

(O-97-88 REV. 1)

ORDINANCE NUMBER O- 18392

(NEW SERIES)

ADOPTED ON MAR 31 1997

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 4, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING DIVISION 1 BY AMENDING SECTION 24.0103, AMENDING AND RENUMBERING SECTION 24.0105 TO SECTION 24.0104; BY AMENDING DIVISION 2 BY AMENDING SECTIONS 24.0201, 24.0202 AND 24.0203; BY RENUMBERING SECTION 24.0206.5 TO SECTION 24.0207; BY RENUMBERING 24.0207 TO SECTION 24.0208; BY ADDING SECTION 24.0209, AND BY AMENDING SECTIONS 24.0210 AND 24.0211; BY AMENDING DIVISION 3 BY AMENDING SECTIONS 24.0301 AND 24.0302, AND BY ADDING SECTION 24.0309; BY AMENDING DIVISION 4 BY AMENDING SECTIONS 24.0402, 24.0403 AND 24.0404; BY AMENDING DIVISION 5 BY AMENDING SECTIONS 24.0521 AND 24.0532; BY AMENDING DIVISION 6 BY AMENDING SECTION 24.0608; BY AMENDING DIVISION 7 BY ADDING SECTION 24.0715; BY AMENDING DIVISION 8 BY AMENDING SECTION 24.0801; BY AMENDING DIVISION 9 BY AMENDING SECTION 24.0907; BY REPEALING DIVISION 12 AND BY REENACTING DIVISION 12 BY ADDING SECTIONS 24.1201, 24.1202, 24.1203, AND 24.1204; BY AMENDING DIVISION 13 BY AMENDING SECTIONS 24.1304, AND 24.1307, AND BY REPEALING SECTION 24.1311; BY REPEALING DIVISION 14 AND BY REENACTING DIVISION 14 BY ADDING SECTIONS 24.1401, 24.1402, 24.1403, 24.1404, 24.1405, 24.1406, 24.1407, 24.1408, AND 24.1409, ALL RELATING TO THE CITY EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, on July 2, 1996, after meeting and conferring with the Police Officers Association, Fire Fighters Local 145, Municipal Employees Association, and AFSCME, Local 127, the City Council approved a proposal to implement a number of revisions to the Retirement System; and

WHEREAS, on November 5, 1996, the passage of Proposition D amended City Charter Section 141 to permit the Retirement System to provide for health insurance to eligible retirees; and

WHEREAS, on February 6, 1997, a task force of the four labor organizations reached agreement with the City Management Team on the level of health benefits to be provided by the Retirement System; and

WHEREAS, it is the intent of the agreement reached between the four labor organizations and the City Management Team that the level of health benefits to be provided by the Retirement System not be diminished by any change in HMO health care providers by the City, or any new or amended contract with an HMO health care provider or by conversion to a blended premium for active employees and retirees without mutual agreement with the exclusive bargaining representatives; and

WHEREAS, the four labor organizations and the City Management Team have agreed that any change will not be approved by the City Council until after the proposed change has been reviewed by a qualified independent consultant, who is mutually selected and jointly compensated by the City and the recognized labor organizations, who concludes that the proposed changes will not affect the benefit in any manner which triggers the voting rights of active employees, unless this process is waived by mutual consent; and

WHEREAS, the four labor organizations and the City Management Team have reached agreement on the specific provisions to be included in the Deferred Retirement Option Plan; and

WHEREAS, the City wishes to ensure that retirees are provided with appropriate health benefits; and

WHEREAS, the best way to provide these benefits is through the Retirement System using the undistributed earnings of the System; and

WHEREAS, the tax laws put limits on the method the Retirement System can use to provide health benefits, and these limits are contained in Section 401(h) of the Internal Revenue Code; and

WHEREAS, Section 401(h) prevents a transfer of undistributed earnings of the Retirement System for paying health benefits; and

WHEREAS, Section 401(h) does not prevent undistributed earnings from being used in the place of City contributions if an equal amount of City contributions are designated for health benefits (known as the "bifurcated rate"); and

WHEREAS, if a bifurcated rate program is used, then the City and the Board agree the net economic consequences to the Retirement System and the City is the same as if undistributed earnings were used to directly provide health benefits, and agree the requirements of the tax law will be met; and

WHEREAS, the Board has obtained full and complete legal advice indicating it can enter into a bifurcated arrangement under the current ordinance and charter and has endorsed this arrangement; and

WHEREAS, the City and the Board have agreed the bifurcated rate arrangement is to be used for a "pay as you go" health program and this program will not be fully actuarially funded; and

