

[DRAFT]

CITY OF TAYLOR POLICE AND FIRE RETIREMENT SYSTEM

POLICY RESOLUTION

Adopted:

Re: Statement of Administrative Policies and Procedures - Domestic Relations Matters

WHEREAS, the Board of Trustees of the City of Taylor Police and Fire Retirement System (“Board of Trustees”) is vested with the authority for the general administration, management and operation of the City of Taylor Police and Fire Retirement System (“Retirement System”), and

WHEREAS, Public Act 46 of 1991, MCL 38.1701 *et seq.* (“Public Act 46” or the “EDRO Act”) mandates that all public employment retirement systems must comply with Eligible Domestic Relations Orders (“EDROs”) issued by Michigan state courts pursuant to the domestic relations law of the State of Michigan, and

WHEREAS, Public Act 46 requires the establishment of reasonable procedures for determining if domestic relations orders received by the retirement system are EDROs under the EDRO Act, and

WHEREAS, the Board of Trustees is desirous of stating its various policies and procedures with regards to the Retirement System’s administration of all court orders, subpoenas and requests for information with regards to domestic relations proceedings (e.g. separation and/or divorce), and

WHEREAS, the Board of Trustees having discussed this matter with its Legal Counsel who, in conjunction with the Board’s Actuary, has developed and recommended procedures and forms for use in this regard, therefore be it

RESOLVED, that the Board of Trustees hereby adopts the attached “Statement of Administrative Policies and Procedures Regarding Domestic Relations Matters”, and

FURTHER RESOLVED, that a copy of this resolution and the attached policy shall be provided to the Board of Trustees’ Actuary and Legal Counsel, and

FURTHER RESOLVED, that a copy of this policy shall be provided to the parties and attorneys involved in domestic relations proceedings involving Retirement System benefits.

CITY OF TAYLOR POLICE & FIRE RETIREMENT SYSTEM

Statement of Administrative Policies and Procedures Regarding Domestic Relations Matters

I. DOMESTIC RELATIONS LEGISLATION

Historically (i.e., prior to 1985), Michigan law did not require the courts to consider pensions as part of the marital estate. In 1985, the Michigan Legislature acted to clarify the treatment to be given pension rights in divorce cases. There were certain significant aspects in the legislation which impacted directly upon the administration of retirement systems, including:

1. Any rights in and to vested pensions or annuities that were accrued during a marriage shall be considered part of the marital estate and subject to award by the court.
2. Any rights or contingent rights in and to an unvested pension accrued during the marriage may be considered part of the marital estate and subject to award by the court where just and equitable.
3. Each support order entered or modified by the circuit court shall provide for an order of income withholding.
4. An order of income withholding shall be binding upon any source of income (which includes the pension trust fund) 7 days after service by mail of a true copy of the order.

To ensure that retirement benefits are considered in each divorce and separate maintenance action, parties to such actions are required to include a provision determining all rights that a spouse has in any pension. The courts, therefore, have jurisdiction over public employee retirement systems for distribution in divorce cases. Orders made in such actions are effective only against the proceeds of the plans when they are actually paid and they confer no greater or different right in the plan. Such simple domestic relations orders (DROs), in accordance with the Support and Visitation Enforcement Act and the Public Employee Benefit Protection Act, include a judgment or order of the court relating to alimony payments, child support, or marital property rights to a spouse of a participant under a judgment of separate maintenance, or to a former spouse, child or dependent of a participant. Such orders do not require payment of any payment option not otherwise provided by the plan nor permit distribution of benefits in any manner or pursuant to any procedure which is inconsistent with the provisions of the plan. In summary, DROs only permit the Retirement System to divide the participant's retirement benefit between the parties, but do not afford the ex-spouse other benefits (e.g. ability to elect benefits early or be designated for surviving spouse benefits, etc.). **DROs continue to be the only means by which parties may divide the pension benefits of those individuals that have retired prior to the date of divorce.**

In 1991, the Michigan legislature enacted the Eligible Domestic Relations Orders Act, Public Act 46 of 1991 (MCL 38.1701 et seq.) (“Act 46”), to authorize the payment of public employee retirement system assets to certain individuals. The Eligible Domestic Relations Order Act mandates that all public employee retirement systems comply with Eligible Domestic Relations Orders (EDROs) issued by State Courts and establishes specific requirements for those systems created and covered by State laws. The EDRO Act was amended in 2013 to allow for an Order to be entered either before the participant’s retirement or death, whichever occurs first. The 2013 amendments also provide for a 60-day period during which a DRO which did not qualify as an EDRO could be corrected.

SUMMARY ANALYSIS OF THE ELIGIBLE DOMESTIC RELATIONS ORDER ACT

Eligible Domestic Relations Order (EDRO) - A domestic relations order that is considered an Eligible Domestic Relations Order under the provisions of Act 46 must meet the following requirements:

1. The order must state the name of the participant, and the alternate payee.
2. The order must state the amount or percentage of the benefit to be paid to an alternate payee or the manner under which the retirement system is to determine the amount or percentage of the benefit to be paid to an alternate payee.
3. The domestic relations order must state that it applies to the retirement system and that the retirement system shall make payments to the alternate payee as required under the Eligible Domestic Relations Order and Act 46.
4. The domestic relations order does not require the retirement system to provide a type or form of benefit not provided by the retirement system or a form of payment not provided by Act 46.
5. The domestic relations order does not require the retirement system to provide an increased benefit determined on the basis of actuarial value.
6. The order does not require the payment of a benefit to an alternate payee that is required to be paid to another alternate payee under previously filed eligible domestic relations order.
7. The domestic relations order **is filed before** the participant’s retirement allowance effective date. However, the 2013 amendments to the EDRO Act require a participant’s retirement allowance effective date to be stayed for 60 days upon rejection of a purported and presented EDRO that did not meet the qualifications for acceptance by the Retirement System. During the 60-day period the parties could submit an amended EDRO for consideration.

Please note that recently enacted privacy laws have limited the inclusion of personal information such as social security numbers, dates of birth, and addresses. It has been typical, and is reflected in the sample documents provided, that such information is provided to the Court and the Retirement System under separate attachment that is not made part of the public record.

