

ORDINANCE NUMBER O- 19861 (NEW SERIES)

DATE OF FINAL PASSAGE MAY 19 2009

AN ORDINANCE ESTABLISHING A SCHEDULE OF  
COMPENSATION FOR OFFICERS AND EMPLOYEES OF  
THE CITY OF SAN DIEGO FOR THE FISCAL YEAR 2010.

WHEREAS, pursuant to an amendment to the Charter of the City of San Diego adding Article XV establishing a Strong Mayor Trial Form of Governance for a period of five years from January 1, 2006, until December 31, 2010, the Mayor has become the chief executive officer of the City to exercise the authority, power, and responsibilities formally conferred upon the City Manager as well as the additional rights, powers, and duties as described in Charter section 265; and

WHEREAS, pursuant to section 290 of the Charter, the Salary Ordinance shall be proposed by the Mayor for Council introduction in a form consistent with any existing Memorandum of Understandings with recognized labor organizations, or otherwise in conformance with procedures governed by the Meyers-Miliias-Brown Act or any other legal requirements governing labor relations that are binding upon the City; and

WHEREAS, The Management Team of the City of San Diego has met and conferred with the Police Officers' Association [POA], International Association of Firefighters [Local 145], [Local 127] AFSCME, AFL-CIO, the Municipal Employees Association [MEA] and the Deputy City Attorney's Association of San Diego [DCAA] regarding salaries and wages for employees represented by those organizations in the Classified and Unclassified Service, and has made recommendations to the City Council in relation thereto; and

WHEREAS, the Civil Service Commission of the City of San Diego has conducted studies of salaries and wages pursuant to section 130 of the Charter of the City of San Diego and has issued a report to the City Council identifying classifications of employees in the Classified Service which merit special consideration because of recruitment or retention problems, changes in duties or responsibilities, or other special factors; and

WHEREAS, the United States Supreme Court in *Garcia v. San Antonio Metropolitan Transit Authority*, 83 L.Ed.2d 1016, 105 U.S. 1005 (1985), held that the provisions of the Fair Labor Standards Act [FLSA], 29 U.S. Code section 201 et seq., as they relate to overtime compensation, are applicable to states, cities and local agencies, including the City of San Diego; and

WHEREAS, it is necessary to ensure compliance with the FLSA and provisions therefore as set forth herein; and

WHEREAS, the Mayor and independent department heads have made recommendations to the City Council in respect to salaries and wages for officers in unrepresented classes and the Unclassified Service; and

WHEREAS, after receipt at public hearing of information and statistics, oral and written, and after detailed evaluation and deliberation by the City Council upon the recommendations of the Management Team and the Civil Service Commission, the City Council of the City of San Diego, pursuant to and under the authority vested in it by the State Constitution and Charter of the City of San Diego, hereby finds and determines that the salaries and wages established herein are in consonance with the information and statistics provided and recommendations submitted; and

WHEREAS, pursuant to the provisions of Charter sections 12.1 and 24.1, the Salary Setting Commission's recommendations for Mayor and Council salaries for Fiscal Year 2010, set forth in its report on said matter dated February 15, 2008, were considered and its recommendation for Fiscal Year 2010 was rejected; and

WHEREAS, the Council deems it appropriate to act thereon for incorporation in the annual salary ordinance in the same action as is used for the City at large; and

WHEREAS, section 117 of the Charter provides for exemption from the Classified Service of certain administrative positions including "managerial employees having significant responsibilities for formulating or administering departmental policies and programs;" and

WHEREAS, that section provides further that such exemption shall be upon "initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and approval of the City Council;" and

WHEREAS, those classifications previously approved by the City Council for exemption from the Classified Service are set forth by classification and salary rate in the Managerial category, attached hereto in Exhibit C; and

WHEREAS, it is the responsibility of the City Council to identify within established ranges the level of pay for those officers whose compensation is determined and set by the legislative body; and

WHEREAS, having analyzed data and information presented, it is now necessary and appropriate to identify the salary level within range, for those certain positions at which compensation for Fiscal Year 2010 shall be set; and

WHEREAS, the City Council hereby affirms that pursuant to San Diego Municipal Code section 24.1401(b) DROP is intended to be cost neutral; NOW, THEREFORE,

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

**Section 1. LEGISLATIVE BODY, COMPENSATION ESTABLISHED**

Pursuant to sections 12.1 and 24.1 of the Charter of the City of San Diego, the recommendations of the Salary Setting Commission, set forth in its report dated February 15, 2008, and the action of the City Council on March 30, 2009, by Resolution No. R-304779, there is hereby established and adopted a schedule of compensation for the Mayor and Council members for the period July 1, 2009 through June 30, 2010, as follows:

|               |                    |
|---------------|--------------------|
| Mayor         | \$94,436 per annum |
| Councilmember | \$75,386 per annum |

The Mayor and each Councilmember may choose to receive a reduced amount of compensation in order to participate in a voluntary work furlough program by so informing the Comptroller.

The Comptroller shall calculate and establish a table which shall be and is hereby adopted as the appropriate table of biweekly salaries most closely approximating the above authorized per annum compensation.

**Section 1.1. AUTOMOBILE ALLOWANCE**

The monthly automobile allowance for the Mayor, Members of the City Council, the Chief Operating Officer and the City Attorney, for expenses related to the operation and maintenance of their personal automobiles in the performance of their duties, shall continue to be \$800 based on the national average costs of operating an automobile as computed by Runzheimer and Company, transportation consultants for the American Automobile Association as previously authorized pursuant to Resolution No. R-263924 adopted on August 19, 1985. The monthly automobile allowance for the Independent Budget Analyst, Chief Financial Officer, City Auditor, Assistant Chief Operating Officer, Assistant City Attorneys, Deputy Chief Operating Officers, and Public Utilities Director shall be \$475 monthly. Department Directors

and Managerial Employees at the department Director level as designated by the Mayor listed on Exhibit F shall receive a monthly automobile allowance of \$300.

The Mayor, members of the City Council, the Chief Operating Officer, and the City Attorney electing to utilize a City-owned or leased automobile in the performance of their duties shall be reimbursed upon submission of paid invoices or other documents for actual costs of gasoline, oil, and other normal minor expenses incurred.

The City of San Diego shall provide liability protection to the Mayor, members of the Council, the Chief Operating Officer, and the City Attorney in the event that they are involved in an automobile accident while driving City equipment on their personal time.

In addition to the above benefits, the Mayor, upon recommendation of the Chief of Police, may continue, for security reasons, the policy adopted in January of 1993 of providing the Mayor, any member of the City Council, or the City Attorney with police escorted transportation in the conduct of official City business.

**Section 2.     EXECUTIVE COMPENSATION SET BY COUNCIL**

For those executive positions whose compensation is established by Council, rates and monthly compensation for each such position shall be established within the position ranges authorized in Exhibit C, by the appropriate appointing authority, processed by payroll change notice and placed in force effective on or after July 1, 2009.

**Section 3.     STANDARD SALARY RATES ADOPTED**

For all positions in the Classified Service of the City of San Diego, the table of Classes and Standard Rate numbers providing uniform compensation for like service, attached hereto as Exhibit B, is hereby adopted. For all positions in the Unclassified Service of the City of

San Diego, which are identified by the letters "UC", and listed under appropriately designated categories, the table of Classes and Standard Salary Rate numbers, attached hereto as Exhibit C, is hereby adopted.

**Section 4. SCHEDULES OF COMPENSATION ESTABLISHED**

As a schedule of compensation for all officers and employees of the City of San Diego, including the EXECUTIVE, MANAGERIAL, MISCELLANEOUS EXECUTIVE AND MANAGERIAL, and PROFESSIONAL LEGAL categories of the Unclassified Service as hereinafter enumerated, there is hereby established and adopted a Table of Pay for Standard Rates indicating biweekly salaries, and containing minimum, maximum, and intermediate range steps for each Standard Rate.

Included in such schedule of compensation shall be any special salary adjustments for certain specified classifications, in addition to the general overall increase authorized, said special salary adjustment awarded as a result of retention or recruitment problems, changes in duties or responsibilities or other special factors identified by the Civil Service Commission or City Council.

Biweekly salaries and ranges thereof for said Standard Rates are set forth in the Salary Schedules attached hereto as Exhibit A to be effective July 1, 2009, as appropriate and determined by agreements reached between the City of San Diego and any recognized employee organization prior to the date of adoption of this ordinance. All classifications represented by all recognized employee organizations shall receive the amount determined by agreements reached between the City of San Diego and said organization or in the event agreement is not reached at the conclusion of negotiations, that which is determined after the conducting of the impasse

procedure and the City's last best and final offer if unilaterally implemented by the City Council prior to adoption of this ordinance.

Employees in the EXECUTIVE, MANAGERIAL, MISCELLANEOUS EXECUTIVE AND MANAGERIAL, and PROFESSIONAL LEGAL categories shall receive no general salary increase. Effective July 1, 2009, all Unclassified and Unrepresented Police Safety employees shall have a reduction in compensation of 1.9 percent. Effective July 1, 2009, all Unclassified and Unrepresented Fire Safety employees shall have a reduction in compensation of 1.7 percent.