WHEREAS, on February 10, Ordinance No. 0-97-75 was introduced amending numerous provisions of Chapter II, Article 4 of the San Diego Municipal Code related to the following:

service retirement and disability retirement formulae, elimination of the disability income offset, the establishment of a post retirement health benefit to be administered by the City Employees' Retirement System and establishment of a \$600 annual benefit for pre-1980 retirees who are not eligible for retiree health insurance, elimination of the remarriage penalty, modification of the one-year marriage requirement to establish eligibility as a surviving spouse, and purchase of service credit; and

WHEREAS, on February 18, 1997, Ordinance No. 0-97-86 was introduced by adding Division 14 to Chapter II, Article 4 of the San Diego Municipal Code establishing a Deferred Retirement Option Plan; and

WHEREAS, the City Council ordered all interested parties to move expeditiously toward completing the outstanding contingencies involved in Ordinances 97-75 and 97-86; and

WHEREAS, it is recommended a third ordinance be introduced (0-97-88) to "clean up" and technically amend language to assure that the provisions meet with and satisfy all applicable state and federal requirements; and

WHEREAS, all employees of the Unified Port District (the "District"), except for Harbor Police Officers, participate in the Retirement System as General Members, under a Retirement Agreement dated February 11, 1964 (the "Agreement"), on file with the City Clerk as Document No. 667149, as amended by a First Amendment to the Agreement, on file in the office of the San Diego City Clerk as Document No. 279991; and

WHEREAS, the changes to the Retirement System described in O-97-75 and 97-86 (collectively, the "Manager's Proposal") would automatically affect the District's Members unless otherwise provided by the Municipal Code or Agreement; and

WHEREAS, the Agreement needs to be amended because the District will not be participating in all of the benefits recommended in the Manager's Proposal; and

WHEREAS, the District and City intended to enter into a new agreement where the Board would administer District benefits as set forth in a separate plan document rather than the Municipal Code but there was not enough time to do the work necessary within the time line for the Manager's Proposal; and

WHEREAS, in the interim, the District proposed a Second Amendment to the Agreement ("Second Amendment to Agreement") which sets forth those benefits to be offered District employees as a result of the Manager's Proposal; and

WHEREAS, the Second Amendment to Agreement, attached to Resolution No. R-288414, is incorporated by reference herein; and

WHEREAS, Ordinances 97-75 and 97-86 were introduced prior to outside fiduciary counsel, tax counsel and plan consultant to the Retirement System completing reviews of the ordinance language implementing these benefit changes; and

WHEREAS, outside fiduciary counsel, tax counsel and plan consultant to the Retirement System have reviewed and approved the previous ordinances (0-97-75 and 0-97-86) as well as the Cleanup ordinance (0-97-88); and

WHEREAS, the Ordinance 97-88 does not introduce any changes to the agreements reached with the labor organizations; and

WHEREAS, it is now necessary and proper to amend the San Diego Municipal Code to reflect the changes to the benefits under the Retirement System set forth in 0-18383, 0-97-86 and this Cleanup ordinance (0-97-88); and

WHEREAS, in accordance with Section 143.1 of the Charter for The City of San Diego, the active membership will vote on April 4, 1997, through April 13, 1997, on the changes to the Retirement System set forth in 0-18383, 0-97-86 and this Cleanup ordinance; and

WHEREAS, the benefit improvements set forth in 0-18383, 0-97-86 and this Cleanup ordinance shall not become effective unless approved by the active members of the City Employees' Retirement System, 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 individual account and interest thereon.

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

"Accumulated Normal Contributions" means the sum of all normal contributions standing to the credit of a 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 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.

"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 for the City Employees' Retirement System.

"City sponsored health insurance plan" means a group health insurance plan, selected by and in contractual privity with The City of San Diego, made available to Health Eligible Retirees.

"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 board, lodging, fuel, laundry and other advantages furnished to an employee in payment for the employee's services.

"Compensation Earnable" by a Member means the base compensation as determined by the Board 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 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."

"Cost of Living Annuity" means an amount to be added to the retirement allowance of a Member or Officer, calculated by computing the actuarial equivalent of the accumulated contributions in the cost of living annuity account of the Member or Officer at the time of the retirement of the Member or Officer.

"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.

"DROP" means Deferred Retirement Option Plan, an alternative method of benefit accrual described in Division 14.

"Final Compensation" for General Members and Legislative Officers means the Compensation Earnable based on the highest one-year period for those Members and Officers 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 Board shall adjust contribution rates for high one-year General Member and Legislative Officer 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 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 Member or Legislative Officer.

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

"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 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 two classes of Members: General and Safety.

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

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

"Qualified Retiree" means those retirees eligible to receive the annual supplemental benefit set forth in Division 4.

"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.

"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.

"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 amending and renumbering Section 24.0105 to Section 24.0104, to read as follows:

SEC. 24.0104 Membership

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

c. Employees in the classified service paid on an hourly basis are not eligible for membership in the Retirement System nor shall they accrue any benefits in this system except as provided in Section 24.1304. Salaried employees in the classified service including those working one-half ($\frac{1}{2}$) or three-quarter ($\frac{3}{4}$) time are eligible for and shall become members of the Retirement System. Retirement benefits shall accrue to the above eligible members in the same

proportion to full benefits as their service relates to the service of a full-time member.

d. and e. [No change in text.]

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 shall provide:

1. [No change in text.]

2. The normal rates of contribution for each Member, except Safety Member 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 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 Section 24.1307.

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

SEC. 24.0202 Adoption of General Member Contribution Rates

The Board, 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, said rates to be contained in the Operating Tables furnished to the Board by the System's Actuary.

Section 5. That Chapter II, Article 4, Division 2, of the San Diego Municipal Code be and the same is hereby amended by amending Section 24.0203, to read as follows:

SEC. 24.0203 Maximum and Minimum Rates for General Members

The normal rate of contribution established for age 57 is the rate for any member other than a safety member who has attained a greater age before entrance into the Retirement System, and that established for age 20 is the rate for any member who enters the Retirement System at a lesser age.

Section 6. That Chapter II, Article 4, Division 2, of the San Diego Municipal Code be and the same is hereby amended by renumbering Section 24.0206.5 to Section 24.0207, to read as follows:

SEC. 24.0207 Termination of Benefits - General Member

[No change in text.]

Section 7. That Chapter II, Article 4, Division 2, of the San Diego Municipal Code be and the same is hereby amended by renumbering Section 24.0207 to Section 24.0208, to read as follows:

SEC. 24.0208 Auditor and Comptroller to Withhold Monies Owing City-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 adding Section 24.0209, to read as follows:

SEC. 24.0209 Annuity, Actuarial Equivalent of General members' Accumulated Contributions

The actual amount of annuity receivable by a General Member upon retirement shall be the actuarial equivalent of the General Member accumulated contributions.

Section 9. That Chapter II, Article 4, Division 2, of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 24.0211 to Section 24.0210, to read as follows:

SEC. 24.0210 Upgrade of Benefits - General Members

Effective July 1, 1991, any General Member who was enrolled and participating in the 1981 Pension Plan between September 3, 1982, and June 30, 1989, shall receive the same level of benefits provided to General Members in CERS, except as provided in Section 24.0501(b).

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

SEC. 24.0301 Contributions of Safety Members

For Safety Members, the Board 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 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 Section 24.1307.

SEC. 24.0302 Adoption of Safety Member Contribution Rates

The Board, 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 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 adding Section 24.0309, to read as follows:

SEC. 24.0309 Annuity, Actuarial Equivalent of Safety Members' Accumulated Contributions

The actual amount of annuity receivable by a Safety Member upon retirement shall be the actuarial equivalent of the Safety Member accumulated contributions.

Section 12. 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, 24.0403 and 24.0404, to read as follows:

SEC. 24.0402 Retirement Allowance -- General Member

a. The Board shall provide that upon retirement for service, a General Member, is entitled to receive a retirement allowance which shall consist of:

(1) A service retirement annuity.

(2) A current service pension.

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

d. The unmodified service retirement allowance is calculated by multiplying a General Member's years of creditable service by the retirement percentage set forth in Table 1 of Section 24.0402, by the General Member's Final Compensation. The factors set forth in Table 1 of Section 24.0402 shall be pro-rated to reflect quarterly increments in the General Member's attained age.

Table 1 of Section 24.0402

RETIREMENT CALCULATION FACTOR

GENERAL MEMBER

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. Retirement allowances are actuarially reduced if Member elects any optional retirement settlements pursuant to Division 6 of this Chapter.**

SEC. 24.0403 Retirement Allowances -- Safety Member

a. The Board 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. and c. [No change in text.]

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

e. The unmodified service retirement allowance for a Safety Member shall not exceed 90% of Final Compensation except as provided in Sections 24.0403(f), 24.0403(g), and 24.0403(h).

f. If the unmodified service retirement allowance of a Safety Member would have exceeded 90% of Final Compensation using the Retirement Calculation Factors in effect on December 31, 1996, as shown in Table 1 of Section 24.0403, that Safety Member may elect to continue to accrue benefits under that Table and not be subject to the 90% retirement allowance cap set forth in Section 24.0403(e). A Safety Member making such election shall not be required to pay any additional contributions as recommended by the actuary related to the increase in benefits effective January 1, 1997.

g. If the unmodified service retirement allowance of a Safety Member would have exceeded 90% of Final Compensation using the Retirement Calculation Factors in effect on December 31, 1996, as shown in Table 1 of Section 24.0403, that Safety Member may elect to accrue benefits as shown in the

schedule effective January 1, 1997, on that Table. A Safety Member making such election shall:

- (1) Be eligible to accrue benefits in excess of the 90% limitation stated in Section 24.0403(e),
- (2) Not be eligible to participate in DROP pursuant to Division 14.
- (3) Retire no later than July 1, 1997.

h. If the unmodified service retirement allowance of a Safety Member exceeds 90% of Final Compensation using the Retirement Calculation Factors in effect on January 1, 1997, as shown on Table 1 of Section 24.0403 on a date after January 1, 1997, but before April 1, 1997, that Safety Member shall accrue benefits in excess of the 90% limitation stated in Section 24.0403(e), provided, however, that the accrual shall cease at the level attained on March 31, 1997.

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. Retirement allowances are actuarially reduced if Member elects any optional retirement settlements pursuant to Division 6 of this Chapter.

RETIREMENT CALCULATION FACTOR

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%
56+	2.77%	2.77%	2.9999%

* Unmodified Factor utilized to calculate the maximum service retirement allowance. Retirement allowances are actuarially reduced if Member elects any optional retirement settlements pursuant to Division 6 of this Chapter.

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. [No change in text.]

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 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, and effective Fiscal Year 1997, 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 qualified retirees who retired on or before December 31, 1971, will receive \$75 (seventy-five dollars) per year of service.

5. through 7. [No change in text.]

C. [No change in text.]

Section 13. 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, to read as follows:

SEC. 24.0521 Surviving Spouse--Contribution Rates and Benefits

From and after July 1, 1973, every 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 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) and (2) [No change in text.]

(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 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.

Section 14. That Chapter II, Article 4, Division 5, of the San Diego Municipal Code be and the same is hereby amended by amending Section 24.0532, to read as follows:

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, 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 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 after July 1, 1971.

Section 15. That Chapter II, Article 4, Division 6, of the San Diego Municipal Code be and the same is hereby amended by amending Section 24.0608, to read as follows:

SEC. 24.0608 Social Security Integrated Option

All members of the City Employees' Retirement System who, on and after the integration date are entitled to Social Security benefits, shall have an option as follows:

Upon receipt of evidence furnished by the eligible member that said member will be entitled to Social Security benefits at age 65, the said eligible member upon retirement may request and the Board shall grant a modified retirement allowance which will be the actuarial equivalent of the unmodified retirement allowance; such retirement allowance shall be so modified as to provide a greater monthly payment before the first of the month in which the member attains the age of 65 and a lesser monthly payment commencing on such date; such greater monthly payment shall equal the sum of the lesser monthly payment plus the estimated individual's Old Age Insurance Benefits which will be payable. This modified allowance may be further modified on an actuarial basis in accordance with the provisions of Sections 24.0603, 24.0604, 24.0605, 24.0606 or 24.0607.

For officers and employees of The City of San Diego hired prior to January 1, 1982, the above provisions shall apply for that period of Social Security coverage prior to January 1, 1982. Subsequent to the withdrawal date

(December 31, 1981), all provisions for social security integration shall be inapplicable to such employees except for the prior period of vesting.

Section 16. That Chapter II, Article 4, Division 7, of the San Diego Municipal Code be and the same is hereby amended by adding Section 24.0715, to read as follows:

SEC. 24.0715 Continued Health Coverage

Any surviving spouse eligible for death benefits pursuant to Sections 24.0705, 24.0706, 24.0709, 24.0710, 24.0710.1, 24.0710.2 and 24.0710.3 shall be entitled to continued health coverage as provided in California Labor Code Section 4856.

Section 17. That Chapter II, Article 4, Division 9, of the San Diego Municipal Code be and the same is hereby amended by amending 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

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

(4) An amount sufficient to credit the Unified Port District (“UPD”) with a proportional share of Surplus Undistributed Earnings as defined in this Section.

