

NO. _____

IN THE MATTER OF
THE MARRIAGE OF

IN THE DISTRICT COURT OF

AND
TEXAS

_____ COUNTY,

AND IN THE INTEREST OF

A CHILD

_____ JUDICIAL DISTRICT

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 _____. If no Social Security number is provided, the parties are expressly authorized to submit a Social Security number for the Participant in writing to the Plan. This Order will not be accepted until the Plan receives this information.

3. Alternate Payee is _____, whose last known mailing address is _____.

_____, whose birth date is _____, and whose Social Security Number is _____. If no Social Security number is provided, the parties are expressly authorized to submit a Social Security number for the Participant in writing to the Plan. This Order will not be accepted until the Plan receives this information. 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.

[OR]

5. As part of a just and right division of the estate of the parties, Alternate Payee is hereby awarded \$_____ per month, which represents a portion of benefits payable which Participant may become entitled to receive under the Plan, by way of any annuity, such portion was determined by:

multiplying _____¹ by a fraction, the numerator of which is the amount of service credited to Participant by the Plan between _____² 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

¹ Insert "one-half" or other proportionate share of the benefit.

² Insert date of the marriage.

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.

If, in addition to a monthly annuity, the Participant elects a lump sum or a backward deferred option payment, the Alternate Payee is hereby awarded _____% to be paid from such option.

Alternate payee is awarded _____% of all future cost of living adjustments or future retirement benefit increases.

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 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 or Section 6(k), 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) If this Order awards Alternate Payee a portion of the Participant's monthly annuity payment and if the Participant applies for a withdrawal of deposits after the effective date of this Order, then the annuity awarded to the Alternate Payee shall be converted to a lump sum payment that is equal to an amount that is the actuarial equivalent of the interest awarded to the Alternate Payee under this Order. The lump sum payment will be disbursed to Alternate Payee at the time that the deposits are disbursed to the Participant.
- (l) No portion of Alternate Payee's award shall be paid from the portion of Participant's benefit, if any, paid from 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