

ORDINANCE NO. 3401

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE TAX SAVER PLAN NECESSITATED BY CHANGES IN PROVISIONS OF THE INTERNAL REVENUE CODE (IRC) BY ADDING SECTION 3.4; BY REVISING SECTIONS 4.2, 4.3 AND ATTACHMENT B "DEPENDENT CARE ASSISTANCE PLAN"; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE OF JANUARY 1, 2001.

WHEREAS, the City of Mesquite has adopted a Tax Saver Plan; and

WHEREAS, it has been determined that changes in provisions of the IRC have necessitated revisions in our Tax Saver Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the Tax Saver Plan previously adopted by the City Council by Ordinance No. 2493, on December 7, 1987, is hereby amended by adding Section 3.4, by revising Sections 4.2, 4.3 and Attachment B "Dependent Care Assistance Plan", to read as follows, said Tax Payer Plan in all other respects to remain unchanged.

(1) Amend by inserting a new Section 3.4 to read as follows:

3.4 Events Permitting Revocation of Election: An election once made shall be irrevocable for the remainder of the Plan year in which it is in effect except as provided below:

(a) Special Enrollment Rights: A participant may revoke an existing election for medical reimbursement benefits and medical and dental insurance benefits during a period of coverage and make a new election that corresponds with the special enrollment rights provided in Section 9801(f) of the Internal Revenue Code of 1986, as amended.

(b) Change in Status: A participant may revoke an existing election for any benefits under this Plan during a period of coverage and make a new election if, under the facts and circumstances a change in status as defined in subsection (i) occurs and the election change satisfies the consistency provisions set forth in subsection (ii).

(i) Change in Status Events: The following events are changes in status for purposes of subsection (b) above:

- a) Legal Marital Status: Events that change an employee's legal marital status, including the following: marriage, death of spouse, divorce, legal separation and annulment.
 - b) Number of Dependents: Events that change an employee's number of dependents, including the following: birth, death, adoption and placement for adoption.
 - c) Employment Status: Any of the following events that change the employment status of the employee, the employee's spouse or the employee's dependent: a termination or commencement of employment, a strike or lockout, a commencement of or return from an unpaid leave of absence and a change in worksite.
 - d) Dependent Satisfies or Ceases To Satisfy Eligibility Requirements: Events that cause an employee's dependent to satisfy or cease to satisfy eligibility requirements for coverage on account of attainment of age, student status or any similar circumstance.
 - e) Residence: A change in the place of residence of the employee, spouse or dependent.
- (ii) Consistency Rule: An election change satisfies the consistency rule only if the election change is on account of and corresponds with a change in status that affects eligibility for coverage under the Plan.
- (c) Judgment, Decree or Order: A participant's election with respect to medical reimbursement benefits and medical and dental insurance benefits may be changed during a period of coverage if it:
- (i) Changes the participant's election to provide coverage for the participant's child or for a foster child who is a dependent of the participant if an order (as defined below) requires coverage for the child under this Plan; or
 - (ii) Permits the participant to make an election change to cancel coverage for the child if the order requires the

spouse, former spouse or other individual to provide coverage for the child.

For purposes of this subsection, the term "order" refers to a judgment, decree or order resulting from a divorce, legal separation, annulment or change in legal custody that requires accident or health coverage for a participant's child or for a foster child who is a dependent of the participant.

- (d) Entitlement to Medicare or Medicaid: A participant may make a prospective election change to cancel or reduce coverage for the participant, spouse or dependent with respect to medical reimbursement benefits and medical and dental insurance benefits if the participant, spouse or dependent who is enrolled to receive such benefits becomes entitled to Medicare or Medicaid (other than coverage consisting solely of benefits related to pediatric vaccines). In addition, if a participant, spouse or dependent who has been entitled to coverage under Medicare or Medicaid loses eligibility for such coverage, the participant may make a prospective election to commence or increase coverage of that participant, spouse or dependent under the Plan related to medical reimbursement benefits and medical and dental insurance benefits.

