

No. \_\_\_\_\_

IN THE MATTER OF	)	
THE MARRIAGE OF	)	
_____AND	)	
_____	)	
	)	(DESIGNATION OF COURT)
AND IN THE INTEREST OF	)	
_____AND	)	
_____,	)	
MINOR CHILDREN	)	

QUALIFIED DOMESTIC RELATIONS ORDER  
FOR THE AUSTIN POLICE RETIREMENT SYSTEM

This order is an integral part of the Decree of Divorce signed on this case on \_\_\_\_\_, 20\_\_\_. This order is intended to meet the requirements for a “qualified domestic relations order” under Texas Government Code, Chapter 804, relating to orders dividing benefits under public retirement systems. In compliance with those requirements, the Court specifies, finds, and ORDERS as follows:

1. As used in this order, “the System” means the Austin Police Retirement System, a public retirement system as established by Texas Revised Civil Statutes, Article 6243n-1, called “the Act” in this order.
2. This qualified domestic relations order assigns a portion of the benefits payable under the System to (NAME OF ALTERNATE PAYEE) in recognition of (his/her) marital rights in (NAME OF PARTICIPANT)’s benefits payable under the System.
3. Participant in the System is (NAME OF PARTICIPANT), whose last known mailing address is (ADDRESS), whose birth date is (DATE OF BIRTH) and whose Social Security number is (SOCIAL SECURITY NUMBER).
4. Alternate Payee is (NAME OF ALTERNATE PAYEE), whose last known mailing address is (ADDRESS), whose birth date is (DATE OF BIRTH) and whose Social

Security number is (SOCIAL SECURITY NUMBER). Participant and Alternate Payee were married on (DATE OF MARRIAGE).

5. As part of a just and right division of the estate of the parties, Alternate Payee is hereby awarded and shall receive from the System a portion of any benefit payable with respect to Participant that Participant or Participant's designated beneficiary, surviving spouse, or estate may become entitled to receive from the System, by way of a return of accumulated contributions (including any equivalent amount paid from the city's funds on deposit with the System) or by way of any annuity that may become payable as a result of Participant's participation in the System. The portion of the benefit that is awarded and that is to be paid to Alternate Payee shall be determined by multiplying the benefit that otherwise would be payable by a fraction, which will be determined as set forth below:

Multiply (PORTION, e.g., one-half) by a fraction, the numerator of which is the amount of a life annuity (modified cash refund) calculated under the Act as in effect on (DATE OF DIVORCE), but using only service and salary credit that the System determines has been acquired by Participant between (DATE OF MARRIAGE) and (DATE OF DIVORCE) and maintained with the System as of (DATE OF DIVORCE), and the denominator of which is:

- a. (for distributions made prior to the retirement of the Participant) the amount of a life annuity (modified cash refund) which would have been used to calculate the service retirement benefit payable if Participant had retired at the end of the month in which the distribution is authorized to be made; or
- b. (for distributions made after the retirement of the Participant) the amount of a life annuity (modified cash refund) calculated under the Act as in effect at the time of Participant's latest effective date of retirement and based on Participant's membership in, credit with, or contributions to the System as of Participant's latest effective date of retirement.

6. As used in paragraph 5 of this order, a life annuity (modified cash refund) shall have the definition given that term in Section 1.02(16) of the Act, unreduced for early retirement, even if Participant has not yet reached the normal retirement date, the service credit is less than the minimum required to be eligible to receive a service retirement benefit, and the average salary must be calculated with fewer salary years than specified by the Act.

7. If the Participant participates in the Retroactive Deferred Retirement Option Plan, "RETRO DROP", a proportionate amount of the Retro DROP lump sum distribution assigned under Paragraph No. 5 of this Order will be paid to the Alternate Payee.

8. If the Participant participates in the Forward Deferred Retirement Option Plan, "FORWARD DROP", after the date of divorce, the distribution assigned under Paragraph No. 5 of this Order will be disbursed to the Alternate Payee immediately upon the Participant's enrollment into the Forward DROP. The Participant's Forward DROP accumulation is excluded from payment under the terms of this QDRO as the accumulation is based on the Participant's reduced life annuity. If the Participant was enrolled in the Forward DROP before the date of divorce, a proportionate amount of the Forward DROP lump sum distribution assigned under Paragraph No. 5 of this Order will be paid to the Alternate Payee.

9. The Austin Police Retirement System is authorized and directed to disburse to Alternate Payee the portion of distribution assigned under Paragraph No. 5 of this Order, if, as, and when such distributions are made as provided by the System's governing laws and rules based on Participant's membership in, credit with, or contributions to the System, subject to the following provisions:

- (a) This Order shall not be interpreted in any way to require the System to provide any type or form of benefit or any option not otherwise provided under the System.
- (b) This Order shall not be interpreted in any way to require the System to provide

increased benefits determined on the basis of actuarial value.

- (c) This Order shall not be interpreted in any way to require the System to pay any benefits to an alternate payee named in the Order which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.
- (d) This Order shall not be interpreted in any way to require the payment of benefits to Alternate Payee before the retirement of Participant, the distribution of a withdrawal of accumulated deposits to Participant as authorized by the statutes governing the System, or any other distribution required by law.
- (e) If the System 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 proportionately.
- (f) This Order shall not be interpreted to require the designation of a particular person as the recipient of benefits in the event of Participant’s death or to require the selection of a particular benefit payment plan or option. However, notwithstanding the provisions of this Order, if Alternate Payee is designated as a beneficiary for any benefits payable by the System upon the death of Participant, then Alternate Payee shall receive such payment to which (he/she) is entitled by law as beneficiary. If Alternate Payee is a joint beneficiary for a benefit, Alternate Payee shall receive the portion of the total benefit payable to the joint beneficiaries as specified in Paragraph No. 5 above; the portion of the benefit payment received by Alternate Payee as a joint beneficiary of Participant shall be credited toward satisfying the amount of the benefit payable to Alternate Payee as the alternate payee for Participant’s interest. Additionally, as specified in Paragraph No. 5 above, Alternate Payee shall receive a portion of any other benefits which are payable to a beneficiary and for which Alternate Payee was not designated as a beneficiary, other than as described in Subparagraph (i), below.
- (g) In the event that, after distribution of a benefit to Participant or a beneficiary has begun, the amount of the distribution is increased or reduced by law, then, the amount payable to Alternate Payee shall be increased or reduced proportionally by applying the fraction described in Paragraph No. 5 above to the increased or reduced distribution that is payable by the System to Participant or a beneficiary.
- (h) The interest of Alternate Payee is governed by the Act or its successor statute along with the terms set forth in the QDRO. The System is not responsible for reviewing divorce decrees or marital settlement agreements. All requirements of the System related to a distribution of a benefit to an Alternate Payee must be included in the QDRO. Any additional provisions contained in a divorce decree related to optional

forms of retirement, survivorship, or death benefits payable to a specific person are the sole responsibility of the member and may not by law be included in a QDRO.

- (i) If, as a result of Participant's death after the date of this order, a payment is made by the System to Participant's estate, surviving spouse, or designated beneficiaries, which payment does not relate in any way to Participant's length of employment or accumulated contributions with the System, but rather is purely a death benefit payable as a result of employment or retired status at the time of death, no portion of such payment is community property, and Alternate Payee shall have no interest in such death benefit.
- (j) On the death of an alternate payee under a QDRO order, the interest of the alternate payee in the benefits under this System ends, and the annuity paid to the retiree shall increase to the full annuity as if the QDRO order had not existed.

10. Any amounts payable by the System, other than those payable under Paragraph No. 5 above to Alternate Payee, shall be payable directly to Participant, Participant's beneficiary, or the estate, heirs, or legatees of either, in accordance with the Act and the System's rules. If Participant, Participant's beneficiary, or the estate of either receives any amount of a distribution that has been awarded to Alternate Payee, the recipient is designated a constructive trustee for the amount received and shall immediately transmit such amount to Alternate Payee.

11. If Alternate Payee or the estate, heirs, or legatees of Alternate Payee receive any amount of a distribution that should have been paid to Participant, Participant's beneficiary, or the estate, heirs, or legatees of either, the recipient is designated a constructive trustee for the amount received and shall immediately transmit such amount to Participant or other person to whom the amount should have been paid.

If Participant, Alternate Payee, or the estate, heirs, or legatees of either receive any amount of a distribution that should not have been paid by the System, the recipient is designated a constructive trustee for the amount received and shall immediately transmit such amount to the System.

12. Alternate Payee is ORDERED to report any payments received on any applicable income tax return in accordance with Internal Revenue Code provisions or regulations in effect at

the time any payments are issued by the System. The System is authorized to issue a Form W-2P, Form 1099R, or other applicable form on any direct payment made to Alternate Payee.

13. Alternate Payee is ORDERED to provide the Plan prompt written notification of any changes in Alternate Payee's mailing address. The System shall not be liable for failing to make payments to Alternate Payee if the System does not have a current mailing address of Alternate Payee at the time of payment.

14. Alternate Payee shall furnish a certified copy of the Order to the System.

15. The Court, retains jurisdiction to amend this Order so that it will constitute a qualified domestic relations order under the System even though all other matters incident to this action or proceeding have been fully adjudicated. If the System determines at any time that changes in the law, the administration of the System, or any other circumstances make it impossible to calculate the portion of a distribution awarded to Alternate Payee by this Order and so notifies the parties, either or both parties shall immediately petition the Court for reformation of the Order.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

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JUDGE PRESIDING