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ORDINANCE NUMBER O- 20105 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 18 2011

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 24.0103; BY AMENDING CHAPTER 2, ARTICLE 4, DIVISION 12 BY AMENDING THE TITLE OF THE DIVISION, BY AMENDING SECTIONS 24.1201 AND 24.1202, AND BY ADDING SECTION 24.1203; BY AMENDING CHAPTER 2, ARTICLE 4, DIVISION 19 BY AMENDING SECTION 24.1902; AMENDING CHAPTER 2 BY ADDING ARTICLE 9, DIVISION 1, SECTIONS 29.0101, 29.0102, 29.0103, 29.0104, AND 29.0105, AND DIVISION 2, SECTION 29.0201, ALL RELATING TO THE CITY'S RETIREMENT SYSTEM AND OTHER POST-EMPLOYMENT AND HEALTH-RELATED BENEFITS.

WHEREAS, by San Diego Resolution (Resolution) R-255610, adopted on January 4, 1982, the San Diego City Council (City Council) authorized the establishment of a City of San Diego (City)-sponsored group health insurance plan for eligible retirees, beginning January 8, 1982; and

WHEREAS, in Resolution R-255610, the City Council stated its desire that certain benefits, including a program for City-sponsored group health insurance for eligible City retirees, be provided to employees in lieu of Social Security participation; and

WHEREAS, as a result of the City's withdrawal from participation in the Social Security System, City employees hired before April 1, 1986, may not have Medicare coverage as a result of their City employment; and

WHEREAS, City employees hired on or after April 1, 1986 contribute jointly with the City to Medicare; and

WHEREAS, by direction of the City Council, pursuant to Ordinance O-15758 (Jun. 1, 1982), the City-sponsored group health insurance program for eligible retirees was codified in the San Diego Municipal Code (Municipal Code), providing that health plan coverage for retirees “is subject to modification by the City and the provider of health care services, and may be modified periodically as deemed necessary and appropriate”; and

WHEREAS, since 1982, through negotiations with the City’s recognized employee organizations and as a result of the settlement of litigation, the City Council has modified the retiree health care benefits for eligible retirees by expanding eligibility to include certain employees not covered by the 1982 City Council action, and by limiting the benefit; and

WHEREAS, since 1982, certain ordinances amending Chapter 2, Article 4 of the Municipal Code related to the retiree health benefit have been approved by a vote of City Employees’ Retirement System (Retirement System) Members pursuant to San Diego Charter (Charter) section 143.1, including, Ordinance O-19121 (Nov. 18, 2002), which established both the base amount of the retiree health benefit allowance/reimbursement for Fiscal Year 2003 and the index by which it has escalated annually thereafter; and

WHEREAS, Municipal Code section 24.1201 provides that the retiree health benefit is presently available to a Member who:

- (1) was or is on the active City payroll on or after October 5, 1980;
- (2) was hired before July 1, 2005;
- (3) retires on or after October 6, 1980;
- (4) is eligible for and is receiving a retirement allowance; and
- (5) if the Member is a General or Safety Member, has at least ten years of Creditable Service with the City;

and

WHEREAS, Municipal Code section 24.1201 further provides that a General or Safety Member with ten or more years of Creditable Service with the City, but less than twenty years, is eligible for a proportionally reduced benefit at retirement, depending on the number of years of Creditable Service; and

WHEREAS, section 24.1201 further provides that a Member who is eligible for the current retiree health benefit becomes a "Health Eligible Retiree" upon retirement, and is able to obtain health coverage under any available City-sponsored health insurance plan or any other health insurance plan of his or her choice; and

WHEREAS, the City pays or reimburses the health insurance premiums for eligible retired Members, with certain limitations, as set forth in Municipal Code section 24.1202(a); and

WHEREAS, by Ordinance O-19567, adopted on January 17, 2007, the City Council eliminated retiree health benefits for Members who began City employment or assumed office on or after July 1, 2005; and

WHEREAS, the Internal Revenue Code section 401(h) retiree health trust was added to the Retirement Plan following adoption of Proposition D by San Diego voters on November 5, 1996, which added language to Charter section 141, authorizing the City Council to provide health insurance benefits through the Retirement System; and

