

RESOLUTION NO. 01-2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE TAX SAVER PLAN ADDING A CARRYOVER PROVISION AND DELETING CERTAIN GRACE PERIODS APPLICABLE ONLY TO HEALTH CARE EXPENSE REIMBURSEMENTS AS PERMITTED BY THE INTERNAL REVENUE SERVICE IN NOTICE 2013-71 AND AMENDING THE MAXIMUM EMPLOYEE CONTRIBUTION LEVELS FOR HEALTH CARE EXPENSE REIMBURSEMENTS EFFECTIVE FOR PLAN YEARS BEGINNING AFTER DECEMBER 31, 2012, AND NOTIFYING ELIGIBLE EMPLOYEES OF THE AMENDMENT; AND PROVIDING A SEVERABILITY CLAUSE.

WHEREAS, with the passage of Ordinance No. 2364 on December 1, 1986, the City of Mesquite (the "City") originally adopted a Tax Saver 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 and restated the City's Tax Saver Plan as necessitated by changes in provisions of the Internal Revenue Code (the City's Tax Saver Plan, as amended and restated effective January 1, 2004, is hereinafter referred to as the "Plan"); and

WHEREAS, with the passage of Resolution No. 34-2005 on August 15, 2005, the City further amended the Plan to add certain grace periods as permitted by the Internal Revenue Service in Notice 2005-42; and

WHEREAS, with the passage of Resolution No. 44-2010 on December 6, 2010, the City further amended the Plan to comply with certain provisions of the Patient Protection and Affordable Care Act and to make such other changes to the Plan as the City Council determined were necessary and appropriate; and

WHEREAS, the City desires to further amend the Plan to add a carryover provision and to delete certain grace periods applicable only to health care expense reimbursements as permitted by the Internal Revenue Service in Notice 2013-71; and

WHEREAS, Internal Revenue Service Notice 2013-71 permits amendments to a cafeteria plan adding carryover provisions to be adopted effective retroactively to the first day of the plan year from which amounts may be carried over; and

WHEREAS, the City further desires to amend the Plan to conform the Health Care Expense Reimbursement limit in the Plan to the requirements of Section 125(i) of the Internal Revenue Code of 1986, as amended, which were added by Section 9005 of the Patient Protection and Affordable Care Act for taxable years beginning after December 31, 2012; and

WHEREAS, Internal Revenue Service Notice 2012-40 permits amendments adopted on or before December 31, 2014, conforming a cafeteria plan to the requirements of Section 125(i) of the Internal Revenue Code of 1986, as amended, which were added by Section 9005 of the Patient Protection and Affordable Care Act, to be made effective retroactively for plan years beginning after December 31, 2012; and

WHEREAS, Section 13.2.B of the Plan reserves the right for the City to amend the Plan; and

WHEREAS, the City Council has determined that it is desirable to amend the Plan to add a carryover provision to the Plan and to delete certain grace periods applicable only to health care expense reimbursements as permitted by the Internal Revenue Service in Notice 2013-71 and has further determined that it is necessary to amend the Plan to conform the Health Care Expense Reimbursement limit in the Plan to the requirements of Section 125(i) of the Internal Revenue Code of 1986, as amended by Section 9005 of the Patient Protection and Affordable Care Act for taxable years beginning after December 31, 2012.

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

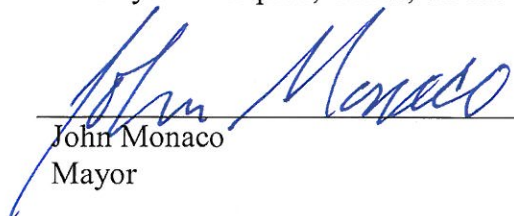
SECTION 1. That the Third Amendment to the City of Mesquite Tax Saver Plan, a true and correct copy of which is attached hereto as Exhibit "A" and made a part hereof for all purposes (the "Third Amendment"), is hereby approved and adopted by the City Council of the City of Mesquite.

SECTION 2. That the City Manager is hereby authorized to execute the Third Amendment on behalf of the City.

