

RESOLUTION NO. 44-2010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS AMENDING THE TAX SAVER PLAN NECESSARY TO COMPLY WITH THE PROVISIONS OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT AND OTHER REVISIONS AS ARE NECESSARY AND APPROPRIATE; NOTIFYING ELIGIBLE EMPLOYEES OF THE AMENDMENT; AND PROVIDING AN EFFECTIVE DATE THEREOF.

WHEREAS, with the passage of Ordinance No. 2364 on December 1, 1986, the City of Mesquite (the "City") originally adopted a Tax Saver Plan (the "Plan") that allows eligible employees to use tax-free dollars to pay for medical or dental premiums, certain medical expenses and/or dependent care; and

WHEREAS, with the passage of Ordinance No. 3622 on November 17, 2003, the City amended the Plan as necessitated by changes in provisions of the Internal Revenue Code; and

WHEREAS, with the passage of Resolution No. 34-2005 on August 15, 2005, the City amended the Plan as necessitated by changes in provisions of the Internal Revenue Code; and

WHEREAS, Section 13.2.B of the Plan reserves the City's right to amend the Plan by resolution; and

WHEREAS, the City desires to adopt an amendment to the Plan to comply with the provisions of the Patient Protection and Affordable Care Act and to make such other changes to the Plan as are necessary and appropriate.

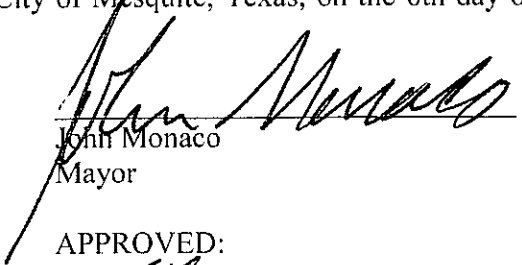
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the City Manager is hereby authorized to execute Amendment Two to the City of Mesquite's Tax Saver Plan (the "Amendment"), attached hereto as Exhibit "A," on behalf of the City.

SECTION 2. That the City's eligible employees will be notified of this Amendment that will allow them to have additional time to use their funds set aside for use in the Tax Saver Plan.

SECTION 3. That the Amendment will go into effect on and after January 1, 2011.

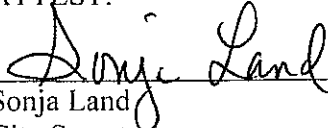
DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 6th day of December, 2010.


John Monaco
Mayor

APPROVED:


B. J. Smith
City Attorney

ATTEST:


Sonja Land
City Secretary

**AMENDMENT TWO TO
THE CITY OF MESQUITE
FLEXIBLE SPENDING PLAN**

WHEREAS, the City of Mesquite (the "Employer") desires to amend the City of Mesquite Flexible Spending Plan (the "Plan"), as most recently amended and restated effective January 1, 2004, and as further amended effective January 1, 2005, to comply with certain provisions of the Patient Protection and Affordable Care Act and to make such other changes as recommended by the Employer's Human Resources Department; and

WHEREAS, Section 13.2 B of the Plan reserves the right for the Employer to amend the Plan;

NOW, THEREFORE, the Plan is hereby amended as follows, effective for the Plan Year beginning January 1, 2011:

1. The definition of "Dependent" in Article V of the Plan is amended by adding the following at the end thereof to read as follows:

The term "Dependent" includes a child of the Employee until he or she reaches the age of 26 as long as the child does not have access to other employer coverage, regardless of whether the child is married, attends school full-time, lives with the Employee or is not the Employee's tax dependent.

2. A new third paragraph is added to Section 9.2 regarding Health Care Expense Reimbursements to read as follows:

Effective for taxable periods beginning on or after January 1, 2011, health care expenses will include the cost of over-the-counter medicines or drugs only if such items are purchased with a doctor's prescription. The preceding sentence does not apply, however, to the cost of insulin, which will continue to be permitted, even if purchased without a prescription.

3. A new paragraph is added at the end of Section 9.3 to read as follows:

Limited (Vision/Dental/Preventive Care) Health Care Reimbursement Option. For purposes of this Option, "Medical Care Expenses" means expenses incurred by an Employee or his or her spouse or dependents for medical care, as defined in Code Section 213(d); provided, however, that such expense is for vision care, dental care or preventive care (as defined in Code Section 223(c)) only, and provided that this term does not include any expenses for which the Employee or other person incurring the expense is reimbursed for the expense through the Employer's medical benefits plan, other insurance, or any other accident or health plan. If only a portion of a Medical Care Expense has been reimbursed elsewhere (e.g., because the Employer's medical benefits plan imposes co-payment or deductible limitations), then the Health Care Reimbursement Option

can reimburse the remaining portion of such expense if it otherwise meets the requirements of Section 9.2.