BENEFIT PAYMENTS

Except as otherwise provided in Act 46, the payment of a benefit to an alternate payee under an EDRO shall begin on the participant's retirement allowance effective date. The payment of a benefit under an EDRO and Act 46 shall be paid in one of the following forms as applicable:

1. A single life annuity that is equal to the actuarial equivalent of the alternate payee's share of the benefit payable throughout the life of the alternate payee.
2. If an option benefit is elected, then a reduced benefit that is equal to the actuarial equivalent of the total benefit being divided under the EDRO payable throughout the lives of the participant and the alternate payee. (Note: This form of benefit is only available if the participant and alternate payee commence receipt of benefits at the same time.)
3. A single life annuity that is equal to the alternate payee's share of the benefit payable throughout the life of the participant.

The EDRO may provide that:

1. The alternate payee's benefit shall begin at the time that the participant retires or the alternate payee may elect payments to commence on any date on or after the participant's earliest retirement date prior to the participant's termination of employment in an actuarially equivalent amount.
2. The alternate payee may be determined to be the spouse of the participant thereby rendering him/her eligible for surviving spouse benefits (or a portion of such benefits).
3. If an alternate payee to an actual interest in a share of a benefit that is or will become payable to a participant dies before receiving any payment, that interest reverts to the participant.
4. Post-retirement benefits of the participant in which an alternate payee may share as provided in the EDRO, include but are not limited to:
 - a. A supplemental annuity;
 - b. A supplemental payment to a participant;
 - c. A percentage increase to a benefit payable to a participant; and
 - d. Any other payment to a participant or increase to a benefit payable to a participant, excluding health benefits.

ALTERNATE PAYEE ELECTION

An EDRO may provide for payment of a benefit to an alternate payee beginning on or after the participant's earliest retirement date (i.e., on or after the date the participant is eligible to retire) but before the participant terminates employment. If an alternate payee so elects to receive his or her interest, the alternate payee is only entitled to the actuarial equivalent of the alternate payee's share of the participant's benefit that would be payable when the participant reaches age 60. If the participant retires before age 60, the retirement system shall recalculate the benefit payable to the alternate payee so that the recalculated benefit plus the benefit previously paid to the alternate payee are the actuarial equivalent of the alternate payee's share of the benefit payable to the participant.

SURVIVOR BENEFIT

An EDRO may also provide that the former spouse is considered to be the spouse of the participant for the purpose of receiving survivor benefits. If the percentage of the benefit or amount to be paid to a spouse is less than the entire amount payable by the retirement system, the surviving spouse or other beneficiary of the participant is entitled to receive the portion of the benefit not payable to a former spouse.

If an alternate payee under an EDRO dies before receiving any payment of his or her interest in a benefit pursuant to the EDRO, that interest reverts to the participant.

The above analysis is merely a summary. The law as written and passed will, in the future be further defined by case law or amendments. Further, the statute must be read in conjunction with other statutes. Whether a domestic relations order is in fact an EDRO, is a legal question. It is important, therefore, that all Domestic Relations Orders submitted to the Retirement System be reviewed by legal counsel.

II. PLAN OVERVIEW

The following is an overview of the Retirement System and some of the Plan provisions. The parties to a domestic relations proceeding and/or their legal counsel should review the plan document(s) to familiarize themselves with the Retirement System and the benefits provided.

The City of Taylor Police and Fire Retirement System is established and administered in accordance with the provisions of Public Act 345 of 1937, as amended [MCL § 38.551 et seq.]. The Retirement System is a qualified governmental plan under applicable provisions of the Internal Revenue Code and consists of a defined benefit plan. The benefit provisions of the Retirement System are contained within Act 345, as amended by the individual member's applicable collective bargaining agreement. In the event of a conflict between the plan provisions and the collective bargaining agreement, the collective bargaining provisions prevail.

III. SAMPLE EDRO

The Board of Trustees has approved the availability of a sample EDRO and a sample DRO for use by its members and beneficiaries. The samples are forms only and the parties and/or their attorneys must conduct their own research and investigation of the plan provisions, the EDRO Act and all other applicable law to determine which type of order and or provisions are appropriate under the circumstances. Copies of the sample orders are available from the [Retirement System Administrator] [Form DRO -1A (active employee), Form DRO - 1B (current retiree)].

IV. REQUESTS FOR INFORMATION

The Board of Trustees respects an individual member's right to privacy and strictly construes the Freedom of Information Act as to the release of a member's retirement data to third parties. This respect for a member's right to privacy is not altered by the commencement or pendency of domestic relations proceedings. Requests by third parties for a member's personal retirement data must be accompanied by a signed waiver from the applicable member/retiree or a court entered order or subpoena. Attorney issued subpoenas, will be treated as a request under the Freedom of Information Act, and requests for information which is of a personal nature will be denied unless accompanied by a signed waiver from the member/retiree.

V. PROPOSED ORDERS

The parties to a domestic relations proceeding are encouraged to forward their proposed EDRO, DRO or other applicable order to the Board of Trustees for review prior to entry of the order with the court. The Board of Trustees, through its legal counsel, will review the proposed order for compliance with plan provisions and applicable law. Comments and/or required amendment or additions will be forwarded to the parties.

VI. COSTS

1. **Policy Statement.** The Retirement System frequently is presented with requests, court judgments and/or court orders which require the providing of estimates, calculations, legal review and/or comment with respect to proposed or actual court judgments or domestic relations orders, including proposed or actual Eligible Domestic Relations Orders pursuant to Public Act 46 of 1991 of the State of Michigan statutes (MCL 38.1701, et seq.). The EDRO Act requires the Board of Trustees to establish a reasonable procedure to determine if a domestic relations order is an Eligible Domestic Relations Order under the EDRO Act. The Board of Trustees has adopted this procedure to implement the requirements of applicable law, which procedure necessarily includes the involvement of professional advisors due to the legal and actuarial issues inherently involved. Said estimates and calculations are made by the Board's actuary who submits billings for said services. Legal review and comment, which may include proposed amendments and/or consultation with the parties' attorneys, is performed by the Board's legal counsel who also submits billings for said services. Despite the increased costs to the Retirement System and the taxpayers of the City imposed by the enactment of

domestic relations legislation, the Legislature has not provided funding to administer the legal mandates of the applicable legislation. The Board is vested with the fiduciary responsibility and authority for the general administration and management of the Retirement System. The Board is of the opinion that the [actuarial and/or legal] costs for providing estimates and calculations is not the responsibility of the Retirement System, but is the responsibility of the party or parties to the domestic relations proceeding.

