

RESOLUTION NO. 63-09-19

RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE TOWN OF LAKE PARK DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT PLAN DOCUMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park (“Town”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has determined that it will provide the Town’s employees with a Dependent Care Flexible Spending Account to help meet the needs of full-time employees who are enrolled in this account by providing for the work-related custodial dependent care for certain participants, their spouses and their dependents; and

WHEREAS, this flexible spending account is intended to qualify as a dependent care assistance plan as defined in Section 129 of the Internal Revenue Code of 1986 as amended; and

WHEREAS, the Town Commission has reviewed the Dependent Care Flexible Spending Account plan document (which is attached hereto and incorporated herein as **Exhibit A**).

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AS FOLLOWS:

Section 1. The whereas clauses are incorporated herein as true and correct and are hereby made a specific part of this Resolution.

Section 2. The Town Commission hereby authorizes the Mayor to sign the Town of Lake Park Dependent Care Flexible Spending Account Plan Document which is attached hereto and incorporated here in as **Exhibit A**).

Section 3. This Resolution shall become effective immediately upon adoption.

The foregoing Resolution was offered by Commissioner Michaud, who moved its adoption. The motion was seconded by Commissioner Flaherty and upon being put to a roll call vote, the vote was as follows:

	AYE	NAY
MAYOR MICHAEL O'ROURKE	<u> / </u>	<u> </u>
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u> / </u>	<u> </u>
COMMISSIONER ERIN FLAHERTY	<u> / </u>	<u> </u>
COMMISSIONER JOHN LINDEN	<u> / </u>	<u> </u>
COMMISSIONER ROGER MICHAUD	<u> / </u>	<u> </u>

The Town Commission thereupon declared the foregoing Resolution No. 63-09-19 duly passed and adopted this 4 day of September, 2019.


TOWN OF LAKE PARK, FLORIDA

BY: 
MICHAEL O'ROURKE
MAYOR

ATTEST:


VIVIAN MENDEZ
TOWN CLERK

Approved as to form and legal sufficiency:

BY: 
THOMAS J. BAIRD
TOWN ATTORNEY



Town of Lake Park Dependent Care Flexible Spending Account Plan Document

Introduction

Town of Lake Park has established this Dependent Care Flexible Spending Account Plan (the "Plan") to meet the needs of those of its Employees who are Participants in the Plan. The purpose of this Plan is to provide for the work-related custodial dependent care for certain Participants, their spouses and their dependents. The Plan is intended to qualify as a dependent care assistance plan as defined in Section 129 of the Internal Revenue Code of 1986, as amended (the "Code"). The Plan Sponsor, Plan Administrator, a benefits committee, and/or a third-party claims administrator is hereby granted discretionary authority to determine eligibility for benefits and/or to construe the terms of the plan.

Definitions

- a. Benefit Administrator - means an individual appointed by the Commission or other governing body of the Employer.
- b. Benefits - means the amounts paid to Participants under the Plan as reimbursements for Eligible Employment Related Expenses incurred by a Participant.
- c. Dependent - means any individual who is a dependent of a Participant within the meaning of Code Section 152(a).
- d. Earned Income - means all income derived from wages, salaries, tips, self-employment and other employee compensation but does not include any amounts received (i) under the Plan or any other dependent care assistance program under Code Section 129; or (ii) as a pension or annuity.
- e. Effective Date – means the October 1, 2017.
- f. Eligibility Requirement - means the requirement(s) for participation set forth herein.
- g. Eligible Employee - means any individual employed by the Employer for purposes of the Federal Insurance Contributions Act.

- h. Eligible Employment Related Expenses - means all Employment Related Expenses incurred by a Participant which are paid to a person who is not:
- a Dependent of the Participant;
 - the Participant's Spouse; or
 - a child of the Participant under the age of 19.
- i. Employer - means Town of Lake Park.
- j. Employment Related Expenses - means expenses incurred for Qualifying Services or for the cost of sending a child of the Participant to a Qualifying Day Care Center.
- k. Participant - means any Employee who has satisfied the eligibility requirements under Article III of the Plan.
- l. Plan Administrator - means the Town of Lake Park.
- m. Plan Year - The initial Plan Year for this Plan Document is October 1, 2017 to September 30, 2018. Subsequent Plan Years shall be twelve (12) month periods beginning each October 1st and ending on the following September 30st.
- n. Qualifying Day Care Center - means:
- a day care center which complies with all applicable laws and regulations;
 - provides care for more than six individuals, other than individuals who reside at the day care center; and
 - receives a fee payment or grant for providing Qualifying Services for the individuals.
- o. Qualifying Individual - means:
- a Dependent of a Participant who is under the age of 13;
 - a Dependent of a Participant who is physically or mentally incapable of caring for himself; or
 - the Spouse of a Participant, if he is physically or mentally incapable of taking care of himself.

