

NO. \_\_\_\_\_

IN THE MATTER OF  
THE MARRIAGE OF

IN THE DISTRICT COURT OF

\_\_\_\_\_  
AND  
TEXAS

\_\_\_\_\_  
COUNTY,

\_\_\_\_\_  
AND IN THE INTEREST OF

\_\_\_\_\_  
JUDICIAL DISTRICT

\_\_\_\_\_  
A CHILD

DOMESTIC RELATIONS ORDER

This Order applies to the City of Austin-Employees' Retirement System, established pursuant to art. 6243n, Tex. Rev. Civ. Stat. (hereinafter called the "Plan"), and is intended to meet the requirements of Chapt. 804, Tex. Gov't. Code, for "qualified domestic relations orders". This Order is an integral part of the Decree of Divorce signed on \_\_\_\_\_.

In compliance with the requirements for qualified domestic relations orders, the following is specified:

1. This domestic relations order assigns a portion of the benefits payable under the Plan to \_\_\_\_\_ in recognition of marital rights in \_\_\_\_\_'s benefits payable under the Plan.

2. Participant in the Plan is \_\_\_\_\_, whose last known mailing address is \_\_\_\_\_, whose birth date is \_\_\_\_\_ and whose Social Security number is \_\_\_\_\_.

3. Alternate Payee is \_\_\_\_\_, whose last known mailing address is \_\_\_\_\_, whose birth date is \_\_\_\_\_, and whose Social Security Number is \_\_\_\_\_. Participant and Alternate Payee became married on \_\_\_\_\_.

4. Participant was employed by the City of Austin from \_\_\_\_\_ to \_\_\_\_\_.

**[USE ONE BUT NOT BOTH OF THE FOLLOWING ALTERNATIVES FOR SECTION 5 OF THE ORDER]**

5. As part of a just and right division of the estate of the parties, Alternate Payee is hereby awarded a lump sum amount of \$\_\_\_\_\_, to be paid from the funds credited to Participant

and on deposit with the Plan. Such amount shall be payable solely from the deposits made by Participant and the earnings thereon, and shall not exceed the total of the deposits made by Participant and earnings thereon. If such lump sum amount exceeds the total amount of the actual deposits made by Participant and the earnings thereon credited to Participant as of the date of this Order, such lump sum award shall be converted to an actuarially equivalent portion of the benefits payable with respect to Participant and which Participant may become entitled to receive under the Plan, by way of a return of accumulated contributions or by way of any annuity that becomes payable as a result of Participant's participation in the Plan, such portion to be the actuarial equivalent of the lump sum provided in this paragraph. The Participant's future benefits will be adjusted as a result of such award to Alternate Payee.

5. As part of a just and right division of the estate of the parties, Alternate Payee is hereby awarded a portion of any benefits payable with respect to Participant and which Participant may become entitled to receive under the Plan, by way of a return of accumulated contributions or by way of any annuity that may become payable as a result of Participant's participation in the Plan, such portion to be determined by:

multiplying \_\_\_\_\_<sup>1</sup> by a fraction, the numerator of which is the amount of service credited to Participant by the Plan between \_\_\_\_\_<sup>2</sup> and the date the divorce was granted, and the denominator of which is the total amount of service credited to Participant under the Plan on the date the divorce was granted, and then multiplying that product by the value of the benefit that would be payable to Participant, if the Participant were retired or eligible to retire and receive such benefit on the date the divorce was granted or, as applicable if the Participant was not eligible to retire on that date, on Participant attaining normal retirement age.

6. The award to Alternate Payee under paragraph 5 of this Order is expressly made subject to the following provisions:

- (a) This Order shall not be interpreted in any way to require the Plan to provide any type or form of benefit or any option not otherwise provided under the Plan.
- (b) This Order shall not be interpreted in any way to require the Plan to provide increased benefits determined on the basis of actuarial value.
- (c) This Order shall not be interpreted in any way to

---

<sup>1</sup> Insert "one-half" or other proportionate share of the benefit.

<sup>2</sup> Insert date of the marriage.

require the Plan to pay any benefits to any Alternate Payee named in this Order which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

- (d) Excluding only a lump sum, if any, that is approved and paid under Section 5, this Order shall not be interpreted in any way to require the payment of benefits to the Alternate Payee before Participant's retirement, the distribution of contributions withdrawn by Participant as authorized by the statutes governing the Plan, or any other distribution to the Participant required by law.
- (e) If the Plan provides for a reduced benefit upon early retirement, this Order shall be interpreted to require that, in the event of Participant's retirement before normal retirement age, the benefits payable to Alternate Payee shall be reduced in a proportionate amount.
- (f) This Order shall not be interpreted to require the designation of a particular person as the recipient of benefits in the event of the Participant's death, or to require the selection of a particular benefit payment plan or option.
- (g) If Section 5 awards Alternate Payee a lump sum amount that is in excess of the amount credited to Participant and on deposit with the Plan as of the date of this Order, in lieu of such lump sum amount the Plan will pay the Alternate Payee a portion of the benefits payable with respect to Participant and which Participant may become entitled to receive under the Plan, by way of a return of accumulated contributions or by way of any annuity that may become payable to Participant due to participation in the Plan. Such portion of the benefits payable to Alternate Payee shall be an amount or amounts that is the actuarial equivalent of the initial lump sum provided in Section 5.
- (h) If paragraph 6(g) above is applicable, then:
  - (i) In the event that, after the date of this Order, the amount of any benefit otherwise payable to Participant is reduced by law, the portion of benefits thereafter payable to Alternate Payee shall be reduced in a proportionate amount; and
  - (ii) All payments to Alternate Payee under this Order shall terminate upon Alternate Payee's death, or at such earlier date as may be required as a result of the retirement option selected by Participant.

- (i) If, as a result of Participant's death after the date the divorce was granted, any death benefit is paid to the Participant's estate, surviving spouse or designated beneficiaries, the Alternate Payee shall have no interest in such death benefit payment.
- (j) All payments to Alternate Payee under this Order shall terminate upon Participant's death or at such earlier date as may be required as a result of the retirement option selected by Participant.
- (k) No portion of Alternate Payee's award shall be paid from the portion of Participant's benefit, if any, paid from the Restoration Plan provided for in Resolution No. 1999-11-23.

7. All benefits payable under the Plan, other than those payable under paragraph 5 above to Alternate Payee, shall be payable to Participant or his/her spouse, estate or properly designated beneficiary, in such manner and form as Participant may elect in his/her sole and undivided discretion, subject only to Plan requirements.

8. Alternate Payee is ORDERED to report any retirement payments received on any applicable income tax return, and to promptly notify the Plan of any changes in Alternate Payee's mailing address. The Plan is authorized to issue a Form W-2P or Form 1099R on any direct payment made to alternate Payee.

9. Participant is designated the constructive trustee of the proceeds of any retirement benefits or other distributions under the Plan that are awarded to Alternate Payee herein but paid to Participant. Participant is ORDERED to pay such proceeds directly to Alternate Payee within three days after receipt by Participant.

10. The Court retains jurisdiction to amend this Order so that it will constitute a qualified domestic relations order under the Plan even though all other matters incident to this action or proceeding have been fully and finally adjudicated.

SIGNED this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
JUDGE PRESIDING

APPROVED:

NAME: \_\_\_\_\_  
ATTORNEY FOR PETITIONER

NAME: \_\_\_\_\_  
ATTORNEY FOR RESPONDENT