(5) An amount, (the Division 12 amount), appropriate to provide health benefits to Health Eligible and Non Health Eligible Retirees as provided in Division 12 for the next fiscal year provided:

(a) in the next fiscal year, the City contributes to the 401(h) Fund no less than an equal amount which is designated to be used for retiree health benefits to be paid or reimbursed in the next fiscal year; and,

(b) to the extent the City makes a contribution to the 401(h) Fund for the next fiscal year, the Division 12 amount shall be treated as a portion of normal employer contributions paid to the Retirement System when the City so designates in accordance with Section 24.1203(b)(5).

(6) 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 18. That Chapter II, Article 4, Division 12, of the San Diego Municipal Code be and the same is hereby amended by repealing Division 12.

Section 19. That Chapter II, Article 4, Division 12, of the San Diego Municipal Code be and the same is hereby amended by reenacting and adding Sections 24.1201, 24.1202, 24.1203, and 24.1204, to read as follows:

DIVISION 12

Post Retirement Health Benefits

SEC. 24.1201 Eligible Retirees

(a) Effective August 1, 1997, two separate post retirement health benefits shall be offered, one to Health Eligible Retirees and the other to Non Health Eligible Retirees as set forth in this Division. A Health Eligible Retiree is any General Member, Safety Member or Legislative Officer who: (1) was on the active payroll of The City of San Diego on or after October 5, 1980, and (2) retires on or after October 6, 1980, and (3) is eligible for and is receiving a retirement allowance from the Retirement System. A Non Health Eligible Retiree is any retiree who: (1) retired or terminated employment as a vested member from The City of San Diego prior to October 6, 1980; and (2) is eligible for and is receiving a retirement allowance from the Retirement System.

(b) Health Eligible Retirees who retired on or after July 1, 1992 under the "sliding scale" benefit in existence at the time of their retirement shall have their Retiree Health Benefit prospectively adjusted on August 1, 1997, to be the same as that for Health Eligible Retirees who retire on or after August 1, 1997.

SEC. 24.1202 Post Retirement Health Benefits Defined

(a) Non Health Eligible Retirees shall be entitled to payment or reimbursement of an amount not to exceed \$600.00 per year for health insurance expenses.

(b) Health Eligible Retirees shall be entitled to participate in and obtain health coverage under any currently available City sponsored health insurance plan or any other health insurance plan of their choice and have their premiums paid or reimbursed in accordance with the limitations set forth in this Division.

(c) Regardless of the health insurance plan selected, payment or reimbursement to a Health Eligible Retiree shall not exceed the lower of (1) the cost of the Medicare eligible or Non-Medicare eligible retiree-only premium for the highest cost Health Maintenance Organization (HMO) plan which is a City sponsored health insurance plan, or (2) the actual premium cost incurred by or for the Health Eligible Retiree.

(d) A Health Eligible Retiree timely enrolled in Medicare shall also be entitled to reimbursement of the cost of the part B supplemental medical expense premium.

(e) A Health Eligible Retiree who, on January 1, 1997, was enrolled in and who remains continuously enrolled in any Preferred Provider Organization (PPO), shall not be subject to the limitation set forth in (c)(1) of this section. Instead, the limitation shall not exceed the cost of the Medicare eligible or Non-Medicare eligible retiree-only premium for the City sponsored PPO plan made available to Health Eligible Retirees.

SEC. 24.1203401(h) Fund Established

(a) All post retirement health benefit payments pursuant to this Division shall comply with all applicable Federal laws, including Section 401(h) of the Internal Revenue Code ("Code"). To the extent there may be a conflict between the rules of this Division and Section 401(h) of the Code or regulations issued thereunder, the Code and regulations shall govern.

(b) 401(h) Fund - Compliance with Applicable Provisions of the Code

(1) All health benefits pursuant to this Division shall be paid solely from the 401(h) Fund established pursuant to Code Section 401(h) and any regulations issued thereunder.

(2) No health benefits provided under the 401(h) Fund shall discriminate in favor of highly compensated employees.

(3) The 401(h) Fund shall be a separate account solely for providing health benefits and shall be established and maintained by the Board to reflect the amounts contributed for the payment of post retirement health benefits. This account shall be for record keeping purposes only. Amounts credited to the 401(h) Fund may be invested with other Retirement System funds set aside for retirement purposes, without identification of which investments are allocable to each account. However, earnings on each account shall be allocated to each in a reasonable manner.

(4) Contributions to the 401(h) Fund shall be made by the City solely to pay and make reimbursement for health benefits for retirees eligible for health benefits. Contributions shall be reasonable, ascertainable, necessary and appropriate. Contributions shall not exceed the amounts that, under the Code, would violate the rule that requires health benefits to be subordinate to the retirement benefits.

