

ORDINANCE NUMBER O- **19874** (NEW SERIES)

DATE OF FINAL PASSAGE **JUN 25 2009**

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 24.0103; AMENDING CHAPTER 2, ARTICLE 4, DIVISION 4 BY AMENDING SECTIONS 24.0402 AND 24.0403 AND BY ADDING SECTION 24.0402.1; AMENDING CHAPTER 2, ARTICLE 4, DIVISION 12 BY AMENDING SECTIONS 24.1201 AND 24.1202 AND BY REPEALING SECTION 24.1201.1, RELATING TO PENSION AND RETIREE HEALTH BENEFITS FOR GENERAL AND SAFETY MEMBERS OF THE RETIREMENT SYSTEM.

WHEREAS, a Memorandum of Agreement [MOA] was entered into on July 28, 2008, by and between the City of San Diego [City] and the San Diego Municipal Employees Association [MEA], AFSCME Local 127 [Local 127], and the Deputy City Attorneys Association [DCAA] [collectively, Labor Associations] for the purpose of establishing a revised pension plan and retiree medical trust for General Member employees hired on or after July 1, 2009; and

WHEREAS, it is the intent of the City Council to lower the cost of the City's retirement plan to achieve savings for the taxpayers; and

WHEREAS, it is the intent of the City Council to create an equitable sharing of investment risk between the City and the employees; and

WHEREAS, the negotiated pension and retiree health benefits will be applicable to all General Members hired on or after July 1, 2009; and

WHEREAS, the new pension benefit will be composed of a defined benefit component and a defined contribution component; and

WHEREAS, the retiree medical benefit will be implemented via the establishment of a Retiree Medical Trust by the City, with contributions by both the City and the eligible employee; and

WHEREAS, the terms of the retiree medical benefit will be set forth in a Retiree Medical Trust plan document to be drafted; and

WHEREAS, the Retiree Medical Trust will be administered by the City; and

WHEREAS, the defined contribution component will be administered by the Supplemental Pension Savings Plan [SPSP] SPSP/401(k) Board of Trustees pursuant to its affirmative vote; and

WHEREAS, the specific terms of the defined contribution pension benefit will be set forth in a plan document; and

WHEREAS, from January 14, 2009 to April 14, 2009, the City negotiated terms and conditions of employment with its recognized employee organizations, pursuant to the provisions of the Meyers-Milias-Brown Act, at Government Code section 3500 *et seq.*; and

WHEREAS, upon reaching impasse with the San Diego Police Officers Association and Local 127, the City Council adopted resolutions, unilaterally implementing the City's last, best, and final offer, as permitted by Government Code section 3505.4 and City Council Policy 300-06; and

WHEREAS, by resolutions adopted on April 21, 2009, the City Council approved tentative agreements with the MEA, DCAA, and Local 145, International Association of Fire Fighters; and

WHEREAS, this ordinance was originally introduced by the City Council on May 4, 2009, and said ordinance is being reintroduced to consolidate amendments necessitated by the new General Member pension and retiree health benefits, described herein, with the agreed-to and imposed terms and conditions of employment for General and Safety Members, also described herein; and

WHEREAS, this ordinance does not increase the benefits of any employee, legislative officer or elected official under the retirement system, which would necessitate a vote of qualified electors, pursuant to City Charter section 143.1; and

WHEREAS, this ordinance does not affect the benefits of any employee under the retirement system, which would necessitate approval of a majority vote of the members of said system, pursuant to City Charter section 143.1; and

WHEREAS, San Diego Municipal Code section 24.1204 states that the funding of retiree health benefits will be paid by the City, directly, from any source available to it other than the City's retirement plan; and

WHEREAS, the amendments to the San Diego Municipal Code are set forth herein; and,
NOW, THEREFORE,

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

Section 1. That Chapter 2, Article 4, Division 1, of the San Diego Municipal Code is amended by amending section 24.0103 to read as follows:

§24.0103 Definitions

Unless otherwise stated, for purposes of this Article:

"Accumulated Additional Contributions" to *"Annuity"*

[No change in text]

"Base Compensation" means and includes the base salary or wages paid (standard hours multiplied by the hourly rate) on a regular bi-weekly basis to an employee for his or her services in any given pay period, including (by way of example) but not limited to such items of compensation as: time during which the employee is excused from work for holidays, annual leave taken, sick leave taken, compensatory

time off taken, industrial leave taken, discretionary or furlough leave taken, and pay for out-of-class assignments. Base Compensation means salary before pre-tax deductions for such items as participation in a deferred compensation plan, SDCERS, or for authorized dependent health care premiums. Base compensation shall not be reduced for temporary salary adjustments necessitated by City budgetary reductions so long as the contributions to SDCERS as required by Charter section 143 are determined by the base salary before the temporary salary adjustment. A complete listing of included and excluded items of compensation or remuneration is memorialized in a document entitled "Earnings Codes Included in Retirement Base Compensation" [the Earnings Codes Document], which is prepared annually and which shall be kept on file in the Office of the City Clerk, and also maintained by the City Manager, the City Auditor, the Retirement Administrator and the Personnel Director. The Earnings Code Document shall be amended annually, as necessary to reflect any changes or additions made during the City's budget adoption process.

For purposes of calculating retirement benefits, "*Base Compensation*" shall not include any item of compensation or remuneration which is identified in the Earnings Codes Document as excluded from Base Compensation, including (by way of example) but not limited to: the Flexible Benefits Plan dollar value available to an employee each fiscal year; the amount of an employee's retirement system contribution which the City pays on behalf of the employee [the Retirement Offset]; payments made for overtime work (whether at straight or premium pay, and whether paid directly or by conversion to compensatory time off); payments made by the City

to the Supplemental Pension Savings Plan on behalf of an employee; payments made by the City to an employee in lieu of the employee's taking of accrued annual leave; payments made by the City to an employee as a Uniform Allowance or Uniform Reimbursement, or the monetary value of employer-provided uniforms; payments made by the City to an employee as a Tool Allowance; payments made by the City to an employee as an Automobile Allowance or for reimbursement of miles driven while using a personal vehicle for work-related duties; payments made by the City to an employee as a Moving Allowance; payments made by the City to an employee for exceptional performance or pursuant to a "pay for performance" plan, unless such payments are expressly designated in the annual Salary Ordinance for inclusion in Base Compensation; payments made to an employee pursuant to the City's Long Term Disability Plan or pursuant to the Worker's Compensation Statute; and cash conversions of accrued, unused annual leave or "old" sick leave, in connection with or in anticipation of separation from employment.

"Base Retirement Benefit" to "Elected Officer"

[No change in text]

"Final Compensation" for General Members hired before July 1, 2009 and Elected Officers means the Base Compensation based on the highest one year period during membership in the Retirement System for those Members and Elected 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.

"Final Compensation" for General Members hired on or after July 1, 2009 means the Base Compensation based on the average of the General Member's three highest years at any time during membership in the Retirement System.

"Final Compensation" for Safety Members to *"Service Retirement Annuity"*

[No change in text]

"Surviving Spouse" means the Member's spouse at the time of the Member's death.

"Surviving Spouse Annuity" to *"Undistributed Earnings Reserve"*

[No change in text.]

"Unmodified Service Retirement Allowance" means the monthly allowance paid to a Member based on a formula using the Member's age at retirement, the Member's Final Compensation, and the applicable Retirement Calculation Factor in accordance with Sections 24.0402, 24.0402.1 and 24.0403.

Section 2. That Chapter 2, Article 4, Division 4, of the San Diego Municipal Code is amended by amending sections 24.0402 and 24.0403 and adding section 24.0402.1 to read as follows:

§24.0402 General Member Retirement Allowance For Employees Hired Before July 1, 2009

(a) The System will pay a General Member hired before July 1, 2009, who is entitled to a service retirement, a retirement allowance consisting of:

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

(b) through (i) [No change in text.]

Table 1 of Section 24.0402 [No change in text.]

§24.0402.1 General Member Retirement Allowance For Employees Hired On or After July 1, 2009

- (a) The System will pay a General Member hired on or after July 1, 2009, who is entitled to a service retirement, a retirement allowance consisting of the following benefits as defined by this Article:
 - (1) a Service Retirement Annuity, and
 - (2) a Creditable Service Pension
- (b) The Service Retirement Annuity is the Actuarial Equivalent of the Member's Accumulated Normal Contributions when the Member retires.
- (c) The Creditable Service Pension is the pension derived from the City's contributions, which is sufficient, when added to the Service Retirement Annuity, to equal the Unmodified Service Retirement Allowance.
- (d) The Unmodified Service Retirement Allowance is calculated by multiplying the Member's years of Creditable Service by the retirement factor for his or her age at retirement, as shown in the table for section 24.0402.1. The resulting number is then multiplied by the Member's Final Compensation. The System prorates the factors from the Table for section 24.0402.1, to reflect quarterly increments in the Member's retirement age.
- (e) The Unmodified Service Retirement Allowance for a General Member hired on or after July 1, 2009, may not exceed 80 percent of his or her Final Compensation.

Table 1 of Section 24.0402.1

GENERAL MEMBER RETIREMENT CALCULATION FACTORS

Retirement Age	Unmodified Factors Effective 7/01/09
55	1.00%
56	1.25%
57	1.65%
58	1.758%
59	1.874%
60	2.00%
61	2.12%
62	2.24%
63	2.36%
64	2.48%
65 and older	2.6%

§24.0403 Safety Member Retirement Allowances

(a) The System shall provide that upon retirement from service a Safety Member is entitled to receive an Unmodified Service Retirement Allowance which shall consist of both:

- (1) A Service Retirement Annuity.
- (2) A Creditable Service Pension.

(b) through (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 Calculation Factor 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 ninety percent (90%) of Final Compensation except as provided in Sections 24.0403(f), and 24.0403(h).
- (f) If the Unmodified Service Retirement Allowance of a Safety Member exceeds ninety percent (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 ninety percent (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 exceeds ninety percent (90%) of Final Compensation using the Retirement Calculation Factors in effect on January 1, 1997, as shown in Table 1 of Section 24.0403 on a date after January 1, 1997, but before April 1, 1997, that Safety Member may elect to accrue benefits in excess of the ninety percent (90%) limitation stated in Section 24.0403(e), provided, however, that such accrual shall cease at the level attained on March 31, 1997.
- (h) Effective July 1, 2000, a Safety Member may choose at the time of his or her retirement either: 1) the Retirement Calculation Factor in effect on July 1, 2000 with no change in the Safety Member's Final Compensation, or 2) a ten percent (10%) increase in the Safety Member's Final Compensation, with

the Safety Member's Unmodified Service Retirement Allowance calculated using the Retirement Calculation Factors in effect on June 30, 2000.

- (i) Notwithstanding the provisions of Section 24.0403(h), a Safety Member, who is employed as a sworn officer of the City Police Department and is hired by the City on or after July 1, 2009, shall not be entitled to a Retirement Calculation Factor of three percent (3 %) unless and until the Safety Member reaches the age of fifty-five years with at least ten years of Creditable Service. A Safety Member, who is employed as a sworn officer of the City Police Department and is hired by the City on or after July 1, 2009, shall have the option to retire at the age of fifty years after twenty years of Creditable Service with a proportionately reduced Unmodified Service Retirement Allowance, as set forth in Table 1 of Section 24.0403.

Table 1 of Section 24.0403

RETIREMENT CALCULATION FACTOR

LIFEGUARD, FIRE AND POLICE

Retirement Age	Unmodified Factor* Effective 1/01/97 – 6/30/00 Lifeguard	Police and Fire	Unmodified Factor* Effective 7/01/00	Unmodified Factor* Effective 7/01/09 for sworn City Police officers hired on or after July 1, 2009
50	2.20%	2.50%	3.00%	2.50%
51	2.32%	2.60%	3.00%	2.60%
52	2.44%	2.70%	3.00%	2.70%
53	2.57%	2.80%	3.00%	2.80%
54	2.72%	2.90%	3.00%	2.90%
55	2.77%	2.9999%	3.00%	3.00%

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

Section 3. That Chapter 2, Article 4, Division 12, of the San Diego Municipal Code is amended by amending sections 24.1201 and 24.1202 and repealing section 24.1201.1 to read as follows:

§24.1201 Designation of Benefit Classes and Eligibility

Separate retiree health benefits are offered, as follows:

- (a) A Health Eligible Retiree benefit is available to any General Member, Safety Member or Elected Officer who:
- (1) was on the active City payroll on or after October 5, 1980; and
 - (2) was hired by the City before July 1, 2005; and
 - (3) retired on or after October 6, 1980, and
 - (4) is eligible for and is receiving a retirement allowance from the Retirement System, except, effective July 1, 2009, General Members and Safety Members shall have at least ten years of Creditable Service to be eligible for the Health Eligible Retiree benefit. With ten years of Creditable Service, General and Safety Members are eligible for fifty percent of the Health Eligible Retiree benefit as defined in this Division. With twenty years of Creditable Service, General and Safety Members are eligible for 100 percent of the Health Eligible Retiree benefit as defined in this Division. The Health Eligible

Retiree benefit for General and Safety Members with more than ten years of Creditable Service but less than twenty years of Creditable Service shall be increased by five percent for each year of Creditable Service beyond ten years until the benefit reaches the maximum of 100 percent at twenty years. For purposes of the Health Eligible Retiree benefit, Creditable Service for General and Safety Members, who are unclassified or classified employees unrepresented by one of the City's recognized employee organizations, shall be defined as actual years employed by the City, and shall not include any years of service purchased pursuant to San Diego Municipal Code section 24.1312.

- (b) A Non Health Eligible Retiree benefit is available to any retiree who:
 - (1) retired or terminated City employment as a vested Member before October 6, 1980; and
 - (2) is eligible for and is receiving a retirement allowance from the Retirement System.
- (c) A separate Retiree Medical Trust benefit to be administered by the City is available to any General Member hired on or after July 1, 2009.
- (d) General Members hired or assuming office on or after July 1, 2005, but before July 1, 2009, are not entitled to the Health Eligible Retiree benefit, as defined in Article 4.
- (e) Safety Members and Elected Officers hired or assuming office on or after July 1, 2005, are not eligible for any retiree health benefit.

- (f) Effective December 31, 1998, a retiree health benefit is offered to the spouses or dependents under age 21 of a City employee Member killed in the line of duty by: (1) external violence or physical force or (2) as a result of an accident or injury caused by external violence or physical force. For a Safety Member, this benefit will be paid if death benefits are awarded to the Member's spouse or dependents by a final decision under the Federal Public Safety Officers Benefit Act. Surviving spouses and dependents eligible for benefits under this section will receive retiree health benefits. Their health insurance premiums will be paid or reimbursed up to the amount of the annual Flexible Benefits Allotment as defined in the Annual Salary Ordinance adopted by the City Council. No benefits will be provided under this subsection if :
- (1) the death or injury resulting in death was caused by the Member's intentional misconduct or intent to cause his or her own death or injury;
 - (2) the Member was voluntarily intoxicated at the time of his or her death; or
 - (3) the Member was performing his or her duties in a grossly negligent manner at the time of death or injury. No benefit under this subsection will be paid to any individual whose actions were a substantial contributing factor to the Member's death or catastrophic injury.

§24.1202 Retiree Health Benefits Defined

(a) Health Eligible Retiree Benefit

- (1) Health Eligible Retirees are 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. The Health Eligible Retirees will be paid or reimbursed their premiums subject to the limitations set forth in this Division.
- (2) For Fiscal Year 2003, the Health Eligible Retiree will be paid or reimbursed for health insurance premiums up to the cost of the Medicare-eligible or Non-Medicare-eligible retiree premium for the City-sponsored Preferred Provider Organization (PPO) plan available to Health Eligible Retirees, regardless of which health insurance plan the Health Eligible Retiree selects.
- (3) After Fiscal Year 2003, the maximum payment or reimbursement level for Health Eligible Retirees will be adjusted annually based upon the projected increase for National Health Expenditures by the Centers for Medicare and Medicaid Services, Office of the Actuary, for the full-year period ending January 1 before each plan year. No adjustment may exceed 10 percent for any plan year. The City will notify the Retirement System in writing of the amount of the adjustment at least 60 days before the beginning of each plan year.

- (4) A Health Eligible Retiree will not be paid or reimbursed any more than the actual premium cost he or she incurs.
- (5) A Health Eligible Retiree timely enrolled in Medicare is also entitled to reimbursement of the cost of the Part B Supplemental Medical Expense Premium.
- (6) Effective December 31, 1998, the surviving spouse of a City employee Member killed in the line of duty, as described in Section 24.1201 subsection (f), is entitled to post retirement health benefits as a Health Eligible Retiree, in the amount of the annual Flexible Benefits Allotment, for the payment of health premiums only, as defined in the Annual Salary Ordinance adopted by the City Council. The deceased employee's minor dependent children will be covered by the surviving spouse's insurance. If there is no surviving spouse, the minor dependent children will receive health insurance coverage until each reaches the age of 21. The surviving spouse may not use the benefits provided by this section to pay for health insurance for anyone who was not a dependent of the deceased employee.
- (7) Notwithstanding the provisions of Section 24.1202(a)(3), the annual adjustment of the maximum payment or reimbursement level for Health Eligible Retirees shall be suspended for the following

members who are not Health Eligible Retirees as of July 1, 2009, for a two-year period beginning July 1, 2009: (i) all General Members in the San Diego Municipal Employees' Association; (ii) all Safety Members in Local 145, International Association of Fire Fighters; and (iii) all unclassified or classified General or Safety Members unrepresented by any of the City's recognized employee organizations.

- (8) Notwithstanding the provisions of Section 24.1202(a)(3), effective July 1, 2009, the maximum payment or reimbursement level for Health Eligible Retirees shall be frozen at the Fiscal Year 2009 level of \$740.00 a month/\$8,880.00 a year for the following members who are not Health Eligible Retirees as of July 1, 2009: (i) all General Members in Local 127, American Federal of State, County and Municipal Employees; and (ii) all Safety Members in the San Diego Police Officers Association. The freezing of the Health Eligible Retiree benefit at the Fiscal Year 2009 level may be subject to modification by the City pursuant to procedures governed by the Meyers-Milias-Brown Act or any other legal requirements governing labor relations that are binding upon the City.

(b) Non Health Eligible Retiree Benefit

Beginning in fiscal year 2002, each Non Health Eligible Retiree will be paid or reimbursed up to \$1,200 per year for health insurance expenses.


(c) Retiree Medical Trust Benefit

The City shall establish and administer a separate Retiree Medical Trust for General Members hired on or after July 1, 2009, which shall be a defined contribution plan. This Trust shall be funded by a .25 percent mandatory City contribution and a matching mandatory .25 percent employee contribution based on the Member's Base Compensation. Additional voluntary contributions by the Member at rates in excess of the mandatory contribution for the purpose of providing additional benefits will be permitted to the extent otherwise allowed by law. The exercise of this option by a Member shall not require the City to make any additional contributions.

Section 4. That a full reading of this ordinance is dispensed with prior to its passage since a written copy was made available to the City Council and the public prior to the day of its passage.

Section 5. This ordinance shall take effect and be in force on the thirtieth day after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Joan F. Dawson
Deputy City Attorney

JFD:WJG:jdf:cfq
4/27/09
05/15/09 COR.COPY
05/18/09 COR.COPY.2
05/19/09 COR. COPY.3
Or.Dept:Mayor
O-2009-27

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 16 2009.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 6.25.09
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor