

SAMPLE DOMESTIC RELATIONS ORDER
Employees Retirement System Retired, Unmodified or Option 1 Allowance

NOTE: *This sample order applies to divorcing parties, one of whom is an active member of the City of Fresno Employees' Retirement System, who have selected the combined account option.*

This sample order is merely to assist attorneys in preparing a domestic relations order. It is not warranted that this sample order is appropriate in each individual case. The parties should always consult with their own attorneys before using this sample order. You may, of course, use other language; however, any order must be consistent with the provisions of the Fresno Municipal Code. Please note that neither the City of Fresno Employees' Retirement Board nor its agents are permitted to provide legal advice to you.

The parties must fill in the blanks in paragraphs 3, 4, 7 and 9 before submitting this order to staff for review. Please contact Retirement staff for the information needed to complete paragraph 9. In paragraph 7(a)(ii), express portions of years in decimals, e.g., 7.2 years. Please read this sample order in conjunction with the Retirement Systems' community property pamphlet. The System reserves the right to modify this order.

1. Intent. This order is intended to satisfy the requirements of Article 18 of Chapter 2 of the Fresno Municipal Code concerning domestic relations orders. The parties acknowledge that this order is not subject to the federal Employee Retirement Income Security Act of 1974 or to amendments to ERISA ("ERISA"), such as the Retirement Equity Act of 1984. This order is entered pursuant to the California Family Code.

2. Claimant. The name of the claimant to which this order applies is the City of Fresno Employees' Retirement System ("System"). The parties acknowledge that only the benefits provided by the System are affected by this Order, and that this Order cannot and does not create benefits or rights not provided by the System.

3. Names. The names, last known mailing addresses, and related information of the parties are as follows:
 - a. Employee (Member):

Name: _____

Address: _____

SSN: _____

Birth Date: _____

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b. Spouse (Non-Member):

Name: _____

Address: _____

SSN: _____

Birth Date: _____

4. Period of Marriage. It is agreed that the period of marriage was from the date of marriage specified below to the date of separation specified below:

a. Date of Marriage: _____

b. Date of Separation: _____

5. Combined Account Option. The parties hereby elect the combined account option, also referred to in the Fresno Municipal Code at Section 2-1847 as the retirement option.

6. General Provisions. The parties agree that:

- a. the System will not make any payments to the Non-Member until the Member retires or dies;
- b. the Non-Member will not be considered to be a surviving spouse of the Member for any purpose;
- c. no retirement allowances or other benefits are payable to the parents of the Non-Member or to the children of the Non-Member who were stepchildren of the Member;
- d. the surviving spouse, if any, of the Non-Member shall not be considered a surviving spouse for any purpose under the System; and
- e. the Non-Member or the surviving spouse, if any, of the Non-Member shall not be entitled to receive any form of disability retirement.

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7. Service Retirement. The parties shall divide the community's interest in the Member's retirement allowance from the System as follows:
- a. The community's interest equals the product of: (i) the Member's service retirement benefit as of the date of the Member's retirement, multiplied by (ii) a fraction, the numerator of which is _____ years, i.e., the number of years of marriage during which the Member was employed by the City of Fresno and a member of the System, and the denominator of which is the total number of years of the member's employment with the City of Fresno under the System at the time of retirement.
 - b. The community interest is awarded _____% to the Member and _____% to the Non-Member.
8. Non-Member's rights in the Post Retirement Supplemental Benefit ("PRSB"). The PRSB will be divided in the same manner and ratio as defined in paragraph 7(b) above. The parties acknowledge that the PRSB is not a guaranteed benefit and may increase, decrease, or be eliminated.
9. Deferred Retirement Option Program ("DROP"). The Member, as of the date of separation, possessed a balance of \$_____ in the Member's DROP account. The DROP account will be divided in the same manner and ratio as defined in paragraph 7(b) above.
10. Disability Retirement. If the Member retires due to disability prior to the age the Member would have first been eligible to retire for service, the Member's benefit, beginning at the age the Member would have first been eligible to retire for service, will be divided pursuant to paragraph 7, using the assumption that the Member continued to be employed by the City of Fresno under the System until reaching the age the Member was first eligible to retire for service.
11. Death Benefit. In the absence of payments payable under Fresno Municipal Code Section 2-1840.3 to a surviving spouse qualified under the Fresno Municipal Code or unmarried children under the age of 18 or dependent parents of the Member, the parties shall divide the community's interest in the death benefit under Fresno Municipal Code

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section 2-1829 in the same manner as the service retirement benefit in paragraph 7 of this order.

A. Options at Service Retirement.

- a. Unless the Non-Member elects a different form of payment as permitted in paragraph (b) below, the entire community interest will be paid in the optional form permitted by the System and selected by the Member in writing, assuming for purposes of this paragraph that the retirement benefit for the Member's life alone constitutes an option. For any benefits payable under this paragraph, the Non-Member shall be entitled to name as a beneficiary of the Non-Member's community property interest after the Non-Member's death a person with an insurable interest in the Non-Member's life. The Non-Member may name a beneficiary by completing the form then in use by the System and by returning it to the System. If the Non-Member does not name a beneficiary or if no named beneficiary is living, the benefit otherwise payable to the Non-Member's beneficiary shall be paid to the Non-Member's estate.
- b. At the time of retirement, in lieu of the optional form selected by the Member in paragraph (a) above, the Non-Member's interest in the Member's retirement allowance may be paid over the lifetime of the Non-Member in an optional form permitted by the System and selected by the Non-Member in writing, subject to the actuarial adjustment set forth in Fresno Municipal Code section 2-1847(b)(4)(A).

13. COLA. Any cost of living adjustments hereinafter applicable to the Member's benefit if the dissolution had not occurred shall be applied to the benefits received by the Member and the Non-Member.

14. Time of Payment. The System shall begin making payments to the Non-Member upon the date on which the System first begins making payments to the Member in the nature of service retirement benefits.

15. Separate Property. Any retirement benefit or allowance, or any portion of a retirement benefit or allowance that is not awarded in this order to the Non-Member shall be the sole and separate property of the Member.

16. Statutory Limits. In no event shall this order be interpreted to require the System to:

- a. provide benefits with a greater actuarial value than it would otherwise pay, or
- b. make payments to the Non-Member which are already required to be paid to another spouse under a

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prior order, or

- c. provide any form of benefit or option not provided by the System.

17. Retention of Jurisdiction. The Member, the Non-Member, and the Court intend that this order meet all requirement of a domestic relations order under the Fresno Municipal Code and other applicable laws of the State of California, and the Court shall reserve jurisdiction to modify this order for the purpose of meeting or monitoring its implementation. The Court's reservation of jurisdiction shall be liberally construed to effect the provisions of this order and to resolve any disputes that may arise among the parties and the System concerning benefit payments or any other aspect of this order. If any portion of this order is rendered invalid, illegal, unconstitutional or otherwise unenforceable, the Court reserves jurisdiction to make an appropriate adjustment to effectuate the intent of the parties. Any future attorneys fees or costs incurred with respect to future modifications or interpretation of this order will not be assessed against the System.