(5) The City must, at the time it makes a contribution to the 401(h) Fund, designate in writing to the Board that portion of the contribution allocable to the 401(h) Fund to be used solely for health benefits.

(6) Prior to the satisfaction of all liabilities under the Retirement System to provide for health benefits, no part of the 401(h) Fund shall be used for, or diverted to, any purpose other than providing health benefits, except that, amounts credited to the 401(h) Fund may be used to pay for necessary and appropriate administrative expenses related to post retirement health benefits.

(7) Any amounts contributed to the 401(h) Fund and which remain in the 401(h) Fund after the satisfaction of all liabilities for health benefits (including but not limited to benefits payable in the future for existing members) shall be returned to the City. The City shall provide benefits to affected members and retirees of the Retirement System equivalent to any amount so returned.

(8) This section does not require separate accounts for key employees because no member of the Retirement System is a key employee under the definitions of the Code.

(9) Assets attributable to any forfeitures of benefits payable under the 401(h) Fund shall be used to reduce the City's contributions to pay for health benefits provided under the 401(h) Fund.

(c) The Board may adopt such rules and regulations pursuant to Section 24.0901 as necessary or appropriate to carry out the requirements of this Division.

SEC. 24.1204 Funding

Post retirement health benefits described in this Division shall be paid from the following sources of funds in descending order of availability, as may be appropriate to provide the benefits set forth in this Division:

- (a) from the 401(h) Fund, to the extent of monies therein; and, if necessary,
- (b) by the City, directly, from any source of funds available to The City of San Diego.

Section 20. That Chapter II, Article 4, Division 13, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 24.1304, and 24.1307, to read as follows:

SEC. 24.1304 Purchase of Service Credit for Part-Time or Hourly Service in Positions not Eligible for Membership

Upon vesting, any Member who was employed by the City in a position that was less than full-time or was otherwise 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. 24.1307 Purchase of Approved Leaves of Absence

(a) Notwithstanding the definition of Creditable Service in Section 24.0103, any Member granted an approved leave of absence 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, 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) A member is not 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 21. That Chapter II, Article 4, Division 13, of the San Diego Municipal Code be and the same is hereby amended by repealing Section 24.1311.

Section 22. That Chapter II, Article 4, Division 14, of the San Diego Municipal Code be and the same is hereby amended by repealing Division 14.

Section 23. That Chapter II, Article 4, Division 14, of the San Diego Municipal Code be and the same is hereby amended by reenacting Division 14, by adding Sections 24.1401, 24.1402, 24.1403, 24.1404, 24.1405, 24.1406, 24.1407, 24.1408 and 24.1409, to read as follows:

DIVISION 14

DEFERRED RETIREMENT OPTION PLAN

SEC. 24.1401 Purpose and Duration

a. Effective April 1, 1997, a deferred retirement option plan (DROP) is created and offered to Members on a voluntary basis as an alternative method of benefit accrual in the Retirement System as set forth in this Division.

b. DROP is created to add flexibility to the Retirement System. It provides Members who elect to participate in the program access to a lump sum

benefit in addition to their normal monthly retirement allowance at their actual retirement. DROP is intended to be cost neutral regarding plan funding.

c. The DROP plan shall be offered on a trial basis for a period of three years commencing April 1, 1997 and ending March 31, 2000. During this three year trial period, DROP shall be evaluated by the City on a cost basis. During and by the end of this three year period, the city will determine whether the costs of DROP, including but not limited to any increase to the employer contribution rate recommended by the System's actuary specifically related to DROP, are greater than any savings realized as a result of the implementation of DROP. If the City determines DROP to not be cost effective, the City may determine not to extend DROP for elections that would otherwise have been made by Members after April 1, 2000. If the City determines DROP to be cost effective, or takes no action to eliminate further DROP participation, DROP shall become a permanent benefit effective April 1, 2000.

SEC. 24.1402 Eligibility, Duration of DROP Participation, and Waiver

a. Any Member, except a Safety Member who elects to accrue benefits pursuant to Section 24.0403 (g), who has attained the age and service necessary to be eligible for service retirement shall be eligible to participate in DROP.

b. Any member who elects to participate in DROP shall voluntarily and irrevocably:

(1) Designate a period of participation not to exceed sixty (60) consecutive months.

(2) Cease, from and after the date the Member begins participating in DROP, to accrue benefits under any other Division of this Article.

(3) Have DROP benefits credited to a DROP Participation Account pursuant to Section 24.1404.