- (e) Significant Cost of Coverage Changes: Subsections (i) through (iii) of this section set forth rules for election changes as a result of changes in cost or coverage. This subsection (e) does not apply to an election change with respect to medical reimbursement benefits or on account of a change in cost or coverage with respect to medical reimbursement benefits.
 - (i) Cost Changes:
 - a) Automatic Changes: If the cost of benefits increases (or decreases) during a period of coverage, a participant's election shall be automatically increased (or decreased) prospectively.
 - b) Significant Cost Increases: If the cost of benefits significantly increases during a period of coverage, participants may either make a corresponding prospective increase in their election or revoke their election, and in lieu thereof, receive on a prospective basis coverage under another benefit package option providing similar coverage.

This subsection (e)(i) applies in the case of dependent care benefits only if the cost change is imposed by a dependent care provider who is not a relative of the participant.

(ii) Coverage Changes:

- a) Significant Curtailment: If the coverage under the Plan is significantly curtailed or ceases during a period of coverage, participants may revoke their elections and may make new elections on a prospective basis for coverage under another benefit package option providing similar coverage.
- b) Addition (or Elimination) of Benefit Package Option: If during a period of coverage the Plan adds a new benefit package option or other coverage option (or eliminates an existing benefit package option or other coverage option), affected participants may elect the newly added option (or elect another option if an option has been eliminated) prospectively on a pre-tax basis and make corresponding election changes with respect to other benefit package options providing similar coverage.

(iii) Change in Coverage of Spouse or Dependent Under Other Employer's Plan: A participant may make a prospective election change that is on account of and corresponds with a change made under the plan of the spouse's, former spouse's or dependent's employer if:

- a) A cafeteria plan or qualified benefits plan of the spouse's, former spouse's or dependent's employer permits participants to make an election change that would be permitted under paragraphs (b) through (g) of Treasury Regulation 1.125-4 (disregarding paragraph (f)(4) thereof; or
- b) The period of coverage under this Plan is different from the period of coverage under the cafeteria plan or qualified benefits plan of the spouse's, former spouse's or dependent's employer.

- (f) Special Requirements Relating to the Family and Medical Leave Act: A participant taking family or medical leave may revoke an existing election for any benefits under this Plan during a period of coverage and make such other election for the remaining portion of the period of coverage as may be provided for under the employer's policies pertaining to family and medical leaves.
- (2) Amend by deleting Section 4.2-A in its entirety and adding a new Section 4.2-A to read as follows:

Medical Reimbursement Plan: Available Tax Saver Dollars up to fifteen thousand dollars (\$15,000.00) per year may be used, if the participant elects, to provide benefits for expenses incurred on and after the effective date and during the Plan year of participation under the Medical Reimbursement Plan maintained by the employer for its employees and such amounts shall be allocated to the participant's Medical Account under this Plan.

- (3) Amend Section 4.2 by adding a new paragraph at the end of the section to read as follows:

Notwithstanding any provision of the Plan to the contrary, each participant shall be deemed to have made an election upon his or her enrollment in the City of Mesquite, Texas Group Health Plan to exchange salary for Tax Saver Dollar credits in an amount sufficient to pay the entire premium charged to the employee for the specific coverage selected by the participant under the City of Mesquite, Texas Group Health Plan unless the participant makes a contrary election specifically excluding such premium payments from this Plan. The amount of such Tax Saver Dollars shall be deducted on a ratable basis per pay period throughout the Plan year.

- (4) Amend Section 4.3 by deleting the section in its entirety and inserting a new Section 4.3 to read as follows:

4.3 Elections: Subject to the foregoing, participants wishing to establish accounts in connection with the Medical Reimbursement Plan and/or the Dependent Care Assistance Plan shall specify the amount of Tax Saver Dollar credits to be allocated to the Medical Account and/or Dependent Care Account. A participant's Tax Saver Dollar credits shall accrue to the participant on a ratable basis per pay period throughout the Plan year, and the participant's individual special expense accounts shall be credited as of the end of each pay period with an amount equal to the Tax Saver Dollar credits allocable to the participant for such period under such accounts.

The special expense account balances at any time shall be equal to the Tax Saver Dollar credits then allocated thereto and not yet applied therefrom.

Whenever a participant requests benefit payments under one or more of the above-named Plans, the employer shall make such payment to the extent such participant's Medical Account or Dependent Care Account, as applicable, has sufficient Tax Saver Dollar credits remaining to provide such benefit payment or payments. If such participant's Medical Account or Dependent Care Account is insufficient to provide all benefit payments requested pursuant to Section 4.2-A or 4.2-B, the Plan Administrator shall determine which benefit shall be paid. The Plan Administrator may consult with the participant in making such determination. All requests for benefit payments shall be in accordance with Section 5.3 hereof, but in no event may an expense under one Plan be provided from the individual's expense account of another Plan. Notwithstanding the foregoing, the amount eligible for payment with respect to a participant from his or her special account under the Medical Reimbursement Plan shall include the entire amount initially elected by the participant, reduced by the amount of any benefits previously paid during the Plan year therefrom to the participant.

A participant may request benefit payments under the above-named Plans for a Plan year for all eligible expenses incurred under said Plans during such Plan year pursuant to Section 5.3 hereof. For this purpose, an expense is deemed to be incurred when the participant is provided the service that gives rise to the expense, notwithstanding when the participant is formally billed or charged for the service or when the participant pays the provider for the service.

- (5) Amend Attachment B "Dependent Care Assistance Plan" by deleting the effective date of January 1, 1988, and inserting the new effective date of January 1, 2001.
- (6) Amend Attachment B "Dependent Care Assistance Plan" by deleting the reference to the Internal Revenue Code of 1954 and inserting the reference to the Internal Revenue Code of 1986 throughout the attachment.
- (7) Amend Attachment B "Dependent Care Assistance Plan" by reducing the dependent age from fifteen (15) to thirteen (13) throughout the attachment.
- (8) Amend Attachment B "Dependent Care Assistance Plan" by deleting Section 44A(e)(2) of the Internal Revenue Code of 1954 as the section of reference and inserting Section 21(d)(2) of the Internal Revenue Code of 1986 as the section of reference.

HR Tax Saver Plan Revisions/November 20, 2000
Page 7 of 7

SECTION 2. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 3. That the present Tax Saver Plan of the City of Mesquite does not address the changes in the Internal Revenue Code effective January 1, 2001, creates an urgency and an emergency and requires that this ordinance shall take effect on and after January 1, 2001.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 20th day of November, 2000.



Mike Anderson
Mayor

ATTEST:

APPROVED:



Ellen Williams
City Secretary



B. J. Smith
City Attorney

CERTIFICATE FOR ORDINANCE

THE STATE OF TEXAS §
COUNTY OF DALLAS §
CITY OF MESQUITE §

We, the undersigned officers of said City, hereby certify as follows:

1. The City Council of said City convened in REGULAR MEETING ON THE 4TH DAY OF DECEMBER, 2000, at the Municipal Center, and the roll was called of the duly constituted officers and members of said City Council, to-wit:

Mike Anderson, Mayor
David L. Paschall, Mayor Pro-Tem
Stephen S. Alexander, Deputy Mayor Pro-Tem
John L. Heiman, Jr.
James W. Folks
Carole A. Lochhead
Steve A. Whitworth

Ellen Williams, City Secretary

and all of said persons were present, except the following absentees: _____ thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF MESQUITE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2000, IN THE PRINCIPAL AMOUNT OF \$870,000, APPROVING AN OFFICIAL STATEMENT, AUTHORIZING THE EXECUTION OF A PURCHASE AGREEMENT, MAKING PROVISIONS FOR THE SECURITY THEREOF, AND ORDAINING OTHER MATTERS RELATING TO THE SUBJECT

was duly introduced for the consideration of said City Council and read in full. It was then duly moved and seconded that said Ordinance be passed; and, after due discussion, said motion carrying with it the passage of said Ordinance, prevailed and carried by the following vote:

AYES: All members of said City Council shown present above voted "Aye".

NOES: None.

2. That a true, full and correct copy of the aforesaid Ordinance passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that said Ordinance has been duly recorded in said City Council's minutes of said Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from said City Council's minutes of said Meeting pertaining to the passage of said Ordinance; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that said Ordinance would be introduced and considered for passage at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose, and that said Meeting was open to the public and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

3. That the Mayor of said City has approved and hereby approves the aforesaid Ordinance; that the Mayor and the City Secretary of said City have duly signed said Ordinance; and that the Mayor and the City Secretary of said City hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of said Ordinance for all purposes.

SIGNED AND SEALED the 4th day of December, 2000.

Ellen Williams
City Secretary

[Signature]
Mayor

SEAL