

Article 4: City Employees' Retirement System

*("Retirement System" incorp 1-22-1952 by O-5046 N.S.,
contained in O-10792 O.S. adopted 11-29-1926.)*

(Repealed 10-25-1962 by O-8744 N.S.)

("City Employees' Retirement System" added 10-25-1962 by O-8744 N.S.)

Division 1: Creation of System and Definitions

*("Definitions" incorp. 1-22-1952 by O-5046 N.S.,
contained in O-10792 O.S. adopted 11-29-1926.)*

(Repealed 10-25-1962 by O-8744 N.S.)

("Creation of System and Definitions" added 10-25-1962 by O-8744 N.S.)

§24.0100 Purpose of Article

The purpose of this article is to recognize a public obligation to City employees for their long service in public employment by making provision for retirement compensation and death benefits as additional elements of compensation for future services and to provide a means by which City employees who become disabled may be replaced without inflicting hardship on the employees removed.

("Purpose of Article" added 12-8-1976 by O-11964 N.S.)

§24.0101 Creation of System

The City Employees' Retirement System created and established by the terms and provisions of Ordinance No. 10792, adopted by the Common Council of The City of San Diego on November 29, 1926, be, and the same is hereby continued in existence, except as hereinafter changed and modified.

("Creation of System" added 12-8-1976 by O-11964 N.S.)

§24.0102 Rights and Benefits

The rights and benefits heretofore earned, and which have become vested under the City Employees' Retirement System as created by said Ordinance No. 10792 of members of such system who have heretofore retired and are now receiving retirement allowances are hereby preserved in all particulars, and nothing in this ordinance contained shall be construed in any way to affect any of such rights and benefits.

("Rights and Benefits" added 12-8-1976 by O-11964 N.S.)

§24.0103 Definitions

Unless otherwise stated, for purposes of this Article:

Accumulated Additional Contributions means the sum of *Additional Contributions* credited to a *Member's* account and interest thereon.

Accumulated Contributions means *Accumulated Normal Contributions* plus any *Surviving Spouse Contributions*, *Cost of Living Annuity Contributions*, and *Accumulated Additional Contributions* credited to a *Member's* account.

Accumulated Normal Contributions means the sum of all normal cost contributions credited to a *Member's* account and interest thereon.

“*Actuarial Equivalent*” means a benefit of equal value when computed upon the basis of the mortality, interest, and other tables adopted by the Board by Rule. These Board Rules, as the same may be amended or adopted by the Board from time to time, are incorporated by reference into this Article as part of the Plan document. This definition is effective July 1, 1989.

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

Additional Contributions means post-tax contributions made by a *General Member* under section 24.0205 or a *Safety Member* under section 24.0305.

Annuity means a payment for life derived from contributions made by a *Member*.

“*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 means the monthly retirement benefit for service or disability paid to a *Member*, or a like amount which is deposited monthly in the account of a *DROP* participant, which includes: (1) the *Unmodified Service Retirement Allowance* (which is modified if the *Member* selects an optional retirement as provided in Division 6); (2) the *Cost of Living Annuity* for eligible *Members*; (3) the annual Cost of Living Adjustment (COLA) described in section 24.1505; and (4) the *Surviving Spouse Annuity* described in section 24.0601 (if selected by the *Member*). The *Base Retirement Benefit* does not include the Annual Supplemental Benefit (13th check) described in section 24.1503 or the Supplemental COLA adjustment described in section 24.1504.

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

“*Board*” means the Board of Administration for the City Employees’ Retirement System.

City means the City of San Diego.

City-Sponsored Health Insurance Plan means a group health insurance plan, selected by and under contract with the *City*, made available to retired *Members* receiving a retirement allowance from the *System*, and their eligible family members and dependents.

“Code” unless otherwise indicated means the Internal Revenue Code of 1986, as amended.

Continuous Service means an eligible *Member’s* service that is deemed to be of a continuous nature pursuant to section 24.1003. *Continuous Service* is not synonymous with *Creditable Service*.

“*Cost of Living Annuity*” means the amount added to the retirement allowance of a *Member* who has made Cost of Living Contributions, which is calculated as set forth in section 24.1507(b).