4. A new Section 9.4 is added to the Plan to read as follows, effective January 1, 2011:

9.4 Health Savings Accounts

An HSA Eligible Employee can elect to participate in the Health Savings Account ("HSA") component of the Plan by electing to pay the contributions on a pre-tax salary reduction basis to the Employee's HSA established and maintained outside the Plan by a trustee or custodian to which the Employer can forward contributions to be deposited. This funding feature constitutes the HSA benefits offered under this Plan. Such election can be increased, decreased or revoked prospectively at any time during the Plan Year, effective no later than the first day of the next calendar month following the date that the election change was filed.

An HSA Eligible Employee is an individual, including a retiree who is under age 65, who is eligible to contribute to an HSA under Code Section 223 and who has elected qualifying high deductible health plan coverage offered by the Employer and who has not elected any disqualifying non-high deductible health plan coverage offered by the Employer.

HSA benefits cannot be elected with Health Care Expense Reimbursements described in Section 9.2 unless the Limited (Vision/Dental/Preventive Care) Health Care Expense Reimbursement Option is selected. In addition, an Employee who has an election for Health Care Expense Reimbursements (other than the Limited (Vision/Dental/Preventive Care) Health Care Expense Reimbursement Option) that is in effect on the last day of a Plan Year cannot elect HSA benefits for any of the first three calendar months following the close of that Plan Year, even if no amounts remain in the Employee's Health Care Expense Reimbursement account at the end of that Plan Year.

The annual contribution for an Employee's HSA benefits is equal to the annual benefit amount elected by the Employee (for example, if the maximum \$6,150 annual benefit amount is elected for 2011, then the annual contribution amount is also \$6,150). In no event shall the amount elected exceed the statutory maximum amount for HSA contributions applicable to the Employee's high deductible health plan coverage option (i.e., single or family) for the calendar year in which the contribution is made (\$3,050 for single and \$6,150 for family are the statutory maximum amounts for 2011).

An additional catch-up contribution (\$1,000 for 2011) may be made for Employees who are age 55 or older. In addition, the maximum annual contribution shall be:

- (a) reduced by any matching (or other) Employer contribution made on the Employee's behalf made under the Plan); and

- (b) prorated for the number of months in which the Employee is an HSA-Eligible Individual.

The HSA is not an employer-sponsored employee benefit plan—it is an individual trust or custodial account separately established and maintained by a trustee or custodian outside the Plan. Consequently, the HSA trustee or custodian, not the Employer, will establish and maintain the HSA. The HSA trustee or custodian will be chosen by the Employee, not by the Employer. The Employer may, however, limit the number of HSA providers to whom it will forward contributions that the Employee makes via pre-tax salary reductions. Such a list is not an endorsement of any particular HSA provider. The Employer will maintain records to keep track of HSA contributions an Employee makes via pre-tax salary reductions, but it will not create a separate fund or otherwise segregate assets for this purpose. The Employer has no authority or control over the funds deposited in a HSA.

The tax treatment of the HSA (including contributions and distributions) is governed by Code Section 223.

HSA benefits under this Plan consist solely of the ability to make contributions to the HSA on a pre-tax salary reduction basis. Terms and conditions of coverage and benefits (e.g., eligible medical expenses, claims procedures, etc.) will be provided by and are set forth in the HSA, not this Plan. The terms and conditions of each Employee's HSA trust or custodial account are described in the HSA trust or custodial agreement provided by the applicable trustee or custodian to each electing Employee and are not a part of this Plan.


5. In all other respects, the Plan remains unamended and in full force and effect.

END OF AMENDMENT

SIGNATURE ON NEXT PAGE

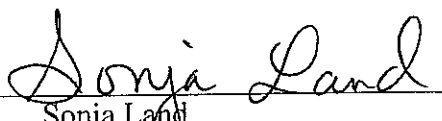
EXECUTED as of this 17th day of December, 2010, but effective as of January 1, 2011.

CITY OF MESQUITE

By: 
Ted Barron

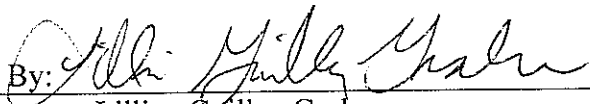
Title: City Manager

ATTEST:

By: 
Sonja Land

Title: City Secretary

APPROVED AS TO FORM:

By: 
Lillian Guillen Graham

Title: Assistant City Attorney