

1 payments as more fully set forth below.

2 6. The Plan shall allocate part or all of the Participant's Prior Service Credits
3 and/or Pension Credits accumulated by the Participant to the Alternate Payee (Spouse)
4 and shall assign to the [*** Alternate Payee (Child) or Alternate Payee (Spouse)*] the
5 right to receive pension benefits based upon the [***child and/or spousal) ** insert only*
6 *applicable type of support payments that you are seeking***] support payments.

7 **ASSIGNMENT OF PERIODIC BENEFIT PAYMENTS**

8 [*In 7 below, choose one of two options*]

9 [*** Option 1 -- IF PARTICIPANT HAS RETIRED*]

10 7. The Participant has commenced receiving or applied to receive pension
11 benefits in the amount of \$ _____ per month.

12 [***Option 2 -- IF PARTICIPANT HAS NOT RETIRED*]

13 7. The Participant has not commenced receiving or applied to receive
14 benefits, but is vested and eligible to receive benefits.

15 8. The Plan shall assign the following amounts from the monthly benefits
16 otherwise payable to the Participant:

17 [***CHOOSE WHICHEVER APPLIES*]

- 18 a. \$ _____ per month current child support
19 b. \$ _____ per month child support arrearages
20 c. \$ _____ per month current spousal support
21 d. \$ _____ per month spousal support arrearages

22 **Total monthly support obligations of \$ _____**

23 9. If the total monthly support obligation **exceeds fifty percent (50%)** of
24 Participant's monthly benefit, the Plan shall assign **only fifty percent (50%)** of the
25 Participant's monthly pension to the Alternate Payee(s).

26 **Application of Payments to Participant's Support Obligations.**

27 10. As and between Participant and Alternate Payee(s) only, all payments
28 made pursuant to this Order, shall be applied to satisfy Participant's various support

1 obligations in the following order of priority:

- 2 1. Current monthly child support obligations;
- 3 2. Current monthly spousal support obligations;
- 4 3. Child support arrearages; and
- 5 4. Spousal support arrearages.

6 Therefore, if the amount assigned is less than the total monthly support obligation, the
7 amount shall be prorated first to current child support, and then to current spousal
8 support. Any remainder shall be applied in the same order of priority to support
9 arrearages. This paragraph 10 shall be applicable to Participant and Alternate Payee(s)
10 only, and the Plan shall not be responsible or obligated in any manner whatsoever to
11 determine how the monthly payments shall be applied or prorated.

12 11. This assignment shall include all amounts withheld by the Plan from
13 Participant's pension during the period on which the claim of the Alternate Payee(s) was
14 reviewed by the Plan.

15 12. For purposes of this order, the total arrearages are set as follows (interest
16 that has not been calculated or included is not waived):

- 17 a. \$ _____ child support arrearages as of _____.
- 18 b. \$ _____ spousal support arrearages as of _____.

19 *[In 13 below, choose one of two options]*

20 *[AMEND OR REPLACE]*

21 13. This order shall amend/replace any existing order with respect to support
22 for any Alternate Payee named herein.

23 *[OR SUPPLEMENT]*

24 13. This order does not amend or replace any existing assignment under a
25 previous qualified domestic relations order issued with respect to any Alternate Payee
26 named herein.

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28 ///

1 **COMMENCEMENT OF SUPPORT PAYMENTS**

2 14. Payments shall commence to Alternate Payee(s) on the first month after
3 approval by the Trustees of this order as a qualified domestic relations order, and the
4 earlier of a) the Participant is receiving benefits or has applied to receive benefits, or b)
5 at any time Alternate Payee(s) elects but not earlier than benefits could commence to
6 Participant under the Plan.

7 **FORM OF BENEFIT PAYMENTS**

8 *[In 15 below, choose one of two options]*

9 *[IF PARTICIPANT HAS BEGUN RECEIVING BENEFITS]*

10 15. If the Participant has begun receiving benefits or applied to receive
11 benefits when this order is approved by the Plan, the Alternate Payee (**Spouse or
12 Child**) shall receive pension benefits in the form that such benefits are being paid to
13 the Participant.

