

(O-89-213)

ORDINANCE NUMBER O- 17295 (NEW SERIES)

ADOPTED ON MAY 15 1989

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 24.0105, 24.0907.2, 24.1102, 24.1103 AND 24.1120 RELATING TO PROVIDING RETIREMENT BENEFITS OF THE CERS PLAN TO GENERAL MEMBERS FROM AND AFTER JULY 1, 1989 AND OTHER RELATED MATTERS; AMENDING SECTION 24.0515 TO DELETE WORKERS COMPENSATION OFFSET FOR GENERAL AND LEGISLATIVE MEMBERS EFFECTIVE JULY 1, 1989; AMENDING SECTIONS 24.0103, 24.0201 AND 24.0544 RELATING TO FINAL COMPENSATION FOR GENERAL MEMBERS AND CONTRIBUTIONS IN CONNECTION THEREWITH; AMENDING VARIOUS SECTIONS IN CONNECTION WITH THE ABOVE CHANGES TO CORRECT AND CLARIFY EXISTING SECTIONS, PROVISIONS AND PROCEDURES.

WHEREAS, last Summer the Council authorized the Management Team to meet and confer with the Municipal Employees Association and Local 127 AFSCME, AFL-CIO, regarding improvements in retirement benefits; and

WHEREAS, such negotiating occurred and agreement was reached between the parties in respect to such changes which included granting CERS benefits to general members from and after July 1, 1989 with certain conditions and exclusions, but precluding any right of buy-back for previous CERS service; eliminating workers compensation offset for general member disability retirees effective July 1, 1989; and using as final compensation for retirement purposes for general members the highest one-year compensation, for all general members on the active payroll as of June 30, 1989 and retiring on or after July 1, 1989, with a

concurrent increase in contribution rates of 4/10 of one percent (1%) to be effective December 30, 1988; and

WHEREAS, these changes were voted upon by all general members and vote count certified on the second day of November 1987 with a vote of YES - 2,608, NO - 250, and VOID - 31, said certification attached hereto as Attachment A, the results of which were reported to and approved unanimously by the Retirement Board at its special meeting of January 13, 1989; and

WHEREAS, it is now necessary and appropriate to amend the Municipal Code to provide for the above recited changes and to amend various other sections for purposes of clarifying the code in respect to ambiguous terms or provisions and for other procedural purposes; NOW, THEREFORE,

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

Section 1. That Chapter II, Article 4, of the San Diego Municipal Code be and the same is hereby amended by amending sections 24.0103, 24.0105, 24.0907.2, 24.1102, 24.1103, and 24.1120, relating to grant of CERS benefits and high one-year final compensation, said sections to read as follows:

SEC. 24.0103 DEFINITIONS

Unless the context otherwise requires, the definitions and general provisions contained in this section govern the construction of this article.

Subsections a. through d. - no change.

e. "Member" means any person who actively participates in and contributes to the Retirement System and who is thereafter entitled, when eligible, to receive benefits therefrom. There are three classes of members: General, Safety and Legislative.

Subsections f. through k. - no change.

1. (1) "Final compensation" for General and Legislative members means the compensation earnable based on the highest one-year period for those members 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. The Retirement Board shall adjust contribution rates for high one-year General and Legislative member eligibles as may be necessary and required upon advice of the Actuary, from and after December 30, 1988.

(2) "Final compensation" for safety members means the compensation earnable based on the highest one-year period, 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. The Retirement Board shall adjust contribution rates for high one-year safety member eligibles as may be necessary and required upon advice of the Actuary, from and after January 1, 1988.

Subsections M. through u. - no change.

SEC. 24.0105 MEMBERSHIP

a. Except such members of the Police and Fire Departments who were employed by The City of San Diego prior to July 1, 1946, and except such employees as have not heretofore been members of the Retirement System which is superceded in part hereby, and except as provided in section 24.0105.1, membership in the Retirement System shall be compulsory and a condition of employment for all members of the classified service; provided, however, that no officer or employee of The City of San Diego, whether in the classified or unclassified service of the City, shall be required nor permitted to join the Retirement System if said person's employment with the City commences after his or her 70th birthday. Those employees who are not members of the Retirement System which is superceded in part hereby at the date of the taking effect of this article, except policemen and firemen who were employed by the City on or before July 1, 1946, shall be given the option of becoming members, as hereinafter provided.

b. Employees in the Classified Service shall not be compelled to join the Retirement System until the expiration of six months from the date of their employment; except that such employees may at

their option join said system immediately upon employment without waiting for the expiration of six months.

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. 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. All salaried unclassified employees hired on or before September 2, 1982 shall have the option of electing membership in the Retirement System (CERS Plan) providing they are employed one-half, (1/2), three-quarter (3/4) or full-time and exercise the option within one year of their hire date or June 30, 1988, such unclassified employees shall no longer be eligible to join said CERS Plan. Once the election has been made, it shall be irrevocable. 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 including

those provisions relating to withdrawal of accumulated contributions contained in sections 24.0206 and 24.0308.

e. Irrespective of the foregoing, all classified employees hired on or before September 2, 1982, whether full or part-time, shall continue to have the right to join the City Employees' Retirement System, as provided for in Divisions 1 through 10, no later than June 30, 1983. On or after July 1, 1983, such employees shall no longer be eligible to join said City Employees' Retirement System but shall be governed by section 24.1102 (c).

f. All salaried classified and unclassified employees working at least one-half time hired on or after September 3, 1982, will be subject to the membership requirements of section 24.1102, except as provided otherwise in this code for safety members from and after January 1, 1988 and General Members from and after July 1, 1989.

g. 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.

**SEC. 24.0907.2 CITY-SPONSORED GROUP HEALTH
INSURANCE FOR ELIGIBLE RETIREES**

From and after January 8, 1982, The City of San Diego shall provide a City-Sponsored Group Health Insurance Program for all eligible retirees. Eligibility for retiree participation in the Program shall be as follows:

(a) The plan shall be limited to:

1. All employees eligible for general membership in the City's Retirement System, provided, however, that General Members in the 1981 Pension Plan that were granted CERS benefits by section 24.1102, to be effective July 1, 1989, shall not be considered as eligible for purposes of participating in this Program; or

2. Legislative officers; or

3. Safety members covered by Social Security coverage as of December 31, 1981.

4. All other safety members effective July 1, 1985.

(b) Employee must be on the active payroll of The City of San Diego on or after October 5, 1980; and

(c) Employee must be eligible for and receive a retirement allowance from The City of San Diego; and

(d) Employee, including safety member, must retire on or after October 6, 1980.

Retiree premiums shall be paid by the City from Investment Earnings as provided in section 24.0907.1 above. The Auditor and Comptroller shall set aside from such account an amount sufficient to pay premiums as required. If sufficient funds are not available for the payment of health insurance premiums under this section, it shall be the responsibility of the City to provide such funds from sources as may be applicable. Premium rates for eligible retirees shall be determined and established by the City. Health plan coverage for eligible retirees and eligible dependents is subject to modification by the City and the provider of health care services, and may be modified periodically as deemed necessary and appropriate.

Eligible retirees may elect to continue group health insurance coverage for eligible dependents at their own expense. Premium rates for such dependent coverage shall be determined and established by the City.

SEC. 24.1102 MEMBERSHIP

(a) All salaried employees working at least one-half time in the Classified Service hired on and after September 3, 1982, shall become members of the 1981 Pension Plan as a condition of employment. Those employees shall not be compelled to join the Plan until the expiration of six months from the date of their employment, except that such employees may, at their option, join said Plan immediately upon employment without waiting for the expiration of six months. Safety Members shall enter the 1981 Pension Plan on the first day of the pay period following completion of their training academy. All other Safety Members who have completed their training at the effective date of this section and who have not completed the one-year waiting period, will automatically join the plan upon said effective date.

(b) All salaried employees working at least one-half time in the Unclassified Service hired on and after September 3, 1982, shall have the option to elect to become members of the 1981 Pension Plan.

