NOTICE OF SPECIAL MEETING AND AGENDA

BOARD OF RETIREMENT

A SPECIAL MEETING OF THE BOARD OF RETIREMENT OF THE LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION WILL BE HELD AS FOLLOWS:

300 N. LAKE AVENUE, SUITE 810, PASADENA, CA

- 9:00 A.M., NOVEMBER 8, 2012
- I. CALL TO ORDER
- II. PLEDGE OF ALLEGIANCE
- III. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF OCTOBER 11, 2012
- IV. OTHER COMMUNICATIONS
 - A. For Information
 - 1. October 2012 All Stars
 - 2. Chief Executive Officer's Report (Memo dated November 1, 2012)

V. NON-CONSENT AGENDA

A. Recommendation as submitted by Bernie Buenaflor, Manager, Claims Processing Division: That the Board: 1) Determine, based upon the medical evaluation conducted January 18, 2012, as well as the Psychological Evaluation conducted January 26, 2012, that **Rochelle A. Plue** is not incapacitated for the duties assigned to her in the position of Investigator, DA; and 2) Grant the application of **Rochelle A. Plue** for reinstatement to active membership. (Memo dated October 30, 2012.)

- B. Recommendation as submitted by David L. Muir, Legal Counsel: That the Board 1) Approve the participation agreement covering employees of the Local Agency Formation Commission for the County of Los Angeles (LAFCO); and 2) Instruct the Chair to execute the Agreement on LACERA's behalf.

 (Memo dated October 31, 2012.)
- C. Recommendation as submitted by Les Robbins, Chair, Insurance, Benefits and Legislative Committee: That the Board direct its voting delegate to support the inclusion of legislative proposals in the SACRS 2013 Legislative Platform. (Memo dated October 17, 2012.)
- D. For information only as submitted by Cynthia Lau, Legislative Affairs Officer regarding: STAFF REPORT 2012 Enacted Retirement Legislation. (Memo dated October 18, 2012.)
- E. For information only as submitted by Cynthia Lau, Legislative Affairs Officer regarding: Adopted CERL Section 31720.4 Deaths and Disabilities While on Military Leave. (Memo dated October 23, 2012.)
- F. Recommendation as submitted by Fern M. Billingy, Senior Staff Counsel: That the Board adopt resolution Defining Pensionable Compensation Under Government Code Section 7522.34. (Memo dated October 30, 2012.) (Attachments to be mailed under separate cover.)

VI. PUBLIC COMMENT

VII. GOOD OF THE ORDER (For discussion purposes only.)

VIII. EXECUTIVE SESSION

- A. Conference with Legal Counsel Anticipated Litigation (Significant exposure to litigation pursuant to Subdivision (b) of California Government Code Section 54956.9)
 - 1. Claim of **Young Hee Hong**

IX. ADJOURNMENT

Documents subject to public disclosure that relate to an agenda item for an open session of the Board of Retirement that are distributed to members of the Board of Retirement less than 72 hours prior to the meeting will be available for public inspection at the time they are distributed to a majority of the Board of Retirement Members at LACERA's offices at 300 N. Lake Avenue, Suite 820, Pasadena, CA 91101, during normal business hours of 9:00 a.m. to 5:00 p.m. Monday through Friday.

Persons requiring an alternative format of this agenda pursuant to Section 202 of the Americans with Disabilities Act of 1990 may request one by calling Cynthia Guider at (626) 564-6000, from 8:30 a.m. to 5:00 p.m. Monday through Friday, but no later than 48 hours prior to the time the meeting is to commence. Assistive Listening Devices are available upon request. American Sign Language (ASL) Interpreters are available with at least three (3) business days notice before the meeting date.

O INUTES OF THE SPECIAL MEETING OF THE BOARD OF RETIREMENT LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION 300 N. LAKE AVENUE, SUITE 810, PASADENA, CA

9:00 A.M., NOVEMBER 8, 2012

PRESENT: Les Robbins, Chair

Simon S. Russin, Vice Chair

Yves Chery, Secretary

Marvin Adams

Sadonya Antebi

John M. Barger

William de la Garza

Shawn R. Kehoe (Alternate Member)

Ed C. Morris (Alternate Retired)

William R. Pryor

Mark J. Saladino

STAFF ADVISORS AND PARTICIPANTS

Gregg Rademacher, Chief Executive Officer

Robert Hill, Assistant Executive Officer

JJ Popowich, Assistant Executive Officer

Robb Van Der Volgen, Chief Counsel

STAFF ADVISORS AND PARTICIPANTS

Bernie Buenaflor, Manager, Claims Processing Division

Cynthia Lau, Legislative Affairs Officer

Barry Lew, Disability Retirement Division

Fern M. Billingy, Senior Staff Counsel

Johanna Fontenot, Senior Staff Counsel

Ramon Rubalcava, SEIU Local 721

Jaenam Coe, Attorney at Law Law Offices of Jaenam Coe PC

Theresa Coleman

I. CALL TO ORDER

The meeting was called to order by Chair Robbins at 9:00 a.m., in the Board Room of Gateway Plaza.

II. PLEDGE OF ALLEGIANCE

Mr. Russin led the Board Members and staff in reciting the Pledge of Allegiance.

III. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF OCTOBER 11, 2012

A motion was made by Mr. Morris, seconded by Mr. Chery, to approve the minutes of the regular meeting of October 11, 2012. The motion passed unanimously.

IV. OTHER COMMUNICATIONS

A. For Information

1. October 2012 All Stars

Mr. Hill announced the eight winners for the month of October;

James Beasley, Jay Lee, Allen Helbig, Tami Hammell, Jennifer Carter,

Ricki Contreras, Michael Sanchez, and Courtney Cook for the Employee

Recognition Program. Evelyn Leung was the winner of LACERA's Web Watcher

Award. Andrea Ellison, David Murphey, Alvina Heard, and Daniel Maroroquin

were the winners of LACERA's RideShare Program.

2. Chief Executive Officer's Report (Memo dated November 1, 2012)

Mr. Rademacher thanked staff for their work and contribution in implementing the compensation earnable and pensionable compensation definitions in Public Employees Pension Reform Act ("PEPRA").

Mr. Rademacher provided a brief overview of his Chief Executive Report with emphasis on staff's increased work load due to implementing PEPRA. The

IV. OTHER COMMUNICATIONS (Continued)

Call Center and Member Services Center continues to see a high volume of members in response to PEPRA.

LACERA staff continue to meet with Los Angeles County CEO's office and union representatives to discuss pension formulas for new general members under PEPRA. LACERA has an advisory role in these meetings.

PEPRA communications have been ongoing to members by way of mailers, brochures, presentations, and even web videos. Additionally, presentation luncheons have been afforded to LACERA staff to help them understand PEPRA.

V. NON-CONSENT AGENDA

A. Recommendation as submitted by Bernie Buenaflor, Manager, Claims Processing Division: That the Board: 1) Determine, based upon the medical evaluation conducted January 18, 2012, as well as the Psychological Evaluation conducted January 26, 2012, that Rochelle A. Plue is not incapacitated for the duties assigned to her in the position of Investigator, DA; and 2) Grant the application of Rochelle A. Plue for reinstatement to active membership. (Memo dated October 30, 2012.)

A motion was made by Mr. Kehoe, seconded by Mr. de la Garza, to approve the recommendation. The motion passed unanimously.

B. Recommendation as submitted by David L. Muir, Legal Counsel: That the Board 1) Approve the participation agreement covering employees of the Local Agency Formation Commission for the County of Los Angeles (LAFCO); and 2) Instruct the Chair to execute the Agreement on LACERA's behalf.

(Memo dated October 31, 2012.)

A motion was made by Mr. de la Garza, seconded by Mr. Morris, to approve the recommendation. The motion passed unanimously.

C. Recommendation as submitted by Les Robbins, Chair, Insurance, Benefits and Legislative Committee: That the Board direct its voting delegate to support the inclusion of legislative proposals in the SACRS 2013 Legislative Platform. (Memo dated October 17, 2012.)

Each year the 20 counties operating under the County Employees

Retirement Act ('37 Act) are asked to submit proposals to the SACRS Legislative

Committee for inclusion in the SACRS legislative platform. The items submitted

should have application to all systems rather than an individual system; they

should not propose new benefits that will be paid for by the plan sponsor; and they

should not create major problems, such as conflicting with Proposition 162 or

create a problem for any of the 19 other '37 Act systems.

The following three items were submitted to the SACRS Legislative

Committee and all were approved by that Committee for inclusion in its 2013

platform. The proposals will be presented to the SACRS membership and voted on at the November 2012 SACRS Conference.

Staff recommends that a "Yes" vote be cast on the following proposals for inclusion in the SACRS 2013 legislative platform:

V. NON-CONSENT AGENDA (Continued)

#1: LACERA Proposal to Address Use of Telephone Transactions

Last year, LACERA submitted a legislative proposal to amend Government Code

Section 31527 of the County Employees Retirement Law (CERL) to allow county

retirement systems to adopt, at their election, regulations allowing for the use and

acceptance of a member's electronic signature with the same force and effect as a

manual signature, provided it meets the requirements of that system.

Assembly Bill 2664 was subsequently sponsored by SACRS, passed into law and

is effective January 1, 2013. After your Board approves the technology ensuring

the integrity, security, and authenticity of a member's electronic signature,

LACERA may begin accepting electronic signatures on requests which previously

required signatures in writing.

With its continuing efforts to assist its members, your Board approved this

proposal to further amend existing Government Code Section 31527 which would

allow county retirement systems to adopt, at their election, regulations allowing for

the secure processing of member requests by telephone with the same force and

effect as a manual signature.

Recommendation: VOTE YES

#2: LACERA Proposal to Address Disclosure of Real Estate Investments

LACERA's Board of Investments approved this proposal which would exempt

"non-publicly traded direct or indirect real estate investments" from disclosure

under the California Public Records Act (CPRA).

In balancing the public's right to access public records with the recognized individual right of privacy and the need for public agencies to be able to competently perform their duties, the Legislature has established certain categories of records which may be exempt from public disclosure under Government Code Sections 6254 and 6275 et seq.

In addition, the CPRA allows an agency with the discretion to claim an exemption from public disclosure for records, which do not qualify for a specific exemption, if "the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record."

Existing Government Code Section 6254.26 provides that "alternative investments" in which public investment funds invest are exempt from disclosure, unless the information has already been publicly released by the keeper of the

information. As defined under this section, "alternative investment" includes investments in a private equity fund, venture fund, hedge fund, or absolute return fund. However, this definition does not include real estate investments.

LACERA's Investment staff believes that non-publicly traded real estate investments should be added to the list of alternative investments exempt from public disclosure as many real estate investments share the same elements of market sensitivity as private equity transactions.

Recommendation: VOTE YES

#3: SJCERA Proposal to Address Alternative Investments and Public Disclosure

The Ralph M. Brown Act (Brown Act) was passed by the Legislature to ensure that deliberations and actions of legislative bodies are open and public.

Provisions of the Brown Act require posting of notices and agendas, with writings which are distributed to members of the legislative body disclosed as public records under the California Public Records Act (CPRA). The Brown Act specifies that closed session meetings may be held for topics which include personnel issues, public security, pending litigation, labor negotiations, and real property negotiations.

San Joaquin CERA is proposing two amendments to the Brown Act. The first amendment seeks to correct a possible oversight by adding Government Code Section 6254.26 of the CPRA to the list of writings which are exempt from public disclosure under the Brown Act. This change is technical only as Section 6254.26 under CPRA specifies records of alternative investments which are not subject to disclosure.

The Brown Act currently allows closed sessions to discuss purchase or sale of particular, specific pension investments under Government Code Section 54956.81. SJCERA believes that a Board should also be able to hold a closed session to consider actions to consider information relating to its alternative investments which are already exempt under the Section 6254.26 of the CPRA and proposes an amendment which would allow for this.

Note that since both LACERA #2 and SJCERA #1 are of similar subject matter, SACRS has indicated that if both are approved by the SACRS membership this November, they may consider combining them into one bill.

LACERA's Board of Investments approved supporting San Joaquin CERA's

V. NON-CONSENT AGENDA (Continued)

legislative proposal at their meeting on October 10, 2012.

Recommendation: VOTE YES

A motion was made by Mr. Pryor, seconded by Mr. Adams, to approve the recommendations. The motion passed with Mr. Barger abstaining.

