

EXHIBIT 1

ARTICLE IX

(All executive authority, power, and responsibilities conferred upon the City Manager in this Article are transferred to the Mayor during the operative period of Charter Article XV. See Charter § 260(b).)

THE RETIREMENT OF EMPLOYEES

Section 141: City Employees' Retirement System

The Council of the City is hereby authorized and empowered by ordinance to establish a retirement system and to provide for death benefits for compensated public officers and employees, other than those policemen and firemen who were members of a pension system on June 30, 1946. No employee shall be retired before reaching the age of sixty-two years and before completing ten years of service for which payment has been made, except such employees may be given the option to retire at the age of fifty-five years after twenty years of service for which payment has been made with a proportionately reduced allowance. Policemen, firemen and full time lifeguards, however, who have had ten years of service for which payment has been made may be retired at the age of fifty-five years, except such policemen, firemen and full time lifeguards may be given the option to retire at the age of fifty years after twenty years of service for which payment has been made with a proportionately reduced allowance.

The Council may also in said ordinance provide:

- (a) For the retirement with benefits of an employee who has become physically or mentally disabled by reason of bodily injuries received in or by reason of sickness caused by the discharge of duty or as a result thereof to such an extent as to render necessary retirement from active service.
- (b) Death benefits for dependents of employees who are killed in the line of duty or who die as a result of injuries suffered in the performance of duty.
- (c) Retirement with benefits of an employee who, after ten years of service for which payment has been made, has become disabled to the extent of not being capable of performing assigned duties, or who is separated from City service without fault or delinquency.
- (d) For health insurance benefits for retired employees.

*(Editor's note: Supplement No. 655)
(Amendment voted 03-13-1945; effective 04-09-1945.)
(Amendment voted 04-19-1949; effective 05-20-1949.)
(Amendment voted 03-13-1951; effective 03-26-1951.)
(Amendment voted 06-08-1954; effective 01-10-1955.)
(Amendment voted 11-06-1990; effective 02-19-1991.)
(Amendment voted 11-08-1994; effective 01-30-1995.)
(Amendment voted 11-05-1996; effective 02-10-1997.)*

Section 142: Employment of Actuary

The Board of Administration hereinafter provided, shall secure from a competent actuary a report of the cost of establishing a general retirement system for all employees of The City of San Diego. Said actuary shall be one who has had actual experience in the establishing of retirement systems for public employees, and his position shall be considered one requiring expert or technical training within the meaning of subdivision (k) of Section 118 of Article VIII of this Charter.

Section 143: Contributions

The retirement system herein provided for shall be conducted on the contributory plan, the City contributing jointly with the employees affected thereunder. Employees shall contribute according to the actuarial tables adopted by the Board of Administration for normal retirement allowances, except that employees shall, with the approval of the Board, have the option to contribute more than required for normal allowances, and thereby be entitled to receive the proportionate amount of increased allowances paid for by such additional contributions. The City shall contribute annually an amount substantially equal to that required of the employees for normal retirement allowances, as certified by the actuary, but shall not be required to contribute in excess of that amount, except in the case of financial liabilities accruing under any new retirement plan or revised retirement plan because of past service of the employees. The mortality, service, experience or other table calculated by the actuary and the valuation determined by him and approved by the board shall be conclusive and final, and any retirement system established under this article shall be based thereon. Funding obligations of the City shall be determined by the Board on an annual basis and in no circumstances, except for court approved settlement agreements, shall the City and the Board enter into multi-year contracts or agreements delaying full funding of City obligations to the system. When setting and establishing amortization schedules for the funding of the unfunded accrued actuarial liability, the Board shall place the cost of the past service liability associated with a new retirement benefit increase on no greater than a fixed, straight-line, five year amortization schedule. Effective July 1, 2008, the Board shall place the cost associated with net accumulated actuarial losses on no greater than a fifteen year amortization

schedule and the Board shall place the benefit associated with net accumulated actuarial gains on no less than a five year amortization schedule. Notwithstanding the above, the Board shall retain plenary authority and fiduciary responsibility for investment of moneys and administration of the system as provided for in article XVI, section 17 of the California Constitution. The setting and establishing of amortization schedules by the Board pursuant this section is not intended and shall not be interpreted to preclude the City from issuing pension obligation bonds or other similar instruments containing repayment terms exceeding fifteen years.

(Amendment voted 03-13-1945; effective 04-09-1945.)

(Amendment voted 06-08-1954; effective 01-10-1955.)

