as required by section 31510.2(e) of the 1937 Act. To~~

~~determine the Benefit Offset Value, the value of the Participant's General Member Plan F Account on the Valuation Date immediately preceding the commencement of distribution shall be converted to the actuarial equivalent of the Unmodified Service Retirement Allowance provided by General Member Plan D.~~

~~9.03 Rules Governing Distributions.~~

~~(a) Form of Distributions.~~

~~(1) At the sole discretion of the Administrative Committee, the distribution of the Account balance payable under General Member Plan F may be made in the same manner as the annuity payable under General Member Plan D and may be made through the purchase of an annuity contract from an insurance company.~~

~~(i) If the Participant or his Beneficiaries receive distribution in the same manner as the Annuity payable under General Member Plan D and elect to receive an optional settlement other than the unmodified service retirement allowance provided by General Member Plan D, then the unmodified allowance calculated in Section 9.02 above shall be converted to the optional settlement elected by the Participant under General Member Plan D as provided by the applicable provisions of the 1937 Act. Notwithstanding the provisions of Section 9.02, if an optional settlement is elected by the Participant, the annuity calculated in the preceding sentence shall become the Benefit Offset Value. If the Participant dies before or after the distribution of benefits commences, distribution to his Beneficiaries shall continue or begin, as the case may be, in the same manner as is provided in the 1937 Act for General Member Plan D participants and their beneficiaries.~~

~~(ii) If the Participant or his Beneficiaries receive distribution in the form of an annuity purchased from an insurance company, the Participant's General Member Plan F Account balance shall be used to purchase an annuity which provides the same form of benefit as would be provided by the General Member Plan D benefit elected by the Participant. Notwithstanding the provisions of Section 9.02, if an optional settlement is elected by the Participant, the annuity provided by the preceding sentence shall establish the Benefit Offset Value. Distribution to the Participant and his Beneficiaries, if the latter is provided for, shall be as required by the annuity contract. Upon commencement of distribution, the Participant and his Beneficiaries shall cease to have an interest in General Member Plan F and shall be entitled only to the benefits provided by the annuity contract.~~

~~(2) Notwithstanding the provisions of subparagraph (1), if the value of a Participant's Account balance does not exceed $3,500, the distribution of the Participant's Account balance shall be made to the Participant (or, in the event of his death, to his Beneficiary) in the form of a single lump-sum payment.~~

~~(b) Commencement of Benefits. In order for the distribution of a Participant's Account balance to commence, the Participant (or his Beneficiary) must elect to receive such benefit and his benefit under General Member Plan D. Distribution of the Account balance shall begin at the same time as the distribution of the benefit under General Member Plan D.~~

~~(c) Restrictions on Delay of Distribution. Distribution of a Participant's entire Account balance shall commence not later than April 1st following the calendar year in which he attains age 701/2 or, if later, terminates employment. Unless the form of distribution is a single lump-sum payment, distributions will be made over a period not exceeding the life expectancy of the Participant, or the joint life expectancy of the Participant and his Beneficiary.~~

~~If the Participant's entire interest is to be distributed in a form other than a single lump-sum payment, then the amount to be distributed each year must be at least an amount equal to the quotient obtained by dividing the Participant's entire interest by the life expectancy of the Participant or joint and last survivor expectancy of the Participant and designated Beneficiary. Life expectancy and joint and last survivor expectancy shall be computed by the use of the return multiples contained in Section 1.72-9 of the Treasury Regulations. For purposes of this computation, the life expectancy of the Participant (and the Participant's spouse, if the spouse is the designated Beneficiary) may be recalculated no more frequently than annually. The life expectancy of a Beneficiary other than a spouse may not be recalculated. If the Participant's spouse is not the designated Beneficiary, the method of distribution selected must assure that at least 50% of the present value of the amount available for distribution is paid within the life expectancy of the Participant.~~

~~(d) Limitation to Assure Benefits Payable to Beneficiaries are Incidental. Under any distribution option, the present value of payments projected to be paid to a Participant (or to the Participant and his spouse, if his spouse is the Beneficiary) shall be more than 50% of the present value of the total benefit.~~

~~(e) Restrictions in the Event of Death. Upon the death of the Participant, the following distribution provisions shall apply:~~

~~(1) If the Participant dies after distribution of his interest has commenced, the remaining portion of such interest will continue to be distributed at least as rapidly as under the method of distribution being used prior to the Participant's death.~~

~~(2) If the Participant dies before distribution of his interest commences, the Participant's entire interest will be distributed no later than five years after the Participant's death except to the extent that an election is made to receive distributions in accordance with subparagraph (A) or (B):~~

~~(A) If any portion of the Participant's interest is payable to a designated Beneficiary, distributions may be made in substantially equal installments over the life or life expectancy of the designated Beneficiary commencing no later than one year after the Participant's death.~~

~~(B) If the designated Beneficiary is the Participant's surviving spouse, the date distributions are required to begin in accordance with subparagraph (a) shall not be earlier than the date in which the Participant would have attained age 701/2, and, if the spouse dies before payments begin, subsequent distributions shall be made as if the spouse had been the Participant.~~

~~For purposes of this paragraph, payments will be calculated by use of the return multiples specified in Section 1.72-9 of the Treasury Regulations. Life expectancy of a surviving spouse may be recalculated annually. In the case of any other designated Beneficiary, life expectancy will be calculated at the time payment first commences without further recalculation.~~

~~(3) For purposes of this subsection, any amount paid to a child of the Participant will be treated as if it had been paid to the surviving spouse if the amount becomes payable to the surviving spouse when the child reaches the age of majority.~~