All employees participating in DROP in the SDPOA and DCAA bargaining units shall continue to have their salaries reduced by 3.2 percent (3.2%) which took effect July 1, 2006, pursuant to the meet and confer process or the City's last best offer (3.2 percent). In the event agreement is not reached with any particular recognized employee organization, said Salary Schedules shall reflect the City's last best and final offer if unilaterally implemented by the City Council.

Effective July 1, 2009, all unclassified, unrepresented employees and all classified, unrepresented employees, participating in DROP, shall have their salaries reduced by three percent (3%).

All employees shall have the option of participating in a work furlough program with the approval of the individual employee's appointing authority or as provided by agreement between the City and the employee's recognized employee organization as approved by the City Council.

There is hereby established and adopted an EXECUTIVE category within the Unclassified Service of the City of San Diego containing classification ranges of Executive I

through Executive V for all officers and employees serving in the positions listed in Exhibit C under EXECUTIVE. There is hereby further established and adopted a MANAGERIAL category within the Unclassified Service of the City of San Diego containing classification ranges of Managerial A, B, and C for all officers and employees serving in those positions enumerated in Exhibit C under MANAGERIAL. Also established is a MISCELLANEOUS EXECUTIVE AND MANAGERIAL category within the Unclassified Service containing classifications in ranges of A, B, C, D, E, and F. Also established is a PROFESSIONAL LEGAL category within the Unclassified Service.

The EXECUTIVE, MANAGERIAL, or MISCELLANEOUS EXECUTIVE AND MANAGERIAL classification range of any position listed in Exhibit C may be changed from one range to another only by official action of the City Council.

The "Equivalent Monthly Rates" and "Equivalent Annual Rates," whenever used and referred to, are approximations and are for comparative and informational purposes only. The steps set forth for all rates contained in Exhibit A for positions in the Classified Service except for the classification of Accountant IV are calculated and established at approximate 5 percent increments. All references to step increases of 5 percent are and shall be deemed to mean approximations thereof. The salary range for the classification of Accountant IV will contain a minimum and a maximum, and employees in this classification may be paid any amount within the range at the discretion of the appointing authority.

**Section 5. INCREASES IN BASE COMPENSATION, COUNCIL ACTION**

In fixing and approving Standard Rates for the officers and employees of the City, this Council has recognized the necessity to increase certain salaries heretofore paid, and, in so doing, the Council has intended and does hereby intend that in increasing said salaries, where a



Standard Rate of pay has been increased from that heretofore paid, said officer and employee whose rate of pay has thus been increased shall be entitled to the increase granted, and that such new rate of pay shall be fixed so as to apply to the Standard Rate step occupied by said officer or employee on the effective date of this ordinance.

Notwithstanding the above express Council intent and action, all appointing authorities shall have and are hereby granted the authority to limit such increase for personnel in the EXECUTIVE, MANAGERIAL, MISCELLANEOUS EXECUTIVE AND MANAGERIAL, and PROFESSIONAL LEGAL categories as may, in their sound discretion, be warranted. In such case, the appointing authority shall cause to be processed an adjusting payroll change notice and forward such notice to the Personnel Director for appropriate payroll application. Further, an appointing authority may permit unclassified employees the option of participating in a voluntary work furlough program.

Members of the Classified Service, other than "excepted" fire fighter, paramedic, and emergency medical technician classes and salaried part-time employees, shall receive the salaries provided herein as compensation in full for work performed by them during an average eighty hour biweekly work period throughout the fiscal year, except as hereinafter provided.

"Excepted" fire fighter, paramedic, and emergency medical technician classes and salaried part-time employees shall be compensated in accordance with appropriate calculations and procedures established by the Comptroller in cooperation with the Mayor and Personnel Director. For purposes of this ordinance, "excepted" fire fighter, paramedic, and emergency medical technician classes are defined as those employees assigned to work other than forty hour per week work schedules or other than the average eighty hour biweekly work schedules.

There is further declared to be, as previously established by Council action, a FLSA section 7(k) exemption for employees in fire classes and a twenty-eight day work period for said employees.

Salaried members of the EXECUTIVE, MANAGERIAL, MISCELLANEOUS EXECUTIVE AND MANAGERIAL, and PROFESSIONAL LEGAL categories, all other unclassified classes as may exist, and represented and unrepresented employees not eligible for overtime pay shall receive the salaries provided herein as compensation in full for work performed by them during an average eighty hour biweekly work period throughout the fiscal year. Time entry documentation and time sheet posting for full-time members shall reflect an average of eighty hours per pay period, to consist of ten 8-hour days or equivalent approved alternative schedules. The above process is authorized for time entry and time sheet purposes even though the unclassified or unrepresented employee may work hours not so reflected as a result of varying duties, responsibilities, and demands of time. Salaried unclassified and unrepresented members, except those otherwise specifically authorized to the contrary, may not receive, for any purpose, credit for hours otherwise worked in excess of eighty hours per pay period. The Mayor and nonmanagerial department directors shall be responsible for administering the above authorized time documentation and time posting process and limits, with review thereupon by the Personnel Director and Comptroller.

Warrant checks issued for compensation to such officers and employees by the Comptroller shall be for the appropriate amount set forth in the schedule of compensation for the Mayor and Council or in the Standard Rate or incremental step attached to the position as indicated in exhibits attached hereto and for other additional amounts authorized in this ordinance.

**Section 5.1. FLSA EXEMPT EMPLOYEE SALARY STATUS**

Notwithstanding any other provisions of this ordinance, the Comptroller is hereby expressly authorized to compensate all employees who are designated as exempt under and from the provisions of the Fair Labor Standards Act, in recognition of their salaried status, for absences of less than a work day. Such compensation shall be deemed not to constitute a gift of public funds but rather recognition by Council of the salaried status of designated employees.

The express intent of this provision is to fully comply with the salary status requirements of the Fair Labor Standards Act as interpreted by the courts. Should the Fair Labor Standards Act be amended or reinterpreted by the courts to cause this provision to be noncompliant with the salary exemption requirements of the Act, or exceed the requirements of the Act, in that event the Mayor, in conjunction with the Personnel Director and the Comptroller, shall be and is hereby authorized to take whatever actions are legally required and necessary to implement further revisions to the City's compensation policies which are in full compliance with the Act and in the best interest of the City of San Diego.

**Section 6. CONTRIBUTORY DEDUCTIONS REQUIRED BY LAW**

For purposes of deduction for contributions of officers and employees required by law, the Comptroller shall use as a base rate that amount heretofore established in Section 1 herein as per annum compensation for the Mayor and Council. For all other personnel, Classified and Unclassified, the Comptroller shall use that amount fixed in the Standard Rate or incremental step hereinafter set forth in exhibits hereto and, where applicable and required, any additional compensation authorized by Sections of this ordinance. The Comptroller shall also consider, where applicable and required by law, other monetary benefits and program reimbursements as

may, from time to time, be authorized and granted by Council action pursuant to the authority of this ordinance.

**Section 7. CLASSIFIED AND UNCLASSIFIED COMPENSATION, DETERMINATION THEREOF**

Increases in compensation for employees in the Classified Service within the range limits of the Standard Rate number attached to the position may be granted by the appointing authority upon the basis of efficiency and seniority after first receiving the approval of the Civil Service Commission therefore. Range or incremental steps shall be as set forth in Exhibit A attached hereto. Compensation for employees in the classification of Accountant IV listed in Exhibit A shall be determined and set by the appropriate appointing authority within the range attached to the position.

Compensation for all officers and employees in the Unclassified Service listed in Exhibit C, shall be determined and set by the appropriate appointing authority within the range of the Standard Salary Rate numbers attached to the position. In the case of the City Attorney, said determination and setting shall be made by the City Council pursuant to section 40 of the Charter of the City of San Diego.

Increases in compensation for all officers and employees in the Unclassified Service within the range limits of the Standard Salary Rate number attached to the position may be granted by the appropriate appointing authority upon the basis of seniority, efficiency, and merit.

There is hereby established and adopted a schedule of salary rates and pay adjustments within the EXECUTIVE category to be effective July 1, 2009, unless otherwise indicated, for those positions set forth in Section 2 above, the determination and setting of which the City Council is directly responsible.

**Section 8.     ESTABLISHMENT OF BASE WORK PERIOD,  
COMPUTATIONS THEREON**

For the purpose of computing vacations, leaves of absence, and terminal leave pay for personnel (other than “excepted” fire fighter, paramedic, and emergency medical technician classes and salaried part-time employees) the Comptroller is hereby authorized to utilize compilations based upon an eighty hour biweekly work period. For “excepted” fire fighter, paramedic, and emergency medical technician classes and salaried part-time employees, the Comptroller is authorized to utilize appropriate computations established in cooperation with the Mayor and Personnel Director.

For the purpose of computing overtime, the Comptroller shall utilize compilations based on a scheduled work week of forty hours pursuant to the work hour computation provisions contained in and for those employees covered by the provisions of the FLSA of 1938, as amended.

For the purpose of computing overtime for safety service personnel, the Comptroller shall be guided by the appropriate provisions of the FLSA pertaining to Safety Service personnel and utilize computations in accordance therewith and predicated thereupon. In the event that the FLSA is interpreted so as to permit the payment of overtime to employees who would otherwise be exempt from the provisions of the FLSA, the Comptroller is hereby authorized to utilize for overtime purposes calculations based upon an eighty hour work period or such other hourly provision as is set forth in the exemption. Part-time employees compensated on an hourly basis shall not be eligible for any benefits set forth herein except overtime compensation as may be applicable and other plans that may from time to time be declared applicable by Council.

**Section 9. EXTRA COMPENSATION PLAN; ELIGIBILITY**

The Civil Service Commission shall establish and supervise, in accordance with provisions set forth herein, a uniform extra compensation plan which shall provide overtime pay not to exceed one and one-half times an eligible employee's regular base rate of pay, as established herein, or time off in lieu thereof, where and to the extent permitted by law, and shall provide for extra compensation of approximately 5 percent whenever an eligible employee is required, for a significant period, to work at times substantially unusual for his or her class of employment, such as: (1) working a night shift in which the majority of the hours or work scheduled for said employee throughout any pay period is before 8:00 a.m. or after 6:00 p.m.; or (2) on a long-term schedule, working a shift regularly split by more than two consecutive hours or such other work schedule as may be determined by the Civil Service Commission and the Mayor or nonmanagerial appointing authority to be substantially unusual for the class of employment. An eligible employee who is required to work under more than one of the unusual conditions indicated above shall receive an approximate 5 percent increase for each of said unusual conditions which shall be certified by the appointing authority on the official payroll time sheets to the Personnel Director. Such increases in compensation shall be identified and symbolized on all official payrolls and all other records pertaining to said employee's compensation. When one or more of the said working conditions are commonly accepted conditions for the class of employment, the Civil Service Commission shall take such working conditions into consideration in establishing the compensation for the class and such determination shall be final.

Employees in the Police Bargaining Unit may be eligible for shift differential pay in accordance with provisions contained in the current ratified memorandum of understanding.

In addition to the foregoing provisions for extra compensation, an employee who has been released from work and has left the work premises shall, if called back to duty, be paid for the reasonable estimate of the time required for said employee to travel from and to his or her residence and the work area and for the time the employee actually works. The total time of callback pay, including travel time, shall not be less than four hours and shall be computed at the employee's regular rate or at one and one-half times said rate provided the employee is designated as eligible for premium overtime pay. The employees in the Classified Service who shall be eligible for and entitled to receive overtime compensation, as herein provided, shall be determined by the Civil Service Commission and Mayor and/or nonmanagerial department heads and approved thereafter by Council resolution prior to being officially designated in the Personnel Manual of the City of San Diego. Such approval by the City Council shall be required annually in conjunction with adoption of this Annual Salary Ordinance. Determination of eligibility and payment therefore shall be in accordance with definitions and procedures developed by the Civil Service Commission and the Comptroller pursuant to Council policy and in cooperation with the aforesaid appointing authorities, which definitions and procedures shall be final, conclusive, and binding on all appointing authorities and officers and employees prior to Council approval, it being the intention of this Council that authority and responsibility for determining eligibility for overtime compensation shall be pursuant to the provisions of this ordinance and Council policy.

**Section 10. SPECIAL ASSIGNMENT PAY**

The Mayor shall identify those personnel in special assignments who shall be eligible for special assignment pay. Provision shall be made, pursuant to the authority of this Section, to provide extra compensation for such assignment. Determination of eligibility and payment,

therefore, shall be in accordance with the definitions and procedures developed by the Mayor, with the cooperation of the Civil Service Commission and Comptroller, which definitions and procedures shall be final, conclusive and binding. The Mayor shall thereafter promulgate rules and regulations as may be necessary to effectuate and govern the Special Assignment Pay Program.

Extra compensation shall be limited to that amount agreed to and set forth in the executed and ratified Memorandum of Understanding or the Personnel Manual for unrepresented employees and shall be applicable only during the period of said individual's eligibility and entitlement. In the event a ratified and executed Memorandum of Understanding is not in existence, the extra compensation authorized herein shall be limited to that amount authorized under the City's last best and final offer if unilaterally implemented by the City Council in the FY 2010 meet and confer negotiations. Such extra compensation shall be in addition to base compensation and other sums enumerated in this ordinance.

Such additional compensation as may be paid under this program shall be appropriately identified and symbolized on all official payrolls and all other records pertaining to said employee's compensation. It is the intent of the Council that the Special Assignment Pay Program is a program authorized and granted by Council on an annual basis and shall not be deemed or construed to constitute a property right in or continuing vested entitlement to such extra compensation from year to year.

**Section 11. EDUCATIONAL INCENTIVE PROGRAM**

Sworn personnel in the Police Department who are or become eligible for extra compensation pursuant to the provisions of the Police Educational Incentive Program contained in the executed and ratified Memorandum of Understanding and adopted by the City Council



shall be entitled to receive such additional compensation, as set forth in the program during the period of said sworn personnel's eligibility and entitlement. Such educational incentive compensation shall be in addition to base compensation and other sums enumerated in this ordinance. The Mayor shall promulgate rules and regulations as may be necessary to effectuate and govern the operation of said Educational Incentive Program. Such additional compensation as may be paid under this program shall be appropriately identified and symbolized on all official payrolls and all other records pertaining to said employee's compensation.

**Section 12. BILINGUAL PAY**

Officers and employees of the City, other than POA and Local 145 represented classifications, shall be paid, in addition to base compensation and other sums enumerated in this ordinance, the sum of seventy cents per hour as bilingual pay when they are certified by the appointing authority to be serving in a position which requires knowledge and use of a language other than English, which has been approved for additional compensation in a ratified Memorandum of Understanding or in the Personnel Manual, in the performance of their duties and have satisfactorily demonstrated such bilingual qualification pursuant to established standards. POA and Local 145 represented classifications shall be paid the sum of 3.5 percent of their base salary as bilingual pay under the above provisions. The Mayor, in cooperation with the Personnel Director, shall promulgate appropriate criteria and standards as may be necessary to effectuate and govern the operation of this bilingual program.

**Section 13. SICK LEAVE REIMBURSEMENT**

Officers and employees currently eligible for sick leave reimbursement, under provisions of the Sick Leave Reimbursement Program heretofore established and adopted by the City Council, shall be deemed to have vested rights thereto and shall continue to be entitled to receive

such benefit pursuant to the provisions of said program, repeal thereof notwithstanding. The Mayor shall promulgate appropriate rules and regulations as may be necessary to effectuate and govern the operation of a Sick Leave Reimbursement Program. The sick leave reimbursement paid pursuant to the established program shall not, under any circumstances, be deemed as compensation for purposes of calculating average final compensation earnable as may be required or called for by other provisions of law.

**Section 14. RETIREMENT CONTRIBUTION**

In accordance with the following schedule, the City shall pay into the Retirement System an actuarial equivalent of employee base compensation as additional employer contribution for Retirement System contributory purposes for those eligible officers and employees who are members of the System. The contribution rates of this Salary Ordinance for Fiscal Year 2010 may be reduced through ratified agreements or the City's last best and final offer if unilaterally implemented by the City Council during the term of the ordinance.

| GROUP   | FY '10<br>Employee Retirement<br>Contribution Offset Rates |
|---|--|
| Elected Officials                               | 5.89%  |
| Unclassified Mayor Staff                        | 0.40%  |
| Unclassified Council Staff - District 1         | 3.40%  |
| Unclassified Council Staff - District 2         | 3.40%  |
| Unclassified Council Staff - District 3         | 3.40%  |
| Unclassified Council Staff - District 4         | 3.40%  |
| Unclassified Council Staff - District 5         | 3.40%  |
| Unclassified Council Staff - District 6         | 3.40%  |
| Unclassified Council Staff - District 7         | 3.40%  |
| Unclassified Council Staff - District 8         | 3.40%  |
| General Member Unclassified                     | 0.40%  |
| General Member Unclassified DCAA                | 0.00%  |
| Police Safety – Unclassified                    | 0.00%  |
| Fire Safety Unclassified                        | 0.00%  |
| Lifeguard Unclassified                          | 1.30%  |
| Lifeguard Unrepresented (Marine Safety Captain) | 1.30%  |
| Police Unrepresented (Captains)                 | 0.00%  |
| Classified General Member Unrepresented         | 0.40%  |
| Represented - General Member MEA                | 3.40%  |
| Represented - General Fire                      | 0.00%  |
| Represented - General Member Local 127          | 0.00%  |
| Represented Safety - Police                     | 0.00%  |
| Represented Safety - Fire                       | 0.00%  |
| Represented Safety - Lifeguard                  | 5.30%  |

(Table corrected pursuant to Mayor's May 13, 2009 memo on May, 14, 2009)

It is the intent of this Council that the above provided retirement contributions are a benefit and option authorized and granted by Council on an annual basis and shall not be deemed or construed to create a property right in or continuing vested entitlement to such benefit from year to year. The amount of retirement offset shall not be credited to or deposited in the participant's contributory account but shall remain an asset of the System. It is the further intent of this Council that the additional retirement contributions provided herein shall be in lieu of a like amount paid heretofore by the above designated officers and employees and that the contribution by those eligible officers and employees be reduced by a like amount.