14 *[IF THE PARTICIPANT HAS NOT BEGUN RECEIVING BENEFITS]*

15 15. If the Participant has not yet begun receiving pension benefits or applied
16 to receive benefits when this order is approved by the Plan, then the form of benefits
17 payable to the Alternate Payee(s) shall be in the form of a single life annuity. The
18 Alternate Payee (Spouse) shall reject the Qualified Joint and Survivor Annuity in the
19 manner prescribed by Article VII, Section 2, of the Plan. The Alternate Payee
20 ("Spouse") shall be deemed the spouse of the Participant for purposes of the rejection
21 specified in Article VII, Section 2, of the Operating Engineers Pension Plan.

22 16. If an Alternate Payee begins receiving pension benefits pursuant to this
23 order before the Participant attains age 62, the Alternate Payee's monthly amount shall
24 not exceed the amount actuarially equivalent at the Participant's current age to the
25 amount the Participant would have received at age 62. For this purpose, the actuarial
26 equivalent reduction shall be one half of one percent (.5%) for each month by which the
27 Participant's age precedes age 62.

28 ///

1 order, shall be paid in accord with the rules of the Operating Engineers Pension Plan
2 without regard to this order.

3 22. Except as expressly provided for in this order, the interest in the pension
4 benefits of the Participant and the Alternate Payee(s) named in this order shall not be
5 assigned or alienated, and all rights with respect to pension benefits described in this
6 order shall exist and shall terminate in accordance with the rules of the Operating
7 Engineers Pension Plan.

8 23. Nothing herein shall be construed to require the Plan to provide the
9 following:

10 a. any type or form of benefit, or any option, not otherwise provided
11 under the Plan;

12 b. increased benefits (determined on the basis of actuarial value), over
13 that which would otherwise be payable under the Plan in the absence of this order; or

14 c. benefits to an Alternate Payee which are required to be paid to
15 another alternate payee under another order previously determined under this Plan to be
16 a qualified domestic relations order as that term is defined in Section 1056(d)(3)(B) of
17 Title 29 of the United States Code.

18 24. No provision in this Order shall be construed to require the Plan, the
19 Administrator of the Plan, or any trustee or other fiduciary with respect to the Plan to
20 take any action which is inconsistent with any provision of the Plan as now in effect or
21 hereafter amended, or make any payment or take any action which is inconsistent with
22 any federal law, rule, regulation or applicable judicial decision.

23 25. Notwithstanding any other provision of this order, in the event that the
24 Participant, the Alternate Payee(s) or another person claiming to derive rights to
25 benefits from any such person, shall make a claim which the Trustees determine to be
26 inconsistent with the terms of this order or the terms of the Plan, the Trustees may
27 forthwith cease payments to all or any persons otherwise entitled thereto under this
28 order pending resolution of said claim and may take such further action as is permitted

1 under the rules of the Plan and applicable federal law, including Section 1056(d) of
2 Title 29 of the United States Code.

3 26. Income Tax Consequences.

4 a. Child Support Payments. All payments as and for child support
5 pursuant to this order are made C/O Alternate Payee (Spouse) solely as trustee f.b.o.
6 Alternate Payee (Child). It is the intent of this court that Alternate Payee (Child) shall
7 be the “beneficiary” of such payments within the meaning of IRC §402(a) and §72(t)
8 and further that such child support payments shall not be made to “the spouse or former
9 spouse” of Participant within the meaning of IRC §402(e).

10 b. Spousal Support Payments. All payments as and for spousal
11 support made pursuant to this Order shall be made to Alternate Payee (Spouse). The
12 Alternate Payee (Spouse), including any heir, beneficiary or successor in interest of the
13 Alternate Payee (Spouse) shall include all retirement benefits received by her pursuant
14 to this QDRO as and when received by her in her gross income to the extent required
15 pursuant to IRC §72 and §402, and the Participant need not do so.

16 27. In the event that the Plan is terminated in whole or in part pursuant to its
17 Plan or pursuant to proceedings instituted by the Pension Benefit Guaranty Corporation
18 or other federal agency, the interests of the Participant, the Alternate Payee(s) shall be
19 disposed of in such manner as required by the Plan and by federal law.

20 28. This court reserves jurisdiction to make all other necessary and proper
21 orders required to carry out the terms of this order.

22
23 Date _____

24 _____
25 JUDGE OF THE SUPERIOR COURT
26
27
28