~~(f) Delayed Payments. If the amount of a distribution required to commence on a date determined under this section cannot be ascertained by such date, or if it is not possible to make such payment on such date because the Administrative Committee has been unable to locate the Participant after making reasonable efforts to do so, a payment retroactive to such date may be made no later than 60 days after the earliest date on which the amount of such payment can be ascertained or the date on which the Participant is located (whichever is applicable).~~

~~(g) Reemployment of Participant. Except as provided in Section 31680.2 of the 1937 Act, if a Participant who had terminated employment becomes reemployed by the County, no distribution from the Trust Fund shall be made or continued to the Participant while he is so employed. Any amounts which the Participant was entitled to receive on his prior termination of employment shall be held in the Trust Fund until he or his Beneficiary is again entitled to a distribution under the terms of the Plan.~~

~~10.01 Administration of the Plan and Trust Fund; Responsibility for Administration. As Administrator, the Administrative Committee shall be responsible for the administration of the Plan, including but not limited to the preparation and delivery to the Board of Supervisors of Los Angeles County, Participants, Beneficiaries, and governmental agencies of all information, descriptions, and reports required by applicable law. Each other fiduciary shall have such powers, duties, and authorities as shall be specified in the Plan.~~

~~10.02 Administrative Committee Procedure.~~

~~(a) The chairman of the Board of Retirement of LACERA shall be the chairman of the Administrative Committee.~~

~~(b) The Administrative Committee shall conduct business according to the rules of order of the Board of Retirement and the Bylaws of LACERA.~~

~~10.03 Authority. The Administrative Committee shall interpret where necessary the provisions of the Plan to determine the rights and benefits of Participants and other persons under the Plan. The Administrative Committee, in case of disputes concerning the rights and benefits of Participants and other persons under the Plan, may make findings of fact with respect to any such matter arising in connection with the administration of the Plan. Subject to the provision of Section 10.04, such determinations and findings shall be final and conclusive, to the extent permitted by law, as to all interested persons for all purposes of the Plan.~~

10.04 Revocability of Action. Any action taken by the Administrative Committee with respect to the rights or benefits under the Plan of any Participant or Beneficiary shall be revocable by the Administrative Committee as to payments, distributions, or deliveries not theretofore made hereunder pursuant to such action. Appropriate adjustments may be made in future payments or distributions to a Participant or Beneficiary to offset any excess payment or underpayment theretofore made hereunder to such Participant or Beneficiary.

10.05 Uniform Administration of Plan. All action taken by the Administrative Committee under the Plan shall treat all persons similarly situated in a uniform and consistent manner.

10.06 No Guarantee Against Loss. Neither the County, LACERA, or the Administrative Committee guarantees in any manner the Trust Fund or any part thereof against loss or depreciation. All persons having any interest in the Trust Fund shall look solely to such Fund for payment with respect to such interest.

10.07 Payment of Benefits. All payments of benefits provided for by the Plan (less any deductions provided for by the Plan) shall be made solely out of the Trust Fund in accordance with instructions given to the Trustee by the Administrative Committee. Neither the County, LACERA, or the Administrative Committee shall otherwise be liable for any benefits payable under the Plan.

11.01 Nonalienation. To the extent permitted by law and except as otherwise provided in the Plan, no right or interest of any kind of a Participant or Beneficiary hereunder shall be transferable or assignable by the Participant or Beneficiary, nor shall any such right

~~or interest be subject to alienation, anticipation, encumbrance, garnishment, attachment, execution, or levy of any kind, voluntary or involuntary.~~

~~11.02 Facility of Payment. In the event the Administrative Committee finds that any Participant or Beneficiary to whom a benefit is payable under the Plan is (at the time such benefit is payable) unable to care for his affairs because of physical, mental, or legal incompetence, the Administrative Committee, in its sole discretion, may cause any payment due to him hereunder, for which prior claim has not been made by a duly qualified guardian or other legal representative, to be paid to the person or institution deemed by the Administrative Committee to be maintaining or responsible for the maintenance of such Participant or Beneficiary, and any such payment shall be deemed a payment for the benefit of such Participant or Beneficiary and shall constitute a complete discharge of any liability therefor under the Plan.~~

~~11.03 No Enlargement of Employment Rights. A Participant by accepting benefits under the Plan does not thereby agree to continue for any period in the employ of the County, and the County by adopting the Plan, making contributions, or taking any action with respect to the Plan does not obligate itself to continue the employment of any Participant for any period.~~

~~11.04 Severability Provision. If any provision of the Plan or the application thereof to any circumstance or person is invalid, the remainder of the Plan and the application of such provision to other circumstances or persons shall not be affected thereby.~~

~~12.01 Amendment or Termination.~~

~~(a) Right to Amend or Terminate. By mutual agreement between the County and representatives of the affected certified bargaining organizations and subject to the limitations of Section 5.01(a) of the Plan, the 1937 Act, and the Meyers-Milias-Brown Act, the Board of Supervisors of the County has reserved, and does hereby reserve, the right at any time or times, without the consent of any Participant, Beneficiary, or other person, (1) to terminate the Plan, in whole or in part or as to any designated group of employees, Participants, and their Beneficiaries, or (2) to amend the Plan, in whole or in part. Subject to the provisions of Section 4.01, no such termination or amendment shall decrease the amount to be contributed by the County on account of any period prior to the date such termination or amendment is approved by the Board of Supervisors of the County.~~

~~(b) Procedure for Termination or Amendment. Any termination or amendment of the Plan pursuant to subsection (a) shall be expressed in an instrument executed by the County on the order of its Board of Supervisors and filed with the Trustee, and shall become effective as of the date designated in such instrument or, if no date is so designated, on its execution.~~

~~(c) Distribution Upon Termination. If the Plan shall be terminated by the County, then, subject to the final sentence of subsection (a) contributions shall cease, and the assets of the Plan, as mutually agreed between the County and representatives of certified bargaining organizations, shall be distributed to Participants and their Beneficiaries as provided by applicable law.~~