**Section 15. EXCEPTIONAL PERFORMANCE COMPENSATION**

The City Council hereby authorizes the Mayor to establish and implement an Exceptional Performance Compensation Program. Such program shall include criteria under which employee performance shall be evaluated. Those employees judged to be exceptional performers may be granted one or more successive performance payments in an amount not to exceed an approximate net total (after taxes) of \$1,000 in any one fiscal year. Such payments shall not be considered to be a part of an employee's base compensation for any purpose, except as provided in Section 6 of this ordinance, nor shall such employee acquire any right, vested or otherwise, to receive future exceptional performance payments.

A Managerial Exceptional Performance Plan is further implemented pursuant to the criteria for evaluation promulgated by the Mayor or nonmanagerial appointing authority. Such performance award shall not exceed a total (net after taxes) of \$3,000 in any calendar year and shall be paid in not more than two increments. Such payments shall be considered as part of base compensation and shall be net after taxes and the City shall further pay the recipients SPSP and retirement contributions based on the gross award, said gross to be determined by the Comptroller. The recipient of the performance award shall not acquire any right, vested or otherwise, to receive future exceptional performance payments.

**SECTION 15.1 MANAGEMENT ADMINISTRATIVE LEAVE**

The City Council hereby authorizes the establishment of Management Administrative Leave for designated management positions in recognition of the significant extra work time inherent in such positions. Management Administrative Leave shall not exceed 80 hours in any

fiscal year and must be used in the year it is authorized. Management Administrative Leave shall not have an accrual feature, and shall not be carried forward from one fiscal year to the next.

Managers identified in Exhibit G are eligible for Management Administrative Leave pursuant to the following authorization process, and subject to any additional guidelines established by the Mayor or other appointing authorities as listed below:

1. The Mayor must specifically and individually authorize the granting of Management Administrative Leave for eligible employees who report to the Mayor.
2. The Council Presiding Officer must specifically authorize the granting of Management Administrative Leave for the Independent Budget Analyst.
3. The City Attorney must specifically and individually authorize the granting of Management Administrative Leave for eligible employees who report to the City Attorney.
4. The Civil Service Commission must specifically authorize the granting of Management Administrative Leave for the Personnel Director.
5. The Retirement Board of Administration must specifically authorize the granting of Management Administrative Leave for the Retirement Administrator.
6. The Ethics Commission must specifically authorize the granting of Management Administrative Leave for the Ethics Commission Executive Director.
7. The City Auditor and City Clerk are authorized and granted 80 hours of Management Administrative Leave unless the City Council specifically denies such Management Administrative Leave.

**Section 16. ADDITIONAL BENEFIT PROGRAMS**

The City Council may, and does hereby declare its intent to establish, from time to time, upon recommendation of the Mayor, additional benefit programs for represented and unrepresented officers and employees via separate and specific Council action. Such additional benefit programs shall be and are hereby declared to be predicated upon the existence of ratified and executed Memoranda of Understanding with recognized employee organizations or such other conditions of qualification for unrepresented officers and employees as the legislative body, in its sole discretion, may establish.

There is hereby continued, pursuant to the intent of this Section, a Supplemental Pension Savings Plan, established July 1, 1986, for all eligible employees of the City of San Diego hired on or after July 1, 1986. Said Plan shall be similar to the Plan established on January 4, 1982, by Council Resolution No. R-255609, with the exception that the voluntary contribution rate for eligible employees shall not exceed 3.05 percent. Future increases in Medicare and/or Social Security taxes mandated by an act of Congress shall result in corresponding reductions in the specified Plan contributions. There is also hereby continued, pursuant to the intent of this Section, a SPSP-H plan established, effective July 1, 1991, for hourly employees with a contribution rate of 3.75 percent. The Mayor and City Attorney are directed to promulgate said Supplemental Pension Savings Plans with provisions consistent herewith or as may hereafter be required.

Effective July 1, 2009, by agreement with the City, members of the San Diego Municipal Employees' Association shall either waive their rights, through a written waiver received by the ..

City, under the terms of the City's Supplemental Pension Savings Plan to receive the City's three percent mandatory matching contribution each pay period, or shall accept a three percent deduction from all SPSP-eligible compensation each pay period.

Effective July 1, 2009, with the exclusion of employees in the classifications of Council Assistant and Council Representative, all other unclassified employees, including General Members and Lifeguard Safety Members, who are not represented and who are eligible to participate in SPSP, shall accept a three percent deduction from all SPSP-eligible compensation each pay period for that period of time until the employees are eligible to waive their rights under the terms of the City's Supplemental Pension Savings Plan to receive the City's three percent mandatory matching contribution each pay period and in fact waive their rights, through a written waiver received by the City. The option of unclassified employees to waive their rights to the City's three percent mandatory matching contribution shall be allowed only after the date of payroll implementation and stabilization of payroll processing for OneSD. Such date to be determined by the Mayor or his designated representative.

Effective July 1, 2009, all classified employees, including General Members and Lifeguard Safety Members, who are not represented and who are eligible to participate in SPSP, shall accept a three percent deduction from all SPSP-eligible compensation each pay period for that period of time until the employees are eligible to waive their rights under the terms of the City's Supplemental Pension Savings Plan to receive the City's three percent mandatory matching contribution each pay period and in fact waive their rights, through a written waiver received by the City. The option of classified employees to waive their rights to the City's three percent mandatory matching contribution shall be allowed only after the date of payroll

implementation and stabilization of payroll processing for OneSD. Such date to be determined by the Mayor or his designated representative.

There is hereby continued, pursuant to the intent of this Section, a Deferred Retirement Option Plan [DROP] as established effective April 1, 1997, for eligible employees. Effective July 1, 2009, with the exclusion of employees in the classifications of Council Assistant and Council Representative, DROP shall be eliminated for all other unclassified and unrepresented General Member employees and Police Safety unclassified and unrepresented employees who have not yet entered the DROP program by June 30, 2009.

**Section 17. TERMINAL LEAVE**

Subject to and conditioned upon any future action of the San Diego Civil Service Commission or the City Council, there is hereby created and continued a payroll designation to be known as "Terminal Leave." Any employee, Classified or Unclassified, granted terminal leave prior to termination of City service, shall be transferred to the payroll status of "Terminal Leave" as of the date said terminal leave commences and is reflected upon the official payroll time sheet of the City. Such employee shall be considered an employee of the department in which he was serving at the time of his transfer to terminal status, for purposes of accountability only, but his position as authorized by the annual appropriation ordinance shall be deemed vacated for the purpose of replacing the employee on "Terminal Leave."

The Civil Service Commission shall promulgate appropriate rules and regulations as may be necessary to effectuate and govern the status of "Terminal Leave." Terminal leave shall be eliminated and leave balances for terminating employees shall be cashed-out at the time of termination or retirement, contingent upon review and recommendation by the Civil Service



Commission; the Civil Service Commission is requested to provide said review and recommendation to the City Council as soon as practicable.

**Section 18. APPRENTICE SALARIES**

The compensation for Apprentices is hereby established pursuant to the Apprentice Salary Schedule attached hereto as Exhibit D. The Civil Service Commission shall establish rules and regulations as may be necessary to govern training programs and the advancement of Apprentices.

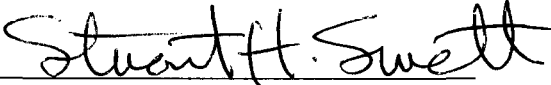
**Section 19.** Pursuant to section 117(a) 17 of the City Charter, after having been reviewed and commented upon favorably by the Civil Service Commission, as indicated in Exhibit E attached hereto, the positions indicated are hereby exempted from the classified service and declared to be in the unclassified service of the City of San Diego.

**Section 20.** Notwithstanding anything to the contrary herein, it is the specific intent of the City Council that the adoption of this ordinance shall not serve to ratify the implementation or funding of any illegal employment or retirement benefit.

**Section 21.** That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

**Section 22.** This ordinance shall take effect and be in force on the thirtieth day from and after its final passage, with the provisions relating to Fiscal Year 2010 compensation to be effective on July 1, 2009.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Stuart H. Swett  
Senior Deputy City Attorney

SHS:jab  
04/09/2009  
04/30/2009 COR. COPY  
05/04/2009 COR. COPY 2  
05/05/2009 COR. COPY 3  
05/05/2009 REV.  
Or.Dept: Personnel  
O-2009-115

I hereby certify that the following Ordinance was introduced by the Council of the City of San Diego, at its meeting of MAY 05 2009.

ELIZABETH S. MALAND  
City Clerk

By *Jana Richardson*  
Deputy City Clerk

Approved: 5-12-09  
(date)

*J.S.*  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

I hereby certify that the foregoing Ordinance was introduced by the Council of the City of San Diego on MAY - 5 2009; approved by the Mayor pursuant to section 290 of the Charter on MAY 12 2009; and passed by the City Council at this meeting of MAY.. 19 2009.

ELIZABETH S. MALAND  
City Clerk

By *Devenon Cruz*  
Deputy City Clerk