(4) Accrue benefits from and after the date the Member begins participating in DROP pursuant to the terms of this Division.

(5) Receive benefits from the Retirement System upon termination of City employment at the time and in the manner provided in the relevant Sections of this Article.

(6) Agree to terminate City employment upon completion of the designated DROP participation period.

(7) Execute such waivers with respect to age and other discrimination in employment laws as are required by the City and the Retirement System.

SEC. 24.1403 Termination of DROP Participation

a. DROP participation may be terminated by voluntary termination of employment at any time before the completion of the DROP participation period designated by the Member on the appropriate DROP participation form .

b. DROP shall be terminated by the first occurrence of any one of the following events:

(1) upon the completion of the DROP participation period designated by the Member on the appropriate DROP participation form.

(2) involuntary termination of employment. In the event a termination for cause is reversed, a Member's participation in DROP, less any benefits previously distributed pursuant to Section 24.1407, shall be reinstated for the duration of the original DROP participation period initially designated by the Member on the appropriate DROP participation form..

(3) death of the Member..

(4) approval of disability retirement benefits under the terms of this article.

SEC. 24.1404 DROP Benefits and Participation Accounts

a. A DROP Participation Account is a "nominal" account established within the Retirement System on behalf of each DROP participant. All benefits accrued pursuant to this Division shall be accounted for in the DROP Participation Account. A DROP participant shall not have a claim on the assets of the Retirement System with respect to his or her DROP Participation Account, nor shall there be any assets set aside for any DROP participant which are separate from all other Retirement System assets.

b. All amounts credited to the member's DROP Participation Account shall be fully vested.

c. A Member's DROP Participation Account shall be credited with:

(1) an amount, credited monthly, which is calculated in the same manner as a service retirement benefit using the factors for age, service, and final compensation in effect on the effective date of DROP participation. This

amount shall be increased annually pursuant to the COLA provisions described in Section 24.0531:

(2) an amount, credited annually, representing the Annual Supplemental Benefit described in Section 24.0404 based upon the Member's Creditable Service on the day before the Member elects to participate in DROP.

(3) an amount, credited bi-weekly at the end of each pay period, equal to 3.05 % of the Member's compensation earnable.

(4) an amount, deducted from the Members's salary and credited bi-weekly at the end of each pay period, equal to 3.05 % of the Member's compensation earnable. This amount shall be picked up and paid by the City for the sole purpose of obtaining tax deferral and in accordance with the requirements of Internal Revenue Code Section 414 (h) (2).

(5) an amount, representing interest, the rate and manner of crediting to be determined by the Board through rules and regulations adopted pursuant to Section 24.0901. These rules and regulations shall have the same force and effect as a duly adopted ordinance.

SEC. 24.1405 Additional DROP Provisions

a. Effective on the date that a member elects to participate in DROP, employee and employer contributions pursuant to Divisions 2, 3 and 8 of this Article shall cease with respect to that Member.

b. A Member who elects to participate in DROP and becomes disabled during the period of DROP participation shall be eligible to apply for

disability retirement benefits. In the event the application for disability retirement benefits is approved by the Board:

(1) the disability retirement benefit shall be calculated using the factors of age, service, and final compensation in effect the day before the effective date of DROP participation.

(2) all amounts in the Member's DROP Participation Account shall be distributed pursuant to Section 24.1407.

c. In the event a Member dies during the period of DROP participation, eligible survivors shall be entitled to receive:

(1) all amounts in the Member's DROP Participation Account pursuant to Section 24.1407, including the retiree death benefit in Section 24.0714.1.

(2) if eligible, a Special Death Benefit pursuant to Sections 24.0705, 24.0706, 24.0709, 24.0710, 24.0710.1, 24.0710.2, and 24.0710.3 using the factors of age, service and final compensation in effect on the date of the Member's death. The Special Death Benefit shall be paid in lieu of any survivor continuance otherwise payable in the form of benefit determined pursuant to Section 24.1404 (c) (1).

(3) if ineligible for a Special Death Benefit, the designated beneficiary shall only be entitled to the amount and form of benefit determined pursuant to Section 24.1404 (c) (1) in accordance with the Member's designation at the time of DROP election.

d. A Member who elects to participate in DROP shall qualify as a Health Eligible Retiree and be eligible to receive Post Retirement Health Benefits pursuant to Division 12 upon completion of the period of DROP participation and separation from City service..