~~(d) Vesting on Termination. Notwithstanding any other provision of the Plan, upon the termination or partial termination of the Plan or upon complete discontinuance of contributions under the Plan, the rights of all Participants to benefits accrued to the date of such termination or partial termination or discontinuance, to the extent then funded, or the amounts credited to the Participant's Account shall be fully vested and nonforfeitable.~~

SECTION 3. Appendix 3 to Title 5 (Safety Plan F*) is hereby deleted in its entirety as follows:

~~Appendix 3 to Title 5~~

~~Safety Plan F*~~

~~* Editor's note: Safety Plan F was adopted by the board of supervisors November 14, 1989, and is codified herein at the request of the clerk of the board.~~

~~1.01 Adopted Purpose. The County of Los Angeles, pursuant to the order of its Board of Supervisors, adopts a profit sharing plan known as the County of Los Angeles Safety Plan F, effective as of January 1, 1990.~~

~~The County is adopting this Plan to provide, in conjunction with certain existing plans, approximately the same level of retirement benefits to new employees who will be subject to the limitations of Section 415 of the Code as such employees would receive under such other plans in the absence of such limitations, without affecting the rate of either member or employer contributions to the plans.~~

~~1.02 Definitions and Construction.~~

~~(a) Definitions. The following terms when used herein with initial capital letters, unless the context clearly indicates otherwise, shall have the following respective meanings:~~

~~(1) "Account" means a Participant's Account as specified in Section 6.02.~~

~~(2) "Adjustment Factor" means the cost of living adjustment factor prescribed by the Secretary of the Treasury under Section 415(d) of the Code for years beginning after 1987.~~

~~(3) "Administrative Committee" means the Board of Retirement of LACERA.~~

~~(4) "Administrator" or "Plan Administrator" means the Administrator of the Plan, as defined in Code Section 414(g), and shall be the Administrative Committee.~~

~~(5) "Beneficiary" means such person or persons as a Participant may designate under Section 8.01 to receive his interest under the Plan after his death.~~

~~(6) "Code" means the Internal Revenue Code of 1986, as amended.~~

~~(7) "County" means the County of Los Angeles and (i) any governmental entity of which the Los Angeles County Board of Supervisors is the governing body, and (ii) the Los Angeles Municipal Courts and the Los Angeles County Superior Court to the extent authorized by State law or rules of the Court.~~

~~(8) "Defined Benefit Dollar Limitation" means, for any Plan Year or other Limitation Year, $90,000 adjusted by the Adjustment Factor, as of the January 1 falling within such Plan Year or Limitation Year.~~

~~(9) "Defined Benefit Plan" means a Qualified Plan other than a Defined Contribution Plan.~~

(10) "Defined Contribution Dollar Limitation" means, for any Plan Year or other Limitation Year, $30,000 or, if greater, one-fourth of the Defined Benefit Dollar Limitation in effect for such Plan Year or Limitation Year. If a short Limitation Year is created because of a Plan amendment changing the Limitation Year to a different 12-consecutive-month period, the Defined Contribution Dollar Limitation for the short Limitation Year shall not exceed the amount determined in the preceding sentence multiplied by a fraction, the numerator of which is the number of months in the short Limitation Year and the denominator of which is 12.

(11) "Defined Contribution Plan" means a Qualified Plan which provides individual participant accounts for employer contributions; forfeitures, and gains or losses thereon, in accordance with Section 414(i) of the Code.

(12) "Disability" means disability as defined by the 1937 Act.

(13) "Eligible Employee" means an employee of the County who is first eligible to become a member of LACERA on or after January 1, 1990 and is a Participant of Safety Plan B.

(14) "Entry Date" means January 1, 1993, and the first day of every succeeding month.

(15) "Includable Compensation" means a Participant's total wages from the County as determined for purposes of Internal Revenue Service Form W-2, excluding, however: (A) moving expense reimbursements that are deductible by the Participant under Section 217 of the Code; (B) County contributions to any plan of deferred compensation that, before the application of Section 4.01, are not includable in the Participant's gross income; (C) distributions to the Participant from any plan of deferred compensation

other than an unfunded, nonqualified plan of deferred compensation; (D) amounts realized under Section 83 of the Code with respect to restricted property that becomes freely transferable or is no longer subject to a substantial risk of forfeiture; and (E) any other amounts which receive special tax benefits within the meaning of Section 1.415-2(d)(2) of the Treasury Regulations.

Notwithstanding the foregoing, the amount of a Participant's Includable Compensation taken into account under the Plan shall not exceed $200,000 multiplied by the Adjustment Factor.

(16) "LACERA" means the Los Angeles County Employees Retirement Association.

(17) "Limitation Year" means the twelve-consecutive month period used by a Qualified Plan for purposes of computing the limitations on benefits and annual additions under Section 415 of the Code. The Limitation Year for this Plan is the calendar year. If the Limitation Year is amended to a different 12-consecutive-month period, the new Limitation Year shall begin on a date within the Limitation Year in which the amendment is made.

(18) "Participant" means an Eligible Employee or former Eligible Employee who has become and continues to be a Participant of the Plan in accordance with the provisions of Section 2.01.

(19) "Plan" means the County of Los Angeles Safety Plan F, the terms and provisions of which are herein set forth, as the same may be amended, supplemented, or restated from time to time.

(20) "Plan Year" means the 12-month period ending on June 30 of each year.

