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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF _____

In re the Marriage of

Petitioner,
vs.

Respondent.

CASE NUMBER:
QUALIFIED DOMESTIC RELATIONS
ORDER FOR SUPPORT

IDENTIFICATION OF PARTIES

1. Participant: _____, hereinafter referred to as "Participant," has the following date of birth and current address:

DATE OF BIRTH: _____
ADDRESS: _____

1 arrearages. This paragraph 10 shall be applicable to Participant and Alternate Payee(s)
2 only, and the Plan shall not be responsible or obligated in any manner whatsoever to
3 determine how the monthly payments shall be applied or prorated.

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

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

9 a. \$ _____ child support arrearages as of _____.

10 b. \$ _____ spousal support arrearages as of _____.

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

12 *[AMEND OR REPLACE]*

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

15 *[OR SUPPLEMENT]*

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

19 **COMMENCEMENT OF SUPPORT PAYMENTS**

20 14. Payments shall commence to Alternate Payee(s) on the first month after
21 approval by the Trustees of this order as a qualified domestic relations order, provided
22 the Participant is receiving pension benefits.

23 **FORM OF BENEFIT PAYMENTS**

24 15. The Alternate Payee (**spouse or child**) shall receive pension benefits
25 in the form that such benefits are being paid to the Participant.

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TERMINATION OF ASSIGNMENT OF BENEFITS

16. The Participant and the Alternate Payee(s) shall each and all be responsible for notifying the Plan when payments under this order should be terminated, and the Participant and the Alternate Payee(s), but not the Plan, shall be jointly and severally liable for any overpayment of benefits caused by the failure to give notice to the Plan of circumstances requiring termination of payments under this order.

17. Payment of support from the Plan to the Alternate Payee(s) shall cease on the first of the month after the earliest of the following events:

- a. The Participant's pension is terminated or suspended;
- b. The Plan has received an order of the court which terminates such payment;
- c. The Plan has received written notice of Participant's death and a certified copy of the Participant's death certificate;
- d. The Plan has received written notice of Alternate Payee's death and a certified copy of the Alternate Payee's death certificate; or
- d. The Plan has received a notarized affidavit from the Alternate Payee(s) affirming that all support payments under the order have been paid in full and that Alternate Payee(s) request the Plan to terminate such payments.

GENERAL PROVISIONS

18. The Participant and Alternate Payee shall each keep the Plan notified of his or her mailing address.

19. This order is entered pursuant to §2610 of the California Family Code and following approval by the Plan shall constitute a qualified domestic relations order as established by P.L. 98-397, the Retirement Equity Act of 1984 ("REA") and set forth in §206(d) of the Employee Retirement Income Security Act of 1974 as amended ("ERISA") [29 U.S.C. § 1056] and §414(p) of the Internal Revenue Code of 1986 as amended ("IRC").

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1 20. This order shall affect the support interest of the Alternate Payee(s) in the
2 Participant's pension. All of the remaining interest in the Participant's pension benefits,
3 if not required to be paid under another order approved as a qualified domestic relations
4 order, shall be paid in accord with the rules of the Operating Engineers Pension Plan
5 without regard to this order.

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

11 22. Nothing herein shall be construed to require the Plan to provide the
12 following:

- 13 a. any type or form of benefit, or any option, not otherwise provided
14 under the Plan;
- 15 b. increased benefits (determined on the basis of actuarial value), over
16 that which would otherwise be payable under the Plan in the absence of this order; or
- 17 c. benefits to an Alternate Payee which are required to be paid to
18 another alternate payee under another order previously determined under this Plan to be
19 a qualified domestic relations order as that term is defined in Section 1056(d)(3)(B) of
20 Title 29 of the United States Code.

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

26 24. Notwithstanding any other provision of this order, in the event that the
27 Participant, the Alternate Payee(s) or another person claiming to derive rights to
28 benefits from any such person, shall make a claim which the Trustees determine to be

1 inconsistent with the terms of this order or the terms of the Plan, the Trustees may
2 forthwith cease payments to all or any persons otherwise entitled thereto under this
3 order pending resolution of said claim and may take such further action as is permitted
4 under the rules of the Plan and applicable federal law, including Section 1056(d) of
5 Title 29 of the United States Code.

6 25. Income Tax Consequences.

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

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

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

23 27. This court reserves jurisdiction to make all other necessary and proper
24 orders required to carry out the terms of this order.

25
26
27 Date _____

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).