(Amendment voted on 11-2-2004; effective on 04-01-2005)

Section 143.1: Approval of Retirement System Benefit

- (a) No ordinance amending the retirement system which affects the benefits of any employee under such retirement system shall be adopted without the approval of a majority vote of the members of said system. No ordinance amending the retirement system which increases the benefits of any employee, legislative officer or elected official under such retirement system, with the exception of Cost of Living Adjustments, shall be adopted without the approval of a majority of those qualified electors voting on the matter. No ordinance amending the retirement system which affects the vested defined benefits of any retiree of such retirement system shall be adopted without the approval of a majority vote of the affected retirees of said retirement system.
- (b) Prior to any proposed amendment of the retirement system which increases benefits of any employee, legislative officer or elected official under such retirement system being placed on the ballot, the retirement system shall prepare an actuarial study of the cost due to the benefit changes proposed based upon the amortization schedules established by Charter Section 143. A summary of the actuarial study shall be published in the ballot pamphlet.
- (c) Nothing in subsection (a) of this section shall prevent City officials from negotiating tentative agreements with employee organizations incorporating benefit changes to the extent permitted by state law, provided, however that no amendment of the retirement system which increases benefits, with the exception of the Cost of Living Adjustments, of any employee, legislative officer or elected official under such retirement system, shall become binding or effective until approved by a majority of those qualified electors voting on the matter, and shall not have any force or effect if rejected by said voters. The City Council shall have no authority to enter into final or binding agreements regarding retirement system benefit increases until and unless those increases to retirement system

benefits are approved by a majority of those qualified electors voting on the matter.

- (d) The requirement for voter approval of retirement system benefit increases shall become operative on January 1, 2007, for all proposed increases in retirement system benefits tentatively agreed upon by the City on or after that date. This requirement shall remain in effect for a period of fifteen (15) years from that date, at which time this requirement shall be automatically repealed and removed from the Charter.

(Addition voted 06-08-1954; effective 01-10-1955.)

(Amendment voted 11-06-1990; effective 02-19-1991.)

(Amendment voted 11-07-2006; effective 12-13-2006.)

Section 144: Board of Administration

Effective April 1, 2005, the system shall be managed by a newly constituted Board of Administration which shall consist of 13 members. Seven members shall constitute a quorum of the Board and the concurring vote of seven members shall be required for the Board to take any action. Prior to April 1, 2005, in anticipation of the effective date, and thereafter, members shall be selected to serve as follows:

- (a) Seven (7) members shall be appointed by the Mayor and confirmed by the Council. No person who is a City employee, participant in the Retirement System, or City union representative may be eligible for appointment in this category. Such appointees shall have the professional qualifications of a college degree in finance, economics, law, business, or other relevant field of study or a relevant professional certification. In addition, such appointees shall have a minimum of fifteen (15) years experience in pension administration, pension actuarial practice, investment management, real estate, banking, or accounting. Members of the Board serving in this category shall serve staggered terms of four (4) years each (inaugural appointments shall have three (3) members serving two year terms) and members in this category shall be limited to a maximum of eight (8) consecutive years in office and an interval of four (4) years must pass before such persons can be reappointed. Such appointees shall not have any other personal interests which would create a conflict of interest with the duties of a Board member and trustee.
- (b) One (1) police safety member of the Retirement System elected by the active police safety members to serve a four (4) year term, except that the inaugural member elected in 2005 to fill the seat in this category shall serve a two (2) year term.

- (c) One (1) fire safety member of the Retirement System elected by the active fire safety members to serve a four (4) year term.
- (d) Two (2) general members of the Retirement System elected by active general members of the Retirement System to serve a four (4) year term.
- (e) One (1) retired member of the Retirement System elected by the retired members of the Retirement System to serve a four (4) year term, except that the inaugural member elected in 2005 to fill the seat in this category shall serve a two (2) year term.
- (f) One (1) City management employee in the administrative service appointed by the City Manager to serve at the pleasure of the City Manager selected from the following: City Manager, City Treasurer, Deputy or Assistant City Manager, or person in a similar position who reports to the City Manager.

The Board of Administration may establish such rules and regulations as it may deem proper; shall elect one of its members president and appoint a secretary and may appoint such other employees as may be necessary. Such appointments, except the actuary, shall be made under the provisions of Article VIII of this Charter.