2. **Cost allocation.** The parties are encouraged to address each party's responsibility for payment of [actuarial and/or legal] costs within the terms of their respective EDRO, court order and/or correspondence which requests and/or requires actuarial calculations. A Fee Payment Agreement [Form DRO-7] is available for use by the parties which upon completion should be forwarded to the Board. In the absence of a signed payment agreement or specific terms in the EDRO, the Board of Trustees shall split (50/50) between the party or parties to the order, the applicable [actuarial and/or legal] costs incurred by the Retirement System. The party requesting an estimate or other actuarial calculations prior to entry of an order shall otherwise be responsible for all the corresponding costs.
3. **Deposit.** Any domestic relations order or request for calculations submitted to the Retirement System shall be accompanied by a deposit of five hundred dollars (\$500.00) made payable to the City of Taylor Police and Fire Retirement System, which deposit shall be applied toward the reimbursement of the Retirement System's professional advisor's fees and costs associated therewith. Any overpayment shall be returned to the parties pro-rata. If the required deposit is insufficient to reimburse the Retirement System fully, the parties shall forthwith tender such additional amounts as may be required. In the event said costs are not paid by either or both parties to the domestic relations proceedings, the applicable costs, plus interest at the Plan's actuarially assumed rate, shall be deducted from the respective party's benefits at such time as benefits become payable by the Plan.
4. **Upon receipt of an entered domestic relations order,** the Board shall follow the procedures outlined in Section VII. The [actuarial and/or legal] costs directly attributable to actuarial and legal review and certification (i.e., that the EDRO does not increase plan costs and complies with all applicable laws), are the responsibility of both parties. If the parties request or circumstances dictate (i.e. participant or alternate payee commencing benefits immediately) an immediate actuarial calculation of benefits, including estimates, said costs are also the responsibility of the parties.
5. **Upon the participant's retirement,** the Board will pay the normal actuarial costs for determining the amounts otherwise payable to the participant (i.e., the amount for calculation of the participant's straight life benefit and applicable options). Any additional actuarial costs for calculations required pursuant to the terms of the EDRO will be the responsibility of the parties.

VII. ENTERED ORDERS

1. Upon receipt of a judgment or order purporting to be an Eligible Domestic Relations Order, the Board of Trustees is required to acknowledge receipt of said judgment or order.
2. The Board of Trustees will notify the parties who will be affected by such order (the plan participant, the alternate payee and legal counsel for said parties) and inform them that the Board of Trustees will proceed with a determination as to whether the order is an effective Eligible Domestic Relations Order within sixty (60) days after receipt of the order. An "Acknowledgment of Receipt of Judgment or Order Purporting to be an Eligible Domestic Relations Order" form letter will be completed by the Retirement Administrator and forwarded to the parties. [Form DRO - 2]
3. The Retirement Administrator shall forward a copy of the order and other appropriate information to the Board's legal counsel for review as to whether the order complies with the Plan's provisions and applicable law [Form DRO -3]. [The costs to the Retirement System for legal review and certification shall be the responsibility of the parties.]
4. Upon review, legal counsel will prepare and forward correspondence and/or proposed resolutions, as may be applicable, to the Board and/or parties. Legal counsel will forward its opinion to the Board as to the compliance of the order with applicable law and Plan provisions [Form DRO - 4]. If the order does not meet the requirements of the Act or the Plan, the Board's legal counsel will promptly notify the parties of the deficiencies.
5. After legal counsel opines that the order complies with applicable law and Plan provisions, a copy of the order will also be forwarded to the Board's actuary for review and certification (i.e. that the EDRO does not increase plan costs). [Form DRO - 5]. Said review and certification will be forwarded to the Board. [Please note: the parties will be responsible for all actuarial and legal costs, and must comply with the provisions of this policy regarding costs.]
6. Upon receipt of (a) the opinion of its legal counsel, and (b) review and certification of its actuary, the Board of Trustees will adopt a resolution acknowledging receipt of an entered order which complies with plan provisions and applicable law. A copy of this resolution will be forwarded to the parties and their attorneys. A copy of the approved order will be placed in the participant's Retirement System file.
7. The Board's Administrator will thereafter request computation of any required payroll data and service credit and complete the EDRO Information form for inclusion in the participant's Retirement System file. [Form DRO - 6].

VIII. REQUEST FOR BENEFIT ESTIMATES AND/OR CALCULATIONS

In cases where a member or retiree of the Retirement System or their respective spouse or alternate payee seeks actuarial information concerning the retirement allowance of a member or retiree, such estimates, to the extent possible (and subject to the disclosure limitations as discussed in Section II) may be obtained from the Retirement System's Administrator. In the event the Retirement System's Administrator does not have access to the requested information or the ability to calculate the requested computation, the Board has no objection to its actuary providing the information provided:

1. The member or retiree; or their respective spouse or alternate payee; or their respective legal counsel; directly contacts the actuary:

Rodwan Consulting Company
2310 E. Eleven Mile Rd.
Royal Oak, MI 48067

2. The Board and the Board's legal counsel (VanOverbeke, Michaud & Timmony, P.C.) shall be sent a copy of all correspondence between (a) the member or retiree; (b) their respective spouse or alternate payee; or (c) their legal counsel and the Board's Actuary.
3. The Retirement System shall be reimbursed for all costs associated with the request by the party or parties requesting the actuarial calculation in compliance with Section IV. In the absence of a signed Fee Payment Agreement [Form DRO-7] or specific terms in the EDRO, the Board shall split (50/50) the actuarial costs between the parties to the order.

IX. ALTERNATE PAYEE'S COMMENCEMENT OF BENEFITS

1. An alternate payee must make application not less than thirty (30) and not more than ninety (90) days prior to his/her intended benefit commencement date [Form DRO -8].
2. Upon receipt and approval of an EDRO or other appropriate order, the Board of Trustees resolves to put a copy in the participant's file. The Board of Trustees does not notify alternate payees of their eligibility to commence receipt of benefits until such time as the participant files application for retirement. If it is the intent of the alternate payee to commence receipt of benefits at the participant's earliest retirement date or some other date prior to the participant's retirement, the alternate payee must keep track of that date and make application to the Retirement System as indicated above.

DRO FORM 1 COVER LETTER

[*RETIREMENT SYSTEM LETTERHEAD*]

DATE

PLAINTIFF'S ATTORNEY

DEFENDANT'S ATTORNEY

Re: _____ vs. _____;
_____ **County Case No.**

Dear Counselors:

Pursuant to your request, enclosed please find sample Domestic Relations Orders (DROs) for your review and consideration. The Board of Trustees of the City of Taylor Police and Fire Retirement System, in recognition of the Eligible Domestic Relations Order Act, Public Act 46 of 1991, (MCL 38.1701 et seq.) and related legislation, has prepared sample orders to assist parties in addressing pension benefits and to facilitate the efficient review of orders.

Please note that the enclosed sample orders are provided as samples only. The parties to the domestic relations proceeding and/or their attorneys are solely responsible for the preparation of an appropriate order in which the terms are acceptable to the parties and consistent with the provisions of the Retirement System and applicable law.

Very truly yours,

Board of Trustees of the City of Taylor
Police and Fire Retirement System

Chairperson

Encl.

DRO FORM 1A
"SAMPLE"
ELIGIBLE DOMESTIC RELATIONS ORDER

[SAMPLE]

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF

Plaintiff,

Case No:

Hon:

Defendant.

_____ /

_____ P
Attorney for Plaintiff
{Address}

{Phone#}

_____ P
Attorney for Defendant
{Address}

{Phone#}

_____ /

ELIGIBLE DOMESTIC RELATIONS ORDER

At a session of said court, held in the Courthouse,
City of _____, County of _____, State of Michigan

On

PRESENT: HON. _____
CIRCUIT COURT JUDGE

This Order is intended to serve as an Eligible Domestic Relations Order ("EDRO") by which [Plaintiff/Defendant], _____ assigns, a portion of [his/her] retirement benefits, under the retirement system specified below, to the [Plaintiff/Defendant], _____, in accordance with the Eligible Domestic Relations Order Act (Public Act 46 of 1991 - MCL 38.1701-38.1711) and the City of Taylor Police and Fire Retirement System. [It is intended that this Order be incorporated in the Judgment of Divorce entered _____, 20____, and made a part thereof].

[SAMPLE EDRO]

1. The retirement system (the "Plan") subject to this Order is as follows:

City of Taylor Police and Fire Retirement System
23515 Goddard Rd.
Taylor, MI 48180

The plan is a defined benefit plan.

2. The Participant is the [Plaintiff/Defendant],_____. The Participant's Social Security Number, Date of Birth, and last known address will be provided under a separate attachment that is not to be made part of the public record.
3. The Alternate Payee is the [Plaintiff/Defendant],_____. The Alternate Payee's Social Security Number, Date of Birth, and last known address will be provided under a separate attachment that is not to be made part of the public record.
4. The Participant and the Alternate Payee were married on _____, 20____, and were [divorced/separated] on _____, 20____.
5. The Participant assigns to the Alternate Payee a portion of [his/her] benefits from the Plan and the Plan will pay benefits to the Alternate Payee according to the following terms and conditions:

(a) **SELECT:**

Alt. 1 It is the parties' intention, and the order of this Court, that the Alternate Payee receive a monthly benefit from the Plan of _____% of the amount of the Participant's retirement allowance, including a pro rata share of any guaranteed automatic annual benefit increases, which has accrued as of _____, 20____, which percentage takes into consideration the years of service, if any, that were accrued prior to the date of marriage.

OR

Alt. 2 It is the parties' intention, and the order of this Court, that the Alternate Payee receive a monthly benefit from the Plan of \$_____, including a pro rata share of any guaranteed automatic annual benefit increases.

Optional (a)(i): It is the parties intention and the order of this Court that the alternate payee receive a distribution from the Defined Benefit Plan of _____% of the Participant's accumulated contribution account balance which has accrued as of _____, _____, including a prorata share of any annual adjustments made after _____, _____ to reflect gains or losses allocated to the account, which percentage takes into consideration the years of service, if any, that were accrued prior to the date of marriage.

SAMPLE EDRO

- (b) Payments to the Alternate Payee shall commence

SELECT:

Alt. 1 when the Participant begins to receive benefits under the Plan.

OR

Alt. 2 as selected by the Alternate Payee at any time beginning when the Participant reaches the earliest retirement date as defined in Section 2(d) of the Eligible Domestic Relations Order Act (Public Act 46 of 1991).

- (c) Payments to the Alternate Payee for that portion of the retirement allowance which is being divided in Paragraph 5(a) will be made

SELECT:

Alt. 1 during the life of the Alternate Payee and shall end upon the death of the Alternate Payee.

OR

Alt. 2 during the life of the Participant and the Alternative Payee shall be designated as the Participant's surviving spouse for purposes of the Plan's automatic 60% surviving spouse benefit **Alternative 1** [for that portion of the retirement allowance which is being divided in Paragraph 5(a)] **or Alternative 2** [for all of Participant's accrued benefits under the Plan]. Upon the death of the Alternate Payee, if the Participant is alive, then the Alternate Payee's portion of the Participant's straight life benefit shall revert to the Participant.

OR

Alt. 3 under the Plan's [Option I (100%) or Option II (50%)] Joint and Survivor allowance. The Participant shall designate the Alternate Payee as beneficiary of the [Option I or Option II] allowance. While both parties are alive, the Plan shall pay the Alternate Payee [Alt. 1: _____%/Alt. 2 \$_____] of the reduced [Option I or Option II] retirement allowance. After the Participant's death, if the Alternate Payee is alive, the Plan shall pay the Alternate Payee 50% of the reduced [Option I or Option II] retirement allowance which is being divided in Paragraph 5(a). After the Alternate Payee's death, if the Participant is alive, the entire reduced [Option I or Option II] retirement allowance shall be paid to the Participant.

[Note: The Option I and Option II benefit allowance as provided by Act 345 are as follows:

Option I: Upon the death of a retired member, his or her reduced retirement pension shall be continued throughout the life of and paid to the person, having an insurable interest in the retired member's life, that the member nominated by written

[SAMPLE EDRO]

designation executed and filed with the retirement board before the effective date of the member's retirement.

Option II: Upon the death of a retired member, 1/2 of his or her reduced retirement pension shall be continued throughout the life of and paid to the person, having an insurable interest in the retired member's life, that the member nominated by written designation executed and filed with the retirement board before the effective date of the member's retirement.]

- (d) If the provisions of paragraphs 5(b) and 5(c) above would require the Plan to provide increased benefits compared to the benefits the Plan would have paid had the event leading to the creation of this EDRO not occurred, determined on the basis of actuarial equivalent values, due to differences in life expectancies of the Participant and the Alternate Payee, the increased value shall be eliminated through adjustments to the benefits otherwise payable to

SELECT:

Alt. 1 the Alternate Payee.

OR

Alt. 2 the Participant.

OR

Alt. 3 split between the Alternate Payee and the Participant in the following proportion: ___% Alternate Payee and ___% Participant.

Optional (e) If the Plan pays any post-retirement cost of living benefit increase (i.e., non-guaranteed annual increases, supplemental payments/13th checks, one-time increases) on the benefits being paid from the Plan [which have accrued as of (date) , 20 ,] the Alternate Payee shall receive a share of each such increase that is paid after the later of the date this Order is determined by the Plan Administrator to be an EDRO, and the date when the Participant begins to receive benefits under the Plan. The Alternate Payee's share of each such increase will be in proportion to the amount of the Participant's retirement allowance that is awarded the Alternate Payee under Paragraph 5(a).

(f) If the Alternate Payee predeceases the Participant prior to the commencement of benefits to the Alternate Payee under this Order, the Alternate Payee's interest in the Plan shall revert back to the Participant.

Optional (g) The Participant shall designate the Alternate Payee as the surviving spouse for purposes of the Plan's pre-retirement survivor benefit for the portion of the retirement allowance which is being divided in Paragraph 5(a). If the Participant dies before payments to the Participant have begun and before payments to the Alternate Payee have begun, the Plan shall pay the Alternate Payee a benefit based upon the Plan's pre-retirement survivor benefit for the portion of the retirement allowance which is being divided in Paragraph 5(a). No payments shall be made under this paragraph if the Participant dies after payments to the Alternate Payee have begun.

- (h) The Alternate Payee shall include in [his/her] gross income, for the tax year of receipt, all retirement benefit distributions that [he/she] receives pursuant to the Participant's assignment of benefits under this EDRO; and, accordingly, the Participant shall not include such benefit distributions in [his/her] gross income. The Alternate Payee shall be treated as the sole distributee under IRC Sections 72 and 402 of any payment or distribution that is made to [him/her] under the Participant's assignment of benefits under this EDRO.
 - (i) The Participant and the Alternate Payee agree to share any additional actuarial costs incurred by the Plan due to this Order or the benefit election by the Alternate Payee under this Order. The Alternate Payee's share of said costs shall be in proportion to [his/her] share of the Participant's total retirement allowance awarded to the Alternate Payee under Paragraph 5(a). **[Alternatively, the order may provide for one party to pay actuarial costs.]**
6. This assignment of benefits shall not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan. This assignment shall not require the Plan to provide increased benefits, determined on the basis of actuarial equivalent values. This assignment shall not require the Plan to provide benefits to the Alternate Payee which are required to be paid to another alternate payee under another order previously determined to be an EDRO, or as otherwise provided by Section 11 of the Eligible Domestic Relations Order Act (Public Act 46 of 1991).
 7. The Participant, the Alternate Payee and the Court intend this Order to be an EDRO under the Eligible Domestic Relations Order Act (Public Act 46 of 1991), the Plan and related legislation.
 8. The parties agree that their mutual intent is to provide the Alternate Payee with a retirement payment that fairly represents what they have agreed to be the Alternate Payee's marital share of the Participant's accrued retirement benefit as defined in Paragraph 5(a). In the event the administrator of the Plan determines this Order not to be an EDRO satisfactory to the Plan, the Participant and Alternate Payee hereby agree to submit to and request a court of competent jurisdiction to modify the Order to make it an EDRO satisfactory to the Plan in such a manner that will reflect the parties' intent as herein expressed and thereafter to enter an order modifying this Order, said modification order to be entered nunc pro tunc, if appropriate, so as to comply with Public Act 46 of 1991, the Plan and related legislation.
 9. The fees to the Plan's actuary to calculate the benefits due to Participant and Alternate Payee shall be borne equally by the parties (each party shall forward payment in the amount of _____ hundred and 00/100 (\$_____) dollars by forwarding same to the City of Taylor Police and Fire Retirement System with a true copy of this order) which payment shall be a condition to the effectiveness of this Order as to each party. Any additional fees charged by the actuary relative to this Order shall be borne equally by the parties or as stipulated in Paragraph 5(i).

Circuit Court Judge

[SAMPLE EDRO]

Approved as to form:

Attorney for Plaintiff P _____ Date: _____

Attorney for Defendant P _____ Date: _____

Distribution of copies:

- Original to Circuit Court Clerk
- Certified copy to Plan Administrator
(at address given in Paragraph 1)

DRO FORM 1B

[SAMPLE - TO BE USED IN THE EVENT OF DIVORCE AFTER RETIREMENT]

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF

Plaintiff,

Case No:

Hon:

Defendant.

_____ /

_____ P

Attorney for Plaintiff

{ Address }

{ Phone# }

_____ P

Attorney for Defendant

{ Address }

{ Phone# }

_____ /

DOMESTIC RELATIONS ORDER

At a session of said court, held in the Courthouse,
City of _____, County of _____, State of Michigan

On

PRESENT: HON. _____

CIRCUIT COURT JUDGE

This Order is intended to serve as an Domestic Relations Order ("DRO") by which [Plaintiff/Defendant], _____ assigns, a portion of [his/her] retirement benefits, under the City of Taylor Police and Fire Retirement System, to the [Plaintiff/Defendant], _____ in accordance with the Public Employee Retirement Benefit Protection Act (Public Act 100 of 2002 - MCL 38.1684(2)) and the Support and Parenting Time Enforcement Act (Public Act 295 of 1982 - MCL 552.601 et seq.). It is intended that this Order be incorporated in the Judgment of Divorce entered _____, and made a part thereof.

[SAMPLE DRO]

1. The Retirement System (the "Plan") subject to this Order is as follows:

City of Taylor
Police and Fire Retirement System
23515 Goddard Rd.
Taylor, MI 48180

2. The Participant is the [Plaintiff/Defendant], _____,

Social Security No.: See Attached Supplemental Information Sheet.
Date of Birth: See Attached Supplemental Information Sheet.
Last known address: See Attached Supplemental Information Sheet.

3. The Alternate Payee is the [Plaintiff/Defendant], _____,

Social Security No.: See Attached Supplemental Information Sheet.
Date of Birth: See Attached Supplemental Information Sheet.
Last known address: See Attached Supplemental Information Sheet.

4. The Participant and the Alternate Payee were married on _____, _____, and were [divorced/separated] on _____, _____.

5. The Participant's date of employment was _____, and [his/her] effective date of retirement was _____.

6. The Participant assigns to the Alternate Payee a portion of [his/her] benefits from the Plan and the Plan will pay benefits to the Alternate Payee according to the following terms and conditions:

- (a) It is the parties' intention, and the Order of this Court, that the Alternate Payee is awarded [_____% [\$_____] of the Participant's retirement benefits which are attributable to the Participant and had accrued as of the Participant's date of retirement, which percentage [does not take into / takes into] consideration the years of service, if any, that were accrued prior to the date of marriage] or [\$_____ per month of the Participant's retirement benefit]. At the time of the Participant's retirement the Participant elected

SELECT:

Alt. 1 the Plan's straight life benefit with an automatic 60% surviving spouse benefit. Due to the parties' divorce, the Alternate Payee will no longer qualify as the Participant's spouse for purposes of the surviving spouse benefit. Accordingly, in the event the Participant predeceases the Alternate Payee, payment of all benefits to the Alternate Payee will terminate. Notwithstanding such result, the Alternate Payee shall be designated as the surviving spouse of the Participant in the event the Plan

[SAMPLE DRO]

provisions are amended after entry of this Order to otherwise allow for the establishment of the Alternate Payee's entitlement to a survivor benefit. The form of benefit chose by the Participant at retirement shall remain in effect.

OR

Alt. 2 the Plan's [Option 1 – 100% Joint and Survivor] or [Option 2 – 50% Joint and Survivor] form of benefit and named the Alternate Payee as his/her survivor beneficiary. Upon the death of the Participant, benefit payments shall continue to be paid to the Alternate Payee as the named beneficiary pursuant to the provisions of the form of benefit elected at the time of retirement.

Optional (b) If the Plan pays any cost of living benefit increase (i.e., non-guaranteed annual increases, supplemental payments/13th checks, one-time increases) on the benefits being paid from the Plan after the date of this Order, the Alternate Payee shall receive a share of each such increase. The Alternate Payee's share of each such increase will be in proportion to the amount of the Participant's retirement allowance that is awarded the Alternate Payee under Paragraph 6(a).

(c) The Alternate Payee shall include in [his/her] gross income, for the tax year of receipt, all retirement benefit distributions that [he/she] receives pursuant to the Participant's assignment of benefits under this DRO; and, accordingly, the Participant shall not include such benefit distributions in [his/her] gross income. The Alternate Payee shall be treated as the sole distributee under IRC Sections 72 and 402 of any payment or distribution that is made to [him/her] under the Participant's assignment of benefits under this DRO.

(d) If the Alternate Payee predeceases the Participant, the Alternate Payee's interest in the Plan shall revert to the Participant.

7. This assignment of benefits shall not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan. This assignment shall not require the Plan to provide increased benefits, determined on the basis of actuarial equivalent values. This assignment shall not require the Plan to provide benefits to the Alternate Payee which are required to be paid to another alternate payee under another order previously determined to be an DRO.

8. The parties agree that their mutual intent is to provide the Alternate Payee with a retirement payment that fairly represents what they have agreed to be the Alternate Payee's marital share of the Participant's accrued retirement benefit as defined in Paragraphs 6(a). In the event the administrator of the Plan determines this Order not to be an DRO satisfactory to the Plan, the Participant and Alternate Payee hereby agree to

[SAMPLE DRO]

submit to and request a court of competent jurisdiction to modify the Order to make it an DRO satisfactory to the Plan in such a manner that will reflect the parties' intent as herein expressed and thereafter to enter an order modifying this Order, said modification order to be entered *nunc pro tunc*, if appropriate, so as to comply with the Plan and related legislation.

- 9. This Order is issued pursuant to the laws of the State of Michigan which relate to the provision of child support, alimony payments and marital property rights, as defined spouses and former spouses in actions for divorce.
- 10. The Participant and the Alternate Payee agree to share all actuarial and legal costs incurred by the Plan due to this Order or the benefit election by the Alternate Payee under this Order. The Alternate Payee's share of said costs shall be in proportion to [his/her] share of the Participant's total retirement allowance awarded to the Alternate Payee under Paragraph 6(a). **[Alternatively, the order may provide for one party to pay actuarial costs.]**

Circuit Court Judge

Approved as to form:

Attorney for Plaintiff

P_____

Date: _____

Attorney for Defendant

P_____

Date: _____

Distribution of copies:

- Original to Circuit Court Clerk
- Certified copy to Board of Trustees

DRO FORM 2

(To be typed on Retirement System letterhead)

**ACKNOWLEDGMENT OF RECEIPT OF JUDGEMENT OR ORDER
PURPORTING TO BE AN ELIGIBLE DOMESTIC RELATIONS ORDER**

Divorce Case Caption:

Case Number: _____ County: _____

Judge: _____ Date entered: _____

Participant/Member's Name: _____

Address: _

Alternate Payee/Former Spouse's Name: _____

Address: _

Dear Mr./Mrs. _____:

On the _____ day of _____, 2____, the Board of Trustees of the City of Taylor Police and Fire Retirement System received an instrument which purports to be an Eligible Domestic Relations Order within the meaning of Act No. 46 of the Public Acts of 1991, the "Eligible Domestic Relations Order Act". The Board of Trustees will determine (with the assistance of the Board's legal counsel and actuary) whether or not the order is an Eligible Domestic Relations Order.

If the Order should be found to be an Eligible Domestic Relations Order under Public Act 46 of 1991, it will affect the payment of the benefits to which the participant may be entitled, by providing for payment of all or a portion of the participant's interest under the plan to one or more persons identified as "alternate payees" in the order.

You are receiving this letter or notification as a "Notified Party" under the procedures adopted by the Retirement System because you are either (1) the participant whose benefits will be affected if the instrument is determined by the Board of Trustees to be an Eligible Domestic Relations Order ("EDRO"), (2) or a person identified as an "alternate payee" in the order, or (3) a representative of one of the above. You are hereby advised as follows:

- (1) The order was received by the Board of Trustees on the __ day of _____, 20__ .
- (2) The Board of Trustees will proceed with its determination (by referring the same to its legal counsel and actuary) as to whether the domestic relations order is an EDRO and will attempt to make the determination within 60 days after the date of this letter.

- (3) Other notified parties with respect to this matter are listed as copy recipients as indicated below.

You will be notified of the determination by the Board of Trustees with respect to the status of the order as an EDRO as soon as that determination has been made. If the Board of Trustees determines that the order fails to qualify as an EDRO, you will be so advised and should take appropriate action to amend the order. A domestic relations order which does not comply with applicable law and/or the terms of the Plan will not be recognized by the Board of Trustees and may not affect future benefits payable by the Plan.

If you have any questions with respect to this matter, please direct your questions to the Board's legal counsel:

VanOverbeke, Michaud & Timmony, P.C.
Attn: Jack Timmony
79 Alfred Street
Detroit, Michigan
Phone: (313) 578-1200
Fax: (313) 578-1201

Very truly yours,

Board of Trustees of the City of Taylor
Police and Fire Retirement system

By: _____
Chairperson

cc: _____
Attorney for Plaintiff

Attorney for Defendant

DRO FORM 3

CITY OF TAYLOR POLICE AND FIRE RETIREMENT SYSTEM

**REQUEST TO LEGAL COUNSEL
FOR REVIEW OF
DOMESTIC RELATIONS ORDER/JUDGEMENT**

VIA FACSIMILE - 313.578.1201

TO: VANOVERBEKE, MICHAUD & TIMMONY, P.C.
79 ALFRED
DETROIT, MICHIGAN 48201

FROM: BOARD OF TRUSTEES OF THE CITY OF TAYLOR
POLICE AND FIRE RETIREMENT SYSTEM

RE: _____ V. _____
DIVORCE ACTION/ ELIGIBLE DOMESTIC RELATIONS ORDER

DATE: _____

Attached is a Court Order/Judgement dated _____ which was received by this office on _____. Kindly review and advise whether this order is an Eligible Domestic Relations Order (EDRO) consistent with P.A. 46 of 1991 or another type of domestic relations order consistent with applicable law. Upon your review, please advise the Retirement System as to what action should be taken. The following information is provided from our records to assist your office.

I. Participant/Member's Name: _____

S.S.# _____ Date of Birth: _____

Date of Hire: _____

Address: _____

Phone Number: _____

II. Alternate Payee/Former Spouse's Name: _____

S.S.# _____ Date of Birth: _____

Address: _____

Phone Number: _____

III. Participant's Status:

A. ___ Participant is currently an active employee:

- 1. Collective Bargaining Association (___ Yes) (___ No)
- 2. Name of Association: _____
- 3. Employee is eligible to retire: _____

B. ___ Participant is currently:

- 1. Off the payroll due to: _____
- 2. Former employee who was terminated on _____

C. ___ Retired:

- 1. Effective
- 2. (a) ___ Regular Service Retirement.
 ___ Option

Named Beneficiary:

- (b) ___ Duty Disability.
- (c) ___ Non-Duty Disability

IV. Our records indicate that the named beneficiary for refund of employee contributions is:

Date of Beneficiary designation: _____

Balance of employee contributions as of _____ is \$ _____

Withdrawn on _____

V. Prior court order on file: ___ Yes [Dated: _____]
 ___ No

VI. Benefit Data:

A. Does the Participant have a pending application for retirement?

Yes _____ No _____

(If yes, effective date of retirement _____)

B. The earliest date on which the Participant meets all of the requirements for a pension (except for termination of employment or disability)

DRO FORM 4

**VANOVERBEKE
MICHAUD &
TIMMONY, P.C.**

ATTORNEYS AND COUNSELORS

MICHAEL J. VANOVERBEKE
THOMAS C. MICHAUD
JACK TIMMONY
FRANCIS E. JUDD
AARON L. CASTLE
ROBERT J. ABB
JACQUELINE CARDELLA

79 ALFRED STREET
DETROIT, MICHIGAN 48201
TEL: (313) 578-1200
FAX: (313) 578-1201
WWW.VMTLAW.COM

MEMORANDUM

**TO: BOARD OF TRUSTEES OF THE CITY OF TAYLOR
POLICE AND FIRE RETIREMENT SYSTEM**

FROM: VANOVERBEKE, MICHAUD & TIMMONY, P.C.

RE: _____ V. _____ (EDRO)
_____ COUNTY CASE NO. _____

DATE: _____

This office has reviewed the above-referenced court order and is of the opinion that:

_____ pending actuarial certification of the Order, the Order satisfies the requirements of the EDRO Act, Michigan Public Act 46 of 1991 (MCL 38.1701 et seq.), and the Order is consistent with the provisions of the Retirement System.

_____ the Order does not satisfy the requirements of the EDRO Act, Michigan Public Act 46 of 1991 (MCL 38.1701 et seq.) or other applicable domestic relations law. Amendment is required before it can be accepted.

_____ the Order is not consistent with the provisions of the Retirement System. Amendment is required before it can be accepted.

Respectfully submitted,

VanOverbeke, Michaud & Timmony, P.C.

DRO FORM 5

CITY OF TAYLOR POLICE AND FIRE RETIREMENT SYSTEM

**REQUEST TO ACTUARY
FOR REVIEW AND CERTIFICATION OF
DOMESTIC RELATIONS ORDER/JUDGMENT**

VIA FACSIMILE -

TO: RODWAN CONSULTING COMPANY

**FROM: BOARD OF TRUSTEES OF THE CITY OF TAYLOR
POLICE AND FIRE RETIREMENT SYSTEM**

**RE: _____ V.
DIVORCE ACTION/ ELIGIBLE DOMESTIC RELATIONS ORDER**

DATE: _____

Attached is a Court Order/Judgment dated _____ which was received by this office on _____. Kindly review and certify whether this order is an Eligible Domestic Relations Order (EDRO) consistent with P.A. 46 of 1991. The following information is provided from our records to assist your office.

I. Participant/Member's Name: _____

S.S.#

Date of Birth:

Date of Hire:

Address:

Phone Number:

II. Alternate Payee/Former Spouse's Name: _____

S.S.#

Date of Birth:

Address:

Phone Number:

III. Participant's Status:

A. ___ Participant is currently an active employee:

1. Collective Bargaining Association (____ Yes) (____ No)

2. Name of Association: _____

3. Employee is eligible to retire: _____

B. ____ Participant is currently:

1. Off the payroll due to: _____

2. Former employee who was terminated on: _____

C ____Retired:

1. Effective

2. (a) ____ Regular Service Retirement.
____ Option

Named Beneficiary:

(b) ____ Duty Disability

(c) ____ Non-Duty Disability

IV Our records indicate that the named beneficiary for refund of employee contributions is:

Date of Beneficiary designation:

Balance of employee contributions as of _____ is \$_

Withdrawn on

III. Prior court order on file: ____Yes [Dated: _____] ____No

DRO FORM 6

EDRO INFORMATION/CHECKLIST

Divorce Case Caption: _____

Date Order Entered:

Participants Name:

Checklist (√)

- ___ Date Order Received:
- ___ Acknowledgment of Receipt Sent to Parties on:
- ___ Order forwarded to Legal Counsel on: _
- ___ Order forwarded to Actuary on: _
- ___ Received Legal Counsel Opinion dated:
- ___ Received Actuarial Certification dated:
- ___ Approved by Board Resolution dated: _
- ___ Approval Resolution forwarded to Parties/Counsel on:

DRO INFO:

Benefit accrual date: _____
Participant's FAC: _____
Participant's Service Credit: _____
Participant's Multiplier: _____
Participant's Accumulated Contributions: _____

FEES:

Deposit Amount: _____ Pd. By: _____ Date: _____
Actuarial Fees: _____
Balance Due Plan from Participant: _____
Balance Due Plan from Alternate Payee: _____

Comments/Other Action:

DRO FORM 7

CITY OF TAYLOR POLICE AND FIRE RETIREMENT SYSTEM

ELIGIBLE DOMESTIC RELATIONS ORDER ACT
MICHIGAN ACT NO. 46 OF 1991

FEE PAYMENT AGREEMENT -

Note: This form may be used by the parties for agreement as to the costs for actuarial calculation of benefits incurred by the Retirement System directly related to the administration of your domestic relations proceedings and for legal review of the provisions of your domestic relations order. Provisions regarding costs as contained within a court entered order shall be controlling in the event of a conflict.

Participant's Name

Alternate Payee's Name

The actuarial and legal costs for providing estimates, calculations, and for compliance certification is the responsibility of the party or parties to a domestic relations proceeding. The Retirement System must be reimbursed for fees for related professional services. Please choose Option #1, Option #2 or Option #3 below, sign as appropriate where indicated and return this agreement to the address listed below.

_____ Option #1 By signing below, the above-named Participant agrees to reimburse the Retirement System in full for professional advisor fees.

Participant _____ Date

_____ Option #2 By signing below, the above-named Alternate Payee agrees to reimburse the Retirement System in full for professional advisor fees.

Alternate Payee _____ Date

_____ Option #3 By signing below, the above-named Participant and Alternate Payee each agree to individually reimburse the Retirement System for the following percentages of the professional advisor fees:

Participant _____ %
Alternate Payee _____ %

Participant _____ Date

Alternate Payee _____ Date

Please return this form to: City of Taylor Police and Fire Retirement System
23515 Goddard Rd.
Taylor, MI 48180

DRO FORM 8

**APPLICATION FOR RETIREMENT BENEFITS
PURSUANT TO DOMESTIC RELATIONS ORDER**

TO: Board of Trustees of the City of Taylor
Police and Fire Retirement System

RE: _____

Participant's Name: _____

Participant's Date of Birth: _____

Alternate Payee's Name: _____

Alternate Payee's Date of Birth: _____

Form of Benefit: _____

Benefit Effective Date: _____

I, _____, the Alternate Payee, having been furnished with an estimate of my retirement benefits payable pursuant to the terms of an Eligible Domestic Relations Order from the City of Taylor Police and Fire Retirement System, do hereby elect to receive my retirement allowance effective _____.

Please send my retirement allowance to:
(please print)

(Signature of Alternate Payee)

(Date)

(Signature of Witness)

(Date)