

**DRAFT EXEMPLAR FOR
DISSOLUTION AGREEMENT
REGARDING THE DWP's RETIREMENT,
DISABILITY AND DEATH BENEFIT
INSURANCE PLAN**

The following is language provided to all parties merely as an example of language which has been used in various cases. By preparing this document, the Plan is not providing legal advice to any party, merely providing some information so that each party can seek independent legal counsel.

**Petitioner is nonemployee spouse
and
Respondent is employee**

The Court finds and orders:

1. That petitioner and respondent married on _____ and separated on _____.

2. That the Board of Administration of the Water and Power Employees' Retirement Plan has been joined as a claimant in this proceeding pursuant to Family Code Sections 2060 and 2061, and is responsible for administering the retirement benefits provided for by said Plan, pursuant to Section 1180 of the Charter of the City of Los Angeles.

THE FOLLOWING PARAGRAPHS NUMBERED THREE ARE ALTERNATE PARAGRAPHS THAT CAN BE USED AS PARAGRAPH NUMBER 3.

3. That respondent is currently employed by the Department of Water and Power of the City of Los Angeles and is an active member of the Water and Power Retirement Plan, commencing membership in the Plan on _____.

3. That respondent is a retired employee of the Department of Water and Power of the City of Los Angeles, having worked for the Department from _____ to _____ and retired on _____, during which time he/she was an active member of the Water and Power Employees' Retirement Plan commencing _____.

3. That respondent was formerly employed by the Department of Water and Power, and was an active member of Water and Power Employees' Retirement Plan from _____ to _____, during which time he/she contributed \$ _____ into the Retirement Fund thereof, which contributions he/she has left on deposit in said Fund thereby retaining certain rights to benefits under said Plan.

4. That the community interest in respondent's entitlement to retirement benefits from the Board shall be determined by dividing the period of time that respondent was an active member of the Plan while married to the petitioner by the total period of time that respondent was an active member of the Plan; one-half of the benefits attributable to the community interest so established is hereby awarded to petitioner as her/his separate property.

5. The remainder of respondent's retirement benefits are awarded to respondent as her/his separate property.

6. That petitioner is ordered to keep the claimant Board advised as to her/his current address at all times.

7. That this order shall constitute an assignment of that portion of the retirement benefits payable to petitioner and claimant Board is hereby ordered to pay directly to petitioner her/his entitlement, if any, pursuant to this order, provided that this order shall not be enforceable against claimant until 30 days after a certified copy of this order has been served on claimant, as provided in Family Code Section 2073.

8. That in accordance with Family Code Section 2500 and 2610, the court expressly reserves jurisdiction over any and all retirement benefits which are due, or may be due, to the parties under respondent's membership in the Water and Power Employees' Retirement Plan.

9. That in the event respondent resigns from Department employment and Plan membership and seeks to withdraw his/her contributions petitioner shall be entitled to be paid directly one-half of the retirement contributions including interest thereon attributable to

respondent's Plan membership during the period of the marriage as her/his separate property, and the remainder thereof shall be paid to respondent as her/his separate property.

10. That the right to designate a beneficiary or beneficiaries for death benefits under the Water and Power Employees' Retirement Plan belongs solely to respondent Plan member. (NOTE: the non-member spouse may have a community property interest in a portion of the death benefits. Please contact the Retirement Plan Office at (213) 367-1712 or (800) 367-7164 for information as to the nature of such benefits. See also attached page regarding issues involving death benefits and consequences of death of either spouse.)

11. That any Plan benefits not specifically divided by this order shall be paid in accordance with the provisions of the Water and Power Employees' Retirement Plan.

1 **ADDITIONAL ISSUES REGARDING DEATH BENEFITS AND CONSEQUENCES OF**
2 **DEATH OF EITHER SPOUSE.**

3 In the event petitioner (spouse) predeceases respondent (employee), petitioner's
4 named beneficiary shall be entitled to succeed to petitioner's interest in respondent's Plan
5 benefits; or in the event no named beneficiary survives the petitioner, the petitioner's estate shall
6 be entitled to succeed to petitioner's interest.

7
8 (Alternate language if petitioner agrees to have his/her community property share revert back to
9 respondent if he/she predeceases respondent)

10 In the event petitioner (spouse) predeceases respondent (employee), petitioner's
11 community interest in respondent's benefits shall revert back to respondent.

12
13 Upon retirement, respondent shall elect to receive an Option "C" retirement under
14 the Plan, whereby petitioner shall be designated as the beneficiary to receive a survivorship
15 continuance in the event that respondent shall predecease her/him. The continuance that
16 respondent elects for petitioner under Option "C" shall be that percentage which most closely
17 approximates petitioner's community property portion of the retirement benefits under paragraph
18 _____. This election requirement shall cease if petitioner predeceases respondent prior to
19 respondent's retirement.