The Board of Administration shall be the sole authority and judge under such general ordinances as may be adopted by the Council as to the conditions under which persons may be admitted to benefits of any sort under the retirement system; and shall have exclusive control of the administration and investment of such fund or funds as may be established; and shall be permitted to invest in any bonds or securities which are authorized by General Law for savings banks; and, further, shall be permitted to invest in such additional classes or types of investments as are approved by resolution of the Council of the City of San Diego; provided, however, that individual investments within the classes or types approved by the Council must be approved by independent investment counsel; and, provided, further, the board may place such funds in the hands of the Funds Commission for investment. Provided, however, that the Auditor and Comptroller shall refuse to allow any warrant drawn for payment of a retirement allowance if, in the opinion of the Auditor and Comptroller, such retirement allowance has been granted in contravention of this Article or any ordinances passed under the authority granted herein.

(Amendment voted 03-13-1951; effective 03-26-1951.)

(Amendment voted 11-08-1960; effective 01-09-1961.)

(Amendment voted 11-04-1969; effective 01-29-1970.)

(Amendment voted 06-04-1974; effective 08-13-1974.)

(See Article X for additional members.)

(Amendment voted on 11-2-2004; effective on 04-01-2005)

Section 145: Retirement Fund

All moneys contributed by employees of the City or appropriated by the Council or received from any other source under the terms of this Article, shall be placed in a special fund in the City Treasury to be known as the City Employees' Retirement Fund, which said fund is hereby created. Such fund shall be a Trust Fund to be held and used only for the purpose of carrying out the provisions of this Article. No payments shall be made therefrom except upon the order of the Board of Administration. This fund may be placed by the Board under the Funds Commission for investment; but shall not be merged with other funds of the City.

Section 146: Additional Provisions

The Council is hereby fully empowered by a majority vote of the members to enact any and all ordinances necessary, in addition to the ordinance authorized in Section 141 of this Article, to carry into effect the provisions of this Article; and any and all ordinances so enacted shall have equal force and effect with this Article and shall be construed to be a part hereof as fully as if drawn herein.

Section 147: Former Pensioners Entitled to Benefits of this Article

All persons who were receiving pensions prior to the adoption of this Charter shall be entitled to all the provisions of this Article.

Section 148: Declaration of Intent

It is the intent and purpose of this Article, where not in conflict with the terms of the present existing City Employees' Retirement System, to continue said system in force and effect as existing at the time this Charter is adopted.

Section 148.1: Authority to Consolidate City Employees' Retirement System with State of California Retirement System And/or U.s. Government Social Security

Notwithstanding any of the provisions of this Article IX to the contrary, the Council may, with the approval of a majority of all active members of the City Employees' Retirement System, enter into a contract with the State of California wherein said employees shall be entitled to become members of and enjoy all of the benefits of the State Retirement System for state employees, and/or with the U. S. Government for the conferring of Social Security benefits upon such municipal employees; provided, however, that in any such contract provision shall be made for protecting and safeguarding any and all vested rights of the active and retired members of the City Employees' Retirement System as it exists under this Charter.

(Addition voted 04-21-1953; effective 05-29-1953.)

Section 149: Contracting Public Agencies

Subject to approval by the City Council, a public agency may participate in the City Employees Retirement Trust Fund. After a finding by the City Council that the public agency is eligible for participation in the Trust Fund and approval by the City Council of a contract between the Board of Administration and the public agency, as provided by ordinance, the Board may administer the benefits adopted by the public agency for its employees. The public agency shall establish its own benefits and vesting schedule. All monies contributed by the public agency and its employees or appropriated by the public agency or received from any other source under the terms of this Article shall be placed in the Trust Fund to be held and used only for the purpose of paying benefits and necessary expenses of administration related to the public agency's participation. The public agency and its employees shall be responsible for all costs associated with participation in the Fund and the administration of the public agency's benefits. The Board may establish such rules and regulations as it may deem proper, within the terms of applicable Charter sections and ordinances, for the administration of the public agency's contract and benefits.

(Addition voted 03-05-2002; effective 04-24-2002.)

ARTICLE X

TRANSFER OF POLICE AND FIRE DEPARTMENT EMPLOYEES INTO THE RETIREMENT SYSTEM

Notwithstanding any language in Article IX of this Charter to the contrary the City Council shall, upon the taking effect of this amendment, by ordinance provide for the transfer into the City Employees' Retirement System of all members of the Police and Fire Departments of the City of San Diego who were regularly employed and members of their respective Pension systems on June 30, 1946; provided, however, that in any such ordinance said Council shall provide as follows:

- (1) A minimum retirement allowance of \$200.00 per month when a member has completed the required number of years of service as provided in this Charter, and who at the effective date of the ordinance is receiving a monthly salary of at least \$400.00.
- (2) For retirement of members of the Police Department who entered the service of the department on or prior to the 8th day of May, 1941, and who have served for 20 years or more in the aggregate as a member or employee in any rank or capacity in said department, regardless of age, and for the retirement of members of the Police Department who entered the service of the department subsequent to the 8th day of May, 1941, after completion of 25 years of service in the aggregate.
- (3) For retirement of members of the Fire Department who entered the service of the Department on or prior to January 1, 1936, and who have served for 20 years or more in the aggregate as a member or employee in any rank or capacity in said department, regardless of age, and for the retirement of members of the Fire Department who entered the service of the department subsequent to the 1st day of January, 1936, after completion of 25 years of service in the aggregate.
- (4) Each member of either the Fire or Police Department who is entitled to retire after 20 years of aggregate service with the City shall receive a pension credit of 2 ½% of his final compensation for each year completed at the effective date of said ordinance, but in no case shall such credit exceed 50 % of such final compensation. For each year completed after the effective date of said ordinance the member shall be credited with 1/60th of his final compensation. The pension credits specified above will not be allowable until after such member shall have reached the age of 50 years. No member of either department who is entitled to retire after 20 years as above and who has had 20 years of service in the aggregate shall receive less than the following: \$200.00 per month as retirement allowance, together with such

additional amount per month as will represent the actuarial equivalent of that portion of the contributions of such member contributed after his 20th year of service but before his attainment of age 50.

- (5) Members of the Fire and Police Departments who are not eligible for retirement until the completion of 25 years of service in the aggregate shall receive a pension credit of 2 % of their final compensation for each year completed at the effective date of said ordinance, provided that such credit shall not exceed 50 % of such final compensation, and in addition thereto shall be entitled to credits of 1/60th of their final compensation for each year completed after the effective date of the ordinance. The pension credits specified in this paragraph will not be allowable until after such member shall have reached the age of 55 and has completed 20 years of aggregate service in the department, provided, however, that such member may be permitted to retire at the age of 50 years after 20 years of aggregate service in the department with a reduced allowance, as provided in Article IX and the ordinance passed pursuant thereto. Except as to those members who are forced to retire because of disability or who die, 'Final Compensation' within the meaning of paragraphs 4 and 5 hereof shall be the highest average compensation received during any five consecutive years of service, limited, however, to the following monthly maximums for members who retire: During the first year after the ordinance is adopted, \$400.00; during the second year, \$500.00; during the third year, \$600.00; during the fourth year, \$700.00; during the fifth year, \$800.00; and after the end of the fifth year there shall be no ceiling considered in determining the amount of the final compensation. As to those members who are compelled to retire because of disability or who die after the ordinance becomes effective 'Final Compensation' shall be defined as above, but with the following monthly maximums: For death or disability occurring during the first year, after the ordinance is adopted, \$500.00; during the second year, \$600.00; during the third year, \$700.00; during the fourth year, \$800.00; during the fifth year, \$900.00; and after the end of the fifth year no ceiling shall be considered in determining the amount of the final compensation.
- (6) No member of either the Fire or Police Departments transferred pursuant to the provisions of this Article of the Charter shall be required to contribute in excess of 8% of his total salary; and each member so transferred shall be classed as a safety member of a special class and shall be entitled to all of the service credit earned by such member in the Police and Fire Retirement System up to the date of transfer without further contributions from said member because of absences prior thereto while serving in the armed forces of the United States.

Immediately upon the taking effect of the ordinance making the transfer of members into the City Employees' Retirement System, all of the provisions of Article IX not inconsistent with the hereinabove provided, together with any ordinance passed pursuant

thereto, shall be applicable to such transferred members, and the Police and Fire Retirement System heretofore created in 1947 is abolished, and except as prescribed by this amendment all benefits therein authorized are canceled.

All moneys in the Police and Fire Retirement Fund at the date of the taking effect of the ordinance transferring said members are hereby transferred to the City Employees' Retirement Fund.

Nothing herein contained shall be construed in any way so as to affect the vested rights of members of the Police and Fire Departments who have been heretofore retired by virtue of any retirement or pension system of The City of San Diego.

(Amendment voted 04-19-1955; effective 05-05-1955.)

Note: Sections 149-192, relative to Police Relief and Pension Fund and Fire Relief and Pension Fund, were amended at various times, combined in 1947, and replaced in 1955 by new Article X.

(Amendment vote 11-02-2004; effective on 04-01-2005)

EXHIBIT 2

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 standing to the credit of a Member’s individual account and interest thereon.

“Accumulated Contributions” means Accumulated Normal Contributions plus any Accumulated Additional Contributions standing to the credit of a Member’s account.

“Accumulated Normal Contributions” means the sum of all normal contributions standing to the credit of a Member’s individual account and interest thereon.

“Actuarial Equivalent” means a benefit of equal value when computed upon the basis of the mortality, interest and other tables adopted by the Board for this purpose.

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

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

“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 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. 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 Codes 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 shall be modified if the member selects an optional retirement as provided in Division 6); 2) the Cost of Living Annuity; 3) the annual Cost of Living Adjustment (COLA) described in Section 24.1505; and 4) the Surviving Spouse Annuity described in Section 24.0521 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 sponsored health insurance plan" means a group health insurance plan, selected by and in contractual privity with the City of San Diego, made available to Health Eligible Retirees.

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

“*Continuous Service*” means service of an eligible Member deemed to be of a continuous nature pursuant to Section 24.1005 of this Code. “*Continuous Service*” shall not be construed as synonymous with “Creditable Service.”

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

“*Creditable Service*” for purposes of qualification for benefits and retirement allowances under this System means service rendered for compensation as an employee or officer (employed, appointed or elected) of the City or a contracting agency, and only while he or she is receiving compensation from the City or contracting agency, and is a Member of and contributing to this System pursuant to appropriate provisions of this Article. Except as provided in Chapter 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 shall not be allowed in computing Creditable Service. The term “*Current Service*,” shall mean the same as Creditable Service.

“*Creditable Service Pension*” means the pension derived from the contributions of the City, that when added to the Member’s Service Retirement Annuity, is sufficient to equal the Unmodified Service Retirement Allowance.

“*Deferred Member*” means any Member who leaves his or her employee contributions on deposit with the Retirement 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 in effect on the day the Deferred Member terminates City or contracting agency service and leaves his or her contributions on deposit with the Retirement System.

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

“*Elected Officer*” means the Mayor, members of the City Council, and the City Attorney.

“*Final Compensation*” for General Members and Elected Officers means the Base Compensation based on the highest one year period during membership in the Retirement System for those Members and Officers who are on the active payroll of the City of San Diego on or after June 30, 1989, and who retire on or after July 1, 1989.

“Final Compensation” for Safety Members means the Base Compensation for the highest one year period during membership in the Retirement System, for those Safety Members who are on the active payroll of The City of San Diego on or after January 1, 1988, and who retire on or after July 1, 1988.

“General Member” is any Member not otherwise classified as a Safety Member or Elected Officer.

“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 (2) retires on or after October 6, 1980, and (3) is eligible for and is receiving a retirement allowance from the Retirement System.

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

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

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

“Prior Service” means service prior to January 1, 1927.

“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 Retirement 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.

“*Safety Member*” means any Member who is: (1) a sworn officer of the City Police Department hired after July 1, 1946, (2) a uniformed member of the City Fire Department hired after July 1, 1946, (3) a full-time City lifeguard, or (4) effective July 1, 2003, a Police Department recruit employed by the City and participating in the City’s Police Academy. Except as provided above, police cadets, persons sworn for limited purposes only, and all other employees of the Police Department, Fire Department and lifeguard service are not Safety Members.

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

“*Surviving Spouse Annuity*” means an amount to be added to the Member’s Base Retirement Benefit, calculated by computing the Actuarial Equivalent of the Accumulated Contributions in the Member’s Surviving Spouse Annuity account at the time of the Member’s retirement or participation in DROP, if the Member is not married at the effective date of retirement and elects to annuitize.

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

“*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 Retirement Calculation Factor selected by the Member for the calculation of the Member’s Base Retirement Benefit, in accordance with Sections 24.0402 and 24.0403.

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

§24.0103.1 Compliance with the California Domestic Partner Rights and Responsibilities Act of 2003

Unless otherwise stated, for purposes of this article: “surviving spouse” includes a registered Domestic Partner pursuant to the California Domestic Partner Rights and Responsibilities Act of 2003.

(“*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.)

§24.0104 Membership

- (a) Membership in the Retirement System shall be compulsory and a condition of employment for all members of the classified and unclassified service.
- (b) Effective July 1, 1991, employees in the Classified Service are required to join the Retirement System on the date of their employment.
- (c) Employees in the classified service paid on an hourly basis are not eligible for membership in the Retirement System nor shall they accrue any benefits in this system except as provided in Section 24.1304. Salaried employees in the classified service including those working one-half (1/2) or three-quarter (3/4) time are eligible for and shall become members of the Retirement System. Retirement benefits shall accrue to the above eligible members in the same proportion to full benefits as their service relates to the service of a full-time member.
- (d) Effective August 11, 1993, employees in the unclassified service are required to join the Retirement System on the date of their employment providing they are employed one-half (1/2), three-quarter (3/4) or full-time. Upon joining the System, they shall receive all the privileges and benefits afforded other members and shall be bound by all regulations governing such membership.
- (e) All eligible members in the Classified service transferring to the unclassified service pursuant to Section 117 of the City Charter shall be required to remain in and maintain membership in the Retirement System unless said person first terminates classified employment prior to assuming the unclassified position.
("Membership" renumbered from Sec. 24.0105 and amended 3-31-1997 by O-18392 N.S.)

§24.0105.1 Same—Exclusion From

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.)

§24.0106 Transfer of Special Class

All members of the Police and Fire Retirement System for policemen and firemen of The City of San Diego who were regularly employed on June 30, 1946, are hereby transferred to the City Employees' Retirement System, who from the effective date of this amendment shall be classed and known as safety members of a special class, or

special class safety members. From and after the effective date of this amendment all of such members so transferred shall be entitled to all of the privileges and benefits of safety members of the City Employees' Retirement System, except as hereinafter in this ordinance specifically provided to the contrary.

("Transfer of Special Class" added 12-8-1976 by O-11964 N.S.)

§24.0107 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.)

EXHIBIT 3

LEXSTAT CA LAB C 4659

DEERING'S CALIFORNIA CODES ANNOTATED
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*** THIS DOCUMENT REFLECTS ALL URGENCY LEGISLATION ENACTED ***
*** THROUGH 2007 CH. 750, APPROVED 10/14/07 ***

LABOR CODE
Division 4. Workers' Compensation and Insurance
Part 2. Computation of Compensation
Chapter 2. Compensation Schedules
Article 3. Disability Payments

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Lab Code § 4659 (2007)

§ 4659. Permanent disability 70% or more; Permanent total disability; Annual payment increases

(a) If the permanent disability is at least 70 percent, but less than 100 percent, 1.5 percent of the average weekly earnings for each 1 percent of disability in excess of 60 percent is to be paid during the remainder of life, after payment for the maximum number of weeks specified in Section 4658 has been made. For the purposes of this subdivision only, average weekly earnings shall be taken at not more than one hundred seven dollars and sixty-nine cents (\$107.69). For injuries occurring on or after July 1, 1994, average weekly wages shall not be taken at more than one hundred fifty-seven dollars and sixty-nine cents (\$157.69). For injuries occurring on or after July 1, 1995, average weekly wages shall not be taken at more than two hundred seven dollars and sixty-nine cents (\$207.69). For injuries occurring on or after July 1, 1996, average weekly wages shall not be taken at more than two hundred fifty-seven dollars and sixty-nine cents (\$257.69). For injuries occurring on or after January 1, 2006, average weekly wages shall not be taken at more than five hundred fifteen dollars and thirty-eight cents (\$515.38).

(b) If the permanent disability is total, the indemnity based upon the average weekly earnings determined under Section 4453 shall be paid during the remainder of life.

(c) For injuries occurring on or after January 1, 2003, an employee who becomes entitled to receive a life pension or total permanent disability indemnity as set forth in subdivisions (a) and (b) shall have that payment increased annually commencing on January 1, 2004, and each January 1 thereafter, by an amount equal to the percentage increase in the "state average weekly wage" as compared to the prior year. For purposes of this subdivision, "state average weekly wage" means the average weekly wage paid by employers to employees covered by unemployment insurance as reported by the United States Department of Labor for California for the 12 months ending March 31 of the calendar year preceding the year in which the injury occurred.

HISTORY:

Added Stats 1971 ch 1750 § 5.7, operative April 1, 1972. Amended Stats 1973 ch 1023 § 7, operative April 1, 1974. Amended Stats 1993 ch 121 § 52.5 (AB 110), effective July 16, 1993; Stats 2002 ch 6 § 67 (AB 749).

EXHIBIT 4

