

QUALIFIED DOMESTIC RELATIONS ORDERS

The Retirement Equity Act of 1984 established a specific set of rules under which pension benefits can be paid to an "alternate payee" (a former spouse for dependent child) under a state court domestic relations order.

The rules are rather complex. For the plan to pay benefits to an alternate payee, the court order must be a "Qualified Domestic Relations Order" as defined in the federal statute. A QDRO must identify the plan to which it applies. It must state the name and last known mailing address of the alternate payee(s). It must specify either the amount of benefit to be paid or the manner in which that amount is to be determined. It must state the number of payments or the time period covered. The order must not require the plan to pay more benefits than the total to which the employee is entitled. It must not require payments to begin before the employee would be entitled to receive a pension. It must not require any form of payment (e.g., lump sum, periodic payments) not otherwise available under the plan. It must not allow the alternate payee to elect a Joint and Survivor Annuity. It must not be inconsistent with any prior QDRO affecting the employee's benefits.

A QDRO may, but is not required to, provide that payments to the alternate payee will begin as soon as the employee would be entitled to receive a pension, even if the employee chooses to defer his retirement. It may also provide that some or all of any survivor benefit payable to a spouse or other beneficiary will be paid to the alternate payee. If the QDRO does not contain these optional provisions, the alternate payee will not be entitled to receive anything until the employee actually retires and may receive no benefits at all if the employee dies before retirement.

The plan has the authority to determine whether a particular domestic relations order is in fact a QDRO. Parties to dissolution should communicate with the plan before the order is finalized to avoid issuance of a nonqualified order with which the plan cannot comply.

Upon receipt of a court order, the plan administrator will analyze its provisions to determine whether it is qualified and will advise the parties of its decision. If you wish to submit a draft order, the administrator will review it and advise you whether it meets the requirements of a QDRO.

PLEASE BE ADVISED THAT AN EMPLOYEE AND THE EX SPOUSE SHALL PAY ADMINISTRATIVE EXPENSES INCURRED COMPLYING WITH THE TERMS OF THE QDRO FOR PART B IN THE AMOUNT OF \$250.00 EACH, FOR A TOTAL OF \$500.00, AS ALLOWED BY THE FEDERAL LAW. THE MONEY WILL BE DEDUCTED AUTOMATICALLY FROM EACH PARTY'S PART B ACCOUNT BALANCE.

REA
RULES FOR PAYING BENEFITS UNDER
A COURT DOMESTIC RELATIONS ORDER
(QDRO)

A QDRO MUST:

1. Identify the plan to which it applies.
2. It must state the name and last known mailing address of the alternate payee(s).
3. It must specify either the amount of benefit to be paid or the manner in which that amount is to be determined.
4. It must state the number of payments or the time period covered.
5. The order must not require the plan to pay more benefits than the total to which the employee is entitled.
6. It must not require payments to begin before the employee would be entitled to receive a pension.
7. It must not require any form of payment (e.g., lump sum, periodic payments) not otherwise available under the plan.
8. It must not allow the alternate payee to elect a Joint and Survivor Annuity.
9. It must not be inconsistent with any prior QDRO affecting the employee's benefits.

A QDRO may, but is not required to:

1. Provide that payments to the alternate payee will begin as soon as the employee would be entitled to receive a pension, even if the employee chooses to defer his retirement.
2. It may also provide that some of all of any survivor benefits payable to a spouse or other beneficiary if the employee should die will be paid to the alternate payee.

If the QDRO does not contain these optional provisions, the alternate payee will not be entitled to receive anything until the employee actually retires and may receive no benefits at all if the employee dies before retirement.

Security Act, as amended ("ERISA"), concerning Qualified Domestic Relations Orders ("QDRO"), including ERISA Section 206(d)(3) and Internal Revenue Code Section 414(p).

2. Name of Plan. This Order is directed to the "SAN MATEO COUNTY ELECTRICAL CONSTRUCTION INDUSTRY RETIREMENT PLAN" ("Plan"). The address is 1120 South Bascom Avenue, San Jose, CA 95128.

3. Names. The name, mailing address, phone number, Social Security number and date of birth of each party is:

a. Employee (Plan Participant):

Name:

Address:

Phone:

Social Security No.:

Date of Birth:

b. Former Spouse (Alternate Payee):

Name:

Address:

Phone:

Social Security No.:

Date of Birth:

The parties agree to notify the Plan of any change in address, name change and/or the death of the other party.

4. Period of Marriage. The parties agree that the period of marriage was:

Date of Marriage:

Date of Separation:

5. Annuity Starting Date. The "Annuity Starting Date" is the effective date as of which Plan benefits start,

6. Spouse's Benefit. This Order recognizes the Spouse's right to his or her community property share of the Participant's Plan benefits earned during the marriage to the Spouse. The Spouse is an "Alternate Payee" as

defined in ERISA. The Participant has a vested Individual Account with the Plan. The parties' community share of the Participant's Individual Account is equal to the employer contributions paid on the Employee's behalf during the marriage, plus earnings and any asset appreciation, minus expenses and any asset depreciation. The parties agree that the community property benefit is \$_____ as of _____. The parties agree and therefore the Court orders that the Spouse's share of the benefit is \$ _____ as of _____. The Plan shall deduct \$250.00 from the Spouse's share to reimburse the Plan for the Plan's legal fees and expenses in administering and processing this QDRO as provided in paragraph 20 below. After that deduction, the Spouse's share is _____. The Plan shall also reduce the Participant's remaining Individual Account by \$250.00 as the Participant's share of the QDRO administration fee. The Spouse's share shall include any earnings and appreciation (minus any expenses and asset depreciation) after the above date, up to the end of the quarter immediately preceding the date the Plan establishes an Individual Account for the Spouse or makes a distribution/rollover of such benefits.