SEC. 24.1406 Designation of Beneficiary

a. A Member who elects to participate in DROP shall designate a beneficiary. Member's beneficiary designation shall be applicable to all distributions pursuant to Section 24.1407.

b. If the designated beneficiary predeceases a DROP participant who then dies before designating a new beneficiary, all distributions pursuant to Section 24.1407 shall be made to the estate of the DROP participant.

c. No beneficiary designation made under this Section shall be in abrogation of a Member's community property obligations under applicable California law.

SEC. 24.1407 Payment of Benefits

a. Upon the simultaneous termination of DROP participation and City employment, a Member shall be entitled to receive:

(1) the monthly retirement allowance in the amount determined under Section 24.1404(c) (1) that was credited monthly to the Member's DROP Participation Account at the date of termination of DROP participation; and

(2) the amount for which the Member is eligible under the Annual Supplemental Benefit described in Section 24.0404 based upon the Member's Creditable Service on the day before the Member's election to participate in DROP.

(3) All amounts credited to the Member's DROP Participation Account on the effective date of termination of DROP participation.

b. The normal form of payment shall be a lump sum distribution, provided, however, a Member may elect to receive an annuity pursuant to this Section. If the Member elects to receive an annuity:

(1) the annuity shall be in any form established by the Board and subject to applicable provisions of the Internal Revenue Code.

(2) the annuity shall be the actuarial equivalent of the amount credited to the DROP Participation Account at the termination of the DROP participation period. For this purpose, "actuarial equivalent" is an amount that has the same present value as the amount credited to the DROP Participation Account at the termination of the DROP participation period based on interest rates and mortality tables recommended by the System's actuary and adopted by

the Board as a part of rules and regulations pursuant to Section 24.0901. The annuity shall be calculated using the age of the DROP participant and, if a joint and survivor option is elected, the age of the beneficiary on the date of termination of the DROP participation period.

c. No COLA or supplemental benefit or later adjustment shall be made with respect to any annuity payable pursuant to Section 24.1407 (b).

SEC. 24.1408 Compliance with Applicable Provisions of the Internal Revenue Code.

a. It is intended DROP shall not jeopardize in any way the tax qualified status of the Retirement System under the rules and regulations of the Internal Revenue Service. The Board shall have the authority pursuant to Section 24.0901 to adopt rules and regulations to the extent necessary or appropriate for DROP to comply with applicable Federal laws and regulations, with such action having the same force and effect as a duly enacted ordinance.

b. Notwithstanding any other provision in this Article, benefits provided pursuant to this Division shall be subject to the requirements of the Internal Revenue Code (Code) and regulations issued thereunder as necessary for the Retirement System to remain a tax qualified retirement plan, including, but not limited to, the following:

(1) The limitations of Section 415 of the Code relating to the amount of benefits that can be paid.

(2) The limitations of Section 401 (a) (17) of the Code relating to the amount of compensation that can be taken into account for benefit accrual.

(3) The limitations of Section 401 (a) (9) relating to the time that benefit payments must begin.

(4) The limitations of Section 401 (a) (31) relating to the rollover of benefits.

(5) The limitations of Section 401 (a) (25) relating "definitely determinable" benefits.

SEC. 24.1409 Employment Status during DROP Participation

A Member who elects to participate in DROP shall have all of the rights, privileges, and benefits, and be subject to all other terms and conditions of active employment, including, but not limited to, the City Flexible Benefits Plan.

Section 24. That Chapter II, Article 4, Division 8, of the San Diego Municipal Code be and the same is hereby amended by amending Section 24.0801, to read as follows:

SEC. 24.0801 City's Contribution

Commencing July 1, 1954 the City shall contribute to the Retirement Fund in respect to members a percentage of earnable compensation as determined by the System's Actuary pursuant to the annual actuarial evaluation required by Section 24.0901. The required City contributions shall be determined separately by the Actuary for General Members and Safety Members.

All deficiencies which may accrue as a result of the adoption of any section in the Retirement Ordinances must be amortized over a period of thirty years or less. Any amount designated pursuant to Section 24.1203(b)(5) shall not constitute a deficiency within the meaning of this Section.

Section 25. The benefit improvements shall not become effective unless approved by the active members of the Retirement System. The Retirement Administrator is directed to immediately inform the City Clerk of the results of the vote held pursuant to Charter section 143.1. The San Diego Municipal Code shall not be amended pursuant to this ordinance unless and until the Retirement Administrator notifies the City Clerk the members of the Retirement System have approved the increase on benefits.

Section 26. For purposes of establishing a referendum only, this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By Sharon A. Marshall
Sharon A. Marshall
Deputy City Attorney

LEC:SAM:mrh

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