~~(21) "Qualified Plan" means an employee benefit plan that is qualified under Section 401(a) of the Code.~~

~~(22) "Safety Plan B" means that certain Defined Benefit Plan administered by LACERA pursuant to the 1937 Act and referred to as Safety Plan B.~~

~~(23) "Trust Fund" means the unsegregated portion of the trust fund established by the County pursuant to Section 31588 of the California Government Code in which the assets of the Plan are held.~~

~~(24) "Trustee" means the Board of Investments of LACERA.~~

~~(25) "Valuation Date" means, except as otherwise provided by the Administrative Committee, the last business day of each month.~~

~~(26) "Welfare Benefit Fund" means an organization described in paragraph (7), (9), (17), or (20) of Section 501(c) of the Code, a trust, corporation, or other organization not exempt from federal income tax, or to the extent provided in Treasury Regulations, any account held for an employer by any person, which is part of a plan of an employer through which the employer provides benefits to employees or their beneficiaries, other than a benefit to which Sections 83(h), 404 (determined without regard to Section 404(b)(2)), or 404A applies, or to which an election under Section 463 applies.~~

~~(27) "1937 Act" means the County Employees Retirement Law of 1937, as amended.~~

~~(b) Construction.~~

(1) Unless the context otherwise indicates, the masculine wherever used herein shall include the feminine and neuter, the singular shall include the plural and words such as "herein," "hereof," "hereby," "hereunder," and words of similar import refer to the Plan as a whole and not any particular part thereof.

(2) Where headings have been supplied to portions of the Plan they have been supplied for convenience only and are not to be taken as limiting or extending the meaning of any of its provisions.

(3) Wherever the word "person" appears in the Plan, it shall refer to both natural and legal persons.

(4) Except to the extent federal law controls, the Plan shall be governed, construed and administered according to the laws of the State of California. All persons accepting or claiming benefits under the Plan shall be bound by and deemed to consent to its provisions.

2.01 Participation.

(a) Commencement of Participation. An Eligible Employee shall become a Participant in Safety Plan F on the first of either of the following occurrences: (i) the Entry Date following the fifth anniversary of the date of membership in Safety Plan B or (ii) the Entry Date next following the date on which the Participant is credited with five years of service in Safety Plan B. Such an Eligible Employee's participation shall become effective on and after such Entry Date.

(b) Duration of Participation. A Participant or former Participant shall remain a Participant so long as (1) he is an Eligible Employee, or (2) a portion of the Trust Fund is credited to his Account and held for his benefit by the Trustee. However, except as provided in Section 3.01, a Participant who ceases to be an Eligible Employee shall have no County contributions made on his behalf until he again commences participation pursuant to Section 2.01(a).

3.01 County Contributions.

(a) Amount of County Contributions. Subject to subsection (d) and the limitations contained in Section 4.01, the Administrative Committee, upon the advice of the actuary for LACERA (the "Actuary"), shall determine the portion of the member contributions otherwise required under Safety Plan B (the "Proportion") that shall instead be contributed to this Plan for each Plan Year. Such member contributions shall only be credited to this Plan with respect to participants of Safety Plan B who are also Participants of this Plan and, in accordance with Section 414(h) of the Code, shall be treated for all purposes as if they had been made by the County. All determinations made by the Administrative Committee, the Trustee, and the Actuary concerning the Proportion to be contributed to Safety Plan F under this Section 3.01 shall be made in accordance with the following rules and such other rules as the Administrative Committee determines are necessary to achieve the purpose of the Plan, all of which rules shall be applied in a uniform and nondiscriminatory manner:

~~(1) Contributions to Safety Plan F shall be in the minimum amount necessary to ensure that the benefit provided by Safety Plan B to Participants of Safety Plan F does not exceed the defined benefit limits of Section 415 of the Code.~~

~~(2) Contributions to Safety Plan F shall not increase the total member or the total County contributions to the County retirement system.~~

~~(b) Allocation of County Contributions. Subject to subsection (d) and the limitations contained in Section 4.01 with respect to a Plan Year, a portion of the member contributions made for each Participant to Safety Plan B shall be allocated to the Safety Plan F Account of each such Participant who was an Eligible Employee during such Plan Year by multiplying the member's contributions to Safety Plan B by the Proportion determined under subparagraph (a) above.~~

~~(c) Payments to Trustee. Each County contribution made pursuant to this Section 3.01 shall be transmitted by the County to the Trustee on the date provided by the 1937 Act. Such County contributions shall be paid by the County to the Trustee and contributed to the Trust Fund without regard to the amount of the County's current or accumulated profits or revenues.~~

~~(d) Adjustment of Contribution.~~

~~(1) If it is determined prior to payment of all contributions for a Plan Year that the amount to be allocated to a Participant's Account pursuant to subsection (b) would cause the limitations set forth in Section 4.01(a) to be exceeded, then the Proportion for such Participant for such Plan Year, and the corresponding allocation under subsection~~

~~(b), shall be reduced to the extent possible to avoid excess allocation. The portion of the contribution to this Plan so reduced shall be contributed to Safety Plan B on behalf of such Participant.~~

~~(2) If an amount is allocated to a suspense account pursuant to Section 4.01(c)(1), then the Proportion for such Participant for the following Plan Year under subsection (b), shall be reduced by the amount of the allocation from the suspense account to be made to such Participant for such Plan Year. The portion of the contribution to this Plan so reduced shall be contributed to Safety Plan B on behalf of such Participant.~~

~~4.01 Limitation on Allocation.~~

~~(a) Notwithstanding any provision of the Plan to the contrary, but subject to subsection (d), if the Annual Addition (as hereinafter defined) of a Participant for any Limitation Year exceeds the lesser of the Defined Contribution Dollar Limitation or 25% of the Includable Compensation of such Participant for the Limitation Year (the "Maximum Annual Addition"), the excess Annual Addition attributable to this Plan shall not be allocated to the Participant's Account for the Plan Year, but shall be subject to the provisions of subsection (c). Each Participant entitled to share in the allocations under Section 3.01 for a Limitation Year shall be subject to this Section for such Limitation Year. The limitations contained in this Section shall apply on an aggregate basis to all Defined Contribution Plans and all Defined Benefit Plans (whether or not any of such plans have terminated) established by the County. Notwithstanding the foregoing, the percentage limitation specified in the first sentence of this subsection shall not apply to any contribution for medical benefits (within the meaning of Section 419(f)(2) of the~~