The benefits payable to the Participant shall be reduced by the amount of the Spouse's benefits as provided herein.

The Spouse's interest shall be segregated and an Individual Account established in the Spouse's name and Social Security number. The Alternate Payee shall have total control over such account (subject to the Plan's rules), including the right to select investment options in the same manner as the Participant and to designate beneficiaries if available under the benefit option selected.

Similarly, the Participant will have total control over his or her remaining interest in the Plan. Alternate Payee will not have any right, title or interest in such remaining balance, including as a beneficiary of any death benefits.

7. Spouse's Election to Start Payments Early. The Spouse has the right to commence receiving a portion of his or her benefits at any time. The Spouse does not have the right to delay receiving benefits beyond the Employee's Annuity Starting Date.

8. Form of Benefit. The Spouse may elect any form of payment available under the Plan including a lump sum distribution or a rollover to an IRA or qualified employer pension plan. If the Spouse predeceases the Participant, there will be no reversion of benefits to the Participant. Instead, benefits will be paid pursuant to the Spouse's beneficiary designation filed with the Plan Office.

9. Employee's Residual Benefits. Any benefits under the Plan not specifically given to the Spouse under this Order shall be the sole and separate property of the Employee.

10. Statutory Limits to this Order. Notwithstanding any provision herein to the contrary, in no event shall

this order be interpreted as requiring the Plan to:

- a. Require payment of benefits to the Spouse or other Alternate Payee which are already required to be paid to another Spouse or Alternate Payee under a prior QDRO;
- b. Provide benefits with a greater actuarial value or increased benefit than it would otherwise pay to the Participant;
- c. Provide any type or form of benefit or any option not provided under the Plan.

11. Definitions. A term not defined in this Order shall have the meaning in the Plan if applicable or as determined by the Board of Trustees or the Board's delegate.

12. Lump Sum. If the Spouse's benefit is \$5,000 or less, the Plan is required to distribute such benefit in a lump sum.

13. Conditions for Commencement of Benefit.

- a. The Annuity Starting Date is to be as of the first day of a calendar month;
- b. Spouse must file with the Plan Office an application for benefits on a form furnished by the Plan Office;
- c. Spouse must provide the Plan with any information the Plan reasonably needs to determine the Spouse's benefits; and
- d. Spouse agrees to cooperate with the Plan Office and do all things necessary to effectuate this Order.

14. Application/90 Days Notice. Participant and Alternate Payee shall file an application for benefits within ninety (90) days prior to his or her anticipated Annuity Starting Date.

To the extent required by applicable federal law, in no event may the benefits payable under this order commence later than April 1 of the calendar year following the date the participant attains (or would have attained) age 70-1/2.

15. Savings Clause. The parties intend that this order qualify as a QDRO. If any provision hereunder is determined to be inconsistent with the definition of a QDRO or other applicable law this Order shall be amended as may be necessary to comply with such requirements. Both parties shall enter into a stipulation or letter agreement as may be reasonably required to amend or interpret this Order to so comply without the necessity of having to obtain new court approval.

16. Parties Choice. The parties acknowledge that a Sample Order was provided by the Plan as a convenience to the parties, and in so doing, the Plan has not given legal advice to the parties. The parties

acknowledge that use of all or a portion of the Sample Order was at the parties' discretion. The parties acknowledge that the provisions in this Final Order have been selected and approved by the parties.

17. Plan Interpretation. The parties recognize and understand that under the Plan, the Trustees have total discretion in the interpretation of the Plan and this Order.

18. No Prior Order. The parties certify that they are not aware of prior orders which may dispense of benefits hereunder.

19. Amendment. The Court retains jurisdiction to amend this Order as necessary. Nonetheless the parties agree that a stipulation or letter agreement as to the interpretation of the Order is satisfactory (to avoid the time and expense of obtaining court approval of an amendment to this Order).

20. QDRO Administration/Processing Fee. The Plan is authorized to deduct \$500.00 from the Participant's Individual Account prior to the division or payment of such benefits to reimburse the Plan for the Plan's legal fees and expenses incurred in administering and processing this Order. The \$500.00 fee shall be divided equally between the Participant and the Alternate Payee.

21. Copy of Order to Trust Counsel. The Alternate Payee, or his or her legal counsel, shall furnish the Plan's legal counsel with a copy of the final file-endorsed Order approved by the Court within 30 days of approval of the Order. The parties acknowledge that the order, even if approved by the Court, is not effective until the Plan and/or the Plan's legal counsel has been furnished with the final order approved by the Court.

Dated: _____, 19__

JUDGE OF THE SUPERIOR COURT

Dated: _____, 19__

Attorney for Participant

Dated: _____, 19__

Attorney for Alternate Payee

Dated: _____, 19__

Participant

Dated: _____, 19__

Alternate Payee