(c) Employees who were hired on or before September 2, 1982 may elect to become members of the 1981 Pension Plan, by signing the appropriate election form approved by the Board. Such election

must be made prior to July 1, 1983. Upon making such election, membership in the 1981 Pension Plan shall be immediate providing the employee has one year of continuous service. Membership for those lacking one year's service shall be effective after the completion of such requirement. Such employees shall not receive creditable service under this System for services rendered prior to entry into this System. Upon such election, all contributions made to the City Employee's Retirement System shall be expeditiously returned and such employee shall waive all rights to any and all benefits he or she may otherwise have been entitled to under the City Employees' Retirement System. Notwithstanding the preceding provision, salaried unclassified employees shall have the option set forth in section 24.0105 until June 30, 1988 and, failing to exercise that election, shall have the option to become members of the 1981 Pension Plan at any date thereafter upon filing the appropriate election form.

(d) Notwithstanding any provision of this Division 11, all safety members who are members of the 1981 Pension Plan shall, effective January 1, 1988, be entitled to all the rights and benefits of the City Employees' Retirement System (CERS) Plan. Contribution rates for those safety members

accorded such CERS rights and benefits shall be established by the board as provided in Division 3 of this article commencing with section 24.0301, according to the member's age of entry in the 1981 Pension Plan. The provision of section 24.1120 below shall continue in full force and applicability for all safety members who were members of the 1981 Pension Plan as of December 31, 1987 and for all safety members employed thereafter. Pursuant to subsection (c) above, any safety member who was previously covered by CERS and withdrew therefrom to enroll in the 1981 Pension Plan, shall not be entitled or permitted to repurchase said prior creditable service in CERS.

(e) Notwithstanding any provision of this Division 11, all general members who are members of the 1981 Pension Plan shall, effective July 1, 1989, be entitled to all the rights and benefits of the City Employees' Retirement System (CERS) Plan except as otherwise provided herein. Contribution rates for those general members accorded such CERS rights and benefits shall be established by the Board as provided in Division 2 of this article commencing with section 24.0201, according to the member's age of entry in the 1981 Pension Plan. The provision of section 24.1120 below shall continue in full force and applicability for all

general members who were members of the 1981 Pension Plan as of June 30, 1989 and for all general members employed thereafter. Pursuant to subsection (c) above, any general member who was previously covered by CERS and withdrew therefrom to enroll in the 1981 Pension Plan, shall not be entitled or permitted to repurchase said prior creditable service in CERS. General members granted CERS benefits by this section shall not, pursuant to section 24.0907.2, be eligible for City-sponsored Group Health Insurance for retirees.

SEC. 24.1103 MEMBER CONTRIBUTIONS

(a) General Members shall contribute 3.25% of earnable compensation except as provided otherwise in sections 24.1102(e) and 24.0201 subsection 5.

(b) Safety members shall contribute seven percent (7.00%) of earnable compensation except as provided otherwise in sections 24.1102(d) and 24.0301 subsection 5.

(c) Member contributions shall be deducted by the City Auditor and Comptroller from each payroll warrant-check and shall be transferred to the Retirement Fund for crediting to each individual member's account.

SEC. 24.1120 INDUSTRIAL DISABILITY

(a) Any Member, as defined in section 24.0103(e), permanently incapacitated from the performance of duty

as the result of physical injury or disease arising out of or in the course of his or her employment; and

(1) not arising from a preexisting medical condition, or

(2) not arising from a nervous or mental disorder, irrespective of claimed causative factors,

shall be retired for disability with retirement allowance, regardless of age or amount of service.

(b) The Board of Administration shall prescribe rules and regulations setting forth procedures for the retirement of a Member for disability.

(c) Upon retirement of a Member for industrial disability, he or she shall receive in equal monthly installments a disability retirement allowance.

(1) For Safety Members - 50% of his or her final compensation.

(2) For General Members - 33 1/3% of his or her final compensation.

or, if qualified for service retirement, he or she shall receive his or her service retirement allowance if such allowance is greater. The disability retirement allowance for a Member retired because of industrial disability shall be derived from an annuity based on his or her

accumulated normal contributions and a disability pension derived from contributions of the City.

