

ORDINANCE NO. _____

An ordinance amending Article 1 of Chapter 11, Division 4 of the Los Angeles Administrative Code to establish the Los Angeles City Employees' Retirement System Health Care Fund and to authorize the use of the Health Care Fund to pay for retiree health and welfare programs.

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

Section 1. A new Section 4.1102.1 is added to Article 1 of Chapter 11, Division 4 of the Los Angeles Administrative Code to read as follows:

Sec. 4.1102.1 Los Angeles City Employees' Retirement System Health Care Fund.

(a) The Los Angeles City Employees' Retirement System Health Care Fund (the "LACERS Health Care Fund") is established for the sole purpose of funding the retiree health care benefits provided to eligible retirees, their eligible dependents, and their qualified survivors, of the Los Angeles City Employees' Retirement System plan pursuant to the programs established by Chapter 11 of Division 4 of the Los Angeles Administrative Code, and is intended to qualify for exemption from federal income tax under Section 115 of the Internal Revenue Code. Except as provided in Subsection (d), funds in the LACERS Health Care Fund may not be used, directly or indirectly, to pay the cost of any other benefits provided by, or expenses or obligations incurred by, the Los Angeles City Employees' Retirement System plan (the "Plan").

(b) The LACERS Health Care Fund shall provide an alternative funding mechanism, in addition to or in lieu of the 401(h) account described in Section 4.1102, for funding benefits under the health and welfare programs described in this Chapter. Effective on or around July 15, 2019, on a prospective basis, the City shall provide for an annual contribution of funds from appropriations and other sources to the LACERS Health Care Fund, in the amount and on the date determined each year by the Board of Administration of the Los Angeles City Employees' Retirement System (the "Board") based upon the recommendation of the Plan's actuary. Such contributions shall be in lieu of contributions to the 401(h) account described in Section 4.1102.

(c) The City and the Board shall enter into a written trust agreement for the LACERS Health Care Fund (the "Trust Agreement") on or before July 15, 2019. The Trust Agreement shall provide that the Board shall serve as the trustee of the LACERS Health Care Fund. The Trust Agreement shall establish the respective roles and responsibilities of the Board and the City with respect to the administration and investment of the LACERS Health Care Fund, consistent with Charter Section 1106 and Section 17 of Article XVI of the California Constitution. The Trust Agreement may include, but is not limited to, funding, distribution, expenditure, actuarial, accounting, and reporting considerations. The Board shall have sole control over the investment activity of the LACERS Health Care Fund, as provided in Subsection (d).

(d) Consistent with Charter Section 1106 and Section 17 of Article XVI of the California Constitution, the Board shall have sole, exclusive, and plenary authority, and shall have fiduciary responsibility, over the funds in the LACERS Health Care Fund, including the investment of such funds. The Board may commingle and/or co-invest all or any portion of the funds in the LACERS Health Care Fund with those in the Retirement Fund of the Los Angeles City Employees' Retirement System plan, to the extent allowed by federal tax laws, including through a group trust under Revenue Rulings 81-100 and 2011-1. The investment earnings and investment expenses attributable to the investment activity of the LACERS Health Care Fund shall be accounted for separately from the investment earnings and expenses of the Retirement Fund. The funds in and investment earnings of the LACERS Health Care Fund shall be used to pay the reasonable costs related to investment expenses and administration of the LACERS Health Care Fund and the health and welfare programs described in this Chapter to the extent allowed by federal tax laws. Those expenses shall not be deemed to be an investment or administrative expense of the Los Angeles City Employees' Retirement System plan or the Retirement Fund.

(e) In accordance with the procedures established in the written Trust Agreement described in Subsection (c), the Board or the City may elect to terminate the LACERS Health Care Fund. If the Board or the City so elects, the Board shall disburse the funds in the LACERS Health Care Fund in the following order and manner:

(1) The Board shall retain an amount sufficient to fund and pay for, as applicable, all retiree health care benefits owed to eligible retired members and beneficiaries under the programs established by Chapter 11 of Division 4 of the Los Angeles Administrative Code.

(2) The Board shall retain an amount sufficient to pay reasonable administrative and investment costs described in this Section 4.1102.1.

(3) After the amounts in paragraphs (1) and (2) have been retained or disbursed, the Board shall transfer any remaining funds to the general fund.

(f) The Board may establish rules and procedures governing the investments and administration of the LACERS Health Care Fund.

(g) The Board is authorized to take any and all actions necessary to establish, administer, and maintain the LACERS Health Care Fund in compliance with applicable federal tax laws or other legal requirements, including but not limited to Section 115 of the Internal Revenue Code.

(h) The Board shall have the authority to adopt any rules it deems necessary to carry out its role as trustee of the LACERS Health Care Fund.

(i) The Trust Agreement entered into between the City and the Board, as described in Subsection (c), shall not change the obligations of the City or the Board

created under other contracts, laws, ordinances, regulations, or similar actions to provide benefits for employees or retired employees of the City, or their eligible beneficiaries.

Sec. 2. Section 4.1103 of the Los Angeles Administrative Code is amended to read as follows.

Sec. 4.1103. Funding of Programs.

The health and welfare programs established in this Chapter, including all administrative costs, shall be funded from the Health Care Coverage Account established in Section 4.1102 of this Chapter and/or the Health Care Fund established in Section 4.1102.1 of this Chapter. Notwithstanding all of the foregoing, the health and welfare programs established in this Chapter, including all administrative costs, shall be paid first from the Health Care Coverage Account, until it is depleted. Upon depletion of the Health Care Coverage Account, the Health Care Fund shall fund the health and welfare programs established in this Chapter, including all administrative costs. The Board shall establish the policies and/or procedures necessary to implement this section.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  _____
ANYA FREEDMAN
Assistant City Attorney

Date 9/30/18

File No. _____

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I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____