~~Code) after a Participant's termination of employment that is otherwise treated as an Annual Addition under Section 415(l)(1) of the Code.~~

~~(b) Annual Addition. The Annual Addition of each Participant for a Limitation Year shall equal the sum of the following amounts with respect to all Qualified Plans and Welfare Benefit Funds maintained by the County:~~

~~(1) The amount of County contributions with respect to the Limitation Year allocated to the Participant's accounts;~~

~~(2) The amount, if any, carried forward pursuant to subsection (c) or a similar provision in another Qualified Plan and allocated to the Participant's accounts;~~

~~(3) The amount, if any, of a Participant's voluntary nondeductible contributions for the Limitation Year;~~

~~(4) The amount allocated to an individual medical account (as defined in Section 415(1)(2) of the Code) that is part of a Defined Benefit Plan or an annuity plan; and~~

~~(5) The amount attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Section 419A(d)(3) of the Code) under a Welfare Benefit Fund.~~

~~A corrective allocation shall be considered an Annual Addition for the Limitation Year to which it relates.~~

~~(c) Excess Allocations.~~

~~(1) If the Participant is not covered under another Defined Contribution Plan or a Welfare Benefit Fund maintained by the County during the Limitation Year and the amount otherwise allocable to his Account exceeds the Maximum Annual Addition~~

prescribed in subsection (a), the County contributions which result from a reasonable error in estimating the Participant's Includable Compensation or from any other facts and circumstances to which Section 1.415-6(b)(6) of the Treasury Regulations would be applicable and which cause the Participant's Annual Addition to exceed the Maximum Annual Addition shall be held in a suspense account in the Trust Fund to be carried forward and allocated in subsequent Limitation Years as provided in Section 3.01. Such suspense account shall not participate in the allocation of the net income or net loss of the Trust Fund under the Plan.

(2) This paragraph applies if, in addition to this Plan, the Participant is covered under another Defined Contribution Plan or a Welfare Benefit Fund maintained by the County during the Limitation Year.

(A) The Annual Addition which may be credited to a Participant's Account under this Plan for any such Limitation Year will not exceed the Maximum Annual Addition reduced by the Annual Addition credited to a Participant's accounts under the other Defined Contribution Plans and Welfare Benefit Funds for the same Limitation Year. If the Annual Addition with respect to the Participant under the other Defined Contribution Plans and Welfare Benefit Funds maintained by the County is less than the Maximum Annual Addition and the County contribution that would otherwise be contributed or allocated to the Participant's Account under this Plan would cause the Annual Addition for the Limitation Year to exceed the Maximum Annual Addition, the amount contributed or allocated under such other Defined Contribution Plans and Welfare Benefit Funds shall first be reduced so that the Annual Addition under all such Defined Contribution

~~Plans and Welfare Benefit Funds for the Limitation Year will equal the Maximum Annual Addition. If the aggregate Annual Addition with respect to the Participant under such other Defined Contribution Plans and Welfare Benefit Funds cannot be reduced, or if the aggregate Annual Addition with respect to the Participant under such other Defined Contribution Plans and Welfare Benefit Funds after the maximum possible reduction is equal to or greater than the Maximum Annual Addition, no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year. An excess Annual Addition will be reduced in the manner described in subparagraph (a).~~

~~(B) As soon as administratively feasible after the end of the Limitation Year, the Maximum Annual Addition for the Limitation Year shall be determined on the basis of the Participant's actual Includable Compensation for the Limitation Year. If a Participant's Annual Addition under this Plan and such other Defined Contribution Plans and Welfare Benefit Funds would result in the Annual Addition exceeding the Maximum Annual Addition for the Limitation Year, then, except as provided in subparagraph (A), the excess amount will be deemed to consist of the Annual Addition last allocated. In making this determination, the Annual Addition attributable to a Welfare Benefit Fund shall be deemed to have been allocated first regardless of the actual date of allocation. If an excess amount was allocated to a Participant on an allocation date of this Plan that coincides with an allocation date of another plan, the excess amount attributed to this Plan will be the product of:~~

~~(i) The total excess amount allocated as of such date; multiplied by~~

(ii) The ratio of the Annual Addition allocated to the Participant for the Limitation Year as of such date under this Plan to the total Annual Addition allocated to the Participant for the Limitation Year as of such date under this and all the other Defined Contribution Plans.

Any excess amount attributed to this Plan shall be disposed in the manner described in paragraph (1).

(d) Aggregate Benefit Limitation. If the County maintains, or at any time maintained, one or more Defined Benefit Plans covering any Participant in this Plan, the sum of the Defined Benefit Fraction (defined in paragraph (1)) and the Defined Contribution Fraction (defined in paragraph (2)) for any Limitation Year shall equal no more than 1.00. The Annual Addition under any Defined Contribution Plans (other than this Plan) will be reduced first, then the rate of accrual under the Defined Benefit Plans will be reduced, and then the Annual Addition under this Plan will be reduced in order to meet this limitation.

(1) "Defined Benefit Fraction" means a fraction, the numerator of which is the Projected Annual Benefit (as defined in subparagraph (3)) of the Participant under all Defined Benefit Plans maintained by the County determined as of the close of the Limitation Year pursuant to Treasury Regulations under Section 415 of the Code, and the denominator of which is the lesser of: (A) 140% of the Participant's average Includable Compensation for the three consecutive Plan Years of service that produce the highest average Includable Compensation; or (B) 125% of the Defined Benefit Dollar Limitation, determined as of the close of the Limitation Year.

