



Laborers Annuity Plan for Northern California

220 Campus Lane, Fairfield, CA 94534-1498 • Telephone: (707) 864-2800 • Toll Free: 1-(800) 244-4530

INFORMATION FOR DRAFTING A QDRO DIVIDING COMMUNITY PROPERTY INTERESTS IN THE LABORERS ANNUITY FUND

The Annuity Plan maintained by the Laborers Pension Trust Fund for Northern California is a defined contribution plan, in which each participant has an individual account to which employers contribute based on hours of work reported for that participant. The account is fully vested immediately. Benefits are not payable to the participant until he or she has satisfied the Plan's requirements for retirement and has made suitable application for benefits.

The Annuity Plan is governed by the Employee Retirement Income Security Act of 1974 (ERISA), as amended by the Retirement Equity Act of 1984 (REA). Section 206(d)(3) of ERISA as amended (United States Code, Title 29, section 1056(d)(3)) provides that such annuity plans may not pay benefits to anyone other than the participant (or beneficiary) except on the basis of a state domestic relations order that satisfies the requirements for a "**qualified domestic relations order**" (QDRO). If a former spouse of a participant wants the Annuity Fund to pay the community property share of benefits directly to them, he or she must submit to the Fund a court order that satisfies the requirements for a QDRO set forth in that section.

The Annuity Plan is a multiemployer plan and has important features distinguishing it from single employer plans. As a result, the same QDROs published elsewhere and designed to fit single employer plans are unsuitable here. In their place we provide the following model for a QDRO suitable to this Plan. If you prepare your own form of QDRO or make any departures from the model provided here, we recommend that you submit the proposed order to the Fund for review before submitting it to the court.

The Fund will not stipulate to the terms of a QDRO. In accordance with the Retirement Equity Act, the Plan Administrator's designee will acknowledge the receipt of any duly entered domestic relations order and then make a determination whether or not the order is a qualified domestic relations order within that meaning of that Act. He will make that determination in accordance with his fiduciary responsibility under ERISA as amended by REA.

The Plan Administrator for the Annuity Plan is the Board of Trustees of the Pension Fund. The Board of Trustees has designated the Secretary for the Fund, Mr. Edward J. Smith, as the person who shall determine the qualified status of any domestic relations order received by the Fund. He will make that determination with the advice of the plan's co-legal counsel, consultants and administrators.

If you have further questions, they should be directed to the Fund office at 220 Campus Lane, Fairfield, CA 94534-1498, telephone number:(707) 864-2800 or toll free:(800) 244-4530.

1 Insert Name/Address/Telephone

4 Attorney for

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF [COUNTY]

10 [Party Name 1]

11 Petitioner,

12 v.

13 [Party Name 2]

14 Respondent

Case No.: [Case Number]

**STIPULATION FOR DIVISION OF
LABORERS ANNUITY TRUST FUND
BENEFITS AND QUALIFIED
DOMESTIC RELATIONS ORDER
(QDRO)**

15 WHEREAS:

16 A. Petitioner and Respondent married to each other on _____ and separated on
17 _____, and a Judgment of Dissolution of Marriage was entered in this action on
18 _____, finally dissolving the marriage effective _____;

19 B. This Court has personal jurisdiction over both Petitioner and Respondent and
20 jurisdiction over the subject matter of this Order;

21 C. Petitioner and Respondent intend this Order to be a qualified domestic relations
22 order (QDRO) as defined in § 206 (d) (3) of the Employee Retirement Income
23 Security Act of 1974 (ERISA), as amended by the Retirement Equity Act of 1984,
24 codified in 29 U.S.C, § 1056(d)(3); and

25 D. Petitioner and Respondent hereby stipulate to the entry of the following Order:

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1 IT SHALL BE ORDERED AS FOLLOWS;

2 1. As used in this Order the following terms apply:

3 a. "Participant" is

4 Name: _____

5 Address: _____

6 Social Security Number: To be provided under separate cover

7 Date of Birth: (MM/YYYY)

8 b. "Alternate Payee" is:

9 Name: _____

10 Address: _____

11 Social Security Number: To be provided under separate cover

12 Date of Birth: (MM/YYYY)

13 c. "Plan" refers to the Annuity Plan maintained by the Laborers Pension Trust
14 Fund for Northern California whose Plan Administrator is the Board of Trustees for the
15 Laborers Pension Trust Fund for Northern California – Annuity Plan and is located
16 at 220 Campus Lane, Fairfield, California, 94534-1498.