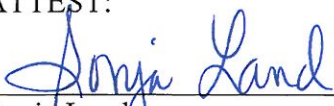
SECTION 3. That the City's eligible employees will be notified of the Third Amendment.

SECTION 4. That should any word, sentence, clause, paragraph or provision of this resolution be held to be invalid or unconstitutional, the validity of the remaining provisions of this resolution shall not be affected and shall remain in full force and effect.

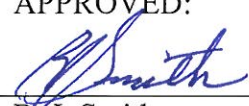
DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 6th day of January, 2014.



John Monaco
Mayor

ATTEST:


Sonja Land
City Secretary

APPROVED:


B. J. Smith
City Attorney

**THIRD AMENDMENT TO
THE CITY OF MESQUITE
TAX SAVER PLAN**

WHEREAS, the City of Mesquite (the "Employer") desires to amend the City of Mesquite Tax Saver Plan (the "Plan"), as most recently amended and restated effective January 1, 2004, to add carry over provision permitted by the Internal Revenue Service in Notice 2013-71; and

WHEREAS, the Employer further desires to amend the Plan to conform the Health Care Expense Reimbursement limit in the Plan to the requirements of Section 125(i) of the Internal Revenue Code of 1986, as amended, which were added by Section 9005 of the Patient Protection and Affordable Care Act for taxable years beginning after December 31, 2012.

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

NOW, THEREFORE, the Plan is amended as follows:

1. Section 9.2 of the Plan document is amended by inserting the following new paragraph at the end thereof, effective for the Plan Year beginning on January 1, 2014:

"Notwithstanding the preceding paragraphs of this Section 9.2 and the provisions of Section 13.1A and B dealing with sources and uses of funding, the Participant's Unused Election Amount, up to \$500 per Plan Year, shall be carried over to the immediately following Plan Year and may be used to pay or reimburse for Health Care Expense Reimbursements that are incurred during the entire Plan Year to which it is carried over. For this purpose, the Participant's Unused Election Amount is the amount unused after medical expenses have been reimbursed at the end of the Plan's run-out period for the Plan Year. The provisions of this paragraph and the carryover of up to \$500 do not count against or otherwise affect the indexed \$2,500 salary reduction limit and the maximum annual reimbursement otherwise applicable to each Plan Year."

2. In accordance with the requirements of Internal Revenue Service Notice 2013-71, which provides that "[a] plan adopting this carryover provision is not permitted to also provide a grace period with respect to health FSAs", the grace period provisions of the Plan that apply to Health Care Expense Reimbursements and that were added to the Plan in an amendment executed on August 16, 2005 are hereby deleted from the Plan and the provisions of the Plan that were in effect immediately prior to the adoption of such amendment are hereby reinstated in the place thereof. This paragraph 2 is not intended to impair or limit in any way the grace period provisions of the Plan that apply to Dependent Care Expense Reimbursements. Moreover, this paragraph 2 is not intended to impair or limit in any way the grace period provisions of the Plan that apply with respect to plan years beginning before January 1, 2014.

3. The Health Care Expense Reimbursement limit in Section 3.1 of the Plan is amended by deleting the reference to "\$10,000" and by inserting in place thereof "\$2,500", effective for plan years beginning after December 31, 2012.
4. The provisions of Paragraphs 1 and 2 of this Amendment Three shall be administered in accordance with Internal Revenue Service Notice 2013-71.
5. The provisions of Paragraph 3 shall be administered in accordance with Internal Revenue Service Notice 2012-40.
6. The Plan Administrator may adopt such procedures and rules as it determines to be necessary or appropriate in its sole discretion to carry out the intent and purposes of this Amendment Three.
7. Terms used with an initial capital letter in this Amendment Three have the meanings assigned to those terms in the Plan.
8. In all other respects, the Plan remains unamended and in full force and effect.

EXECUTED as of this 23rd day of January, 2014, but effective as of January 1, 2014.

CITY OF MESQUITE

By 
Title: City Manager