WHEREAS, by Ordinance O-19740, adopted on April 15, 2008, the City Council eliminated the 401(h) retiree health trust from the Retirement Plan; as a result, the Retirement System is legally prohibited from funding the retiree health benefit or the costs associated with administering the benefit; and

WHEREAS, since the establishment of the retiree health benefit, the City has not been paying the full actuarially-determined Annual Required Contribution, creating an unfunded actuarial accrued liability that, in the City's view, makes the present benefits unsustainable; and

WHEREAS, by Ordinance O-19874, adopted on July 25, 2009, the City established and administers a defined contribution-style Retiree Medical Trust for General Members hired on or after July 1, 2009, which is funded by a .25 percent mandatory City contribution and a matching mandatory .25 percent employee contribution based on the Member's Base Compensation, as defined in the Municipal Code; and

WHEREAS, this Ordinance moves the provisions regarding the Retirement Medical Trust into a new Article and Division in the Municipal Code and out of the Retirement Plan provisions, but is not intended to otherwise affect the benefits under or the administration of the Retiree Medical Trust; and

WHEREAS, City employees desire a level of certainty related to the retiree health benefits as they plan for retirement; and

WHEREAS, in a mutual effort to resolve issues of funding and sustainability related to the retiree health care benefits for active employees hired before July 1, 2005, the City and its recognized employee organizations identified the following common objectives:

- (1) to reduce the cash flow pressure on the City's General Fund associated with the City's annual PAYGO expense for the retiree health benefit currently in effect for active employees hired prior to July 1, 2005,
- (2) to reduce the unfunded actuarial accrued liability associated with this benefit,
- (3) to reduce the annual required contribution, and
- (4) to provide a sustainable framework for a revised and secure retiree health benefit;

and

WHEREAS, the City and its recognized employee organizations have reached agreement through negotiations under the Meyers-Milias-Brown Act (MMBA) as memorialized in two Tentative Agreements; and

WHEREAS, on May 13, 2011, the City Council approved by Resolution R-306806 the Tentative Agreement Regarding Retiree Health Benefits, between the City and the San Diego Municipal Employees' Association; San Diego City Firefighters, International Association of Fire Fighters Local 145; Local 127, American Federation of State, County and Municipal Employees, AFL-CIO; the International Brotherhood of Teamsters, Local 911, and the Deputy City Attorneys Association; and

WHEREAS, the Tentative Agreement Regarding Retiree Health Benefits, between the City and the San Diego Police Officers Association, is before the City Council for approval on June 28, 2011; and

WHEREAS, the City Council desires to extend the terms of the Tentative Agreement approved in Resolution R-306806 to the Unrepresented General and Safety Member Employees; and

WHEREAS, the Tentative Agreements provide that the reference to the retiree health benefits for General and Safety Members who retire on or after April 1, 2012 will be removed from Chapter 2, Article 4 of the Municipal Code, at the discretion of the City Council, without further discussion or negotiation between the City and the employee organizations, and without objection of the employee organizations; and

WHEREAS, pursuant to the Tentative Agreements, a new Article is added to the Municipal Code for provisions related to retiree health benefits for General and Safety Members who retire on or after April 1, 2012, and for other post-employment benefits that are not part of the Retirement System; and

WHEREAS, the Tentative Agreements also provide that the reference to “a change in retiree health benefits” in Municipal Code section 24.1902(c), regarding the definition of an “increase” in Retirement System benefits, will be removed from Municipal Code section 24.1902(c); and

WHEREAS, the recognized employee organizations maintain that the retiree health benefits for employees hired before July 1, 2005, are benefits under the Retirement System and that modification or elimination of these benefits requires a vote of Retirement System Members under Charter section 143.1(a); and

WHEREAS, the City disagrees with the recognized employee organizations regarding the nature of the retiree health benefits and contends that the retiree health benefits are terms and conditions of employment and are not benefits under the Retirement System and are not subject to a vote of Members under Charter section 143.1; and