“*Cost of Living Annuity Contributions*” means the contributions paid by *Members* pursuant to section 24.1507(a).

Creditable Service, Service Credit, and Current Service mean: (1) service rendered for compensation as an employee or officer (employed, appointed or elected) of the City or a contracting agency, and only while he or she is receiving compensation from the City or a contracting agency, and is contributing to this *System* pursuant to appropriate provisions of this Article, and (2) service purchased or repurchased under Chapter 2, Article 4, Division 13. Except as provided in Chapter 2, Article 4, Division 13, for which repurchase of credits may be permissible, time during which a *Member* is absent from *City* service without compensation is not allowed in computing *Creditable Service*.

Creditable Service Pension means the pension derived from the *City’s* contributions, that when added to the *Member’s Service Retirement Annuity*, equals the *Unmodified Service Retirement Allowance*.

Deferred Member means a *Member* who leaves his or her employee contributions on deposit with the *System* after terminating *City* or contracting agency service. When a *Deferred Member* applies for retirement benefits, he or she is entitled, when eligible, for the retirement benefits that were in effect on the day the *Deferred Member* terminated *City* or contracting agency service and left his or her contributions on deposit with the *System*.

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

Elected Officer means a person who is elected to serve as the *City’s* Mayor, a member of the City Council, or the City Attorney, and who is initially hired or assumes office with the *City* before July 20, 2012.

Final Compensation means the *Member’s* highest one-year period of *Base Compensation* while a *Member*, for *General Members* hired before July 1, 2009, and *Elected Officers* regardless of hire date.

Final Compensation means the average of the *Member's* three highest years of *Base Compensation* while a *Member*, for *General Members* hired after June 30, 2009, but before July 20, 2012.

Final Compensation means the *Member's* highest one-year period of *Base Compensation* while a *Member*, for: (1) *Safety Members* employed in the *City Police Department* who were on the *City's* active payroll before January 1, 2012, (2) *Safety Members* employed in the *City Lifeguard Services* who were on the *City's* active payroll before July 1, 2011, and (3) *Safety Members* employed in the *City Fire Department* who were on the *City's* active payroll before January 1, 2012.

Final Compensation means the average of a *Member's* three highest years of *Base Compensation* while a *Member*, for: (1) *Safety Members* employed in the *City Police Department* who were hired by the *City* after December 31, 2011, but before July 1, 2013, (2) *Safety Members* employed in the *City Lifeguard Services* who were hired by the *City* after June 30, 2011, and (3) *Safety Members* employed in the *City Fire Department* who were hired by the *City* after December 31, 2011.

Final Compensation means the *Member's* highest consecutive 36 months of *Base Compensation* as a *Member* of the *System* for *Safety Members* employed in the *City Police Department* who were hired by the *City* after June 30, 2013.

General Member means a *Member* who was initially hired by the *City* before July 20, 2012, and who is not a *Safety Member* or an *Elected Officer*.

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

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

Member means a person employed by the *City* who actively participates in and contributes to the *System*, and who will be entitled, when eligible, to receive benefits from the *System*. There are three classes of *Member*: *General*, *Safety*, and *Elected Officer*.

Normal Contributions means normal cost contributions by a *Member* at the normal rates of contribution adopted by the *Board*, but does not include *Additional Contributions*, *Surviving Spouse Contributions*, or *Cost of Living Annuity Contributions* by a *Member*.

“*Public Agency*” means any city or public agency, located or having jurisdiction wholly or partially within the County of San Diego, that has no private sector ownership or control and has only public employees.

Public Agency Participant means a *Public Agency* employee who is: (1) compensated through the *Public Agency’s* payroll system, (2) treated as an employee by the *Public Agency* for tax-reporting and other purposes, and (3) participates in the *Public Agency’s* retirement plan administered by the *System* under Division 18 of this Article.

“*Qualified Retiree*” means a retiree who is eligible to receive the annual supplemental benefit set forth in Division 15.

“*Retirement Fund*” means the trust fund created by the City Charter in Article IX.

“*Retirement System*” and “*System*” means the City Employees’ Retirement System as created by this Article, and the “1981 Pension System” means the Employees’ Retirement System as created by Chapter II, Article 4, Division 11.

Rules means the current set of funding, contribution and actuarial equivalent factor rules promulgated by the *Board* and covering the period from July 1, 1989 to June 30, 2008, attached as Appendix A to San Diego Ordinance O-19740, and such rules, as the *Board* may amend or adopt from time to time, which will constitute part of the SDCERS written plan document for purposes of the Internal Revenue Code section 401(a) qualification requirements.

Safety Member means a *Member* who is one of the following: (1) a sworn officer of the *City* Police Department, (2) a uniformed member of the *City* Fire Department who was initially hired before July 20, 2012, (3) a full-time *City* lifeguard who was initially hired before July 20, 2012, or (4) effective July 1, 2003, a Police Department recruit employed by the *City* and participating in the *City’s* Police Academy, provided the recruit was initially hired by the *City* before July 1, 2013. Except as provided above, police cadets, persons sworn for limited purposes only, and all other employees of the *City’s* Police Department, Fire Department and lifeguard service are not *Safety Members*.

Service Credit means *Creditable Service*.

Service Retirement Annuity means the *Annuity* that is the *Actuarial Equivalent* of the *Member’s* *Accumulated Normal Contributions* at the time of the *Member’s* retirement.

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

Surviving Spouse Annuity means the annuity referenced in section 24.0601(e)(2).

“*Surviving Spouse Contributions*” means the contributions made by *Members* under section 24.0601.

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

“*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 this Article..

(Amended 6-3-2003 by O-19183 N.S.)

(Amended 4-28-2008 by O-19740 N.S.; effective 5-28-2008.)

(Amended 6-25-2009 by O-19874 N.S.; effective 7-25-2009.)

(Amended 5-31-2011 by O-20056 N.S.; effective 6-30-2011.)

(Amended 10-18-2011 by O-20105 N.S.; effective 11-17-2011.)

(Amended 7-20-2012 by O-20181 N.S.; effective 8-19-2012.)

(Amended 6-10-2014 by O-20376 N.S.; effective 7-10-2014.)

§24.0103.0001 Compliance with the California Domestic Partner Rights and Responsibilities Act of 2003

Unless otherwise stated, for purposes of this Article, the terms *Surviving Spouse* and “spouse” include a registered Domestic Partner pursuant to the California Domestic Partner Rights and Responsibilities Act of 2003. This section 24.0103.0001, as added by San Diego Ordinance O-19568 N.S., is retroactively effective January 1, 2005, to comply with California law.

(“Compliance with the California Domestic Partner Rights and Responsibilities Act of 2003” added 1-17-2007 by O-19568 N.S.; effective 2-16-2007.)

(Amended 4-28-2008 by O-19740 N.S.; effective 5-28-2008.)

(Amended 7-20-2012 by O-20181 N.S.; effective 8-19-2012.)

(Renumbered from Section 24.0103.1, and amended 6-10-2014 by O-20376 N.S.; effective 7-10-2014.)