~~(2) "Defined Contribution Fraction" means a fraction, the numerator of which is the sum of the Annual Additions allocated to the Participant's accounts for the applicable Limitation Year and each prior Limitation Year, and the denominator of which is the sum of the lesser of the following products for each Limitation Year in which the Participant was an employee (regardless of whether a Defined Contribution Plan was in existence for such Limitation Year): (A) the Defined Contribution Dollar Limitation effective for the Limitation Year, multiplied by 125%; or (B) 35% of the Participant's Includable Compensation for such Limitation Year.~~

~~(3) For purposes of this subsection, the term "Projected Annual Benefit" means the annual benefit (as defined in Section 415(b)(2) of the Code) to which a Participant would be entitled under the terms of a Defined Benefit Plan maintained by the County, assuming:~~

~~(A) The Participant will continue employment until his normal retirement age under the Defined Benefit Plan (or current age, if later); and~~

~~(B) The Participant's Includable Compensation for the current Limitation Year and all other relevant factors used to determine benefits under the Defined Benefit Plan will remain constant for all future Limitation Years.~~

~~(4) For purposes of this subsection, a Participant's nondeductible contributions to a Defined Benefit Plan shall be treated as being part of a separate Defined Contribution Plan.~~

(e) Aggregation of Plans. For purposes of applying the limitations set forth in this Section, all Defined Benefit Plans ever maintained by the County shall be treated as one Defined Benefit Plan, and all Defined Contribution Plans ever maintained by the County shall be treated as one Defined Contribution Plan.

5.01 Return of Contributions to County.

(a) Except as provided in subsection (b) of this Section, the assets of the Plan shall never inure to the benefit of the County and shall be held for the exclusive purpose of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan.

(b) If any contribution to the Plan is made by the County due to a mistake of fact, such contribution shall, to the extent permitted by applicable law, upon the request of the County, be returned to the County within one year after it is made. That portion of the contribution which is wages due to the Participant shall in turn be returned to the Participant by the County.

6.01 Investment of Plan Assets. The assets of the Plan held in the Trust Fund shall be invested in the same manner as the assets of Safety Plan B.

6.02 Accounts. The Administrative Committee shall establish an Account for each Participant to reflect the County contributions that are made to the Plan on his behalf. Separate records shall be maintained for each such Account showing the amount of County contributions to each such Account, payments and withdrawals therefrom, and the amount of income, expenses, gains, and losses attributable thereto. The interest of each Participant hereunder at any time shall consist of his Account balance (as

~~determined in Section 6.03) as of the last preceding valuation Date plus credits and minus debits to such Account since that Valuation Date.~~

~~6.03 Valuation of Trust Fund.~~

~~(a) As of each Valuation Date, the Trustee shall determine the fair market value of all securities or other property held in the Trust Fund. Any assets held in the Trust Fund for which the market value is not readily ascertainable shall be valued at such amount as shall be deemed by the Trustee to represent the fair value thereof. The valuation shall include income accrued but not received, unrealized gains and losses, as well as accrued expenses and other charges applicable to the Trust Fund subject to the limit defined in the following sentence. The proportion of such expenses and other charges in relation to the Trust Fund shall not exceed the proportion which the total of the same categories of charges for all retirement plans administered by LACERA have to the total retirement assets held by LACERA.~~

~~(b) The valuation thus derived in (a) shall be the basis for determining the net rate of return available for allocation to Participants (the "Rate"). The Trustee shall determine the Rate in accordance with the Generally Accepted Accounting Principles.~~

~~(c) After each Valuation Date, the Rate determined in (b) shall be applied to the Account of each Participant (whether living or dead) by multiplying the Account balance by the Rate and then adding the product thus derived to the balance. The sum thus derived shall be the Account value as of the Valuation Date. The total of all such individual Account values shall equal the value of the Trust Fund.~~

(d) The reasonable and equitable decision of the Trustee as to the value of the Trust Fund as of each Valuation Date shall be conclusive and binding upon all persons having any interest, direct or indirect, in such Fund.

7.01 Vesting. The interest of a Participant in his Account shall be 100% vested and nonforfeitable at all times.

8.01 Designation of Beneficiary. The Beneficiaries of the Participant under this Plan shall be the same as the Beneficiaries designated under Safety Plan B. If the Participant designates no Beneficiaries in Safety Plan B, then his Beneficiaries are those as provided for Participants of Safety Plan B by the 1937 Act. Beneficiaries shall be treated for all purposes under Safety Plan F and enjoy the same rights and obligations as though they were subject to Safety Plan B.

8.02 Failure to Designate Beneficiary. In the event a Participant has not designated a Beneficiary, or in the event no Beneficiary survives a Participant, the distribution of the Participant's interest in the Trust Fund (if any) upon his death shall be made as provided in the 1937 Act.

9.01 Events Permitting Distributions. A Participant's Account balance becomes distributable only after his termination of employment, qualification for a service retirement benefit under the 1937 Act, Disability, or death. The timing and form of the distribution shall be in accordance with this Section and Section 9.02.

9.02 Calculation of Safety Plan F Benefit Offset Value. The Administrative Committee, upon the recommendation of the Trustee taking into consideration the advice of the Actuary, shall determine the annuity value of the Safety Plan F benefit to determine the

~~reduction of the annuity provided by Safety Plan B (the "Benefit Offset value") as required by section 31510.2(e) of the 1937 Act. To determine the Benefit Offset value, the value of the Participant's Safety Plan F Account on the Valuation Date immediately preceding the commencement of distribution shall be converted to the actuarial equivalent of the Unmodified Service Retirement Allowance provided by Safety Plan B.~~

~~9.03 Rules Governing Distributions.~~

~~(a) Form of Distributions.~~

~~(1) At the sole discretion of the Administrative Committee, the distribution of the Account balance payable under Safety Plan F may be made in the same manner as the annuity payable under Safety Plan B and may be made through the purchase of an annuity contract from an insurance company.~~

~~(i) If the Participant or his Beneficiaries receive distribution in the same manner as the Annuity payable under Safety Plan B and elect to receive an optional settlement other than the unmodified service retirement allowance provided by Safety Plan B, then the unmodified allowance calculated in Section 9.02 above shall be converted to the optional settlement elected by the Participant under Safety Plan B as provided by the applicable provisions of the 1937 Act. Notwithstanding the provisions of Section 9.02, if an optional settlement is elected by the Participant, the annuity calculated in the preceding sentence shall become the Benefit Offset value. If the Participant dies before or after the distribution of benefits commences, distribution to his Beneficiaries shall continue or begin, as the case may be, in the same manner as is provided in the 1937 Act for Safety Plan B participants and their beneficiaries.~~

~~(ii) If the Participant or his Beneficiaries receive distribution in the form of an annuity purchased from an insurance company, the Participant's Safety Plan F Account Balance shall be used to purchase an annuity which provides the same form of benefit as would be provided by the Safety Plan B benefit elected by the Participant. Notwithstanding the provisions of section 9.02, if an optional settlement is elected by the Participant, the annuity provided by the preceding sentence shall establish the Benefit Offset value. Distribution to the Participant and his Beneficiaries, if the latter is provided for, shall be as required by the annuity contract. Upon commencement of distribution, the Participant and his Beneficiaries shall cease to have an interest in Safety Plan F and shall be entitled only to the benefits provided by the annuity contract.~~

~~(2) Notwithstanding the provisions of subparagraph (1), if the value of a Participant's Account balance does not exceed $3,500, the distribution of the Participant's Account balance shall be made to the Participant (or, in the event of his death, to his Beneficiary) in the form of a single lump-sum payment.~~

~~(b) Commencement of Benefits. In order for the distribution of a Participant's Account balance to commence, the Participant (or his Beneficiary) must elect to receive such benefit and his benefit under Safety Plan B. Distribution of the Account balance shall begin at the same time as the distribution of the benefit under Safety Plan B.~~

~~(c) Restrictions on Delay of Distribution. Distribution of a Participant's entire Account balance shall commence not later than April 1 following the calendar year in which he attains age 701/2 or, if later, terminates employment. Unless the form of distribution is a single lump-sum payment, distributions will be made over a period not exceeding the life~~

~~expectancy of the Participant, or the joint life expectancy of the Participant and his Beneficiary.~~

~~If the Participant's entire interest is to be distributed in a form other than a single lump-sum payment, then the amount to be distributed each year must be at least an amount equal to the quotient obtained by dividing the Participant's entire interest by the life expectancy of the Participant or joint and last survivor expectancy of the Participant and designated Beneficiary. Life expectancy and joint and last survivor expectancy shall be computed by the use of the return multiples contained in Section 1.72-9 of the Treasury Regulations. For purposes of this computation, the life expectancy of the Participant (and the Participant's spouse, if the spouse is the designated Beneficiary) may be recalculated no more frequently than annually. The life expectancy of a Beneficiary other than a spouse may not be recalculated. If the Participant's spouse is not the designated Beneficiary, the method of distribution selected must assure that at least 50% of the present value of the amount available for distribution is paid within the life expectancy of the Participant.~~

~~(d) Limitation to Assure Benefits Payable to Beneficiaries are Incidental. Under any distribution option, the present value of payments projected to be paid to a Participant (or to the Participant and his spouse, if his spouse is the Beneficiary) shall be more than 50% of the present value of the total benefit.~~

~~(e) Restrictions in the Event of Death. Upon the death of the Participant, the following distribution provisions shall apply:~~

~~(1) If the Participant dies after distribution of his interest has commenced, the remaining portion of such interest will continue to be distributed at least as rapidly as under the method of distribution being used prior to the Participant's death.~~

~~(2) If the Participant dies before distribution of his interest commences, the Participant's entire interest will be distributed no later than five years after the Participant's death except to the extent that an election is made to receive distributions in accordance with subparagraph (A) or (B):~~

~~(A) If any portion of the Participant's interest is payable to a designated Beneficiary, distributions may be made in substantially equal installments over the life or life expectancy of the designated Beneficiary commencing no later than one year after the Participant's death.~~

~~(B) If the designated Beneficiary is the Participant's surviving spouse, the date distributions are required to begin in accordance with subparagraph (A) shall not be earlier than the date in which the Participant would have attained age 701/2, and, if the spouse dies before payments begin, subsequent distributions shall be made as if the spouse had been the Participant.~~

~~For purposes of this paragraph, payments will be calculated by use of the return multiples specified in Section 1.72-9 of the Treasury Regulations. Life expectancy of a surviving spouse may be recalculated annually. In the case of any other designated Beneficiary, life expectancy will be calculated at the time payment first commences without further recalculation.~~

~~(3) For purposes of this subsection, any amount paid to a child of the Participant will be treated as if it had been paid to the surviving spouse if the amount becomes payable to the surviving spouse when the child reaches the age of majority.~~

~~(f) Delayed Payments. If the amount of a distribution required to commence on a date determined under this Section cannot be ascertained by such date, or if it is not possible to make such payment on such date because the Administrative Committee has been unable to locate the Participant after making reasonable efforts to do so, a payment retroactive to such date may be made no later than 60 days after the earliest date on which the amount of such payment can be ascertained or the date on which the Participant is located (whichever is applicable).~~

~~(g) Reemployment of Participant. Except as provided in section 31680.2 of the 1937 Act, if a Participant who had terminated employment becomes reemployed by the County, no distribution from the Trust Fund shall be made or continued to the Participant while he is so employed. Any amounts which the Participant was entitled to receive on his prior termination of employment shall be held in the Trust Fund until he or his Beneficiary is again entitled to a distribution under the terms of the Plan.~~

~~10.01 Administration of the Plan and Trust Fund; Responsibility for Administration. As Administrator, the Administrative Committee shall be responsible for the administration of the Plan, including but not limited to the preparation and delivery to the Board of Supervisors of Los Angeles County, Participants, Beneficiaries, and governmental agencies of all information, descriptions, and reports required by applicable law. Each~~

~~other fiduciary shall have such powers, duties, and authorities as shall be specified in the Plan.~~

~~10.02 Administrative Committee Procedure.~~

~~(a) The chairman of the Board of Retirement of LACERA shall be the chairman of the Administrative Committee.~~

~~(b) The Administrative Committee shall conduct business according to the rules of order of the Board of Retirement and the Bylaws of LACERA.~~

~~10.03 Authority. The Administrative Committee shall interpret where necessary the provisions of the Plan to determine the rights and benefits of Participants and other persons under the Plan. The Administrative Committee, in case of disputes concerning the rights and benefits of Participants and other persons under the Plan, may make findings of fact with respect to any such matter arising in connection with the administration of the Plan. Subject to the provisions of Section 10.04, such determinations and findings shall be final and conclusive, to the extent permitted by law, as to all interested persons for all purposes of the Plan.~~

~~10.04 Revocability of Action. Any action taken by the Administrative Committee with respect to the rights or benefits under the Plan of any Participant or Beneficiary shall be revocable by the Administrative Committee as to payments, distributions, or deliveries not theretofore made hereunder pursuant to such action. Appropriate adjustments may be made in future payments or distributions to a Participant or Beneficiary to offset any excess payment or underpayment theretofore made hereunder to such Participant or Beneficiary.~~

10.05 Uniform Administration of Plan. All action taken by the Administrative Committee under the Plan shall treat all persons similarly situated in a uniform and consistent manner.

10.06 No Guarantee Against Loss. Neither the County, LACERA, or the Administrative Committee guarantees in any manner the Trust Fund or any part thereof against loss or depreciation. All persons having any interest in the Trust Fund shall look solely to such Fund for payment with respect to such interest.

10.07 Payment of Benefits. All payments of benefits provided for by the Plan (less any deductions provided for by the Plan) shall be made solely out of the Trust Fund in accordance with instructions given to the Trustee by the Administrative Committee. Neither the County, LACERA, or the Administrative Committee shall otherwise be liable for any benefits payable under the Plan.

11.01 Nonalienation. To the extent permitted by law and except as otherwise provided in the Plan, no right or interest of any kind of a Participant or Beneficiary hereunder shall be transferable or assignable by the Participant or Beneficiary, nor shall any such right or interest be subject to alienation, anticipation, encumbrance, garnishment, attachment, execution, or levy of any kind, voluntary or involuntary.

11.02 Facility of Payment. In the event the Administrative Committee finds that any Participant or Beneficiary to whom a benefit is payable under the Plan is (at the time such benefit is payable) unable to care for his affairs because of physical, mental, or legal incompetence, the Administrative Committee, in its sole discretion, may cause any payment due to him hereunder, for which prior claim has not been made by a duly

qualified guardian or other legal representative, to be paid to the person or institution deemed by the Administrative Committee to be maintaining or responsible for the maintenance of such Participant or Beneficiary, and any such payment shall be deemed a payment for the benefit of such Participant or Beneficiary and shall constitute a complete discharge of any liability therefor under the Plan.

11.03 No Enlargement of Employment Rights. A Participant by accepting benefits under the Plan does not thereby agree to continue for any period in the employ of the County, and the County by adopting the Plan, making contributions, or taking any action with respect to the Plan does not obligate itself to continue the employment of any Participant for any period.

11.04 Severability Provision. If any provision of the Plan or the application thereof to any circumstance or person is invalid, the remainder of the Plan and the application of such provision to other circumstances or persons shall not be affected thereby.

12.01 Amendment or Termination.

(a) Right to Amend or Terminate. By mutual agreement between the County and representatives of the affected certified bargaining organizations and subject to the limitations of Section 5.01(a) of the Plan, the 1937 Act, and the Meyers-Milias-Brown Act, the Board of Supervisors of the County has reserved, and does hereby reserve, the right at any time or times, without the consent of any Participant, Beneficiary, or other person, (1) to terminate the Plan, in whole or in part or as to any designated group of employees, Participants, and their Beneficiaries, or (2) to amend the Plan, in whole or in part. Subject to the provisions of Section 4.01, no such termination or amendment shall

~~decrease the amount to be contributed by the County on account of any period prior to the date such termination or amendment is approved by the Board of Supervisors of the County.~~

~~(b) Procedure for Termination or Amendment. Any termination or amendment of the Plan pursuant to subsection (a) shall be expressed in an instrument executed by the County on the order of its Board of Supervisors and filed with the Trustee, and shall become effective as of the date designated in such instrument or, if no date is so designated, on its execution.~~

~~(c) Distribution Upon Termination. If the Plan shall be terminated by the County, then, subject to the final sentence of subsection (a), contributions shall cease, and the assets of the Plan, as mutually agreed between the County and representatives of certified bargaining organizations, shall be distributed to Participants and their Beneficiaries as provided by applicable law.~~

~~(d) Vesting on Termination. Notwithstanding any other provision of the Plan, upon the termination or partial termination of the Plan or upon complete discontinuance of contributions under the Plan, the rights of all Participants to benefits accrued to the date of such termination or partial termination or discontinuance, to the extent then funded, or the amounts credited to the Participant's Account shall be fully vested and nonforfeitable.~~

SECTION 4. Pursuant to Government Code Section 25123(f), this ordinance shall take effect immediately upon passage.

[5253APPENDIXWWCEO]