WHEREAS, a condition of the Tentative Agreements is that the benefits in this Ordinance for General and Safety Members hired before July 1, 2005 who retire on or after April 1, 2012, will not take effect unless approved by Retirement System Members, as if Charter section 143.1 applied; and

WHEREAS, by submitting the proposed changes to the retiree health benefits to a vote of Members, the City is not admitting to or waiving any legal positions it has with respect to the vote or Charter section 143.1; and

WHEREAS, the City and the employee organizations have agreed that if the proposed changes to the retiree health benefits described in this Ordinance are approved by a vote of the Members, any future changes affecting retiree health benefits for employees who retire on or after April 1, 2012 will not require a vote of Members under Charter section 143.1; and

WHEREAS, the City and the SDPOA reached a two-year agreement on a successor Memorandum of Understanding (MOU) for Fiscal Year 2011 and Fiscal Year 2012, effective July 1, 2010, through June 30, 2012, which the City Council approved on July 12, 2010, by Resolution R-305971; and

WHEREAS, the MOU provides that effective July 1, 2010, the health benefit coverage for the surviving spouse and eligible dependents of a SDPOA-represented employee killed in the line of duty will be the amount of the highest cost HMO premium; and

WHEREAS, Municipal Code sections 24.1201(f) and 24.1202(a)(6) are amended to make this change, and those provisions are moved to the new Article in the Municipal Code for post-employment benefits that are not part of the Retirement System; and

WHEREAS, consistent with Charter section 275, the City Council intends to introduce this Ordinance and then direct the Ordinance to the San Diego City Employees' Retirement System to conduct a membership vote under Charter section 143.1 before the Ordinance is adopted; 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:

Article 4: City Employees' Retirement System

Division 1: Creation of System and Definitions

§ 24.0103 Definitions

Unless otherwise stated, for purposes of this Article:

"Accumulated Additional Contributions" through *"General Member"* [No change in text.]

“*Health Eligible Retiree*” means any retired *General Member*, *Safety Member*, or *Elected Officer* who: (1) was on the active payroll of the City of San Diego on or after October 5, 1980 and before July 1, 2005, (2) retires on or after October 6, 1980, (3) is eligible for and is receiving a retirement allowance from the *Retirement System*, and (4) if the *Member* is a *General Member* or a *Safety Member*, retires before April 1, 2012.

“*Investment Earnings Received*” through “*Unmodified Service Retirement Allowance*” [No change in text.]

Section 2. That Chapter 2, Article 4, Division 12 of the San Diego Municipal Code is amended by amending the title of the Division, by amending sections 24.1201 and 24.1202, and by adding section 24.1203 to read as follows:

Article 4: City Employees’ Retirement System

Division 12: Retiree Health Benefits

for Employees Who Retire Before April 1, 2012

§ 24.1201 Eligibility for *Health Eligible Retiree* Benefit

- (a) This Division describes the retiree health benefits for eligible *General Members* and *Safety Members* who retire before April 1, 2012, and eligible *Elected Officers*. This Division does not apply to *General Members* or *Safety Members* who retire on or after April 1, 2012. Post-employment health benefits for *General Members* and *Safety Members* who retire on or after April 1, 2012, are set forth in Chapter 2, Article 9, Division 1 of this Code.
- (b) 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;
- (2) was hired by the City before July 1, 2005;
- (3) retires after October 5, 1980;
- (4) is eligible for and is receiving a retirement allowance from the *Retirement System*; and
- (5) if the *Member* is a *General Member* or *Safety Member*, retires before April 1, 2012.

(c) *General Members* and *Safety Members* who retire with a service retirement on or after July 1, 2009, but before April 1, 2012, must have at least ten years of *Creditable Service* to be eligible for the *Health Eligible Retiree* benefit, and are subject to the following limitations:

- (1) If the *Member* has ten years of *Creditable Service* at retirement, the *Member* is eligible for fifty percent of the health insurance premium, as described and limited in section 24.1202.
- (2) If the *Member* has twenty years of *Creditable Service*, the *Member* is eligible for one hundred percent of the health insurance premium, as described and limited in section 24.1202.
- (3) If the *Member* has between ten and twenty years of *Creditable Service*, the percentage of the health insurance premium that the *Member* is entitled to increases by five percent for each year of *Creditable Service* beyond ten years until the benefit reaches one hundred percent at twenty years of *Creditable Service*.

(4) For *General Members* and *Safety Members* who are not represented by any of the City's recognized employee organizations, *Creditable Service* for purposes of these limitations on the *Health Eligible Retiree* benefit includes all actual years employed by the City, and *Creditable Service* purchased by a *Member* for periods of leave during employment including family or medical leave, temporary disability leave, or military leave, but does not include any years of *Creditable Service* purchased pursuant to section 24.1312, which authorizes eligible *Members* to purchase up to five years of *Creditable Service* unrelated to City employment.

(d) The limitations set forth above in subsection (c) do not apply to *Members* who are granted a nonindustrial or industrial disability retirement. These *Members* are entitled to one hundred percent of the health insurance premium, as described and limited in section 24.1202.

§ 24.1202 *Health Eligible Retiree Benefit Defined*

(a) *Health Eligible Retirees* are entitled to obtain health coverage under any available City-sponsored health insurance plan or any other health insurance plan of their choice, and will be paid or reimbursed their premiums subject to the limitations set forth in this Division.

(b) Benefit Amounts.

(1) For Fiscal Year 2003, a *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.

- (2) 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 ten percent for any plan year. The City will notify the *Retirement System* in writing of the amount of the adjustment at least sixty days before the beginning of each plan year.
- (3) A *Health Eligible Retiree* will not be paid or reimbursed any more than the actual premium cost he or she incurs.
- (4) A *Health Eligible Retiree* timely enrolled in Medicare is also entitled to reimbursement of the cost of the Part B Supplemental Medical Expense Premium.
- (5) Notwithstanding the provisions of section 24.1202(b)(2), effective July 1, 2011, the maximum payment or reimbursement level for *Health Eligible Retirees*, who retire on or after July 1, 2009 but before July 1, 2011, is established at the Fiscal Year 2009 level of \$740.27 per month for *Health Eligible Retirees* before they are eligible for Medicare and \$697.16 per month once they become eligible for Medicare, for the following *Members*: (i) *General*

Members represented by the San Diego Municipal Employees' Association or the Deputy City Attorneys Association; (ii) *Safety Members* represented by the San Diego City Firefighters, International Association of Firefighters, Local 145, or California Teamsters, Local 911; and (iii) unclassified and classified *General* and *Safety Members* unrepresented by any of the City's recognized employee organizations. The annual adjustment described in section 24.1202(b)(2), which was suspended for the two-year period from July 1, 2009 through June 30, 2011, will resume on July 1, 2011, for *Members* under this subsection who retire before July 1, 2011; however, there will be no retroactive adjustment for the two-year period in which the annual adjustment was suspended. For Fiscal Year 2012, the maximum payment or reimbursement level is \$771.36 per month for *Members* under this subsection before they are eligible for Medicare and \$726.44 per month for *Members* once they become eligible for Medicare.

- (6) Notwithstanding the provisions of section 24.1202(b)(2), the maximum payment or reimbursement level for *Health Eligible Retirees* who retire on or after July 1, 2011 but before April 1, 2012, is established at the Fiscal Year 2009 level of \$740.27 per month for *Health Eligible Retirees* before they are eligible for Medicare and \$697.16 per month for *Health Eligible Retirees* once they become eligible for Medicare for the following *Members*:
- (i) *General Members* represented by the San Diego Municipal

Employees' Association or the Deputy City Attorneys Association;

(ii) *Safety Members* represented by the San Diego City

Firefighters, International Association of Firefighters, Local 145,

or California Teamsters, Local 911; and (iii) unclassified and

classified *General* and *Safety Members* unrepresented by any of

the City's recognized employee organizations. The annual

adjustment described in section 24.1202(b)(2), which was

suspended for a three-year period from July 1, 2009 through

June 30, 2012, will resume on July 1, 2012.