D. For information only as submitted by Cynthia Lau, Legislative Affairs Officer regarding: STAFF REPORT – 2012 Enacted Retirement Legislation. (Memo dated October 18, 2012.)

Ms. Lau addressed the Board noting several bills amending the County Employees Retirement Law (CERL) were enacted during the recently concluded 2011-2012 Legislative Session. The sections added or amended by these bills become effective January 1, 2013. A brief summary of each bill followed with a description of implementation issues.

In addition, AB 340 was chaptered and enacts the California Public Employees' Pension Reform Act of 2013 (PEPRA) to impose new reforms on both current and new members of state and local public retirement systems. AB 197 was also chaptered as a clean-up bill to AB 340. Both of these complex bills will be addressed under separate cover.

V. NON-CONSENT AGENDA (Continued)

AB 1519 (Chapter 15) Boards

In summary, assembly Bill 1519 was sponsored by the State Association of County Retirement Systems (SACRS) and applies to boards of retirement systems operating under CERL.

It adds new Government Code Section 31522.8 and requires the Board of Investments and the Board of Retirement to adopt a policy for providing education to its Board members. It requires all Board members to receive a minimum of 24 hours of board member education within the first two years of assuming office and for every subsequent two-year period in which the individual serves on the Board.

The policy would identify appropriate topics for Board member education. In addition, the policy and an annual report on compliance is required to be placed on the website of the retirement system.

Boards of Retirement and Investments Position: Support

<u>Implementation Issues</u>:

1. Boards: The Board of Retirement and Board of Investments have each adopted a policy which is required under this bill. On an ongoing basis, each Board

V. NON-CONSENT AGENDA (Continued)

member will be responsible for meeting the minimum educational requirements.

The Board's staff secretary will assist the Board members with their record-

keeping of hours met.

2. Communications: The Policy and an annual report on compliance prepared by

the Board's staff secretary must be posted on www.LACERA.com.

Ms. Lau said that Mr. Popowich will report back to the Board on this item.

AB 2664 (Chapter 59) Section 1 – Use of Electronic Signatures

In summary, Section 1 of this bill was sponsored by SACRS and amends

Government Code Section 31527. It allows county retirement system boards

operating under CERL the authority to adopt optional regulations allowing for the

use and acceptance of a member's electronic signature with the same force and

effect as a signed, valid original document.

Allowing systems the ability to utilize paperless technology results in greater

service delivery to system members, while increasing efficiency and reducing costs

of the systems' administration.

Board of Retirement Position: Support

<u>Implementation Issues</u>:

- 1. Technology: Prior to the Board of Retirement adopting regulations for accepting electronic signatures at LACERA, the Systems Division will need to determine criteria for ensuring that its technology will ensure the integrity, security and authenticity of the electronic signature. After approval by the Board, programming changes may be required for the web process which will be available to members to execute with their electronic signature.
- 2. Communications: Working with LACERA's management, the Legal Office, and the Systems Division, the Communications team will assist in the development of disclaimers and what constitutes an electronic signature by the member. They will continue to notify members of new interactive features available on My LACERA on www.LACERA.com.
- 3. Staff Training: LACERA Call Center and Outreach staff who are the first line of contact with our members will require a briefing of this new service when it becomes available.

Ms. Lau said that James Pu will be reporting back to the Board on this item.

AB 2664 (Chapter 59) Sections 2 and 3 – Correction of Errors or Omissions

In summary, Sections 2 and 3 were sponsored by LACERA and provides the statutory authority and a framework for the correction of errors or omissions. It adds new Government Code Sections 31540 and 31541 to mirror existing provisions under the Public Employees' Retirement Law (PERL) which is already applicable to CalPERS. These sections apply to LACERA only.

Board of Retirement Position: Support

<u>Implementation Issues</u>: None anticipated. The new law will be applied on a caseby-case basis.

AB 2664 (Chapter 59) Section 4 – Optional Group Dental Program

In summary, Section 4 was sponsored by SACRS and adds new Article 8.11 which allows a board of retirement to contract with a third-party administrator to provide dental care to retired members and their eligible survivors and dependents. This program would be at local option and the offering of a pooled dental plan would have the advantage of maximized benefits at reduced costs. (This is similar to legislation chaptered in 2007 providing for an optional County Retirement System Vision Care Program under Article 8.9 of CERL.)

LACERA retirees are fortunate in that the insurance program provided by the plan sponsor, Los Angeles County, includes a low cost group dental program. Retirees in some of the other '37 Act counties do not have group dental insurance available to them and this optional program is intended for them.

Board of Retirement Position: Support

<u>Implementation Issues</u>: None anticipated. Los Angeles County currently offers a dental program to its retirees.

SB 996 (Chapter 792) Heart Trouble Presumption

In summary, Government Code Section 31720.5 of CERL creates a presumption for heart trouble for "a safety member, a fireman member, or a member in active law enforcement, who has completed five years or more of service." "Fireman member", as used in this section, includes a member engaged in active fire suppression who is not classified as a safety member. "Member in active law enforcement", as used in this section, includes a member engaged in active law enforcement who is not classified as a safety member.

Prior to *Pellerin vs. Kern County Employees Retirement Association*, these cases were not treated as rebuttable presumptions. After *Pellerin*, the heart trouble

presumption was determined to be rebuttable. The Internal Revenue Service has issued a private letter ruling to Kern County that Government Code Section 31720.5 is a rebuttable presumption and where a service-connected disability is granted pursuant to a rebuttable presumption, up to 50% of the pension is not taxable.

This bill was sponsored by SACRS and amends CERL Section 31720.5 to codify that this is a rebuttable presumption.

Board of Retirement Position: Support

Implementation Issues: None anticipated.

SB 1382 (Chapter 178) Retiree Organizations

In summary, Senate Bill 1382 was sponsored by the California Retired County Employees Association (CRCEA).

This bill was intended to assist retiree organizations of some counties who have had difficulty in getting cooperation from their respective retirement systems in providing information to retirees. It adds new Section 31592.6 to CERL which requires the Board of Retirement, upon request from a recognized retiree

organization, to cooperate with and assist the organization in distributing communications regarding membership in and retiree benefit programs available throughout the organization to all or a portion of the retired members of the system.

It further specifies that the content of the communications are wholly the responsibility of the recognized retiree organization and also authorizes the Board to charge a reasonable fee for those mailings.

It additionally allows for authorization and deduction from a retired member's allowance of any retiree benefit programs available through a recognized retiree organization. It also provides the Board with the authority to approve deductions for a charitable organization or a federally chartered veterans' organization.

The term "qualified retiree organization" is replaced with "recognized retiree organization" and is defined as "an organization in which a majority of the members of the organization are retired members of the system and which the board, upon request, has approved recognition". This change was intended to provide consistency throughout the statute.

V. NON-CONSENT AGENDA (Continued)

Board of Retirement Position: Support

<u>Implementation Issues</u>: None anticipated. LACERA already has a Board approved policy governing retired membership mailings and deductions are being made for retiree organization dues.

No action taken. The Report was filed.

E. For information only as submitted by Cynthia Lau, Legislative Affairs Officer regarding: Adopted CERL Section 31720.4 – Deaths and Disabilities While on Military Leave. (Memo dated October 23, 2012.)

Ms. Lau addressed the Board noting that in 2010, Assembly Bill 1739 was sponsored by the Los Angeles County Sheriff's Department to add new Section 31720.4 to the County Employees Retirement Law (CERL) and provided non service-connected disability (NSCD) and death benefits to contributory plan members serving in the military, regardless of years of service.

The Board of Retirement adopted a "Watch" position on this bill, and although the bill was chaptered, its provisions were not operative until adopted by the Board of Supervisors.

On October 16, 2012, the Board of Supervisors adopted a resolution implementing Section 31720.4.

V. NON-CONSENT AGENDA (Continued)

The following summarizes its provisions:

1. NSCD: A member who becomes permanently incapacitated for the performance of duty as a direct consequence and result of injury or disease arising out of, and in the course of, active military service while on military leave shall be retired for NSCD regardless of the member's years of service.

Previously, a member would need to be vested with five or more years of service to be eligible for NSCD.

2. Combined Surviving Spouse Death Benefit: A surviving spouse of a member who dies as a direct consequence and result of injury of disease arising out of, and in the course of, active military service while on military leave, shall be entitled to the combined benefit under Section 31781.3 regardless of the member's years of service at the time of death.

Previously, a surviving spouse of a member with less than five years of service would only be entitled to a basic death benefit, which is a lump sum benefit comprised of member contributions, accrued interest, and salary death benefit of one month of salary for each full year of service (up to six months of salary).

Note that Section 31720.4 allows the Board of Supervisors to repeal or amend the resolution at any time, except to the extent that it would affect a member who is retired or is deceased at the time of the repeal or amendment.

Ms. Lau said that Ricki Contreras will be reporting back to the Disability Committee meeting to discuss implementation of this new law.

No action taken. The Report was filed.

F. Recommendation as submitted by Fern M. Billingy, Senior Staff Counsel: That the Board adopt resolution Defining Pensionable Compensation Under Government Code Section 7522.34. (Memo dated October 30, 2012.) (Attachments to be mailed under separate cover.)

A motion was made by Ms. Antebi, seconded by Mr. Adams to approve staff's recommendations numbers 1-3, as noted below.

Ms. Billingy addressed the Board requesting adoption of the resolution

Defining Pensionable Compensation Under Government Code Section 7522.34.

Ms. Billingy's presentation covered the following two topics: 1) current and existing members (compensation earnable); and 2) pensionable compensation for new members.

Governor Brown, on September 12, 2012, signed into law Assembly Bill

340 and Assembly bill 197. This law known as the California Public Employees' Pension Reform Act of 2013 (PEPRA) applies to all California public pension plans governed by state statute. PEPRA is scheduled to take effect on January 1, 2013.

Therefore, staff recommends the following go into effect immediately:

- 1. Determine that as amended, Government Code Section 31641 does not require a change to previous Resolutions defining "compensation earnable"; and
- 2. Adopt the Resolution defining "pensionable compensation" as presented to the Board; and
- 3. Instruct staff to coordinate with County of Los Angeles to establish necessary reporting mechanism and procedures to permit LACERA to include the items qualifying as "pensionable compensation" in the calculation of final compensation.

Mr. Hill followed with a slide presentation noting the methodology staff used in its final determination and outcome of pensionable compensation that is both included and excluded under Government Code Section 7522.34.

Mr. Rubalcava commented on SEIU Local 721's concerns regarding

LACERA's process in determining pensionable items. In addition, he reserved the right to come back before the Board and request that the Board reconsider some

pensionable items.

A discussion followed and the motion was voted on:

The motion passed with Mr. Barger abstaining (Mr. Adams was not present for the vote.).

Mr. Hill thanked staff from the Quality Control Division, Cynthia Lau, Fern Billingy, and staff from Human Resources.

VI. PUBLIC COMMENT

Mr. Coe spoke on behalf of his client Young Hee Hong requesting to revoke the Board's decision rescinding Ms. Hong's retirement.

Ms. Coleman spoke in regards to her service-connected disability retirement.

VII. GOOD OF THE ORDER (For discussion purposes only.)

VIII. EXECUTIVE SESSION

- A. Conference with Legal Counsel Anticipated Litigation (Significant exposure to litigation pursuant to Subdivision (b) of California Government Code Section 54956.9)
 - 1. Claim of Young Hee Hong

The Board met in Executive Session to discuss and give direction to its legal counsel in regards to the above named anticipated litigation. The Board reconvened in open session, at which time Mr. Van Der Volgen reported that the

VIII. EXECUTIVE SESSION (Continued)

Board met in Executive Session for the purpose of discussing anticipated litigation pursuant to Government Code Section 54956.9 Subdivision (b). The Board gave direction to Counsel with regard to reclassifying Ms. Hong's Plan E to Plan D time and rescinding her retirement date.

Green Folder Information (Information distributed in each Board Members Green Folder at the beginning of the meeting.)

- 1. Ballot Initiatives Status Report (Dated October 23, 2012.)
- 2. Memo to Each Member of the Board of Retirement from Beulah S. Auten, Chief Financial Officer regarding: Semi-Annual Interest Crediting for Reserves as of June 30, 2012 (Audited). (Dated November 5, 2012.)

IX. ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 11:10 a.m.