

**PROPOSED FORM FOR DOMESTIC RELATIONS ORDER TO DIVIDE ASSETS HELD
IN A CITY OF MILWAUKEE DEFERRED COMPENSATION ACCOUNT**

STATE OF _____

COURT: _____

In re the Marriage of: _____ Petitioner and _____ Respondent	DOMESTIC RELATIONS ORDER TO DIVIDE CITY OF MILWAUKEE DEFERRED COMPENSATION PLAN ACCOUNT Case No. _____
--	---

To: City of Milwaukee Deferred Compensation Plan
c/o Nationwide Retirement Solutions, Inc.
735 N. Water Street, Suite 612
Milwaukee, WI 53202

**NOTE: DO NOT ALTER THE PRINTED TEXT.
ALTERED FORM ORDERS MAY BE REJECTED.**

**NOTE: USE A SEPARATE ORDER IF BOTH PETITIONER AND RESPONDENT
HAVE MDC ACCOUNTS THAT MUST BE DIVIDED.**

THIS COURT HEREBY MAKES THE FOLLOWING FINDINGS AND ORDERS:

A. ADMINISTRATIVE SERVICES/PLAN ADMINISTRATOR. Nationwide Retirement Solutions, Inc. ("Administrator") currently provides services for the City of Milwaukee Deferred Compensation Plan ("MDC") under a contract with the City of Milwaukee.

B. PARTICIPANT.

[Name of party seeking to divide his/her MDC account _____],

[check one]:

☐ Petitioner

☐ Respondent,

("Participant"), participates in the MDC and must comply with either a marital property or family support obligation to the persons named in this order, by law and the judgment, decree, or order terminating this marriage.

C. TERMINATION OF MARRIAGE & EFFECTIVE DATE OF DIVISION. On *[date _____]*, the marriage between the Participant and the other party to this action ("Primary Alternate Payee") was terminated by this court under a final judgment, decree or order issued under Wis. Stat. Ch. 767, or, *[for marriages not terminated in Wisconsin insert citation to non-Wisconsin state domestic relations law _____]*, if Wisconsin law is not applicable. The property division is final.

D. ASSIGNMENT OF INTEREST TO PRIMARY ALTERNATE PAYEE. Attendant to the division of property resulting from the termination of the marriage between the Participant and the Primary Alternate Payee, the Primary Alternate Payee is hereby assigned an interest in the Participant's MDC account as specified below as of the effective date of this Order.

[Choose only one option and the option selected must be consistent with awards to other Supplementary Alternate Payees, if any – see Section G below, and all total awards must not exceed the Participant's account balance. If the awards exceed the Participant's account balance, this Order will be deemed void and unenforceable.]

OPTION 1: The Primary Alternate Payee is assigned an interest in the Participant's MDC account equal to the dollar amount specified below as of the effective date of this Order, plus all subsequent gains and losses, as applicable.

\$ _____ *[Specify exact dollars and cents.]*

OPTION 2: The Primary Alternate Payee is assigned an interest in the Participant's MDC account equal to the percentage expressed below as of the effective date of this Order, plus all subsequent gains and losses, as applicable.

_____ % *[Specify a percentage to one decimal place.]*

E. ELECTION OF IMMEDIATE DISTRIBUTION OR CREATION OF A NEW MDC ACCOUNT. Regardless of the method of calculation selected above, the Primary Alternate Payee shall either receive a distribution or shall be entitled to the creation of a separate MDC account in the name of the Alternate Payee as specified below.

[Choose only one option.]

OPTION 1: The Primary Alternate Payee's interest in the Participant's MDC account as created by this Order shall be distributed by the Administrator to the Primary Alternate Payee as soon as practicable.

_____ *[Check here.]*

OPTION 2: The Primary Alternate Payee's interest in the Participant's MDC account as created by this Order shall be transferred by the Administrator into a separate MDC account in the Primary Alternate Payee's name as soon as practicable, and the Primary Alternate Payee shall enjoy all rights and obligations as a participant of the MDC, including but not limited to right to select investments and to any gains or losses thereon, except that the MDC may restrict the Alternate Payee's access to joint and survivor annuity benefits and no Primary Alternate Payee account may subsequently be divided by a Domestic Relations Order or merged with any other MDC account.

_____ *[Check here.]*

F. IDENTIFICATION OF THE PARTICIPANT AND PRIMARY ALTERNATE PAYEE.

PARTICIPANT	PRIMARY ALTERNATE PAYEE (if additional Alternate Payees, complete the Section G below)
Name (Last, First, MI)	Name (Last, First, MI)
Social Security Number	Social Security Number
Birthdate (DD/MM/YYYY)	Birthdate (DD/MM/YYYY)
Last Known Mailing Address	Last Known Mailing Address

G. SUPPLEMENTARY ALTERNATE PAYEES. Check this box [] to indicate more than one Alternate Payee (collectively, “Supplementary Alternate Payees”).

NOTE: ALL ALTERNATE PAYEES MUST RECEIVE THE SAME TYPE OF INTEREST (i.e., absolute dollar or percentage) AND MUST RECEIVE THEIR INTERESTS IN THE SAME MANNER (i.e., immediate distribution or creation of new MDC account). FURTHERMORE, THE AWARDS CANNOT EXCEED THE PARTICIPANT’S TOTAL ACCOUNT BALANCE.

1. IDENTIFICATION OF ALL SUPPLEMENTARY ALTERNATE PAYEES

[THIS PAGE MAY BE DUPLICATED AS NECESSARY TO ACCOMMODATE ALL SUPPLEMENTARY ALTERNATE PAYEES.]

[Specify First, Second, Third, etc.] _____ **SUPPLEMENTARY ALTERNATE PAYEE**

Name (Last, First, MI)	
Last Known Mailing Address	Social Security Number
Birthdate (DD/MM/YYYY)	Relationship to Participant

[Specify First, Second, Third, etc.] _____ **SUPPLEMENTARY ALTERNATE PAYEE**

Name (Last, First, MI)	
Last Known Mailing Address	Social Security Number
Birthdate (DD/MM/YYYY)	Relationship to Participant

2. ASSIGNMENT OF INTEREST(S) TO SUPPLEMENTARY ALTERNATE PAYEE(S). Attendant to the division of property resulting from the termination of the marriage between the Participant and the Primary Alternate Payee, the Supplementary Alternate Payee(s) are hereby assigned an interest in the Participant's MDC account as specified below. This interest must be of the same type assigned to the Primary Alternate Payee above in Section D, although the amounts may differ.

[Choose only one option.]

OPTION 1: The Supplementary Alternate Payees noted below are assigned an interest in the Participant's MDC account equal to the dollar amount specified below as of the effective date of this Order. This Order is void if the amount specified below or if the total amount(s) owed to all Alternate Payees exceeds the Participant's MDC account balance when this Order is processed by the Administrator.

CHECK HERE _____

OR

OPTION 2: The Supplementary Alternate Payees noted below are assigned an interest in the Participant's MDC account equal to the percentages expressed below as of the effective date of this Order, plus all subsequent gains and losses.

CHECK HERE _____

SUPPLEMENTARY ALTERNATE PAYEE NAME	AMOUNT OF AWARD <i>[Specify <u>either</u> a percentage up to one decimal point OR an exact amount in dollars and cents.]</i>

2. ELECTION OF IMMEDIATE DISTRIBUTION OR CREATION OF A NEW MDC ACCOUNT. Regardless of the method of calculation selected above, Supplementary Alternate Payee(s) shall receive their awarded portions of the Participant's MDC account, as determined as of the effective date of this Order, and all Supplementary Alternate Payees shall either receive an immediate distribution or be entitled to the creation of a separate MDC account in the name of each Supplementary Alternate Payee, as specified below. This election must be the same as the election specified above in Section E for the Primary Alternate Payee.

[Choose only one option.]

DISTRIBUTION OPTION 1: Distribution of all Supplementary Alternate Payees' interest(s) in the Participant's MDC account by the Administrator as soon as practicable,

CHECK HERE _____

OR

DISTRIBUTION OPTION 2: Transfer of each Supplementary Alternate Payees' interest(s) in the Participant's MDC account by the Administrator into a separate MDC account in the name(s) of each Supplementary Alternate Payee as soon as practicable and each Supplementary Alternate Payee shall enjoy all rights and obligations of a participant of the MDC, including but not limited to right to select investments and to any gains or losses thereon, except that the MDC may restrict any Supplementary Alternate Payee's access to joint and survivor annuity benefits and no Supplementary Alternate Payee's account may subsequently be divided by a Domestic Relations Order or merged with any other MDC account.

CHECK HERE _____

UPON THE ABOVE FACTS, IT IS HEREBY ORDERED THAT:

1. This Order is final, permanent and irrevocable, except to the extent the MDC plan document or rules allows for the timely amendment of a domestic relations order. No amendment is permitted unless actually received by the Administrator within 6 months after the receipt of this Order. Neither the remarriage of the Petitioner and Respondent nor conversion of a legal separation to divorce shall affect this order.
2. This Order is void for any of the following reasons: (a) the Participant is not living when the Order is received by the Administrator; (b) if prior to issuing this Order the court lost jurisdiction for any reason, including the death of a party; (c) if this Order fails in any respect to satisfy the applicable state statutes and/or the MDC Master Agreement or other MDC plan documents setting forth rules for dividing a MDC account; (d) if there are insufficient funds in the Participant's account to satisfy this Order; or (e) the Order is inconsistent among Alternate Payees as to type of interest (i.e., specific dollar or

percentage) or distribution method (i.e., immediate distribution or the creation of a new MDC account for each Alternate Payee).

3. Upon receipt of this Order, Administrator shall divide the Participant's MDC account in accord with this Order and the MDC plan document and rules, or may reject this Order if invalid. The Administrator shall restrict disbursements from the Participant's MDC account until the division is completed or the Order is duly rejected. Prior to receipt of this Order by the Administrator, the Participant alone is liable for making trades or transactions that adversely affect the interests of the Alternate Payee(s).
4. If this Order specifies that new, separate MDC account(s) be created for the Alternate Payee(s), each Alternate Payee shall be treated as a MDC participant, and shall enjoy all the rights and obligations of a participant, except that the MDC may restrict access to joint and survivor annuity benefits and no Alternate Payee account may subsequently be divided by a Domestic Relations Order or merged with any other MDC account.
5. An Alternate Payee who is the Participant's current or former spouse will be responsible for any taxes due upon distributions made to the Alternate Payee.
6. Following the ordered division, neither the Participant nor any Alternate Payee shall have any ownership or control of the benefits distributed to any other party as a result of this Order.
7. This Order does not apply to any portion of the Participant's account that has already been annuitized.
8. Any Internal Revenue Service or Wisconsin Department of Revenue levy or attachment against the Participant's account shall continue to apply only to the Participant's account, unless the levy or attachment jointly names an Alternate Payee, to whom the levy or attachment shall then also apply.
9. If the Administrator pays to the Participant or the Alternate Payee benefits from assets that were assigned to another party under another order, the Participant or the Alternate Payee shall report the error to the Administrator within 10 days and shall personally reimburse the party actually entitled to the benefit.

Dated this _____ day of _____, 20____

BY THE COURT

Judge's Signature

Print name of Judge

NOTE: TIME IS OF THE ESSENCE in providing this order to the Administrator since the Participant's death or changes in the Participant's account value may invalidate the order.

NOTE: THE FOLLOWING SUPPLIEMENT MUST BE COMPLETED WHEN AN AWARD IS MADE TO MORE THAN ONE ALTERNATE PAYEE AS PART OF THE MARRIAGE TERMINATION.

INSTRUCTIONS

NOTE: A COURT MUST EXECUTE THESE DOCUMENTS AND CANNOT DO SO UNTIL THE MARRIAGE IS LEGALLY TERMINATED. [Please note that in Wisconsin, marriages are terminated by court-ordered annulment, divorce, or judgment of legal separation. Other state laws may vary.]

DO NOT USE THESE FORMS IF:

- Your marriage was terminated before May 19, 2011.
- Your marriage was terminated by a court outside the United States or its territories.
- There is an appeal pending in your case challenging the court's property division or that might otherwise affect how the City of Milwaukee Deferred Compensation account may be divided in your case.
- Either party to the terminated marriage has died.

STEP 1. Identify the case. Working from a copy of court documents, use the case caption information to identify the state in which the divorce was heard, the court issuing the judgment, the names of the parties, and the case number.

STEP 2. Identify the MDC Participant. The "Participant" is the person who participates in the City of Milwaukee Deferred Compensation (MDC) Plan and whose account is being divided by the "Order to Divide."

If both parties to the divorce are MDC participants, both accounts may be divided, but it will require use of two separate "Order to Divide" forms, one for each Participant.

STEP 3. Date of marriage termination. Insert into the first blank in Paragraph C the date on which the marriage was legally terminated. For marriages ending in divorce in Wisconsin, the judge typically (but not always) terminates the marriage on the day of the trial, by a verbal order from the bench. The "Findings of Fact, Conclusions of Law and Judgment" are written up and signed later. The laws of other states vary as to the date a marriage is terminated. Check with your lawyer, the Clerk of Courts or the Certificate of Divorce to verify the date the marriage was terminated.

STEP 4. Citation to state law. If your marriage was terminated under the law of a state other than Wisconsin, then insert a citation to the applicable state's statute in the second blank in Paragraph C. Check with your lawyer or the court for help.

STEP 5: Participant and Primary Alternate Payee information. If the spouse or former spouse will receive a share of the MDC account through the division, then he or she is the **Primary Alternate Payee**. In the box in Paragraph E, under the separate headings "Participant" and "Primary Alternate Payee" insert each person's name, Social Security Number, birth date and last known mailing address. This information is needed to correctly identify the specific

MDC account(s) affected or created by the “Order to Divide,” to notify the parties of the effects of the “Order to Divide,” and for tax reporting purposes. In the same line as the Primary Alternate Payee’s birth date, the Primary Alternate Payee’s relationship to the Participant **must be identified**, such as “ex-spouse” or “child.”

Only certain persons may be named as an Alternate Payees. They are:

- A child of the MDC Participant. The term “child” includes both natural children and adopted children. Stepchildren of the terminated marriage are not considered children of the WCD Participant unless they were legally adopted by the Participant.
- The person who was formerly the spouse in the specific marriage that was terminated as described in the “Order to Divide.” A second marriage ending in divorce, for example, does *not* create a new opportunity for the ex-spouse from the first marriage to become eligible to be an Alternate Payee as part of the current “Order to Divide.”
- The spouse of the MDC Participant may be an Alternate Payee, but only if there has been a formal judgment of legal separation that resulted in a full and final, court-ordered property division between the parties.

STEP 6. Election of interest. The Primary Alternate Payee is the person to whom a part of the Participant’s MDC account is being assigned by the court. The Primary Alternate Payee may either be given a share of the Participant’s MDC account, determined as of the effective date of the order, expressed as a dollar amount OR as a percentage. Insert EITHER a dollar amount in the OPTION 1 box or a percentage in the OPTION 2 box in paragraph D.

Please note: There are restrictions on what can be awarded. If a MDC Participant has already used all or a portion of his or her MDC account to purchase an annuity from a MDC provider, that annuity is not subject to division and will not be regarded as part of the assets to be divided.

IF THERE IS MORE THAN ONE ALTERNATE PAYEE, COMPLETE STEPS 7-10. IF THERE IS ONLY ONE ALTERNATE PAYEE, GO TO STEP 11.

It is possible to assign a portion of the MDC Participant’s account to more than one person. All such assignments must be made as part of the same “Order to Divide.” In addition all assignments must be the same as to type of interest (i.e., specific dollar or percentage) and distribution method (i.e., immediate distribution or the creation of a new MDC account for each Alternate Payee). For example, a former spouse and two children may be identified as Alternate Payees. Each may be assigned a percentage for immediate distribution, with 40% assigned to the former spouse, 30% to the older child and 20% assigned to the younger child. But an order assigning \$5,000 to the former spouse and 20% to a child would be void. Likewise, an Order assigning percentages to all Alternate Payees but specifying an immediate distribution for the former spouse and the creation of a new MDC account for a child would also be void.

STEP 7. Supplementary Alternate Payees. If more than one person will be assigned a portion of the Participant’s MDC account, then on the third page of the “Order to Divide” check the box in Paragraph G. Ignore this box and go to **STEP 12** if there is only one Alternate Payee.

STEP 8. Identify Supplementary Alternate Payees. For each additional Alternate Payee, complete a box on page four identifying the particular person by name, last known address, birth date, relationship to the Participant and Social Security Number. See **STEP 5**, above, describing who may be an Alternate Payee. This page may be duplicated to accommodate more than two Supplementary Alternate Payees.

STEP 9. Election of Interest. On page 5, check the appropriate option to select whether the Supplementary Alternate Payees will receive a dollar award OR a percentage award and complete the table to indicate the exact dollar amount or percentage awarded to each Supplementary Alternate Payee. Please note that this interest must be of the same type assigned to the Primary Alternate Payee in Paragraph D on page 2, although the amounts may differ.

STEP 10. Election of immediate distribution or creation of separate MDC account. On page 6, check the appropriate option to select whether the Supplementary Alternate Payees will receive an immediate distribution OR have a new, separate account created in their name. Please note that this election must be the same as the election specified in Paragraph E on pages 2-3 for the Primary Alternate Payee. The Alternate Payee account is wholly separate from any MDC account that the Alternate Payee may have through his or her own employment and the accounts may not be merged.

STEP 11. Court approval. The “Order to Divide City of Milwaukee Deferred Compensation Plan Account” must be approved and signed by the judge handling the legal action terminating the marriage. There may be local court rules and procedures that will govern how the draft “Order to Divide” and how to present the order to the judge for signature. Check with your attorney or the Clerk of Court.

Mistakes may be difficult or impossible to correct, so be sure everything is correct. If questions arise, you may contact Nationwide Retirement Solutions, Inc., 735 N. Water Street, Suite 612, Milwaukee, WI 53202, telephone 414-276-2079 or 800-829-1183.

Presenting or causing to be presented a false or fraudulent “Order to Divide” is a crime punishable under WIS. STAT. § 343.395 (2).

STEP 12. Send in the “Order to Divide” and other documents. Generally, the court will not be responsible for sending in the signed Order and other necessary documents. Make sure it is understood which party or attorney will be responsible for submitting the necessary materials. An official copy of the signed order, or a copy with the Judge’s original signature, must be received at:

City of Milwaukee Deferred Compensation Plan
c/o Nationwide Retirement Solutions, Inc.
735 N. Water Street, Suite 612
Milwaukee, WI 53202

Time is of the essence. If the MDC Participant or any Alternate Payee dies before Nationwide Retirement Solutions, Inc. (“Nationwide”) actually receives the “Order to Divide,” the order is

void. Depending on the assignment option selected, delays, interim trades or transactions initiated by the Participant, as well as market gains and losses in the interim, can have unanticipated effects on the amount assigned to an Alternate Payee.

You will be notified by Nationwide of receipt of the “Order to Divide.” If there are any correctable problems, Nationwide or the Plan will contact the person who submitted the “Order to Divide” to work toward resolving the problems. Nationwide will notify the Participant and every Alternate Payee if the “Order to Divide” is rejected and explain why. If the Order to Divide is accepted, then the Participant and Alternate Payee(s) will be notified of the individual effects on his or her account or assignment after the division is complete.