- (7) Notwithstanding the provisions of section 24.1202(b)(2), the maximum payment or reimbursement level for *Health Eligible Retirees* is frozen, with no annual adjustment, at the Fiscal Year 2009 level of \$740.27 per month for *Health Eligible Retirees* before they are eligible for Medicare and \$697.16 per month for *Health Eligible Retirees* once they become eligible for Medicare for the following *Health Eligible Retirees*, who retire on or after July 1, 2009 and before April 1, 2012: (i) *General Members* represented by Local 127, American Federation of State, County and Municipal Employees; and (ii) *Safety Members* represented by 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.

§ 24.1203 Limited Retiree Health Benefit

- (a) A limited retiree health benefit is available to any retired *Member* who:
- (1) terminated City employment as a vested *Member* or retired before October 6, 1980; and
 - (2) is eligible for and is receiving a retirement allowance from the *Retirement System*.
- (b) Beginning July 1, 2001, retired *Members* who are eligible for a limited retiree health benefit will be paid or reimbursed up to \$1,200 per year for health insurance expenses. The retired *Members* will not be paid or reimbursed any more than the actual health premium or medical costs he or she incurs.

§ 24.1204 Funding of Retiree Health Benefits

[No change in text.]

Section 3. That Chapter 2, Article 4, Division 19, of the San Diego Municipal Code is amended by amending section 24.1902 to read as follows:

Article 4: City Employees' Retirement System

Division 19: Voter Approval of Retirement System Benefit Increases

§ 24.1902 Definition of an "Increase" in Retirement System Benefits

An "increase" in *Retirement System* benefits that is subject to voter approval pursuant to San Diego Charter section 143.1, means any increase in the *Retirement System* benefits to be provided to any employee, legislative officer or

elected official under such *Retirement System*, with the exception of Cost of Living Adjustments as currently provided under the language in the San Diego Municipal Code, Chapter 2, Article 4, Division 15, section 24.1505, due to:

- (a) through (b) [No change in text.]
- (c) a change in the formula for retiree death benefits;
- (d) a change in the formula for those retiring due to disability;
- (e) a new *Retirement System* benefit; or
- (f) a change in any other *Retirement System* benefit, unless specifically excluded below.

Section 4. That Chapter 2 of the San Diego Municipal Code is amended by adding Article 9, Division 1, sections 29.0101, 29.0102, 29.0103, and 29.0104 to read as follows:

Article 9: Other Post-Employment and Health-Related Benefits

Division 1: Post-Employment Health Benefits for Eligible

Employees Who Retire After March 31, 2012

§ 29.0101 Post-Employment Health Benefits Not Part of *Retirement System*

The post-employment health benefits described in this Article are not part of the City Employees' Retirement System established under San Diego Charter Article IX. Therefore, the vote requirements set forth in San Diego Charter section 143.1 do not apply to these benefits.

§ 29.0102 Definitions

For the purposes of this Article:

“*Base Compensation*” has the same meaning as set forth in San Diego Municipal Code section 24.0103.

“*CalPERS Trust*” means the retiree health trust account managed by CalPERS OPEB/CERBT.

“*Deferred Member*” means a *Member* who leaves his or her employee contributions on deposit with the *Retirement System* after terminating City employment.

“*DROP*” has the same meaning as set forth in San Diego Municipal Code section 24.0103.

“*Elected Officer*” has the same meaning as set forth in San Diego Municipal Code section 24.0103.

“*General Member*” has the same meaning as set forth in San Diego Municipal Code section 24.0103.

“*Member*” has the same meaning as set forth in San Diego Municipal Code section 24.0103.

“*Retiree Medical Trust*” means the City of San Diego Defined Contribution Retiree Medical Account Plan and Trust, established by the City effective July 1, 2009.

“*Retirement System*” or “*System*” has the same meaning as set forth in San Diego Municipal Code section 24.0103.

“*Safety Member*” has the same meaning as set forth in San Diego Municipal Code section 24.0103.

“*Service Credit*” means service rendered for compensation as a City employee or officer and service purchased by a *Member* pursuant to Chapter 2, Article 4, Division 13.

“*Service Retirement*” means, for *Safety Members* and *General Members*, a retirement based upon *Service Credit* and age under Chapter 2, Article 4, Division 4, and for *Elected Officers*, means a retirement under section 24.1705.

“*Surviving Spouse*” has the same meaning as set forth in San Diego Municipal Code section 24.0103.

§ 29.0103 Post-Employment Health Benefit Options for Eligible Members Who Retire on or after April 1, 2012

- (a) The City provides three post-employment health benefit options for eligible *General Members* and *Safety Members* who began City employment before July 1, 2005 and retire on or after April 1, 2012. The eligibility requirements for each option are set forth in this section, along with a description of the benefits and employee contributions associated with each option. *Members* who are eligible for one or more of the post-employment health benefit options set forth in this section must irrevocably elect a benefit option before February 1, 2012.
- (b) Option A - Defined Health Benefit.
- (1) Eligibility. To be eligible for Option A, a *General Member* or *Safety Member* must:
- (A) have started work for the City before July 1, 2005,
 - (B) be on City payroll on April 1, 2012,
 - (C) remain employed by the City until retiring from City service, and
 - (D) have twenty-five or more years of *Service Credit* or be eligible for a *Service Retirement* on or before April 1, 2012.

- (2) Benefit Description. A *General Member* or *Safety Member* who qualifies for and elects Option A before February 1, 2012, may obtain post-employment health coverage under any available City-sponsored health insurance plan or any other health insurance plan of their choice. The *Member* will be paid or reimbursed his or her health insurance premiums up to the Option A annual retiree health allowance, which is set at \$8,883.24 for Fiscal Year 2013, and will increase by two percent annually beginning July 1, 2013.
- (3) Employee Contributions. *Members* who are eligible for and elect Option A must make contributions during the course of their employment. An eligible *General Member* must pay contributions of \$98 per month (\$45.23 per pay period), and an eligible *Safety Member* must pay contributions of \$103 per month (\$47.54 per pay period). These contributions will be deducted pre-tax from the *Member's* biweekly paycheck beginning with the first pay period that begins on or after April 1, 2012. The contributions will be deposited periodically into the *CalPERS Trust* or any successor trust selected by the City. The contributions will end upon retirement. An eligible *Member* who elects Option A may not thereafter change this election for any reason, including actual financial hardship. In addition, no *Member* will receive a refund of his or her contributions for any reason.

- (4) Minimum Time Period for Employee Contributions for Certain Members. *Members* who on April 1, 2012 are represented either by Local 127, American Federation of State, County and Municipal Employees (Local 127), or the San Diego Police Officers Association (SDPOA) must make the employee contributions described in subsection (b)(3) for a minimum of twelve months before they retire in order to qualify for the two percent annual increases. If the *Member* does not contribute for the full twelve months, the *Member* will be eligible for the Option A benefit, but with no annual increases. However, if a *Member* covered by this subsection is in *DROP* on April 1, 2012, and has signed an irrevocable agreement requiring the *Member* to leave City employment before April 15, 2013, then the *Member* may pay any remaining Option A employee contributions in a lump sum upon terminating employment.
- (5) A *Member* who is eligible for Option A may elect Option B or C instead on or before February 1, 2012. The *Member's* election is irrevocable.
- (6) If a *Member* who elects Option A before February 1, 2012 terminates City employment before retirement, and becomes a *Deferred Member*, the *Member* will no longer be eligible for Option A, and will instead receive Option C.

(c) Option B - Defined Health Benefit.

- (1) Eligibility. To be eligible for Option B, a *General Member* or *Safety Member* must:
 - (A) have started work for the City before July 1, 2005,
 - (B) be on City payroll on April 1, 2012, and
 - (C) remain employed by the City until retiring from City service.
- (2) Benefit Description. A *General Member* or *Safety Member* who qualifies for and elects Option B on or before February 1, 2012, may obtain post-employment health coverage under any available City-sponsored health insurance plan or any other health insurance plan of their choice. The *Member* will be paid or reimbursed their health insurance premiums up to \$5,500 per year. There will be no annual adjustment of this amount.
- (3) Employee Contributions. *Members* who are eligible for and elect Option B must make contributions during the course of their employment. An eligible *General Member* must pay \$49 per month (\$22.61 per pay period), and an eligible *Safety Member* must pay \$52 per month (\$24 per pay period). These contributions will be deducted pre-tax from the *Member's* biweekly paycheck beginning with the first pay period that begins on or after April 1, 2012, and will end upon retirement. The contributions will be deposited periodically into the *CalPERS Trust* or any successor trust selected by the City. An eligible *Member* who elects Option B

may not thereafter change this election for any reason, including actual financial hardship. In addition, no *Member* will receive a refund of his or her contributions for any reason.

- (4) If a *Member* who elects Option B before February 1, 2012 terminates City employment before retirement, and becomes a *Deferred Member*, the *Member* will no longer be eligible for Option B, and will instead receive Option C.

(d) Option C - Defined Contribution-Style Health Plan.

- (1) Eligibility. Option C is available to *General Members* and *Safety Members* who:

(A) were hired before July 1, 2005, and

(B) are either on City payroll or a *Deferred Member* on April 1, 2012.

- (2) Benefit Description. The City will create a defined contribution-style health reimbursement plan and trust (DC Plan), either by amending the existing *Retiree Medical Trust* or creating a new plan and trust effective April 1, 2012. When a *Member* who qualifies for and elects Option C on or before February 1, 2012, or becomes eligible for Option C by default, first becomes eligible to retire based upon age and *Service Credit*, the City will deposit into the *Member's* DC Plan account an amount that, assuming an annual investment return of six percent, is projected to yield \$8,500 annually during the *Member's* life expectancy as determined under subparagraph (A) or (B) below. The City's contributions to the

Member's DC Plan account will immediately vest when made. The funds in the *Member's* DC Plan account may only be used to reimburse post-employment qualified medical expenses of the *Member*, the *Member's* spouse or surviving spouse (as defined by federal law), and the *Member's* dependents (as defined by Internal Revenue Code sections 152 and 105(b)). Once the retired *Member*, any surviving spouse, and all dependents are deceased, any balance remaining in the retired *Member's* DC Plan account will be forfeited to the trust for the DC Plan. For purposes of this subsection:

- (A) the life expectancy of a *Safety Member* is determined using the RP2000 Combined Healthy Mortality table with no projection, set forward two years; and
 - (B) the life expectancy of a *General Member* is determined using the RP2000 Combined Healthy Mortality table with no projection, with no set forward.
- (3) Although the City will be obligated to fund the *Member's* DC Plan account when the *Member* first becomes eligible to retire, the *Member* is not required to retire at that time.
- (4) Employee Contributions. There will be no required employee contributions associated with Option C, unless the DC Plan allows for mandatory employee contributions to provide a higher benefit than the one described in subsection (d)(2).

- (e) If a *Member* who is eligible for and elects Option A, B or C under this section retires on a *Service Retirement* with less than twenty years of *Service Credit*, the *Member's* post-employment health benefit will be reduced and the *Member* will receive a percentage of the benefit as set forth in the Table below:

<u>Years of <i>Service Credit</i></u>	<u>Percentage of Post-Employment Health Benefit</u>
10	50%
11	55%
12	60%
13	65%
14	70%
15	75%
16	80%
17	85%
18	90%
19	95%
20	100%

- (f) If a *Member* who is eligible for a post-retirement health benefit under this section fails to elect Option A, B or C before February 1, 2012 or within fourteen days of returning to work if the *Member* is on an extended leave of absence on February 1, 2012, the irrevocable default will be as follows:

(1) Any *Member* eligible for Option A will be placed in Option A and the required contributions will be deducted from the *Member's* paycheck.

(2) All other *Members* will be placed in Option C.

- (g) Disability Retirement. If a *Member* who is eligible for and elects Option A, B or C, is granted an industrial or nonindustrial disability

retirement by the Retirement Board effective on or after April 1, 2012, the *Member's* selected retiree health benefit will not be reduced pursuant to subsection (e).

- (1) If, on the effective date of the *Member's* disability retirement, the *Member* is eligible for a *Service Retirement*, he or she will receive post-employment health benefits in accordance with his or her irrevocable election of Option A, B or C.
- (2) If the *Member* is not eligible for a *Service Retirement*, and the *Member* selected Option A or B, the Option A or B benefit will be paid without any further contributions by the *Member*.
- (3) If the *Member* is not eligible for a *Service Retirement*, and the *Member* selected Option C, the City's funding associated with this benefit, as described in section 29.0103(d)(2), will occur when the *Member* becomes age eligible for a *Service Retirement*. Until that date, the *Member* will be paid or reimbursed their health insurance premiums up to \$5,500 per year.

§ 29.0104 *Retiree Medical Trust for General Members Who Begin City Employment on or after July 1, 2009*

- (a) Each *General Member* who begins City employment on or after July 1, 2009, is required to contribute .25 percent of his or her *Base Compensation* to the *Retiree Medical Trust*. These employee contributions are deducted from the gross pay of each *Member*, and transferred to the *Retiree Medical Trust* on a biweekly basis for crediting to the *Member's Retiree Medical Trust* account.

- (b) The City will make matching contributions to the *Retiree Medical Trust* on behalf of each *General Member* covered under this section equal to .25 percent of the *Member's Base Compensation*.
- (c) The *Retiree Medical Trust* may, to the extent allowed by law and the terms of the *Retiree Medical Trust*, allow *Members* covered by this section to make additional contributions to their *Retiree Medical Trust* accounts to provide additional benefits. These additional employee contributions will not require the City to make any additional contributions.

§ 29.0105 *Members Hired after July 1, 2005*

The following *Members* are not eligible for the post-employment health benefits set forth in this Division, or in Chapter 2, Article 4, Division 12: (i) *General Members* who begin City employment on or after July 1, 2005, but before July 1, 2009, and (ii) *Safety Members* and *Elected Officers* who begin City employment or assume office on or after July 1, 2005.

Section 5. That Chapter 2 of the San Diego Municipal Code is amended by adding Article 9, Division 2, section 29.0201 to read as follows:

Article 9: Other Post-Employment and Health-Related Benefits

Division 2: Health Benefits for Employees Killed in the Line of Duty

§ 29.0201 *Health Benefits for Surviving Spouses and Dependents of Members Killed in the Line of Duty*

- (a) Effective December 31, 1998, the City will provide the health benefits described in this Division to the *Surviving Spouse* and dependents under age 21 of a *Member* killed in the line of duty: (1) by external violence or physical force, or (2) as a result of an accident or injury caused by external

violence or physical force. If the *Member* was a *Safety Member*, this benefit will be paid if death benefits are awarded to the *Member's Surviving Spouse* or dependents by a final decision under the Federal Public Safety Officers Benefit Act.


- (b) *Surviving Spouses* and dependents eligible for health benefits under this section may obtain health coverage under any available City-sponsored health insurance plan.
- (c) The City will pay or reimburse the health insurance premiums for a *Surviving Spouse* or dependent eligible for benefits under this section, up to the amount of the annual Flexible Benefits Allotment as defined in the Annual Salary Ordinance adopted by the City Council. Effective July 1, 2010, if the *Member* was represented by the San Diego Police Officers Association at the time of his or her death, the City will pay or reimburse the health insurance premiums for a *Surviving Spouse* or dependent eligible for benefits under this section, up to the premium for the highest cost City-sponsored HMO health plan offered to active City employees.
- (d) No benefit under this section will be paid to any individual whose actions were a substantial contributing factor to the *Member's* death or catastrophic injury resulting in death.
- (e) No benefits will be provided under this section 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.

Section 6. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 7. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.


APPROVED: JAN I. GOLDSMITH, City Attorney

By  _____
Roxanne Story Parks
Deputy City Attorney

RSP:ccm
05/31/2011
06/24/2011 COR. COPY
07/11/2011 COR. COPY 2
Or.Dept: HumanResources
Doc #211891

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of OCT 11 2011.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 10-18-11
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor