

**QDRO RULES, REGULATIONS AND PROCEDURES  
FOR THE  
MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT  
OF THE POLICE DEPARTMENT OF THE CITY OF AURORA**

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**IMPORTANT NOTICE:**

*Distribution of any portion of the vested account balance of any Participant under the MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT OF THE POLICE DEPARTMENT OF THE CITY OF AURORA (the "Plan") to his or her spouse (the "alternate payee") pursuant to a Participant's dissolution of marriage, legal separation, or declaration of invalidity of marriage is subject to the requirements of applicable Colorado Statutes and the Internal Revenue Code, and to the requirements of these Rules, Regulations and Procedures (the "Rules"). These Rules have been adopted by the Trustees to assist and facilitate Plan Participants, their alternate payees and their respective attorneys in complying with these requirements. Therefore, Plan Participants, their alternate payees and their respective attorneys should carefully review, and comply with all the requirements of, these Rules when dividing and distributing any portion of the vested account balance of any Participant under the Plan pursuant to a Participant's dissolution of marriage, legal separation, or declaration of invalidity of marriage.*

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**TIMING OF QDRO DISTRIBUTION TO ALTERNATE PAYEE:**

**AS SPECIFICALLY PROVIDED BELOW IN THESE RULES, THE PLAN CANNOT DISTRIBUTE AMOUNTS TO AN ALTERNATE PAYEE PURSUANT TO A "QUALIFIED" DOMESTIC RELATIONS ORDER (THE "QDRO") UNTIL THE LAST OF THE FOLLOWING OCCUR:**

- 1. THIRTY (30) DAYS AFTER ACTUAL RECEIPT BY THE TRUSTEES OF AN ORIGINAL COPY OF THE DOMESTIC RELATIONS ORDER (IN THE FORM ATTACHED HERETO AS *EXHIBIT A*) APPROVED BY THE COURT AND CERTIFIED BY THE COURT CLERK;**
- 2. ACTUAL RECEIPT BY THE TRUSTEES OF A PROPERLY COMPLETED AND SIGNED ORIGINAL DISTRIBUTION ELECTION FOR ALTERNATE PAYEE FORM (ATTACHED HERETO AS *EXHIBIT B*); AND**
- 3. RECEIPT BY THE TRUSTEES OF A COPY OF THE MARITAL SEPARATION AGREEMENT OR EQUIVALENT PROPERTY DIVISION AGREEMENT BETWEEN THE PARTIES DIVIDING THE PARTICIPANT'S VESTED PLAN ACCOUNT BALANCE AND A COPY OF THE COURT ORDER APPROVING SUCH AGREEMENT, UPON WHICH THE QDRO IS BASED.**

**PLEASE NOTE: A DELAY IN SUBMISSION OF ANY OF THE ITEMS REFERENCED ABOVE WILL RESULT IN A DELAY IN THE APPROVAL AND ACTUAL DISTRIBUTION TO THE ALTERNATE PAYEE OF THE QDRO AMOUNT; THEREFORE, IT IS RECOMMENDED THAT THE PARTICIPANT, ALTERNATIVE PAYEE, AND/OR THEIR RESPECTIVE ATTORNEYS SUBMIT ALL OF THESE DOCUMENTS TO THE TRUSTEES AS SOON AS POSSIBLE AFTER A DIVORCE PROCEEDING IS INITIATED.**

**It is strongly encouraged that the Participant and the alternate payee, and/or their attorneys, request a copy of these Rules from the Trustees or the Plan's attorneys as soon as possible (either before or after they initiate their domestic relations legal proceedings) and that a draft of the QDRO (attached hereto as *EXHIBIT A*) and a draft of the DISTRIBUTION ELECTION FOR ALTERNATE PAYEE (attached hereto as *EXHIBIT B*) be submitted to the Trustees or the Plan's attorneys for approval as to form and content prior to their execution and/or presentation of the QDRO to the Court.**

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Pursuant to Colorado Revised Statutes ("CRS") Section 14-10-113(6), the Trustees of the **MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT OF THE POLICE DEPARTMENT OF THE CITY OF AURORA** (the "Plan") hereby adopt the following Rules regarding domestic relations orders to be submitted to the Plan for distribution of any portion of a Participant's vested account balance under the Plan to an alternate payee, as such term is defined in CRS Section 14-10-113(6):

1. To be recognized by the Plan, a domestic relations order (the "QDRO") directing distribution to an alternate payee of all or a part of a Plan Participant's vested account balance under the Plan must comply in all respects with (a) the applicable provisions of CRS Section 14-10-113(6) and (b) these Rules. Additionally, to the extent practicable, the QDRO shall comply with the provisions of Section 414(p) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"), that are applicable to the Plan.

2. The QDRO shall approve (i) a written marital agreement entered into by the Participant and the alternate payee pursuant to CRS Title 14, Article 2, Part 3 or (ii) a written separation agreement entered into by the Participant and the alternate payee pursuant to CRS Section 14-10-112, which marital or separation agreement shall provide for the division of the Participant's vested account balance under the Plan between the Participant and the alternate payee. **The parties shall submit such written agreement to the Trustees within ninety (90) days after entry of the decree and the permanent orders regarding property distribution in the proceeding for the parties' dissolution of marriage, legal separation, or declaration of invalidity of marriage.**

3. **THE QDRO MUST BE IN THE FORM ATTACHED HERETO AS *EXHIBIT A*, AND CANNOT DEVIATE FROM SUCH FORM IN ANY MATERIAL PROVISION.**

4. If the QDRO provides for the alternate payee to receive a certain percentage of the Participant's total vested account balance under the Plan as of a certain date, **such date must be one of the "Valuation Dates" under the Plan.** The parties or their attorneys can contact the Trustees to ascertain the "Valuation Dates" under the Plan. Generally, there will be no further adjustment of this amount to account for earnings and losses accrued / credited through the payout date.

5. The QDRO shall be an original copy, certified by the clerk of court and shall be submitted to and received by the Trustees at least thirty (30) days before the Plan may make its first payment.

6. Subject to Paragraph 5 hereof, distribution to the alternate payee shall occur as soon as administratively practicable after a certified copy of the QDRO has been submitted to and received by the Trustees.

7. If the alternate payee dies prior to distribution under the QDRO, the distribution shall be paid to the estate of the alternate payee as soon as practicable after the Trustees have actual notice of the death of the alternate payee, the appointment of a personal representative of the alternate payee's estate and/or other relevant information needed by the Trustees to make such payment.

8. Distribution to the alternate payee shall only be permitted under the following methods: (i) a lump sum distribution, (ii) direct rollover or (iii) a combination lump sum and direct rollover.

9. After actual receipt by the Trustees of notice of a proposed distribution to the alternate payee pursuant to the QDRO, the Trustees shall use their best efforts to provide either to the alternate payee or to his or her legal counsel a copy of the **Rules**, along with the **QDRO FORM (attached hereto as EXHIBIT A)**, the **DISTRIBUTION ELECTION FOR ALTERNATE PAYEE (attached hereto as EXHIBIT B)**, **YOUR ROLLOVER OPTIONS (attached hereto as EXHIBIT C)**, and the **NOTICE TO ALTERNATE PAYEE OF DISTRIBUTION ELECTION (attached hereto as EXHIBIT D)** as soon as administratively practicable after the Trustees' receipt of such notice. The determination by the Trustees of whether to provide these **Rules** and said **EXHIBITS A, B, C and D** to the alternate payee or to his or her legal counsel shall be made in the sole discretion of the Trustees. The Trustees may, in their sole discretion, provide these Rules and said **EXHIBITS A, B, C and D** to the alternate payee or to his or her legal counsel by any of the following methods: (i) first class U.S. mail; (ii) express mail; (iii) personal delivery; (iv) facsimile transmission; or (v) email transmission. The Trustees may rely upon the mailing addresses, facsimile numbers or email addresses of the alternate payee or his or her legal counsel which are provided to or known by the Trustees.

10. To elect a permitted method(s) of payment described in Paragraph 8 hereof, the alternate payee must properly complete, execute and deliver to the Trustees **original** executed and completed copies of the **DISTRIBUTION ELECTION FOR ALTERNATE PAYEE**, in the form attached hereto as **EXHIBIT B**. If the alternate payee fails to make such an election within six (6) months after the later of (i) his or her receipt these **Rules** and said **EXHIBITS A, B, C and D** or (ii) the date the Trustees receive the QDRO certified by the clerk of court, then the Trustees may distribute the amount payable to the alternate payee in a lump sum, subject to all required income tax withholdings, on any distribution date the Trustees, in their sole discretion, may select. For purposes of the preceding sentence, the alternate payee or his or her legal counsel shall be deemed to have received these **Rules** and said **EXHIBITS A, B, C and D** as of the earliest of the following applicable delivery dates: (i) the postmark date for first class U.S. mail; (ii) the delivery date to the express mail provider for express mail shown on the express mail delivery form; (iii) the actual date of personal delivery; (iv) the sender's confirmation delivery date for facsimile transmission; or (v) the sender's email transmission date.

11. All distributions shall be subject to any applicable income tax withholding. See applicable provisions of these **Rules** and said **EXHIBITS A, B, C, and D**.

12. No QDRO shall require the payment of a benefit, benefit amount or distribution option not otherwise set out in the Plan or in CRS Section 14-10-113(6).

13. The QDRO shall apply to any successor plan(s) to the Plan.

14. Compliance with the provisions of CRS Section 14-10-113(6) and with these Rules shall not subject the Plan to any portion of the federal Employee Retirement Income Security Act of 1974, as amended, that does not otherwise affect governmental plans generally.

15. If the Plan reasonably complies with an QDRO made pursuant to CRS Section 14-10-113(6) and pursuant to these Rules, the Plan and the Trustees shall be relieved of liability for payments made to the parties subject to such QDRO.

16. The **actual** administrative expenses incurred by the Plan with respect to or connected with the distribution of any portion of the vested account balance of the Participant under the Plan to his or her alternate payee pursuant to a Participant's dissolution of marriage, legal separation, or declaration of

invalidity of marriage shall be **directly allocated to and paid from** the vested Plan account balance of the Participant **prior to** any distribution of any portion of the vested Plan account balance of the Participant to his or her alternate payee. Such actual administrative expenses incurred by the Plan shall include, but shall not be limited to, (1) the fees and charges of the Plan's legal counsel related to its review of any proposed distribution of the account balance of the Participant under the Plan to his or her alternate payee and its determination of compliance of any such proposed distribution with the requirements of applicable Colorado Statutes, the Internal Revenue Code, and these Rules, (2) plan administrator/custodial distribution charges, and (3) fees related to the preparation and filing of distribution forms and IRS Form 1099-R.

The Plan Administration Committee and the Trustees will exercise their discretion in determining which types of Plan expenses described above will be allocated directly to the individual account of the Plan Participant to whom such expenses relate. The Plan Administration Committee and the Trustees shall retain the right to expand or limit which types of Plan expenses will be allocated directly to the individual account of the Plan Participant to whom such expenses relate. The Plan Administration Committee and the Trustees shall exercise their discretion in an equitable and nondiscriminatory manner. The decision of the Plan Administration Committee and the Trustees in determining which types of Plan expenses described above will be allocated directly to the individual account of the Plan Participant to whom such expenses relate shall be conclusive and binding upon all affected parties.

17. These Rules may be amended or modified at the sole discretion of the Trustees at any time and in any manner.

Contacts:

**PLAN TRUSTEE REPRESENTATIVES:**

John Sopranuk, Trustee	via email	<a href="mailto:jsopranu@auroragov.org">jsopranu@auroragov.org</a>
Craig Piel, Trustee	via email	<a href="mailto:cpiel@auroragov.org">cpiel@auroragov.org</a>

**PLAN ATTORNEY:**

Jane O. Francis, P.C. Holland & Hart LLP 555 17th Street, Suite 3200 Denver, CO 80202 303.295.8599 303.975.5471 (FAX)	via email:	<a href="mailto:jfrancis@hollandhart.com">jfrancis@hollandhart.com</a>
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Adopted by the TRUSTEES OF THE MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT OF THE POLICE DEPARTMENT OF THE CITY OF AURORA on this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

DISTRICT COURT, _____ COUNTY, COLORADO COURT ADDRESS: _____	<b>▲ COURT USE ONLY ▲</b>
<i>In re Marriage of:</i>  <b>Petitioner:</b> _____  and  <b>Respondent/Co-Petitioner:</b> _____	
Party Without Attorney (Name and Address): _____  Phone Number: _____ FAX Number: _____ E-mail: _____	<b>Case Number:</b> _____  Div.: _____                      Crtm: _____
<b>QUALIFIED DOMESTIC RELATIONS ORDER</b>	

It is the intent of the Court that: (i) the provisions of this Order operate as an effective assignment of that portion set forth below of the interest in the **MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT OF THE POLICE DEPARTMENT OF THE CITY OF AURORA** (the "Plan"), owned by \_\_\_\_\_ (the "Participant") to \_\_\_\_\_ (the "Alternate Payee") under both state and federal law, for all purposes; (ii) this Order constitutes a Qualified Domestic Relations Order ("QDRO") in compliance with applicable provisions of Section 414(p) of the Internal Revenue Code of 1986, as amended (the "Code"); (iii) this Order complies with the provisions of Section 14-10-113(6), Colorado Revised Statutes ("C.R.S."), as amended; and (iv) this Order complies with any rules, regulations and procedures adopted by the Trustees pursuant to Section 14-10-113(6), C.R.S., as amended.

1. The name of the Plan is: **MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT OF THE POLICE DEPARTMENT OF THE CITY OF AURORA.**

2. The name, social security number and last known mailing address of the Participant are:

Name: \_\_\_\_\_  
 SSN: \_\_\_\_\_  
 Address: \_\_\_\_\_

3. The name, social security number, last known mailing address of the Alternate Payee, and the Alternate Payee's relationship to the Participant are:

Name: \_\_\_\_\_  
 SSN: \_\_\_\_\_  
 Address: \_\_\_\_\_  
  
 Relationship: \_\_\_\_\_

4. This Order approves either (i) a written marital agreement entered into by the Participant and the Alternate Payee pursuant to Title 14, Article 2, Part 3, C.R.S., or (ii) a written separation agreement entered into by the Participant and the Alternate Payee pursuant to Section 14-10-112, C.R.S., which marital or separation agreement provides for the division of the Participant's account balance under the Plan between the Participant and the Alternate Payee. The parties shall submit such written agreement to the Plan's Trustees within ninety (90) days after entry of the decree and the permanent orders regarding property distribution in the proceeding for the parties' dissolution of marriage, legal separation, or declaration of invalidity of marriage.

5. Pursuant to Code Section 414(p) and Section 14-10-113(6), C.R.S., the Alternate Payee is hereby assigned the Participant's right, title and interest in and to the following amounts from the Plan (complete either (a) or (b)):

(a) \_\_\_\_\_ Percent of the Participant's total vested account balance under the Plan as of the following date, which date is a "Valuation Date" under the Plan: \_\_\_\_\_.  
(date)

**or**

(b) \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

There shall be no adjustment to this percentage or amount for earnings and losses through the payment date.

6. Subject to Paragraph 10 hereof, distribution of the above Plan assets to the Alternate Payee shall be made in cash equivalents as soon as administratively practicable after a certified copy of this Order has been submitted to and received by the Plan's Trustees. Such distribution shall be made to the Alternate Payee in one of the available forms of payment set forth in and elected by the Alternate Payee on the Plan's distribution election form and in compliance with any applicable provisions of the rules, regulations and procedures adopted by the Trustees pursuant to Section 14-10-113(6), C.R.S. The benefits to be paid to the Alternate Payee from the Plan are not of any form or type not otherwise permissible under the Plan.

7. The Participant and the Alternate Payee shall make any and all elections, waivers and consents consistent with and required to effect this Order under the Plan.

8. This Order shall not require the Plan to pay benefits that are already required to be paid to another alternate payee or are already subject to an assignment or lien.

9. This Order shall apply to any and all successor plans to the Plan.

10. This Order shall be certified by the clerk of court, shall be submitted to and received by the Plan at least thirty (30) days before the Plan may make its first payment.

11. The Court shall retain jurisdiction to supervise the implementation of this Order, and as otherwise provided in Section 14-10-113(6), C.R.S., as may be amended.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

**BY THE COURT:**

\_\_\_\_\_  
District Court Judge

**APPROVED AS TO  
FORM AND CONTENT:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
*Petitioner*

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
*Co-Petitioner/Respondent*

DISTRICT COURT, _____ COUNTY, COLORADO COURT ADDRESS: _____	<b>▲ COURT USE ONLY ▲</b>
<i>In re Marriage of:</i>  <b>Petitioner:</b> _____  and  <b>Respondent/Co-Petitioner:</b> _____	
Attorney or Party Without Attorney (Name and Address): _____  Phone Number: _____ Atty. Reg. #: _____ FAX Number: _____ E-mail: _____	<b>Case Number:</b> _____  Div.: _____                      Crtm: _____
<b>QUALIFIED DOMESTIC RELATIONS ORDER</b>	

It is the intent of the Court that: (i) the provisions of this Order operate as an effective assignment of that portion set forth below of the interest in the **MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT OF THE POLICE DEPARTMENT OF THE CITY OF AURORA** (the "Plan"), owned by \_\_\_\_\_ (the "Participant") to \_\_\_\_\_ (the "Alternate Payee") under both state and federal law, for all purposes; (ii) this Order constitutes a Qualified Domestic Relations Order ("QDRO") in compliance with applicable provisions of Section 414(p) of the Internal Revenue Code of 1986, as amended (the "Code"); (iii) this Order complies with the provisions of Section 14-10-113(6), Colorado Revised Statutes ("C.R.S."), as amended; and (iv) this Order complies with any rules, regulations and procedures adopted by the Trustees pursuant to Section 14-10-113(6), C.R.S., as amended.

1. The name of the Plan is: **MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT OF THE POLICE DEPARTMENT OF THE CITY OF AURORA.**

2. The name, social security number and last known mailing address of the Participant are:

Name: \_\_\_\_\_  
 SSN: \_\_\_\_\_  
 Address: \_\_\_\_\_

3. The name, social security number, last known mailing address of the Alternate Payee, and the Alternate Payee's relationship to the Participant are:

Name: \_\_\_\_\_  
 SSN: \_\_\_\_\_  
 Address: \_\_\_\_\_  
  
 Relationship: \_\_\_\_\_

4. This Order approves either (i) a written marital agreement entered into by the Participant and the Alternate Payee pursuant to Title 14, Article 2, Part 3, C.R.S., or (ii) a written separation agreement entered into by the Participant and the Alternate Payee pursuant to Section 14-10-112, C.R.S., which marital or separation agreement provides for the division of the Participant's account balance under the Plan between the Participant and the Alternate Payee. The parties shall submit such written agreement to the Plan's Trustees within ninety (90) days after entry of the decree and the permanent orders regarding property distribution in the proceeding for the parties' dissolution of marriage, legal separation, or declaration of invalidity of marriage.

5. Pursuant to Code Section 414(p) and Section 14-10-113(6), C.R.S., the Alternate Payee is hereby assigned the Participant's right, title and interest in and to the following amounts from the Plan (complete either (a) or (b)):

(a) \_\_\_\_\_ Percent of the Participant's total vested account balance under the Plan as of the following date, which date is a "Valuation Date" under the Plan: \_\_\_\_\_;  
(date)

**or**

(b) \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

There shall be no adjustment to this percentage or amount for earnings and losses through the payment date.

6. Subject to Paragraph 10 hereof, distribution of the above Plan assets to the Alternate Payee shall be made in cash equivalents as soon as administratively practicable after a certified copy of this Order has been submitted to and received by the Plan's Trustees. Such distribution shall be made to the Alternate Payee in one of the available forms of payment set forth in and elected by the Alternate Payee on the Plan's distribution election form and in compliance with any applicable provisions of the rules, regulations and procedures adopted by the Trustees pursuant to Section 14-10-113(6), C.R.S. The benefits to be paid to the Alternate Payee from the Plan are not of any form or type not otherwise permissible under the Plan.

7. The Participant and the Alternate Payee shall make any and all elections, waivers and consents consistent with and required to effect this Order under the Plan.

8. This Order shall not require the Plan to pay benefits that are already required to be paid to another alternate payee or are already subject to an assignment or lien.

9. This Order shall apply to any and all successor plans to the Plan.

10. This Order shall be certified by the clerk of court, shall be submitted to and received by the Plan at least thirty (30) days before the Plan may make its first payment.

11. The Court shall retain jurisdiction to supervise the implementation of this Order, and as otherwise provided in Section 14-10-113(6), C.R.S., as may be amended.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

**BY THE COURT:**

\_\_\_\_\_  
District Court Judge

**APPROVED AS TO  
FORM AND CONTENT:**

\_\_\_\_\_  
(Firm name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_, # \_\_\_\_\_  
*Attorney for Petitioner*

Address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Firm Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_, # \_\_\_\_\_  
*Attorney for Respondent/Co-Petitioner*

Address: \_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT B**

**DISTRIBUTION ELECTION FOR ALTERNATE PAYEE**

To the Trustees of the **MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT OF THE POLICE DEPARTMENT OF THE CITY OF AURORA** (the "Plan").

**Name of Alternate Payee:** \_\_\_\_\_

**Alternate Payee's Social Security No.:** \_\_\_\_\_

**Alternate Payee's Date of Birth:** \_\_\_\_\_

**Alternate Payee's Address:** \_\_\_\_\_

**Name of Participant:** \_\_\_\_\_

1. **Election.** I, the undersigned Alternate Payee, have read the "Notice to Participant of Distribution Election" and "Your Rollover Options" and make the following distribution election [*Choose (a), (b) or (c)*]:

- (a) A direct rollover of the entire amount eligible for rollover to the IRA or plan designated in Section 2.
- (b) A direct rollover of the following portion of the amount eligible for rollover to the IRA or plan designated in Section 2: \_\_\_\_\_; **and**  
a lump sum payment of \_\_\_\_\_ (less any federal income tax withholding).
- (c) A lump sum payment of the entire amount (less any federal income tax withholding).

*(Note: Any lump sum distribution amount will be reduced by applicable mandatory federal income tax withholding.)*

2. **Information for Direct Rollover.** [*Do not complete unless you checked 1(a) or 1(b), above*]

I represent the IRA or plan designated below is a proper recipient plan for a direct rollover.

- **If rollover recipient is an IRA:**

Name of IRA and IRA Account Number:

\_\_\_\_\_



**EXHIBIT C****SPECIAL TAX NOTICE REGARDING PLAN PAYMENTS****YOUR ROLLOVER OPTIONS**

You are receiving this notice because all or a portion of a payment you are receiving from the **Money Purchase Pension Plan and Trust Agreement of the Police Department of the City of Aurora** (the “Plan”) is eligible to be rolled over to an IRA or an employer plan. This notice is intended to help you decide whether to do such a rollover.

Rules that apply to most payments from a plan are described in the “General Information About Rollovers” section. Special rules that only apply in certain circumstances are described in the “Special Rules and Options” section.

**GENERAL INFORMATION ABOUT ROLLOVERS****How can a rollover affect my taxes?**

You will be taxed on a payment from the Plan if you do not roll it over. If you are under age 59½ and do not do a rollover, you will also have to pay a 10% additional income tax on early distributions (unless an exception applies). However, if you do a rollover, you will not have to pay tax until you receive payments later and the 10% additional income tax will not apply if those payments are made after you are age 59½ (or if an exception applies).

**Where may I roll over the payment?**

You may roll over the payment to either an IRA (an individual retirement account or individual retirement annuity) or an employer plan (a tax-qualified plan, section 403(b) plan, or governmental section 457(b) plan) that will accept the rollover. The rules of the IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment from the IRA or employer plan (for example, no spousal consent rules apply to IRAs and IRAs may not provide loans). Further, the amount rolled over will become subject to the tax rules that apply to the IRA or employer plan.

**How do I do a rollover?**

There are two ways to do a rollover. You can do either a direct rollover or a 60-day rollover.

*If you do a direct rollover*, the Plan will make the payment directly to your IRA or an employer plan. You should contact the IRA sponsor or the administrator of the employer plan for information on how to do a direct rollover.

*If you do not do a direct rollover*, you may still do a rollover by making a deposit into an IRA or eligible employer plan that will accept it. You will have 60 days after you receive the payment to make the deposit. If you do not do a direct rollover, the Plan is required to withhold 20% of the payment for federal income taxes (up to the amount of cash and property received other than employer stock). This means that, in order to roll over the entire payment in a 60-day rollover, you must use other funds to make up for the 20% withheld. If you do not roll over the entire amount of the payment, the portion not rolled over will be taxed and will be subject to the 10% additional income tax on early distributions if you are under age 59½ (unless an exception applies).

**How much may I roll over?**

If you wish to do a rollover, you may roll over all or part of the amount eligible for rollover. Any payment from the Plan is eligible for rollover, except:

- certain payments spread over a period of at least 10 years or over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary);

- required minimum distributions after age 70½ (or after death); and
- corrective distributions of contributions that exceed tax law limitations;

The Plan administrator or the payor can tell you what portion of a payment is eligible for rollover.

**If I don't do a rollover, will I have to pay the 10% additional income tax on early distributions?**

If you are under age 59½, you will have to pay the 10% additional income tax on early distributions for any payment from the Plan (including amounts withheld for income tax) that you do not roll over, unless one of the exceptions listed below applies. This tax is in addition to the regular income tax on the payment not rolled over.

The 10% additional income tax does not apply to the following payments from the Plan:

- payments made after you separate from service if you are at least age 55 in the year of the separation;
- payments that start after you separate from service if paid at least annually in equal or close to equal amounts over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary);
- payments from a governmental defined benefit pension plan made after you separate from service if you are a public safety employee and you are at least age 50 in the year of the separation;
- payments made due to disability;
- payments after your death;
- corrective distributions of contributions that exceed tax law limitations;
- payments made directly to the government to satisfy a federal tax levy;
- payments made under a qualified domestic relations order;
- payments up to the amount of your deductible medical expenses; and
- certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001 for more than 179 days.

**If I do a rollover to an IRA, will the 10% additional income tax apply to early distributions from the IRA?**

If you receive a payment from an IRA when you are under age 59½, you will have to pay the 10% additional income tax on early distributions from the IRA, unless an exception applies. In general, the exceptions to the 10% additional income tax for early distributions from an IRA are the same as the exceptions listed above for early distributions from a plan. However, there are a few differences for payments from an IRA, including:

- There is no exception for payments after separation from service that are made after age 55.
- The exception for qualified domestic relation orders does not apply (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to an IRA of a spouse or former spouse).
- The exception for payments made at least annually in equal or close to equal amounts over a specified period applies without regard to whether you have had a separation from service.
- There are additional exceptions for (1) payments for qualified higher education expenses, (2) payments up to \$10,000 used in a qualified first-time home purchase, and (3) payments after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

**Will I owe state income taxes?**

This notice does not describe any state or local income tax rules (including withholding rules).

## SPECIAL RULES AND OPTIONS

### **If you miss the 60-day rollover deadline**

Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. To apply for a waiver, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590, Individual Retirement Arrangements (IRAs).

### **If you were born on or before January 1, 1936**

If you were born on or before January 1, 1936 and receive a lump sum distribution that you do not roll over, special rules for calculating the amount of the tax on the payment might apply to you. For more information, see IRS Publication 575, Pension and Annuity Income.

### **If you are an eligible retired public safety officer and your pension payment is used to pay for health coverage or qualified long-term care insurance**

If the Plan is a governmental plan, you retired as a public safety officer, and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income plan payments paid directly as premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents, up to a maximum of \$3,000 annually. For this purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

### **If you roll over your payment to a Roth IRA**

You can roll over a payment from the Plan to a Roth IRA. If you roll over the payment to a Roth IRA, a special rule applies under which the amount of the payment rolled over (reduced by any after-tax amounts) will be taxed. However, the 10% additional income tax on early distributions will not apply (unless you take the amount rolled over out of the Roth IRA within 5 years, counting from January 1 of the year of the rollover). For payments from the Plan during 2010 that are rolled over to a Roth IRA, the taxable amount can be spread over a 2-year period starting in 2011.

If you roll over the payment to a Roth IRA, later payments from the Roth IRA that are qualified distributions will not be taxed (including earnings after the rollover). A qualified distribution from a Roth IRA is a payment made after you are age 59½ (or after your death or disability, or as a qualified first-time homebuyer distribution of up to \$10,000) and after you have had a Roth IRA for at least 5 years. In applying this 5-year rule, you count from January 1 of the year for which your first contribution was made to a Roth IRA. Payments from the Roth IRA that are not qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional income tax on early distributions (unless an exception applies). You do not have to take required minimum distributions from a Roth IRA during your lifetime. For more information, see IRS Publication 590, Individual Retirement Arrangements (IRAs).

You cannot roll over a payment from the Plan to a designated Roth account in an employer plan.

### **If you are not a Plan participant**

*Payments after death of the participant.* If you receive a distribution after the participant's death that you do not roll over, the distribution will generally be taxed in the same manner described elsewhere in this notice. However, the 10% additional income tax on early distributions and the special rules for public safety officers do not apply, and the special rule described under the section "*If you were born on or before January 1, 1936*" applies only if the participant was born on or before January 1, 1936.

If you are a surviving spouse. If you receive a payment from the Plan as the surviving spouse of a deceased participant, you have the same rollover options that the participant would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to an IRA, you may treat the IRA as your own or as an inherited IRA.

An IRA you treat as your own is treated like any other IRA of yours, so that payments made to you before you are age 59½ will be subject to the 10% additional income tax on early distributions (unless an exception applies) and required minimum distributions from your IRA do not have to start until after you are age 70½. If you treat the IRA as an inherited IRA, payments from the IRA will not be subject to the 10% additional income tax on early distributions. However, if the participant had started taking required minimum distributions, you will have to receive required minimum distributions from the inherited IRA. If the participant had not started taking required minimum distributions from the Plan, you will not have to start receiving required minimum distributions from the inherited IRA until the year the participant would have been age 70½.

If you are a surviving beneficiary other than a spouse. If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited IRA. Payments from the inherited IRA will not be subject to the 10% additional income tax on early distributions. You will have to receive required minimum distributions from the inherited IRA.

*Payments under a qualified domestic relations order.* If you are the spouse or former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order, you generally have the same options the participant would have (for example, you may roll over the payment to your own IRA or an eligible employer plan that will accept it). Payments under the qualified domestic relations order will not be subject to the 10% additional income tax on early distributions.

### **If you are a nonresident alien**

If you are a nonresident alien and you do not do a direct rollover to a U.S. IRA or U.S. employer plan, instead of withholding 20%, the Plan is generally required to withhold 30% of the payment for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing Form 1040NR and attaching your Form 1042-S. See Form W-8BEN for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, U.S. Tax Guide for Aliens, and IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

### **Other special rules**

If a payment is one in a series of payments for less than 10 years, your choice whether to make a direct rollover will apply to all later payments in the series (unless you make a different choice for later payments).

If your payments for the year are less than \$200 (not including payments from a designated Roth account in the Plan), the Plan is not required to allow you to do a direct rollover and is not required to withhold for federal income taxes. However, you may do a 60-day rollover.

Unless you elect otherwise, a mandatory cashout of more than \$1,000 (not including payments from a designated Roth account in the Plan) will be directly rolled over to an IRA chosen by the Plan administrator or the payor. A mandatory cashout is a payment from a plan to a participant made before age 62 (or normal retirement age, if later) and without consent, where the participant's benefit does not exceed \$5,000 (not including any amounts held under the plan as a result of a prior rollover made to the plan).

You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information, see IRS Publication 3, Armed Forces' Tax Guide.

## **FOR MORE INFORMATION**

You may wish to consult with the Plan administrator or payor, or a professional tax advisor, before taking a payment from the Plan. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: IRS Publication 575, Pension and Annuity Income; IRS Publication 590, Individual Retirement Arrangements (IRAs); and IRS Publication 571, Tax-Sheltered Annuity Plans (403(b) Plans). These publications are available from a local IRS office, on the web at [www.irs.gov](http://www.irs.gov) or by calling 1-800-TAX-FORM.

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EXHIBIT D

NOTICE TO ALTERNATE PAYEE OF DISTRIBUTION ELECTION

To: \_\_\_\_\_, Alternate Payee.

Date: \_\_\_\_\_.

You are entitled to distribution under the **MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT OF THE POLICE DEPARTMENT OF THE CITY OF AURORA** (the "Plan"). We have enclosed a distribution package with this notice. This notice explains your election rights under the Plan. The following information is important to these election rights.

- (1) Your proposed distribution date is as soon as administratively practicable after receipt by the Trustees of the Plan or their legal counsel of the legal documentation required by law for your distribution (*e.g.*, QDRO – *EXHIBIT A*, Distribution Election for Alternate Payee – *EXHIBIT B*, etc.) [Note: by applicable law your distribution may not be made earlier than 30 days after receipt by the Trustees or their legal counsel of the QDRO.]
- (2) **MINIMUM NOTICE PERIOD.** For at least 30 days after you receive this Notice, you have the right to consider your decision whether to elect a direct rollover of any portion of your eligible rollover distribution. If you sign and return the attached Distribution Election for Alternate Payee form to the Trustees less than 30 days after you receive this Notice, the Trustees' receipt of your signed form is your affirmative waiver of any unexpired portion of the minimum 30-day period and your affirmative election of a distribution or a direct rollover.

1. **Other forms included with this notice.** We have provided you the following forms:

Distribution Election For Alternate Payee. Use this form to elect payment of your benefits. See the explanation of your benefit options in Paragraph 2.

Your Rollover Options. This notice explains your right to elect a direct rollover of your distribution to another plan or IRA. This notice also explains the income tax withholding rules if you elect to receive payment from the Plan.

2. **Benefit payment options.** The Plan permits you to elect distribution in the following forms:

- (a) Direct rollover, or
- (b) Lump sum payment, or
- (c) A combination of direct rollover and lump sum payment. You also may elect one form of payment for one part of your distribution and another form of payment for another part of your distribution. For example, you may elect direct rollover for part of your distribution and a lump sum payment for the other part. See the "Your Rollover Options" for rules on splitting your distribution.

3. **Financial Effect of Distribution Options.** A direct rollover means the Plan pays the distribution amount directly to another plan or to an IRA. See “Your Rollover Options,” included with your package. A lump sum payment means you receive a single payment of the distribution amount.
  
4. **Further information.** If you have any question regarding the information provided in this notice or any form included with your distribution package, please contact the Trustees.

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