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18 2. Participant has accrued benefits in the Plan that are the community property of
19 Participant and Alternate Payee. For the purpose of dividing this community
20 property, Alternate Payee is assigned as her separate property one-half of that
21 portion of the Participant's Accumulated Share accrued in the Plan between date of marriage and
22 the date of separation, adjusted by investment gain (or loss) and expenses attributable to the
23 one-half share from the date of separation to the date of distribution.

24 3. Within a reasonable period after determination by the Plan Administrator or its designee that
25 this Order is a qualified domestic relations order within the meaning of §206(d)(3) of ERISA, the
26 Annuity Fund will distribute Alternate Payee's share as defined in paragraph 2, to her in an
27 immediate, lump sum payment. Upon receiving her share Alternate Payee relinquishes all further
28 community, quasi-community and marital property, right, title, and interest in the Participant's

1 Accumulated Share whether under this qualified domestic relations order or otherwise, and
2 any claim to treatment as Surviving Spouse of Participant with respect to the Annuity Plan or any
3 benefits available from the Plan, or to be considered a Beneficiary under the Annuity Plan.

4 4. If Participant predeceases Alternate Payee after entry of this Order, Alternate Payee's share
5 as described in paragraph 2 will be distributed to her, as provided in paragraph 3, as if she were
6 the Participant's surviving spouse.

7 5. Nothing in this Order will be construed to require the Plan to provide a type or form of benefit or
8 option not otherwise provided under the Plan.

9 6. Nothing in this Order will be construed to require the Plan to provide increased benefits
10 determined on the basis of actuarial value

11 7. This Order will not require the Plan to pay to an Alternate Payee benefits which are required to
12 be paid to another alternate payee under another order previously determined to be a qualified
13 domestic relations order.

14 8. This Order is intended to be a QDRO made pursuant to ERISA, and its provisions will be
15 administered and interpreted in conformity with ERISA and the Plan, as amended from time to
16 time. To that end, the Plan Administrator reserves the right to reconfirm the qualified status of the
17 Order at the time benefits become payable. If either ERISA or the Plan is amended or the law
18 regarding QDROs is otherwise changed or modified, then either party may take the necessary
19 steps to amend this Order to comply with any amendments, changes and/or modifications, or
20 if permissible under any amendment, change or modification, the Plan Administrator may
21 continue to treat this Order as a qualified order.

22 9. The Court will retain jurisdiction for the purpose of amending this Order so that it may qualify
23 or continue to qualify as a QDRO.

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APPROVED AS TO FORM AND CONTENT;

Date: _____

Petitioner

Date: _____

Respondent

IT IS SO ORDERED.

Date: _____

Judge of the Superior Court

Sample Only



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Procedures to Determine the Qualified Status of Domestic Relations Orders and to Administer Distributions Under Such Orders

Pursuant to Section 206 (d) of ERISA as amended by the Retirement Equity Act of 1984, the Board of Trustees of the Laborers Annuity Plan for Northern California has adopted the following procedures to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders:

1. In accordance with Section 1(c) of Article IV of the Trust Agreement, the Secretary of the Board of Trustees is designated to carry out the responsibilities of the Plan administrator specified in ERISA Section 206 (d) as amended.
2. Upon receipt of a domestic relations order, the Secretary shall promptly notify the Participant, the Alternate Payee named in the order and any other Alternate Payee of the receipt by the Plan of the order and the Plan's procedures for determining the qualified status of domestic relations orders. Such notice shall be sent by certified mail, return receipt requested, to each such person at the address included in the order, or if such no address is included, at any address the Secretary has reason to know independently of the order.
3. If the order is not based upon a stipulation, property settlement agreement or other evidence of concurrence in the order by the Participant, or an attorney on the Participant's behalf, a copy of the order shall be attached to the notice and the notice shall:
 - (a) Request the Participant or other Alternate Payee, if any, to advise the Secretary in writing within 60 days after receipt of the notice whether or not he or she disputes the qualified status of the order;
 - (b) Notify the Participant or other Alternate Payee, if any, that unless the Secretary is advised within such period that he or she disputes the qualified status of the order, and of specific reasons for such dispute, such status will be deemed admitted.
4. The notice to the Alternate Payee named in the order shall advise her or him that she or he may designate in writing a representative for receipt of notices that are sent to such Alternate Payee with respect to the order.
5. In any case covered by paragraphs 2 and 3, the Secretary may dispense with the procedures provided in those paragraphs if he is furnished with a statement signed by the Participant under penalty of perjury under the laws of the State of California certifying that the Participant has received a copy of the domestic relations order, that he has read and understands the provisions of the order relating to the Laborers Annuity Plan and that he does not dispute the qualified status of the order under ERISA Section 206 (d) as amended. The Secretary may also accept the certificate of the Participant as supplying for the purposes of the order the address of the Participant and the Alternate Payee named in the order, if one or both of such addresses are omitted from the order, and in such circumstances the similarly executed certificate of such Alternate Payee as supplying the address of the Alternate Payee for the purposes of the order.
6. The Secretary shall promptly send copies of such notice or such statement, as the case may be, the order and any correspondence in connection therewith, a statement of the Individual Account of the Participant and any other documents bearing on the qualified status of the order to co-legal counsel for the Fund for review and opinion as to such qualified status.

