

(O-97-75)

ORDINANCE NUMBER O- 18383 (NEW SERIES)

ADOPTED ON FEB 25 1997

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 4, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 1 BY AMENDING SECTION 24.0103, REPEALING SECTIONS 24.0104 AND 24.0104.1; BY AMENDING DIVISION 2 BY AMENDING SECTION 24.0201, REPEALING SECTION 24.0201.1, RETITLING AND AMENDING SECTION 24.0202, REPEALING SECTION 24.0202.1, RETITLING SECTION 24.0203, REPEALING SECTION 24.0209, AND AMENDING SECTION 24.0211; BY AMENDING DIVISION 3 BY AMENDING SECTION 24.0301, RETITLING AND AMENDING SECTION 24.0302, REPEALING SECTION 24.0304, RENUMBERING SECTIONS 24.0305 AND 24.0306 TO SECTIONS 24.0304 AND 24.0305, REPEALING SECTION 24.0307, RENUMBERING SECTION 24.0308 TO SECTION 24.0306, AMENDING AND RENUMBERING SECTION 24.0308.5 TO SECTION 24.0307, AND RENUMBERING SECTION 24.0309 TO SECTION 24.0308; BY AMENDING DIVISION 4 BY AMENDING SECTIONS 24.0402 AND 24.0403 RETROACTIVELY APPLICABLE TO JANUARY 1, 1997, AND AMENDING SECTION 24.0404; BY AMENDING DIVISION 5 BY AMENDING SECTION 24.0503, RENUMBERING SECTION 24.0503.1 TO SECTION 24.0504, AMENDING AND RENUMBERING SECTION 24.0504.1 TO SECTION 24.0505, RENUMBERING SECTION 24.0505.1 TO SECTION 24.0506, REPEALING SECTIONS 24.0514 AND 24.0516 RETROACTIVELY TO THE DATE OF OCTOBER 1, 1987, AND AMENDING SECTIONS 24.0521 AND 24.0532; BY AMENDING DIVISION 6 BY REPEALING SECTION 24.0608.1; BY AMENDING DIVISION 7 BY AMENDING SECTION 24.0706, RETITLING AND AMENDING SECTION 24.0709, AND AMENDING SECTION 24.0710.2; BY AMENDING DIVISION 9 BY AMENDING AND RENUMBERING 24.0907.1 TO SECTION 24.0907; BY AMENDING DIVISION 10 BY AMENDING SECTION 24.1005 TO REFLECT RENUMBERING OF SECTION 24.0308 TO SECTION 24.0306 WITHIN THE TEXT OF THAT SECTION, AND ADDING SECTION 24.1014; BY AMENDING DIVISION 11 BY AMENDING SECTION 24.1101, AND AMENDING SECTION 24.1114 TO REFLECT RENUMBERING OF SECTION 24.0907.1 TO SECTION 24.0907 WITHIN THE TEXT OF THAT SECTION; BY AMENDING DIVISION 12 BY AMENDING THE TITLE THEREOF, BY REPEALING SECTIONS 24.1201, 24.1202, 24.1203, 24.1204, 24.1205 AND 24.1206, AND BY REENACTING SECTIONS 24.1201, 24.1202, 24.1203, 24.1204, 24.1205,

AND 24.1206, AND ADDING SECTION 24.1207; BY AMENDING DIVISION 13 BY RETITLING AND AMENDING SECTION 24.1302, AMENDING SECTIONS 24.1304, 24.1305, AND 24.1307, AND REPEALING AND REENACTING SECTION 24.1312, ALL RELATING TO THE CITY EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, on June 5, 1996, the Management Team of The City of San Diego and the San Diego Police Officers Association (POA) reached tentative agreement regarding changes to the retirement benefits provided by the City Employees' Retirement System ("CERS"); and

WHEREAS, on July 2, 1996, the Council of The City of San Diego approved Resolution No. R-287582 approving tentative agreements with Local 145 of the International Association of Fire Fighters ("Local 145"), the San Diego Municipal Employees' Association ("MEA"), and Local 127 of the American Federation of State, County and Municipal Employees' Association ("Local 127") regarding wages, hours, and other terms and conditions of employment for Fiscal Year 1998, and proposed benefit increase changes to CERS for all four employee organizations contingent upon an affirmative vote of the participants, and subject to approval of the City Council, CERS Board of Administration, and subject to the occurrence of various contingencies contained with the Manager's Retirement Proposal; and

WHEREAS, on June 21, 1996, the CERS Board of Administration approved the concept of funding employer contribution rates partially funded from CERS Surplus Undistributed Earnings by establishing a reserve from those Surplus Undistributed Earnings; and

WHEREAS, on June 21, 1996, the CERS Board of Administration deferred approval of funding retiree health insurance from CERS Surplus Undistributed Earnings until the affirmative passage of Proposition D on the November 5, 1996, Municipal Ballot authorizing CERS to

administer retiree health insurance, and until a specific health insurance benefit was identified and established by the Council of The City of San Diego; and

WHEREAS, on November 5, 1996, Proposition D was approved; and

WHEREAS, on January 28, 1997, the Management Team of The City of San Diego reached tentative agreement with a coalition of the four employee labor organizations ("Coalition"), on file in the office of the City Clerk as Document No. 00-18383, establishing a Retiree Health Insurance Benefit, and establishing the terms of a Deferred Retirement Option Plan ("DROP"); and

WHEREAS, it is the intent of the Council of The City of San Diego to introduce an ordinance on February 18, 1997, to implement the DROP effective April 1, 1997; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter II, Article 4, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 24.0103, to read as follows:

SEC. 24.0103 Definitions

Unless otherwise stated, for purposes of this Article:

"Accumulated Additional Contributions" means the sum of additional contributions standing to the credit of a Member's or Safety Member's individual account and interest thereon.

"Accumulated Contributions" means Accumulated Normal Contributions plus any Accumulated Additional Contributions standing to the credit of a Member's or Safety Member's account.

"Accumulated Normal Contributions" means the sum of all normal contributions standing to the credit of a Member's or Safety Member's individual account and interest thereon.

"Actuarial Equivalent" means a benefit of equal value when computed upon the basis of the mortality, interest and other tables adopted by the Board of Administration for this purpose.

"Actuary" means the actuary regularly employed on a full or part-time basis by the Board.

"Annuity" means payment for life derived from contributions made by a Member or Safety Member.

"Beneficiary" means any person in receipt of a pension, annuity, retirement allowance, death benefit, or any other benefit authorized by this Article.

"Board" means the Board of Administration hereinafter provided for.

"City Sponsored Health Insurance Plan" means a group health insurance plan which has been elected by and is in contractual privity with The City of San Diego, made available to Health Eligible Retirees, and administered by the Retirement System.

"Compensation" means the remuneration paid in cash out of city funds controlled by the Council of The City of San Diego, plus the monetary value as determined by the Board of Administration of board, lodging, fuel, laundry and other advantages furnished to an employee in payment for the employee's services.

"Compensation Earnable" by a Member or Safety Member means the base compensation as determined by the Board of Administration for the period under

consideration upon the basis of the normal number of days ordinarily worked by persons in the same grade or class of positions during the period and at the same rate of pay. The computation for any absence shall be based on the compensation of the position held by such employee at the beginning of the absence.

"Continuous Service" means that service of an eligible Member deemed to be of a continuous nature pursuant to Section 24.1005 of this Code. "Continuous Service" shall not be construed as synonymous with "Creditable Service."

"Creditable Service" for purposes of qualification for benefits and retirement allowances under this System means service rendered for compensation as an employee or officer (employed, appointed or elected) of the City or a contracting agency, and only while he or she is receiving compensation from the City or contracting agency, and is a Member of and contributing to this System pursuant to appropriate provisions of this Article. Except as provided in Chapter II, Article 4, Division 13, for which repurchase of credits may be permissible, time during which a Member is absent from City service without compensation shall not be allowed in computing Creditable Service. The term "Current Service" shall mean the same as Creditable Service.

"Final Compensation" for General and Legislative Members means the Compensation Earnable based on the highest one-year period for those Members who are on the active payroll of The City of San Diego on or after June 30, 1989, and who retire on or after July 1, 1989. The Retirement Board shall adjust contribution rates for high one-year General and Legislative Member eligibles as

may be necessary and required upon advice of the Actuary, from and after December 30, 1988.

"Final Compensation" for Safety Members means the Compensation Earnable based on the highest one-year period, for those Safety Members who are on the active payroll of The City of San Diego on or after January 1, 1988, and who retire on or after July 1, 1988. The Retirement Board shall adjust contribution rates for high one-year Safety Member eligibles as may be necessary and required upon advice of the Actuary, from and after January 1, 1988.

"General Member" is any Member not otherwise classified as a Safety or Legislative Member.

"Health Eligible Retiree" means any retired General Member, Safety Member, or Legislative Officer who was: (1) was on the active payroll of The City of San Diego on or after October 5, 1980, and (2) who retired on or after October 6, 1980, and (3) is eligible for and is receiving a retirement allowance from The City of San Diego.

"HMO" means a health maintenance organization type of health plan.

"Investment Earnings Received" means all interest received (net of interest purchased) on notes, bonds, mortgages, short-term money market instruments, and savings accounts; cash dividends received on stock investments; and all realized gains and losses from the sale, trade, or conversion of any investments of the Retirement System.

"Legislative Member" means the Mayor and any Councilmember.

"Legislative Officers" means the Mayor and/or members of the City Council.

"Member" means any person who actively participates in and contributes to the Retirement System, and who is thereafter entitled, when eligible, to receive benefits therefrom. There are three classes of Members: General, Safety and Legislative.

"Normal Contributions" means contributions by a Member or Safety Member at the normal rates of contribution, but does not include additional contributions by a Member or Safety Member.

"PPO" means a preferred provider organization type of health plan.

"Prior Service" means service prior to January 1, 1927.

"Safety Member" means any person who is either a sworn officer of the Police Department of The City of San Diego employed since July 1, 1946, a uniformed member of the Fire Department of The City of San Diego employed since July 1, 1946, or a full-time employed lifeguard of The City of San Diego, or a full-time police officer of the Unified Port District who is a peace officer under Penal Code section 830.1(a); provided, however, that police cadets, persons sworn for limited purposes only, and all other members of the Police and Fire Departments and lifeguard service shall not be considered Safety Members for the purpose of this Article.

"Retirement Fund" means the trust fund created by the City Charter in Article IX.

"Retirement System" or "this System" means the City Employees Retirement System as created by this Article, and the "1981 Pension System" means the Employees Retirement System as created by Chapter II, Article 4, Division 11.

"Undistributed Earnings Reserve" shall mean the balance remaining in the account to which the earnings to the fund are credited, after the annual distribution to the employee and employer reserve accounts in accordance with interest assumption rates established by the Board, plus accumulated earnings which have not been so distributed.

Section 2. That Chapter II, Article 4, Division 1, of the San Diego Municipal Code be and the same is hereby amended by repealing Sections 24.0104 and 24.0104.1.

Section 3. That Chapter II, Article 4, Division 2, of the San Diego Municipal Code be and the same is hereby amended by amending Section 24.0201, to read as follows:

SEC. 24.0201 Contribution of General Members

For General Members, the Board of Administration shall provide:

1. [No change in text.]
2. The normal rates of contribution for each Member, except Safety Members, shall be such as will provide an average Annuity at age 57½ equal to 1/120th of the Member's Final Compensation, according to the tables adopted by the Board of Administration for each year of service rendered after entering the System.
3. An employee who is granted a special leave of absence without pay in order to serve as the duly elected president of a recognized employee labor

organization, shall be permitted, if he or she so elects, to continue making contributions during the period of presidential leave in an amount prescribed in accordance with this Section 24.0201.

Section 4. That Chapter II, Article 4, Division 2, of the San Diego Municipal Code be and the same is hereby amended by repealing Section 24.0201.1.

Section 5. That Chapter II, Article 4, Division 2, of the San Diego Municipal Code be and the same is hereby amended by retitling and amending Section 24.0202, to read as follows:

SEC. 24.0202 Adoption of General Member Contribution Rates

The Board of Administration, based upon the advice of the Actuary, shall periodically adopt the rate of contribution of each General Member according to age at the time of entry into the Retirement System.

Section 6. That Chapter II, Article 4, Division 2, of the San Diego Municipal Code be and the same is hereby amended by repealing Section 24.0202.1.

Section 7. That Chapter II, Article 4, Division 2, of the San Diego Municipal Code be and the same is hereby amended by retitling Section 24.0203, to read as follows:

SEC. 24.0203 Maximum and Minimum Rates for General Members

[No change in text.]

Section 8. That Chapter II, Article 4, Division 2, of the San Diego Municipal Code be and the same is hereby amended by repealing Section 24.0209.

Section 9. That Chapter II, Article 4, Division 2, of the San Diego Municipal Code be and the same is hereby amended by amending Section 24.0211, to read as follows:

SEC. 24.0211 Upgrade of Benefits - General Members

Effective July 1, 1991, any General Member who was enrolled and participated in the 1981 Pension Plan between September 3, 1982, and June 30, 1989, shall receive the same level of benefits provided General Members in CERS.

Section 10. That Chapter II, Article 4, Division 3, of the San Diego Municipal Code be and the same is hereby amended by amending Section 24.0301, and by retitling and amending Section 24.0302, to read as follows:

SEC. 24.0301 Contributions of Safety Members

For Safety Members, the Board of Administration shall provide:

1. [No change in text.]
2. The normal rates of contribution for each Safety Member shall be such as will provide an average Annuity at age 50 equal to 1/100th of his Final Compensation, according to the tables adopted by the Board of Administration for each year of service rendered after entering the System.
3. An employee who is granted a special leave of absence without pay in order to serve as the duly elected president of a recognized employee labor organization, shall be permitted, if he or she so elects, to continue making contributions during the period of presidential leave in an amount prescribed in accordance with this Section 24.0301.

SEC. 24.0302 Adoption of Safety Member Contribution Rates

The Board of Administration, based upon the advice of the Actuary, shall periodically adopt the rate of contribution of each Safety Member according to age at the time of entry into the Retirement System, said rates to be contained in the

Operating Tables furnished to the Board of Administration by the System's Actuary.

Section 11. That Chapter II, Article 4, Division 3, of the San Diego Municipal Code be and the same is hereby amended by repealing Section 24.0304.

Section 12. That Chapter II, Article 4, Division 3, of the San Diego Municipal Code be and the same is hereby amended by renumbering Sections 24.0305 and 24.0306 to read Sections 24.0304 and 24.0305.

SEC. 24.0304 Safety Member Contributions Deducted by City Auditor

[No change in text.]

SEC. 24.0305 Additional Contributions for Safety Members

[No change in text.]

Section 13. That Chapter II, Article 4, Division 3, of the San Diego Municipal Code be and the same is hereby amended by repealing Section 24.0307.

Section 14. That Chapter II, Article 4, Division 3, of the San Diego Municipal Code be and the same is hereby amended by renumbering Section 24.0308 to Section 24.0306, amending and renumbering Section 24.0308.5 to Section 24.0307, and renumbering Section 24.0309 to Section 24.0308, to read as follows:

SEC. 24.0306 Withdrawal of Accumulated Contributions and Deferred Benefits -- Safety Members

[No change in text.]

SEC. 24.0307 Termination of Benefits -- Safety Member

Any person eligible to withdraw accumulated contributions pursuant to Section 24.0306 who requests withdrawal, and thereafter receives his or her

Accumulated Contributions from the System, shall be deemed to have knowingly terminated membership in the System and, as a result thereof, be ineligible for any rights, privileges, or benefits granted under this Retirement System.

SEC. 24.0308 Auditor and Comptroller to Withhold Monies Owing City -- Safety Members

[No change in text.]

Section 15. That Chapter II, Article 4, Division 4, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 24.0402 and 24.0403 retroactively applicable to January 1, 1997; and by amending Section 24.0404, to read as follows:

SEC. 24.0402 Retirement Allowance -- General Member

a. and b. [No change in text.]

c. The creditable service pension is the pension derived from the contributions of the City that is sufficient, when added to the service retirement Annuity, to equal the unmodified service retirement allowance.

d. The unmodified service retirement allowance is calculated by multiplying a Member's Final Compensation times the Member's creditable years of service times the applicable retirement factor set forth in Table 1 of Section 240402. The retirement factors set forth in Table 1 of Section 24.0402 shall be prorated to reflect quarterly increments in the Member's attained age.

e. The Member's cost of living annuity ("COLA") shall be calculated by computing the Actuarial Equivalent of the Member's accumulated COLA contributions at the time of the Member's retirement and that amount shall be

added to the unmodified service retirement allowance described in Section 24.0402(d).

Table 1 of Section 24.0402

SAN DIEGO CITY EMPLOYEES RETIREMENT SYSTEM

Retirement Age	Unmodified Factor* Effective 1/1/97
55	2.00%
56	2.00%
57	2.00%
58	2.00%
59	2.08%
60	2.16%
61	2.24%
62	2.31%
63	2.39%
64	2.47%
65+	2.55%

* Unmodified Factor utilized to calculate the maximum service retirement allowance. Factors are reduced if Member elects any optional retirement settlements pursuant to Chapter II, Article 4, Division 6.

SEC. 24.0403 Retirement Allowances -- Safety Member

a. The Board of Administration shall provide that upon retirement from service a Safety Member is entitled to receive a retirement allowance which shall consist of:

1. and 2. [No change in text.]

b. The service retirement annuity is an annuity which is the Actuarial Equivalent of the Safety Member's Accumulated Normal Contributions at the time of his or her retirement.

c. The Creditable Service pension for Safety Members is a pension derived from the contributions of the City that is sufficient, when added to the service retirement annuity, to equal the unmodified service retirement allowance.

d. Subject only to the retirement allowance cap described in Section 24.0403(f), the unmodified service retirement allowance shall be calculated by multiplying a Safety Member's Final Compensation times the Safety Member's creditable years of service times the applicable retirement factor set forth in Table 1 of Section 24.0403. The retirement factors set forth in Table 1 of Section 24.0403 shall be pro-rated to reflect quarterly increments in the Safety Member's attained age.

e. The Safety Member's cost of living annuity ("COLA") shall be calculated by computing the Actuarial Equivalent of the Safety Member's accumulated COLA contributions at the time of the Safety Member's retirement and that amount shall be added to the unmodified service retirement allowance described in Section 24.0403(d).

f. In no event shall the service retirement allowance for a Safety Member exceed 90% of Final Compensation, except however for those Safety Members who qualify for a waiver from this retirement allowance cap pursuant to Section 24.0403(g).

g. If the unmodified service retirement allowance of a Safety Member would have exceeded 90% of Final Compensation if they had retired on or before December 31, 1996, that Member may elect to not be subject to the 90% retirement allowance cap set forth in Section 24.0403(f), provided however that the unmodified service retirement allowance of the Member shall be calculated on the basis of the retirement factors in effect on December 31, 1996, as shown in Table 1 of Section 24.0403.

Table 1 of Section 24.0403
RETIREMENT CALCULATION FACTOR
LIFEGUARDS

Retirement Age	Unmodified Factor* Effective 12/31/96	Unmodified Factor* Effective 1/1/97
50	2.00%	2.20%
51	2.10%	2.32%
52	2.22%	2.44%
53	2.34%	2.57%
54	2.47%	2.72%
55+	2.62%	2.77%

* Unmodified Factor utilized to calculate the maximum service retirement allowance. Factors are reduced if Member elects any optional retirement settlements pursuant to Chapter II, Article 4, Division 6.

FIRE AND POLICE

Retirement Age	Unmodified Factor*		Unmodified Factor* Effective 1/1/97
	Effective 12/31/96		
	Police	Fire	
50	2.50%	2.20%	2.50%
51	2.54%	2.32%	2.60%
52	2.58%	2.44%	2.70%
53	2.62%	2.57%	2.80%
54	2.66%	2.72%	2.90%
55+	2.70%	2.77%	2.9999%

* Unmodified Factor utilized to calculate the maximum service retirement allowance. Factors are reduced if Member elects any optional retirement settlements pursuant to Chapter II, Article 4, Division 6.

SEC. 24.0404 Annual Supplemental Benefit -- Qualification and Determination

The purpose and intent of this section is to provide necessary guidelines for effectuating the payment of annual supplemental benefits set forth in Section 24.0907 of this Code by (a) identifying and defining those retirees qualified to receive such benefit and (b) establishing a method for determining the amount of the annual supplemental benefit.

A. For the purpose of identifying those retirees who shall be deemed qualified to receive the annual supplemental benefit established in this Code, the following criteria shall apply:

1. The retiree must have completed a minimum of ten (10) years Creditable Service as a Member of the System in order to be qualified;

2. through 3. [No change in text.]

4. Legislative and Special Class Safety Members who are receiving fluctuating monthly retirement benefits, and the survivors of both classes, shall not be eligible for participation in the annual supplemental benefit program established by this Article.

B. For the purpose of determining the amount of the supplemental benefit payment to Qualified Retirees, the following process shall apply:

1. through 3. [No change in text.]

4. The total sum of qualified creditable years shall then be divided into the total of Surplus Undistributed Earnings designated for distribution by the Retirement Board pursuant to Section 24:0907 of this Code to arrive at a per annum dollar value for each creditable year; provided, however, that in no event shall the per annum dollar value exceed \$30 (thirty dollars) except for those General Members who retired between January 8, 1982 and June 30, 1985, who shall be entitled to a per annum value not to exceed \$45 (forty-five dollars).

Notwithstanding the preceding paragraph, qualified retirees who retired on or before October 6, 1980, but after December 31, 1971, will receive \$60 (sixty dollars) per year of service and employees who retired

on or before December 31, 1971, will receive \$75 (seventy-five dollars) per year of service.

5. [No change in text.]

6. Except as provided in Section 24.0404(B)(7), the supplemental benefits of survivors of deceased qualified retirees, as defined in Section 24.0404(A), shall be determined in the same ratio as their monthly benefits bear to the monthly benefits received by their respective deceased retired spouses.

7. The supplemental benefit of a survivor of a qualified special class safety retiree shall be determined by allocating to the surviving spouse fifty percent (50%) of the qualified creditable years issued to the deceased member.

C. [No change in text.]

Section 16. That Chapter II, Article 4, Division 5, of the San Diego Municipal Code be and the same is hereby amended by amending Section 24.0503; renumbering Section 24.0503.1 to Section 24.0504; amending and renumbering Section 24.0504.1 to Section 24.0505; and renumbering Section 24.0505.1 to Section 24.0506, to read as follows:

SEC. 24.0503 Industrial Disability--Safety Member--Computation of Benefits

Upon retirement of a Safety Member for industrial disability: (a) that Member shall receive in equal monthly installments a disability retirement allowance of 50% of Final Compensation plus an Annuity purchased with Accumulated Additional Contributions, if any; or, (b) if qualified for service retirement, that Member shall receive the service retirement allowance if such

allowance, after deducting such additional Annuity is greater than the amount specified in Section 24.0503(a). The disability retirement allowance for a Safety Member retired because of industrial disability shall be derived from an Annuity based on that Member's Accumulated Normal Contributions and a disability retirement pension derived from contributions of the City.

SEC. 24.0504 Non-Industrial Disability--Safety Member--Computation of Benefits

[No change in text.]

SEC. 24.0505 Industrial Disability--General Member--Computation of Benefits

Upon retirement of a General Member for industrial disability: (a) that Member shall receive in equal monthly installments a disability retirement allowance of 50% of Final Compensation plus an Annuity purchased with Accumulated Additional Contributions, if any; or, (b) if qualified for service retirement, that Member shall receive the service retirement allowance if such allowance, after deducting such additional Annuity is greater than the amount specified in Section 24.0505(a). The disability retirement allowance for a General Member retired because of industrial disability shall be derived from an Annuity based on that Member's Accumulated Normal Contributions and a disability retirement pension derived from contributions of the City.

SEC. 24.0506 Non-Industrial Disability--General Member--Computation of Benefits

[No change in text.]

Section 17. That Chapter II, Article 4, Division 5, of the San Diego Municipal Code be and the same is hereby amended by repealing Sections 24.0514 and 24.0516 retroactively to the date of October 1, 1987.

Section 18. That Chapter II, Article 4, Division 5, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 24.0521 and 24.0532, to read as follows:

SEC. 24.0521 Surviving Spouse--Contribution Rates and Benefits

From and after July 1, 1973, every Member, including a Safety Member, shall, in addition to Normal Contributions, make survivor contributions in an amount equal to a percentage of the Normal Contributions as set forth below:

Membership Classification	Survivor Contributions as Percentage of Normal Contributions
General Members	9.98%
Safety Members	11.76%

Such survivor contributions, together with interest thereon, shall be paid to the Member or his or her beneficiary in the event the Normal Contributions are so paid under Sections 24.0206, 24.0306, and 24.0703.

Upon the death of any General Member or Safety Member who retires for service or disability after the effective date of this section, his or her surviving spouse shall receive, on July 1, 1973 and thereafter, a monthly allowance equal to 50% of the decedent's monthly retirement allowance if:

- (1) the spouse is designated as beneficiary, and
- (2) the spouse was married to the deceased Member as of the date of the Member's retirement, and

(3) the monthly retirement allowance of the deceased Member was not modified in accordance with Optional Settlement 1, 2, 3, or 4 provided by this System.

No benefits will be paid under this section if there is a surviving spouse who qualifies for and receives the special death benefit or modified special death benefits provided by this System.

Upon the retirement of a General or Safety Member for service or disability having no spouse at the time of retirement who is eligible for benefits under this section the Member shall have the option of having refunded to him or her in lump sum the Accumulated Contributions including interest made pursuant to this section, or of having these contributions treated as voluntary additional contributions made to provide a larger Annuity benefit.

SEC. 24.0532 Cost of Living Adjustment Program Shared Between Employer and Members

The cost of any anticipated cost of living increase in allowances which is based upon services rendered after July 1, 1971, shall be shared equally between the employer and the contributing Member or Safety Member, with the individual member's contributions based upon his or her age at his or her nearest birthday at time of entrance into the Retirement System.

Commencing July 1, 1971, and until adjusted by the Board upon the recommendation of the Actuary, the contribution requirements of Members and Safety Members as contained in Sections 24.0202 and 24.0302, respectively, plus surviving spouse contributions as contained in Section 24.0521, shall be increased

by 15%. In addition, the contribution requirement for those Members specified therein who are active Members on or after June 30, 1985, shall be increased by 20%. These "cost of living contributions" will be separately totaled upon the retirement of Members and Safety Members after July 1, 1971.

Section 19. That Chapter II, Article 4, Division 6, of the San Diego Municipal Code be and the same is hereby amended by repealing Section 24.0608.1.

Section 20. That Chapter II, Article 4, Division 7, of the San Diego Municipal Code be and the same is hereby amended by amending Section 24.0706; retitling and amending Section 24.0709; and amending Section 24.0710.2, to read as follows:

SEC. 24.0706 Special Death Benefit -- Safety Member -- Computation

The special death benefit for Safety Members consists of:

(a) [No change in text.]

(b) An amount sufficient, when added to the amount equal to the basic death benefit, exclusive of the Annuity provided by the deceased's Accumulated Contributions, to provide, when applied according to tables adopted by the Board, a monthly death allowance equal to one-half of Final Compensation, payable to:

(1) the surviving spouse as the named beneficiary and to whom the Member was married prior to sustaining the injury or disease resulting in death as long as the surviving spouse lives; or, (2) the Member's children under 18 collectively as beneficiaries until every child dies or attains 18, if there is no surviving spouse as beneficiary, or if the spouse dies before all children of the deceased Member attain age 18.

(c) [No change in text.]

SEC. 24.0709 Special Death Benefit--Payment to Surviving Minor Children

If payment of the special death benefit is stopped because a child attains the age of 18 and the payment is stopped before the sum of the monthly payment equals the basic death benefit (exclusive of the Annuity derived from the Accumulated Additional Contributions of the deceased), then a lump sum equal to the difference shall be paid to the surviving children of the deceased Member, share and share alike. In such event, the Accumulated Additional Contributions of the deceased, as they were at his death, less the Annuity paid as derived from such contributions, and plus interest credited to the Accumulated Additional Contributions, shall be paid in the manner provided in this Section.

SEC. 24.0710.2 Modified Special Death Benefit--General Member--Computation

The modified special death benefit for General Members consists of:

- a. [No change in text.]
- b. An amount derived from the combination of Undistributed Earnings of the Retirement Fund and the deceased Member's Normal Contribution and any primary Social Security benefits which are payable, to provide a monthly death allowance equal to one-half of Final Compensation, payable to: (1) the surviving spouse as the named beneficiary and to whom the Member was married prior to sustaining the injury or disease resulting in death as long as the surviving spouse lives; or, (2) if there is no surviving spouse as beneficiary, or if such spouse dies before all children of the deceased Member attain age 18, to the Member's children under 18 collectively as beneficiaries until every child dies or attains 18.

Section 21. In regard to Sections 24.0706 and 24.0710.2, any surviving spouse whose benefit was terminated due to remarriage shall have the special death benefit reinstated effective January 1, 1997.

Section 22. That Chapter II, Article 4, Division 9, of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 24.0907.1 to Section 24.0907, to read as follows:

SEC. 24.0907 Surplus Undistributed Earnings

a. Surplus Undistributed Earnings shall be comprised of Investment Earnings Received for the previous fiscal year, less:

(1) An amount sufficient to credit interest to the contribution accounts of the Members, City and the Unified Port District at an interest rate determined by the Board and distributed in accordance with Section 24.0905 and related Board rules; and

(2) An amount sufficient to meet the budgeted expenses and costs of operating the System including all personnel and services for the fiscal year; and

(3) An amount sufficient to provide health benefits for Health Eligible Retirees and a vested benefit of \$600 for those retirees who do not qualify as Health Eligible Retirees.

(4) An amount necessary to maintain such reserves as the Board deems appropriate on advice of its investment counselor and/or Actuary; and

(5) An amount sufficient to provide necessary funds to pay an annual supplemental benefit to qualified retirees, pursuant to the provisions and conditions set forth in Section 24.0404. If, at the time of the annual determination, the amount provided for the supplemental benefits is less than \$100,000, no supplemental benefits will be paid in that fiscal year and the monies will be placed in a special reserve and be carried forward to ensuing years until such time as the amount to be provided for this benefit from ensuing Surplus Undistributed Earnings and the special reserve is \$100,000 or more.

b. At the beginning of each fiscal year, the Board shall credit all Surplus Undistributed Earnings to the Reserve for Employer Contributions, for the sole and exclusive purpose of reducing Retirement System liability.

c. For the purpose of distributing annual supplemental benefits to qualified retirees, Investment Earnings Received shall be determined on a cash basis, except that Investment Earnings Received shall be increased or decreased by the amount of the annual amortization of purchase discounts or premiums on interest-bearing investments earned in accordance with generally accepted accounting principles for financial reporting purposes. No subsequent changes in the method of accounting for the Retirement System shall affect the determination of Investment Earnings Received. Surplus Undistributed Earnings shall be determined by the City Auditor and Comptroller in accordance with this section and shall be certified by the City's independent public accountant.

Section 23. That Chapter II, Article 4, Division 10, of the San Diego Municipal Code be and the same is hereby amended by renumbering Section 24.0308 appearing within the text of the Section 24.1005 to read Section 24.0306.

Section 24. That Chapter II, Article 4, Division 10, of the San Diego Municipal Code be and the same is hereby amended by adding Section 24.1014, to read as follows:

SEC. 24.1014 Exemption from Process; Assignments Prohibited

The right of a person to a pension or Annuity or a retirement allowance, to the return of contributions, the pension, Annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this section and the moneys in the fund created under this section shall not be subject to execution, garnishment, attachment, or any other process of any court except to the extent permitted by California Code of Civil Procedure section 704.110, and shall be unassignable except as in this section specifically provided.

Section 25. That Chapter II, Article 4, Division 11, of the San Diego Municipal Code be and the same is hereby amended by amending Section 24.1101, to read as follows:

SEC. 24.1101 Inclusion of Existing Provisions

The following sections and no others, of the San Diego Municipal Code are hereby adopted as part of the Pension Act of 1981: Sections 24.0103, 24.0105, 24.0105.1, 24.0107, 24.0204, 24.0207, 24.0208, 24.0304, 24.0308, 24.0310, 24.0509, 24.0510, 24.0515, 24.0711, 24.0712, 24.0713, 24.0714, 24.0901, 24.0901.1, 24.0902, 24.0903, 24.0904, 24.0905, 24.0905.5, 24.0906, 24.0908, 24.0909, 24.0910, 24.1005, 24.1007, 24.1008. Each and all of the regulations,

provisions, conditions, and terms of said sections are hereby referred to, adopted and made a part hereof, as if fully set out in this Division; provided, however, that any of the provisions of said sections as herein adopted by reference which are in conflict with any of the provisions of this Division shall be superseded by the provisions of this Division.

Section 26. That Chapter II, Article 4, Division 11, of the San Diego Municipal Code be and the same is hereby amended by renumbering Section 24.0907.1 appearing within the text of the Section 24.1114 to read Section 24.0907.

Section 27. That Chapter II, Article 4, Division 12, of the San Diego Municipal Code be and the same is hereby amended by repealing Sections 24.1201, 24.1202, 24.1203, 24.1204, 24.1205, and 24.1206.

Section 28. That Chapter II, Article 4, Division 12, of the San Diego Municipal Code be and the same is hereby amended by amending the title thereof to read Retiree Health Benefit, and reenacting Sections 24.1201, 24.1202, 24.1203, 24.1204, 24.1205, and 24.1206, and adding Section 24.1207, to read as follows:

DIVISION 12

Retiree Health Benefit

SEC. 24.1201 Definitions

For purposes of this Division:

“City Sponsored Health Insurance Plan” means a group health insurance plan which has been selected by and is in contractual privity with The City of San Diego, made available to Health Eligible Retirees, and administered by the Retirement System.

“Health Eligible Retiree” means any retired General Member, Safety Member, or Legislative Officer who was: (1) on the active payroll of The City of San Diego on or after October 5, 1980, and (2) who retired on or after October 6, 1980, and (3) is eligible for and is receiving a retirement allowance from The City of San Diego.

“HMO” means a health maintenance organization type of health plan.

“PPO” means a preferred provider organization type of health plan.

SEC. 24.1202 Purpose and Intent

Effective August 1, 1997, a health insurance program shall be offered to Health Eligible Retirees as set forth in this Division. This benefit shall be administered by the Retirement System. Notwithstanding any other interpretation of law to the contrary, it is the intent of the City Council to deem this benefit as defined and vested within the meaning of City Charter section 143.1 for those individuals who are retired on the date this benefit becomes effective and thus attain the status of Health Eligible Retiree by operation of law. Health Eligible Retirees may enroll in a City Sponsored Health Insurance Plan or participate in the plan of their choice, subject to payment and reimbursement limitations set forth in this Division. For active employees, this benefit may only be modified in accordance with provisions set forth in Section 24.1204 and after a vote of approval by the active Members. The City Sponsored Health Insurance Plans shall include at least one HMO plan and at least one PPO plan.

SEC. 24.1203 Retiree Health Insurance Benefit

(a) Health Eligible Retirees may choose to participate in a City Sponsored Health Insurance Plan or any other comparable health insurance plan of their choice.

(b) For those Health Eligible Retirees who enroll in any health insurance plan, the City shall pay or reimburse the applicable Medicare-eligible or non-Medicare eligible retiree-only premium up to but not to exceed the cost of the retiree-only premium for the highest cost HMO plan which is also a City Sponsored Health Insurance Plan made available to Health Eligible Retirees.

(c) For those Health Eligible Retirees who on January 1, 1997, were enrolled and remain continuously enrolled in any PPO plan, the City shall pay or reimburse the applicable Medicare-eligible or non-Medicare eligible retiree-only premium up to but not to exceed the cost of the retiree-only premium for the PPO plan which is also a City Sponsored Health Insurance Plan made available to Health Eligible Retirees.

SEC. 24.1204 Future Changes to City Sponsored HMO Plans

(a) The City-Sponsored Group Health Insurance Program for Health Eligible Retirees is premised on the concept of providing Health Eligible Retirees with a benefit that is the same as that offered by the highest cost HMO plan offered to City employees in fiscal year 1996-1997, the Blue Cross California Care HMO Plan. This section is intended to define the responsibility of the City in changing the terms and conditions of the HMO plans which are also City Sponsored Health Insurance Plans. The Retirement System is not intended to have any role in the

process of changing the terms and conditions of the City Sponsored Health Insurance Plans under this Section.

(b) After the City-Sponsored Group Health Insurance Plans for Health Eligible Retirees becomes effective, any change in HMO health care providers by the City or any new or amended contract with an HMO health care provider may be approved by the City Council only after the change has been reviewed by a qualified independent consultant who concludes that the change will not affect the benefit in any manner which triggers the right of active employees to vote on the benefit change. The independent consultant shall be mutually selected by the City and the recognized employee labor organizations and the cost of the consultant shall be shared one-half by the City and one-half by the labor organizations.

(c) The requirement for independent consultant review set forth in Section 24.1203(b) may be waived by the written mutual consent of the City and all the recognized labor organizations.

(d) Additionally, the Retirement System will reimburse the part B supplemental medical expense premium for those Health Eligible Retirees enrolled in Medicare.

SEC. 24.1205 Health Insurance Trust Fund

(a) Retiree Health Insurance Trust Fund

Benefits paid under this Division to Health Eligible Retirees shall be principally paid from a separate Retiree Health Insurance Trust Fund, established pursuant to this section. An amount, as verified by the Actuary as may be necessary and required to provide the benefits set forth in this Division will be paid

into the Retiree Health Insurance Trust Fund from Surplus Undistributed Earnings of the Retirement System, as provided for in Section 24.0907 of this Code.

Payments to Health Eligible Retirees will be paid directly out of the Retiree Health Insurance Trust Fund. The purpose of this Fund is to meet the requirements of Internal Revenue Code section 401(h).

(b) Contributions to Retiree Health Insurance Trust Fund

Subject to the requirements of Internal Revenue Code section 401(h) and to the extent that funds are available from Surplus Undistributed Earnings of the Retirement System as provided for in Section 24.0907 of this Code, the annual contributions to fund the Retiree Health Insurance Trust Fund shall be the amount necessary to provide benefits to Health Eligible Retirees as provided for in Section 24.1203.

(c) Internal Revenue Code Requirements

Solely to the extent required by the Internal Revenue Code, all payments to Health Eligible Retirees paid from the Retiree Health Insurance Trust Fund shall be subordinate to the defined vested benefits provided by the Retirement System. Also, the aggregate actual contributions for medical benefits, when added to actual contributions for life insurance protection (if any) under the Retirement System shall not exceed twenty-five percent (25%) of the total actual contributions made after the effective date of this section to the Retirement System, exclusive of contributions to fund past service credits.

No part of the Retiree Health Insurance Trust Fund shall be used for, or diverted to, any purpose other than providing medical benefits or paying necessary and appropriate expenses attributable to the administration of the Fund.

Notwithstanding the prior paragraph, and solely as needed to meet the mandate of the Internal Revenue Code, any amounts remaining in the Retiree Health Insurance Trust Fund after satisfaction of all liabilities arising out of the operation of this Division (including but not limited to benefits payable in the future for existing members) shall be returned to the City. However, if any amounts are returned to the City under this section, the City shall provide benefits in an equivalent amount to members of the Retirement System.

This section does not require separate accounts for key employees, because no member of the Retirement System is a key employee under the Internal Revenue Code.

Assets attributable to any forfeitures of benefits payable under the Retiree Health Insurance Trust Fund shall be used to reduce the City's contributions to fund benefits provided under this Division.

SEC. 24.1206 Funding

The health insurance benefit described in this Division shall be paid by the Retirement System and the City from the following sources of funds in descending order of availability, as may be necessary and required to provide the benefits set forth in this Division:

- (a) from the Retiree Health Insurance Trust Fund; and, if necessary
- (b) from the Retiree Health Insurance Reserve Fund; and, if necessary

(c) from any other source of funds available to the City of San Diego

SEC. 24.1207 Health Insurance Reserve Fund

The Retiree Health Insurance Reserve Fund (formerly known as the Retiree Health Insurance Reserve Trust Account), as that account existed on January 1, 1997, shall remain intact accruing interest and not be used for, or diverted to, any purpose other than paying for benefits in accordance with this Division.

Section 29. That Chapter II, Article 4, Division 13, of the San Diego Municipal Code be and the same is hereby amended by retitling and amending Section 24.1302, and amending Sections 24.1304, 24.1305, and 24.1307, to read as follows:

SEC. 24.1302 Purchase of Probationary Period

Any Member who does not have service credit for any period of eligible City service during his or her probationary period of employment with the City shall have the right to elect to receive credit for such service providing that, prior to retirement, the Member pays a lump sum into the Retirement System in an amount calculated by multiplying the average rate of contribution of General or Safety Members as determined by the Board times the compensation received by the employee during that portion of the probationary period concerned, rounding the monthly salary off to the nearest \$100, plus an average interest of four and one-half percent (4½%) per year from the date of entrance into the Retirement System until the date of purchase.

**SEC. 24.1304 Purchase of Service Credit for Part-Time or Hourly Service
Prior to Membership**

Any vested Member who, during their tenure of employment, was employed in a position that was less than full-time or who was not eligible for membership, may purchase full-time service credit for the period of time he or she rendered part-time or hourly service prior to membership.

No employee shall be eligible to purchase service credit under this Section for periods of employment after January 1, 1997.

SEC. 24.1305 Purchase of Service Credit Upon Reinstatement

If any Member has terminated City service without fault, or because of reasons beyond his or her control, the Member shall have the right at any time, if re-employed by the City, to be reinstated in the Retirement System upon such terms and conditions as shall be prescribed by the Board. Such Member shall be eligible to purchase service credit for the period between the date of termination and the date of reinstatement. If, however, such Member upon re-employment does not elect to purchase service credit as authorized by this section, the Member's rate of contribution following his or her reinstatement shall be based upon the Member's age at reinstatement. Credit for service under this section shall be granted only for the period during which contributions have been made.

No employee hired or reinstated after January 1, 1997, shall be eligible to purchase service credit under this section.

SEC. 24.1307 Purchase of Approved Leaves of Absence

(a) Notwithstanding the definition of Creditable Service in Section 24.0103(t), any Member granted an approved leave of absence without pay shall have the right, upon his or her return to City service, and upon request by the Member, to obtain service credit for a period of up to one year of such absence by paying into the Retirement System an amount determined by the Board to be the equivalent of the employee cost of that service.

(b) Notwithstanding the definition of Creditable Service in Section 24.0103(t), any Member granted an approved leave of absence for periods of time in excess of one year shall have the right, upon return to City service, and upon request by the Member, to obtain service credit for such excess leave of absence by paying into the Retirement System an amount determined by the Board to be the equivalent of the employee and employer cost of that service.

(c) No employee shall be eligible to purchase service credit under Section 24.1307(a) or (b) for periods of leave of absence that begin after January 1, 1997, except for leaves of absence granted by the City for long term disability benefits, Family Medical Leave Act periods approved by the City, leaves of absence without pay approved by the Civil Service Commission with job to be saved, including any period preceding reinstatement by the Civil Service Commission following a termination appeal.

Section 30. That Chapter II, Article 4, Division 13, of the San Diego Municipal Code be

and the same is hereby amended by repealing and reenacting Section 24.1312, to read as follows:

SEC. 24.1312 General Provision for Five Year Purchase of Service Credit

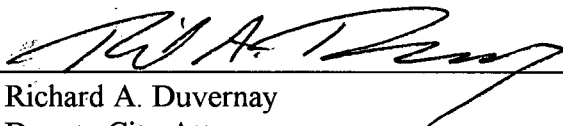
Any person employed by the City of San Diego on the date of December 31, 1996, may purchase up to a maximum of five (5) years of service credit in addition to any other purchase of service credit benefit for which that person was eligible as of December 31, 1996. However, in no event shall the years purchased pursuant to this provision qualify to satisfy the vesting requirement set forth in Section 141 of the San Diego City Charter.

Any person hired by The City of San Diego on or after January 1, 1997, may purchase up to a maximum of five (5) years of service credit in addition to any other purchase of service credit benefit set forth in Chapter II, Article 2, Division 13, for which that person was eligible on January 1, 1997.

The cost of service credit purchased pursuant to this section shall be the amount determined by the Board to be the equivalent of the employee and employer cost of that service credit.

Section 31. Any aspect of this ordinance affecting retirement benefits shall take effect upon approval by the respective classes of membership as required pursuant to Charter Section 143.1, and no earlier than the thirtieth day from and after its passage by the City Council.

APPROVED: CASEY GWINN, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

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02/06/97
02/11/97 Cor. Copy
Or. Dept: Labor.R.
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