§24.0104 Membership

- (a) Except as provided in subsection (c), membership in the *System* is compulsory and a condition of employment for all: (1) salaried, classified and unclassified employees initially hired by the *City* before July 20, 2012, who regularly work at least half-time, (2) police recruits initially hired before July 1, 2013, and (3) sworn officers in the *City's* police department regardless of hire date.
- (b) Classified employees paid on an hourly basis, who participate in the *City's* Supplemental Pension Savings Plan for Hourly Employees, are not salaried employees and are not eligible to join or accrue benefits in the *System*, except as provided in section 24.1304.
- (c) *Members* who are salaried employees and regularly work at least half-time, but less than full-time, accrue *Service Credit* in the same proportion to full benefits as their service relates to the service of a full-time *Member*.
- (d) Effective August 11, 1993, an unclassified employee who regularly works for the *City* at least half-time must join the *System* upon employment, if the employee: (1) was initially hired by the *City* before July 20, 2012, or (2) is a sworn police officer in the *City's* Police Department. Upon joining the *System*, the employee will receive all the privileges and benefits afforded other *Members* and will be bound by all regulations governing such membership.
- (e) Notwithstanding anything to the contrary in this section, the *Board* may, subject to rules it adopts under section 24.0901 and the requirements of this subparagraph, adjust a *Member's* first and last dates of membership to prevent a *Member* from earning *Service Credit* in the *System* for the same time period for which the *Member* is earning or has earned *Service Credit* in a reciprocal retirement system.
 - (1) The *Board* may adjust a *Member's* last date of membership only to eliminate *Service Credit* for a period during which the *Member* received annual leave after his or her last day of actual work for the *City*. The *Board* may not adjust a *Member's* last date of membership to eliminate *Service Credit* for time during which the *Member* actually performed work for the *City*.
 - (2) The *Board* may adjust a *Member's* first date of membership to a date after the *Member's* first day of *City* employment, but that date must not be more than 12 weeks after the *Member's* first day of *City* employment.

- (3) Notwithstanding subparagraphs (1) and (2), the Board may not adjust a *Member's* first and last dates of membership under this section if the adjustment will result in a period of *City* employment during which the *Member* would be subject to mandatory Social Security coverage.
- (4) In no event may the *Board* adjust membership dates under this section to include days during which a *Member* was not a *City* employee.

*(“Membership” renumbered from Sec. 24.0105 and amended 3–31–1997 by O–18392 N.S.)
(Amended 6-10-2014 by O-20376 N.S.; effective 7-10-2014.)*

§24.0105 Exclusion of Federally Funded Positions of Limited Duration

Notwithstanding the provisions of Section 24.0104, all persons hired by The City of San Diego after January 3, 1975, pursuant to provisions of federally funded programs of limited duration not requiring as a condition of such program transition to permanent positions in the Classified Service of the City, shall be ineligible for membership in the Retirement System.

*(“Same—Exclusion From” added 2–13–1975 by O–11488 N.S.)
(Renumbered from former Section 24.0105.1, retitled to “Exclusion of Federally Funded Positions of Limited Duration,” and amended 6-10-2014 by O-20376 N.S.; effective 7-10-2014.)*

§24.0106 Severability

If any section or part of this article be, for any reason, held unconstitutional or invalid by a court of competent jurisdiction, that holding shall not affect the validity of the remaining portions of this division, but such remaining portions shall be and remain in full force and effect.

*(“Severability” added 1–12–1971 by O–10479 N.S.)
(Renumbered from former Section 24.0107, and amended 6-10-2014 by O-20376 N.S.; effective 7-10-2014. Former Section 24.0106, repealed.)*

§ 24.0107 Salary Reduction Pick-Up Plan

Employee contributions, less any amounts paid by the City on behalf of the employee pursuant to the annual salary ordinance, are deducted from the gross pay of each *Member* and are transferred to the *Retirement System* on a bi-weekly basis for crediting to the *Member's* employee contribution account.

The City of San Diego will “pick up” the full amount of each *Member's* bi-weekly employee contribution to the *Retirement System*, as permitted by Internal Revenue Code section 414(h)(2) and in accordance with Revenue Ruling 2006-43 and any subsequent Internal Revenue Service guidance. The City Council specifies that these picked up contributions, although designated as employee contributions and deducted from each *Member's* gross pay, are being paid by the City. No *Member* has been, or will be, given a cash or deferred election right (within the meaning of Treasury Regulation section 1.401(k)-1(a)(3)) with respect to any designated employee contributions.

The adoption of this section by Ordinance constitutes official action, as required by Revenue Ruling 2006-43, evidencing the pick-up of contributions prospectively, and the prior pick-up of contributions on and after January 7, 1992, when the City first established this pick-up election by adopting San Diego Ordinance O-17877 on December 8, 1992.

(“Salary Reduction Pick-Up Plan” added 5-31-2011 by O-20056 N.S.; effective 6-30-2011.)

(Renumbered from former Section 24.0108 on 6-10-14 by O-20376 N.S.; effective 7-10-2014.)