20
21 (Alternate language if the respondent is already retired at the time of the dissolution and
22 petitioner qualified as an eligible spouse prior to the dissolution)

23 The respondent, having retired from the Plan prior to this marital dissolution,
24 shall elect to change his/her retirement allowance to Option "C" and designate petitioner who
25 qualified as an eligible spouse prior to the dissolution as the beneficiary to receive a survivorship
26 continuance after respondent's death. The continuance that respondent elects for petitioner under
27 Option "C" shall be that percentage which most closely approximates petitioner's community
28 property portion of the retirement benefits under paragraph _____. The total retirement
29 allowance in effect immediately prior to implementation of this order shall be actuarially
30 reduced to provide for the Option "C" continuance. If petitioner predeceases respondent, no
31 such Option "C" continuance shall be payable.

1 (As an alternative, if respondent is free to elect any option at retirement but petitioner claims a
2 community property interest in any survivorship annuity payable to a third party)

3 Whatever option respondent exercises at retirement, in the event respondent
4 predeceases petitioner, petitioner shall be entitled to be paid a portion of any survivorship
5 annuity otherwise payable to a third party in the same proportion that petitioner is entitled to
6 receive a portion of retirement benefits under Paragraph _____. This provision shall not apply
7 if respondent has designated petitioner as the beneficiary of a survivorship option.

8
9 With regard to the insured life death benefit, in the event respondent predeceases
10 petitioner, before or after retirement, petitioner shall be entitled to receive a portion of said lump
11 sum death benefits in the same proportion that petitioner is entitled to receive a portion of the
12 retirement benefits under Paragraph _____.

13
14 With regard to the retirement contributions, in the event respondent predeceases
15 petitioner while still an active employee, the petitioner shall be entitled to be paid directly one-
16 half of the retirement contributions including interest thereon attributable to respondent's Plan
17 membership during the period of the marriage as her/his separate property. Provided however,
18 that in order to permit a subsequent spouse to qualify for a spousal annuity if otherwise eligible,
19 provided there are sufficient funds, the Plan may pay petitioner's entire community interest
20 (including return of retirement contributions) from the insured life death benefit as though
21 petitioner had waived her/his rights to the return of contribution.

22
23 The balance of death benefits shall be payable to the designated beneficiary or beneficiaries of
24 respondent in accordance with Plan provisions.

25
26 (As an alternative, if petitioner does not claim a community property interest in death benefits)

27 That the right to designate a beneficiary or beneficiaries for death benefits under
28 the Water and Power Employees' Retirement Plan belongs solely to respondent Plan member.

1 **THE FOLLOWING IS A SUMMARY OF DEATH BENEFITS AVAILABLE TO**
2 **EMPLOYEES AND RETIREES, WHO QUALIFY THEREFORE, UNDER THE WATER**
3 **AND POWER EMPLOYEES' RETIREMENT PLAN:**

4
5 **ACTIVE EMPLOYEES (Death while active employee):**

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7 1. Insured life death benefit: a lump sum equal to 14 times the average monthly
8 salary for the highest consecutive 12-month period.

9
10 2. Return of contributions plus accumulated interest: employees with less than 25
11 years of service are entitled to receive a return of retirement contributions together with
12 accumulated interest thereon.

13
14 3. Spousal election for annuity: the spouse of a deceased active employee who
15 had more than 25 years of service may elect to receive an annuity computed as though the
16 employee retired the day before he/she died, provided that he/she is the named beneficiary of the
17 employee or the named beneficiary waives rights to return of retirement contributions in favor of
18 the spouse.

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20 **DEATH AFTER RETIREMENT:**

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22 1. Insured life death benefit: a lump sum equal to 14 times the average monthly
23 retirement benefit for the highest consecutive 12-month period, to a maximum of \$20,000.
24 Minimum \$3,000. This benefit is less if the employee did not qualify for a formula retirement
25 benefit. See Money Purchase Pension below.

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27 2. Option B retirement: option to take a joint and survivor annuity in lieu of full
28 retirement, where the employee receives a reduced retirement benefit and provides for a non-
29 spouse to receive a continuance at death which is 100% of his/her retirement benefit.

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31 3. Option C retirement: option to take a joint and survivor annuity in lieu of full
32 retirement, where the employee receives a reduced retirement and provides for a surviving non-

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1 spouse beneficiary to receive a continuance which is equal to a specified percentage of his/her
2 retirement benefit. The employee may specify any whole percentage from 1% to 99% as the
3 portion of the monthly retirement benefit to be paid to the surviving non-spouse beneficiary as a
4 monthly continuance after the retired employee's death. The continuance percentage specified
5 by the employee, along with the respective ages of the employee and non-spouse beneficiary
6 determine how much the retirement allowance is reduced (see note below).

7
8 NOTE: A Plan member who is already retired at the time of the marital dissolution, and who did
9 not elect Option "B" or Option "C" when he or she retired, may elect Option "B" or "C"
10 prospectively if required by the court order to do so. The retired employee may only designate a
11 person who qualified as an Eligible Spouse prior to the marital dissolution as the beneficiary to
12 receive the monthly survivorship continuance payable under Option "B" or "C" after the retired
13 employee's death. The retired employee's monthly allowance in effect immediately prior to
14 implementation of such a court order will be actuarially reduced to provide for the Option "B" or
15 "C" continuance. Such reduction will be in addition to any previous actuarial reduction incurred
16 as a result of the employee having elected a different option at the time of retirement.

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18 4. Option A retirement: option to take a reduced retirement benefit to fund a
19 return of retirement contributions amortized over the life expectancy of the employee to be used
20 as an additional lump sum death benefit, in the nature of decreasing term insurance.

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22 5. Spouse Benefits: if the employee takes a full retirement, an eligible spouse will
23 receive a 50% continuance at the death of the retired employee.

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25 6. Option D retirement: option to take a reduced retirement to fund a joint and
26 survivor annuity for an eligible spouse, equal to 100% of the employee's retirement benefit.

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28 7. Option E: option to take a reduced retirement to fund a joint and survivor
29 annuity for an eligible spouse equal to a specified percentage of the employee's retirement
30 benefit. The employee may specify any whole percentage from 51% to 99% as the portion of the
31 monthly retirement benefit to be paid to the surviving eligible spouse as a monthly continuance

1 after the retired employee's death. The continuance percentage specified by the employee, along
2 with the respective ages of the employee and the eligible spouse, determines how much the
3 retirement allowance is reduced.

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5 8. Money Purchase Pension: under limited circumstances an employee who does not
6 qualify for the usual formula pension may qualify for a money purchase pension, which is an
7 annuity based upon the employee's contributions and the Department's 110% matching
8 contributions plus accumulated interest amortized over the employee's life expectancy.

1 **ADDITIONAL ISSUES REGARDING ADDITIONAL ANNUITIES:**

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3 **ACTIVE EMPLOYEES (DRO's COMPLETED PRIOR TO RETIREMENT)**

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5 With regard to the Additional Contributions, upon retirement, petitioner (ex-spouse) is entitled to
6 be paid directly as his/her sole and separate property one-half of the Additional Contributions,
7 including interest thereon, that were made during the marriage. The petitioner may elect to have
8 her/his portion refunded or rolled over to an Individual Retirement Account or Eligible
9 Employers Plan. The petitioner may *not* elect to have his/her portion paid out as an annuity. In
10 the event respondent (employee) predeceases petitioner, before retirement, petitioner's
11 community interest in respondent's Additional Contributions, as described above, shall be
12 refunded or rolled over to an Individual Retirement Account or Eligible Employers Plan at
13 petitioner's election.

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15 **RETIRED EMPLOYEES**

16 *Alternate language if the respondent is already retired at the time of the dissolution and*
17 *respondent elected a full or partial annuity for the Additional Contributions at retirement:*

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19 The respondent, having retired from the Plan prior to this marital dissolution, cannot change
20 his/her Additional Annuity option under the Plan. As such, the petitioner is entitled to be paid
21 directly a portion of the Additional Annuity allowance pursuant to the **Additional**
22 **Annuity community property formula** as follows: where the numerator is the contributions
23 and interests during the period of marriage and the denominator is the total contributions and
24 interests used in the calculation of the Additional Annuity at the time of retirement, multiplied by
25 one-half. The benefit attributable to the community interest so established is awarded to
26 petitioner as her sole and separate property.

27
28 Upon the respondent's death, if respondent elected an Option B or C at retirement and the
29 petitioner is not the named beneficiary to receive the lifetime continuance, petitioner (or
30 petitioner's estate) shall share proportionately in any Option B or C continuance, if payable, for
31 the lifetime of the Option B/C named beneficiary, pursuant to the **Additional**
32 **Annuity community property formula** as specified in Paragraph ____.

1 Upon the respondent's death, if respondent elected an Option B or C at retirement and the
2 petitioner is the named beneficiary to receive the lifetime continuance, respondent's WPERP
3 named beneficiary (or successive preference beneficiary) shall share proportionately in any
4 Option B or C continuance, if payable, for petitioner's lifetime, pursuant to the **Additional**
5 **Annuity community property formula** as specified in Paragraph ____.

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7 Upon the respondent's death, if respondent elected an Option A at retirement, the petitioner (or
8 petitioner's estate) shall be entitled to his/her proportionate share of the return of any unused
9 Additional contributions and interest (if any remain), as determined by the **Additional**
10 **Annuity community property formula** as specified in Paragraph ____, payable in a one-time
11 lump sum payment.

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