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SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

In re the Marriage of  
\_\_\_\_\_,  
Petitioner,  
vs.  
\_\_\_\_\_,  
Respondent.

CASE NUMBER:  
  
DOMESTIC RELATIONS ORDER  
DIVIDING PENSION BENEFITS

**PARTIES TO THE ORDER**

1. The Operating Engineers Pension Trust ("Trust") is administered by the Board of Trustees of the Trust ("Trustees") whose address is 100 Corson Street, Suite 100, Pasadena, California 91103. The Trust is an "employee pension benefit plan" as that term is defined in 29 U.S.C. § 1002(2)(A).

2. \_\_\_\_\_ ("Participant") is a participant in the Trust and has the following date of birth and current address:

DATE OF BIRTH: \_\_\_\_\_  
CURRENT ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

1           3.       \_\_\_\_\_ ("Alternate Payee Spouse") has a community  
2 property interest in the pension benefits of the Participant in the Trust arising from the  
3 marriage of the Alternate Payee Spouse to the Participant and has the following date of  
4 birth and current address:

5                   DATE OF BIRTH: \_\_\_\_\_

6                   CURRENT ADDRESS: \_\_\_\_\_  
7 \_\_\_\_\_

8 **NOTE:** The Participant, the Alternate Payee Spouse and each Alternate Payee under  
9 this order shall file or cause to be filed with the Trust an information form, in the format  
10 of Attachment A to this order, setting forth the social security numbers of the  
11 Participant and all Alternate Payees named in this order. The Trust shall have no  
12 obligation to comply with this order until such form or forms are presented to it  
13 containing the social security numbers of the Participant and all Alternate Payees named  
14 in this order. No such form containing the social security numbers of the parties to this  
15 proceeding shall be filed with the court.

16                                   **DEFINITION OF COMMUNITY INTEREST OF**  
17                                   **ALTERNATE PAYEE SPOUSE**

18           4.       The community property interest of the Alternate Payee Spouse  
19 ("Community Interest") shall mean the right of the Alternate Payee Spouse to receive  
20 credits in and benefits from the Trust, as more specifically set forth herein, based upon  
21 one-half of any Prior Service Credits and Pension Credits accumulated by the  
22 Participant during the period of \_\_\_\_\_ (month and  
23 year of marriage) through \_\_\_\_\_ (month and year of  
24 separation.)

25                                   **ASSIGNMENT OF BENEFITS TO ALTERNATE PAYEE SPOUSE**

26           5.       The Trust shall divide the Participant's Prior Service Credits and Pension  
27 Credits and allocate part of such credits to the Alternate Payee Spouse and assign to the  
28 Alternate Payee Spouse the right to receive pension benefits based upon the Community

1 Interest. This assignment shall include all of the Community Interest withheld by the  
2 Trust from the Participant's pension, during the period on which the claim of the  
3 Alternate Payee Spouse was reviewed by the Trust. The Participant shall have no right  
4 to receive that portion of the pension benefits assigned by this order to the Alternate  
5 Payee Spouse except in the event that the Alternate Payee Spouse and each Alternate  
6 Payee named in this order have died or upon further order of this court.

7 6. The Alternate Payee Spouse shall have no right to receive pension benefits  
8 from the Trust except as specifically required by this order. All payment of pension  
9 benefits to the Alternate Payee Spouse shall cease upon the death of the Participant  
10 except for death benefits or benefits payable to a surviving spouse required under  
11 Paragraph 11 of this order.

12 **COMMENCEMENT OF BENEFITS**

13 7. Payment of pension benefits to the Alternate Payee Spouse shall begin on  
14 the first month after approval by the Trustees of this order as a Qualified Domestic  
15 Relations Order, after this order has been entered by the Court, and after the Alternate  
16 Payee Spouse has made a written application for benefits from the Trust pursuant to this  
17 order, when the earliest of the following events occurs: (a) the Participant has retired  
18 and begun receiving pension benefits from the Trust; (b) the Participant is eligible for a  
19 Regular Pension, an Early Pension, a Service Pension, or a Pro-Rata Pension from the  
20 Trust (whether or not the Participant has retired and made application for, or begun  
21 receiving, pension benefits from the Trust); (c) the Participant dies before retiring or  
22 after retiring, but before pension payments to the Participant commence, if the  
23 Participant's Service Credits are vested in accord with Article III, Section 3, of the  
24 Operating Engineers Pension Plan ("Plan").

25 **FORM OF BENEFIT PAYMENTS**

26 8. If the Participant has begun receiving pension benefits when this order is  
27 approved by the Trustees, the Alternate Payee Spouse shall receive pension benefits in  
28 the form that such benefits are being paid to the Participant.

1           9.     If the Participant has not yet begun receiving pension benefits when this  
2 order is approved by the Trustees, then the form of benefits payable to the Alternate  
3 Payee Spouse shall be selected as follows:

4                 a.     If the Alternate Payee Spouse has been married for not less than  
5 one year to the Participant, when her application for benefits is made, benefits shall be  
6 paid to the Alternate Payee Spouse in the form of the Qualified Joint and Survivor  
7 Annuity unless that form is rejected in the manner prescribed by Article VII, Section 2,  
8 of the Plan. The Alternate Payee Spouse shall be deemed the spouse of the Participant  
9 to the extent of the Community Interest for purposes of the rejection specified in Article  
10 VII, Section 2, of the Plan.

11                b.     If the Alternate Payee Spouse has not been married to the  
12 Participant for at least one year, when her application for benefits is made, then pension  
13 benefits shall be paid to the Alternate Payee Spouse in the form of a single life annuity  
14 using the Participant's life as the measuring life.

15                c.     If the Alternate Payee Spouse begins receiving pension benefits  
16 pursuant to this order before the Participant attains age 62, the Alternate Payee Spouse's  
17 monthly amount shall not exceed the amount actuarially equivalent at the Participant's  
18 current age to the amount the Participant would have received at age 62. For this  
19 purpose, the actuarial equivalent reduction shall be one half of one percent (.5%) for  
20 each month by which the Participant's age precedes age 62. This reduction shall be  
21 applied prior to any reduction for the Qualified Joint and Survivor Annuity.

22           10.     In the event that the Qualified Joint and Survivor Annuity, or the survivor  
23 benefit payable under such pension, is paid to the Alternate Payee Spouse pursuant to  
24 the rules of the Plan and this order, the amount of benefits payable shall be calculated  
25 using the age of the Participant and the age of the Alternate Payee Spouse as the spouse  
26 for the computation of benefits under Article VII, Section 2, of the Plan.

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**PAYMENTS AFTER PARTICIPANT'S DEATH**

11. The Alternate Payee Spouse shall be deemed to be the surviving spouse of the Participant, to the extent of the Community Interest, and any benefit payable to a surviving spouse under Article VII or Article IX of the Plan following the Participant's death, shall be paid, to the extent of the Community Interest, to the Alternate Payee Spouse in accord with such provisions of the Plan and this order.

**PAYMENT AFTER DEATH OF ALTERNATE PAYEE SPOUSE**

12. In the event the Alternate Payee Spouse dies before the Participant, any further pension benefits which would have been payable to the Alternate Payee Spouse from the Participant's pension, had the Alternate Payee Spouse lived until the Participant's death, shall be paid to the person or persons set forth below in the proportion stated:

<b>NAME:</b>
<b>CURRENT ADDRESS:</b>
<b>DATE OF BIRTH:</b>
<b>Relationship to Participant:</b>
<b>Percentage of Benefits:</b>

<b>NAME:</b>
<b>CURRENT ADDRESS:</b>
<b>DATE OF BIRTH:</b>
<b>Relationship to Participant:</b>
<b>Percentage of Benefits:</b>

1 Each of the persons named above is an Alternate Payee under this Order and  
2 qualifies as such pursuant to Section 1056 (d)(3)(K) of Title 29 of the United States  
3 Code as the spouse, former spouse, child or other dependent of the Participant.

4 13. If an Alternate Payee predeceases the Alternate Payee Spouse, his or her  
5 share shall be divided equally among the surviving Alternate Payees. If the Alternate  
6 Payee Spouse and each Alternate Payee named in this order predecease the Participant,  
7 pension benefits which would otherwise be payable to the Alternate Payee Spouse or  
8 any Alternate Payee shall be paid to the Participant.

9 14. If the Alternate Payee Spouse is receiving, or entitled to receive, death  
10 benefits pursuant to this order and Article VII of the Plan, the balance of any such  
11 benefits, to the extent of the Community Interest, which remain payable after the death  
12 of the Alternate Payee Spouse shall be paid to the Alternate Payee or Alternate Payees  
13 named in paragraph 12 above for the remainder of such payments. If an Alternate  
14 Payee dies before receiving his or her entire share of the remaining payments, then his  
15 or her share shall be divided equally among the surviving Alternate Payees. If no  
16 Alternate Payee has been named in this order, or if no Alternate Payee survives until the  
17 balance of such benefits has been fully paid, then any remaining death benefits payable  
18 pursuant to this order and Article VII of the Plan, following the death of the Alternate  
19 Payee Spouse shall be paid in accord with the rules of the Plan without regard to this  
20 order.

21 **GENERAL PROVISIONS**

22 15. This order is intended to be a qualified domestic relations order and shall  
23 affect only the Community Interest of the Alternate Payee Spouse. All of the remaining  
24 interest in the Participant's pension benefits or death benefits shall be paid in accord  
25 with the rules of the Plan without regard to this order.

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1           16. Except as expressly provided in this order, the interest in pension benefits  
2 or death benefits of the Participant, the Alternate Payee Spouse, and each Alternate  
3 Payee named in this order shall not be assigned or alienated, and all rights with respect  
4 to pension benefits or death benefits shall exist and shall terminate in accordance with  
5 the rules of the Plan.

6           17. Nothing herein shall be construed to require the Trust to provide the  
7 following:

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

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

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

16           18. In the event that the Trust 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 Spouse and  
19 each Alternate Payee shall be disposed of in such manner as required by the Plan and by  
20 federal law.

21           19. Notwithstanding any other provision of this order, in the event that the  
22 Participant, the Alternate Payee Spouse, any Alternate Payee or another person claiming  
23 to derive rights to benefits from any such person, shall make a claim which the Trustees  
24 determine to be inconsistent with the terms of this order or the terms of the Plan, the  
25 Trustees may forthwith cease payments to all or any persons otherwise entitled thereto  
26 under this order pending resolution of said claim and may take such further action as is  
27 permitted under the rules of the Plan and applicable federal law, including Section  
28 1056(d) of Title 29 of the United States Code.

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

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**Approved as to form and content:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Participant

Dated: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Participant

Dated: \_\_\_\_\_

\_\_\_\_\_  
Alternate Payee Spouse

Dated: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Alternate Payee Spouse

Dated: \_\_\_\_\_

\_\_\_\_\_  
**JUDGE OF THE SUPERIOR COURT**



**OPERATING ENGINEERS PENSION TRUST**  
**PROCEDURES FOR APPROVAL OF**  
**QUALIFIED DOMESTIC RELATIONS ORDERS**

The following Procedures are adopted by the Board of Trustees of the Operating Engineers Pension Trust for the approval of qualified domestic relations orders and notification of Participants and alternate payees of their rights with respect to such orders.

1. **Notice of Receipt of Order** - In each case in which a domestic relations order pertaining to a Participant in the Operating Engineers Pension Trust is received by the Trust, the Pension Department within the Fund Office of the Trust shall promptly notify the Participant and each alternate payee named in the order that the Trust has received the order. The Participant and each alternate payee shall be provided a copy of these Procedures. The Pension Department shall forward the order to legal counsel for review of the qualified status of the order.

2. **Determination of Qualified Status** - Within a reasonable period after the Trust has received a domestic relations order concerning a Participant in the Trust, the Fund Manager, or his designee, shall determine whether the order is a qualified domestic relations order within the meaning of federal law [the Employee Retirement Income Security Act (ERISA) as amended by the Retirement Equity Act, specifically 29 U.S.C. Section 1056(d)]. The Participant and each alternate payee named in the order shall be notified of such determination. If the order is determined to be a qualified domestic relations order within the Fund Office of the Trust shall make such notification. If the order is determined not to be to a qualified domestic relations order, legal counsel shall make such notification, advising the parties of the specific reasons why the order is not qualified.

3. **Designation of Representative** - Each alternate payee named in a domestic relations order received by the Trust shall be entitled to designate a representative for receipt of a copy of any notice that is sent to the alternate payee concerning the domestic relations order.

4. **Appeal** - If such person's claim to benefits payable from the Trust has been denied, notice shall be given to each Participant and alternate payee of that person's right to petition the Board of Trustees for reconsideration of the determination regarding the qualified status of the order under Article XIV, Section 5, of the Operating Engineers Pension Plan. Any petition for reconsideration filed pursuant to such notice shall be processed as specified in Article XIV, Section 5, of the Plan.

5. **Separate Accounting of Funds** - During the period in which the issue of qualification of a domestic relations order is being determined as set forth above, the Trust shall separately account for the amounts, if any, which would have been payable to the alternate payee under such order during such period if the order had been determined to be a qualified domestic relations order when first received by the Trust.

6. **Payment to Alternate Payee** - If within the eighteen (18) month period beginning on the date on which the first payment would be required under a domestic relations order, the domestic relations order is determined to be a qualified domestic relations order, the Trust shall pay all amounts which would have been payable to the alternate payee during such period, including any interest accrued on such amounts, to the alternate payee as if the order had been determined to be a qualified domestic relations order when first received by the Trust.

7. **Effect of Denial of Qualified Status** - If within this eighteen month period it is determined either that the order is not a qualified domestic relations order, or if the issue as to qualification is not resolved, then the Trust shall pay all amounts which have been separately

accounted for, including any interest accrued on such amounts, to the person or persons who would have been entitled to such amounts if there had been no order issued.

8. **Prospective Application** - In cases in which an order is determined to be a qualified domestic relations order after the close of this eighteen month period, such order shall be applied prospectively only.

9. **Manner of Giving Notice** - All notices required by these Procedures shall be in writing and shall be sent by first-class mail to the address stated in the domestic relations order for the person to be notified. If no address is provided in the domestic relations order, the notice shall be sent by first-class mail to the last known address of the person to be notified. If the person to be notified is represented by a lawyer, all notices required by these Procedures shall be sent to the lawyer for such person unless contrary instructions in writing are received by the Trust.

10. **Interest Rate** - When a payment of interest on pension benefits payable under a qualified domestic relations order is required by applicable federal law as specified in these Procedures, the rate of such interest shall be the plan valuation rate adopted by the Board of Trustees of the Trust for purposes of the actuarial valuation of Plan assets.

11. **Definitions** - The terms “qualified domestic relations order,” “domestic relations order,” and “alternate payee” shall have the same meaning in these Procedures as that given to such terms in 29 U.S.C. Section 1056(d).