Section 2. That Chapter II, Article 4 of the San Diego Municipal Code be and it is hereby further amended by amending sections 24.0201, 24.0515 and 24.0544 by adding new subsections relating to Workers Compensation set-off and high one-year contribution rates, said sections to read as follows:

SEC. 24.0201 CONTRIBUTION OF GENERAL MEMBERS

The Board of Administration shall provide:

Subsections 1. through 4. - no change.

5. Notwithstanding the provisions above, all general members shall contribute, in addition to normal rates established by the Board, an additional four-tenths (4/10) of one percent (1%) in connection with the high one-year basis for final compensation, said contributions to commence from and after December 30, 1988.

SEC. 24.0515 INDUSTRIAL DISABILITY - WORKERS COMPENSATION

Subsections (a) through (b) - no changes.

(c) Notwithstanding the provision of subsection (a) above, the requirement to set off any compensation received in the nature of workers compensation shall not be applicable to general members from and after July 1, 1989. All set-off requirements and actions previously imposed upon general members pursuant to this section shall, as

of July 1, 1989 be discontinued, such action to be prospective only. No right of claim to prior valid offsets (prior to July 1, 1989) shall exist. Such discontinuance shall apply to all existing and future industrially retired general members.

SEC. 24.0544 CONTRIBUTION RATE

The City Auditor and Comptroller shall withhold from the wages or salary of a legislative officer who becomes a member of this system 8% of his earnable compensation for deposit in the Retirement Fund and placed to the credit of the individual member's account. The contribution rate shall also be 8% of earnable compensation for the period of time for which a member is electing to receive prior service credits. Notwithstanding the above, all participating legislative members shall contribute an additional four-tenths (4/10) of one percent (1%) in connection with the high one-year basis for final compensation, said additional contribution to commence from and after December 30, 1988.

Section 3. That Chapter II, Article 4 of the San Diego Municipal Code be and it is hereby further amended by amending sections 24.0501, 24.1001 and 24.1007, relating to corrections and clarifications of existing provisions and procedures, said sections to read as follows:

**SEC. 24.0501 INDUSTRIAL DISABILITY - SAFETY AND
GENERAL MEMBER**

Any member, including a safety member, permanently incapacitated from the performance of duty as the result of injury or disease arising out of or in the course of his or her employment, shall be retired for disability with retirement allowance, regardless of age or amount of service. Any member, including a safety member, permanently incapacitated from any other cause shall be retired regardless of age but with a retirement allowance only after ten years of creditable service.

The Board of Administration shall prescribe rules and regulations setting forth the procedure for the retirement of a member or safety members for disability. Applicants for any disability retirement shall be governed by the limitations set forth in California Code of Civil Procedure section 1094.6.

**SEC. 24.1001 PURCHASE OF SIX-MONTH PROBATIONARY
PERIOD**

Any member who does not have creditable service for any period of eligible City service during his or her initial six-month probationary period of employment with the City shall have the right to elect to receive credit for such service at retirement providing that, prior to retirement, said member pays a lump sum into the System in an amount equal to the contributions which would have

been made to the Retirement System if the employee had been a member during that portion of the six-month probationary period. The amount payable shall be computed by multiplying the average rate of contribution of General or Safety Members as determined by the Retirement Board times the compensation received by the employee during that portion of the probationary period concerned, rounding the monthly salary off to the nearest \$100, plus an average interest of four and one-half percent (4 1/2%) per year from the date of entrance into the System until the date of retirement.

SEC. 24.1007 MILITARY SERVICE - BOARD RULE COVERING

The Board of Administration is hereby authorized and vested with power to enact rules and regulations which shall govern the status of members of the Retirement System who either voluntarily or involuntarily enter into the service of the United States Military forces, which rules and regulations shall safeguard the interest of such members to the extent that they shall not be deprived in any way of any benefit secured by General law of the State because of such absence; provided, however, that such rules and regulations shall provide that during such absence on Military service, he shall nevertheless not receive credit

for full retirement allowance for such period of absence unless such member shall have paid into the Retirement Fund that amount of contributions which said member absent on military leave would have paid into the fund had he not been absent; provided, however, that said member shall have the right to pay into the fund that amount of contributions at any time prior to retirement.

Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By Jack Katz
Jack Katz
Senior Chief Deputy

JK:skc
04/27/89
10/03/89 COR.COPY
Or.Dept.:Mgr./Ret.
O-89-213
From=o.none



THE CITY OF
SAN DIEGO

ATTACHMENT A

UNION BANK BUILDING • 525 "B" STREET • SUITE 413 • SAN DIEGO, CA 92101-4408
(619) 533-4660

CITY EMPLOYEES'
RETIREMENT
SYSTEM

January 9, 1989

This is to certify that on the ninth day of January 1989 I witnessed the opening and counting of ballots for the General Members Benefit Election. The results of such election were as follows:

YES.....2,608
NO..... 250
VOID..... 31
TOTAL BALLOTS RECEIVED....2,889

Signed: *Lawrence Grissom*
Lawrence Grissom, Retirement Administrator

Signed: *Cruz Gonzalez*
Cruz Gonzalez, Retirement Board Member

Signed: *John F. Casey*
John Casey, Retirement Board Member

ATTACHMENT A

0-17295

2/8/90

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SAN DIEGO, CALIF

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APPROVED: _____

[Handwritten Signature]

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SAN DIEGO, CALIF

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MAY 15 1989

Passed and adopted by the Council of The City of San Diego on.....
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By *Ellen Boward*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

MAY 1 1989, and on MAY 15 1989

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By *Ellen Boward*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17295 Adopted MAY 15 1989

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SAN DIEGO, CA

CERTIFICATE OF PUBLICATION

17-
CITY OF SAN DIEGO
CITY CLERK
MAY 29 1989

CITY OF SAN DIEGO
202 C STREET, SECOND FLOOR
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 4 OF
THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS
24.0105, 24.0907.2, 24.1102, ET AL . . .

ORDINANCE NUMBER O-17295 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 24.0105, 24.0907.2, 24.1102, 24.1103 AND 24.1129 RELATING TO PROVIDING RETIREMENT BENEFITS OF THE CERS PLAN TO GENERAL MEMBERS FROM AND AFTER JULY 1, 1989 AND OTHER RELATED MATTERS; AMENDING SECTION 24.0515 TO DELETE WORKERS COMPENSATION OFFSET FOR GENERAL AND LEGISLATIVE MEMBERS, EFFECTIVE JULY 1, 1989; AMENDING SECTIONS 24.0103, 24.0201 AND 24.0544 RELATING TO FINAL COMPENSATION FOR GENERAL MEMBERS AND CONTRIBUTIONS IN CONNECTION THEREWITH; AMENDING VARIOUS SECTIONS IN CONNECTION WITH THE ABOVE CHANGES TO CORRECT AND CLARIFY EXISTING SECTIONS, PROVISIONS AND PROCEDURES

This ordinance amends the municipal code by amending the retirement ordinances contained in sections 24.0101 et seq. by providing retirement benefits of the CERS plan to General Members of the 1981 plan from and after July 1, 1989. It also deletes the worker's compensation offset for General and Legislative Member in section 24.0515 effective July 1, 1989. It also changes the definition of "Final Compensation" in section 24.0103 to high one-year and adjusts contribution rates accordingly. Finally, various sections are amended in connection with the above changes to correct and clarifying existing sections, provisions and procedures.

A complete copy of the ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on May 1, 1989
Passed and adopted by the Council of The City of San Diego on May 15, 1989

AUTHENTICATED BY: MAUREEN O'CONNOR
Mayor of The City of San Diego, California
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California
By ELLEN BOVARD, Deputy
Pub. May 29 144515

THOMAS D. KELLEHER

I, _____, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

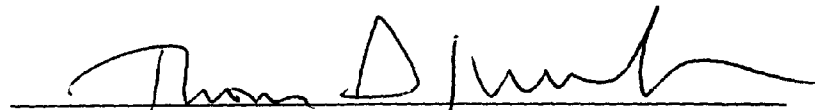
ORDINANCE NUMBER O-17295 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

MAY 29

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 29 day of MAY, 19 89.


(Signature)

3 1/2" x 2 x 3966 = 82.40