7. After receipt of the order, the Secretary shall segregate in a separate account or in an escrow account any amount thereafter coming due which would have been payable to the Alternate Payee named in the order during the period of such segregation if the order had been determined to be a qualified domestic relations order. The segregated amount shall bear interest to the extent and at the rate provided under the rules and regulations applicable to the account.
8. After receiving the opinion of co-legal counsel and considering any responses of the Participant or other Alternate Payee to a notice given pursuant to paragraphs 2 and 3 above, the Secretary shall determine whether or not the order is a qualified domestic relations order as defined in ERISA Section 206 (d) as amended.
9. If the order is determined to be a qualified order, and if the Participant has furnished a statement pursuant to paragraph 5 or the Participant and any other Alternate Payee have advised the Secretary in writing that qualified status is not disputed, or have failed to respond to a notice given pursuant to paragraph 2 within the time limit specified in paragraph 3, the Secretary shall pay the segregated amounts (plus any interest thereon) to the person or persons entitled thereto.
10. If the order is determined to be a qualified order, and if the Secretary has been advised in writing within the time limit specified in paragraph 3 that the Participant or other Alternate Payee disputes such qualified status, the Secretary shall notify the person claiming that the order is not qualified of his determination and of the specific reasons therefor, and shall advise such person of his right to petition the Board for a review of such determination pursuant to Section 9.04 of the Pension Plan within 60 days after receipt of such notice. The Secretary shall continue to segregate the amounts designated in said order as payable to the Alternate Payee pending the resolution of the issue as to whether the order is a qualified order, or the expiration of 18 months from the receipt of the order by the Plan, whichever first occurs.
11. If the order is determined not to be a qualified order, the Secretary shall promptly notify the Participant, the Alternate Payee named in the order and any other Alternate Payee of such determination. The notice shall set forth in a manner calculated to be understood by the recipient (a) the specific reason or reasons for the determination; (b) specific reference to pertinent provisions of the law or of the Plan on which the determination is based; and (c) a description of any additional material, information or action necessary to enable the Alternate Payee named in the order to perfect the qualified status of the order and any explanation of why such material, information or action is necessary, and shall advise that if the Alternate Payee named in the order does not furnish the material or information or take the action necessary to perfect the order within 60 days after receipt of the notice, or within such reasonable period thereafter as the Secretary may allow, the Secretary shall pay the segregated amount (plus any interest thereon) to the person or persons who would have been entitled to such amounts if there had been no order.
12. After expiration of the period of time allowed for perfection of the order, or after expiration of 18 months from the receipt of the order by the Plan, whichever first occurs, the Secretary shall pay the segregated amount (plus any interest thereon) to the person or persons who would have been entitled to such amounts if there had been no such order.
13. Any payment made pursuant to these procedures shall be without prejudice to the right of the Secretary or the Board to segregate or withhold payments coming due subsequent to such payment if such action is determined by the Secretary or the Board to be necessary to protect the interests of the Fund.
14. The Secretary shall treat a domestic relations order entered before January 1, 1985 as a qualified domestic relations order if the Plan was paying benefits pursuant to such order on that date. After following the procedures specified above, the Secretary may treat any other domestic relations order entered prior to January 1, 1985 as a qualified domestic relations order even if such order does not meet the requirements of ERISA Section 206 (d) as amended.
15. The objective of these procedures is to minimize the costs and delay involved in implementing the provisions of Section 206 (d), consistent with the requirements of Part 4 of ERISA, and the Secretary and co-legal counsel are authorized to supplement or modify the procedures to accomplish this objective.