- p. Qualifying Services - means Services performed:
- in the home of the Participant; or
 - outside the home of the Participant for the care of a Dependent who is under the age of 13, or for the care of a Qualifying Individual other than a Dependent under the age of 13, who regularly spends at least eight (8) hours a day in the Participant's household.
- q. Services - means custodial services performed to enable a Participant or Spouse to remain gainfully employed and which are related to the care of a Qualifying Individual.
- r. Spouse - means the spouse of a Participant but shall not include an individual separated or divorced from a Participant.
- s. Student - means an individual who, during each of five calendar months during a Plan Year, is a full-time student at an educational institution.

Eligibility

The Employee may elect to participate in the Plan upon completion of the Eligibility Requirements specified by the Employer in the Section 125 Plan in Section 2.01.

Newly hired employees that are eligible to participate in the Employer's medical insurance plan are eligible for this Plan on the first day of the month following thirty-two (32) days of employment. If the Eligible Employee elects to participate in the Plan during open enrollment and makes the required contributions, coverage shall begin on the October 1st immediately following the election. If the Eligible Employee elects to participate or change an election in the Plan during the Plan Year as allowed due to new eligibility or a qualifying event, coverage shall begin on the first day of the month following the election. In addition to the qualifying events defined in the Cafeteria Plan Document that permit mid-year election changes, Eligible Employees may begin participation, change contributions or cease participation if the cost of Qualifying Services changes in a manner consistent with the requested election change. Participation shall continue until the earlier of the last day of the Plan Year or the date coverage ceases.

Each Employee who terminates employment with the Employer during a Plan Year that is later rehired and becomes eligible for this Plan during the same Plan Year shall be treated as a newly-eligible employee for the purposes of election rights.

Termination of Eligibility

The eligibility of a Participant will cease upon the earlier of the following:

- The date your eligibility ends;
- The date your employment ends; or
- The date this Plan is terminated

Benefits

Each Participant in the Plan shall be eligible to receive Benefits under the Plan for all Eligible Employment Related Expenses incurred by the Participant after he became a Participant in the Plan, subject however to the limitations herein.

Claim for Benefits

Each Participant who desires to receive a Benefit under the Plan for Eligible Employment Related Expenses incurred for Qualifying Services shall, upon request, submit to the Plan Administrator a written statement containing the following information:

- a. name of the Dependent for whom the Qualifying Services are to be performed;
- b. the nature of the Qualifying Services performed for the Participant, the cost for which he wishes to be reimbursed;
- c. the relationship, if any, of the person performing the Qualifying Services to the Participant;
- d. if the Qualifying Services are being performed by a child of the Participant, the age of that child;
- e. a statement as to where the Qualifying Services will be performed;
- f. if the Qualifying Services are being performed in a day care center, a statement that (a) the day care center complies with all applicable laws and regulations; (b) the day care center provides care for more than six individuals (other than individuals residing at the center); and (c) the amount of compensation paid to the center;
- g. if the Participant is married, a statement of (a) the Spouse's compensation if he is employed, or (b) if the Participant's Spouse is not employed, a statement that (1) he is incapacitated or (2) he is a full-time student attending an educational institution and the months during the year which he will attend the educational institution;
- h. the name, address, and the Federal Tax Identification Number or Social Security Number of the individual or organization providing the care. The Federal Tax Identification Number or Social Security Number is not required if the individual or organization is tax-exempt.

If the Participant is eligible to receive Benefits under the Plan, he shall submit a statement stating the amount of Eligible Employment Related Expenses incurred by the Participant to the Plan Administrator within ninety (90) days after the date participation ends within the Plan Year or the one hundred and twenty (120) days after end of the Plan Year, whichever is earlier. Within thirty (30) days of receiving the statement, the Plan Administrator shall pay the Participant the Benefits to which he is entitled under the Plan.

Limitations on Benefits

A Participant may not receive Benefits for Eligible Employment Related Expenses incurred for any month in excess of his Earned Income for that month. If the Participant is married, he may not receive benefits for any month in excess of the lesser of:

- a. his Earned Income for the month; or
- b. the Earned Income of his Spouse for that month.

A Spouse who is not employed during any month in which the Participant incurs Eligible Employment Related Expenses, and is either incapacitated or a Student, shall be deemed to have Earned Income for that month of:

- a. \$250, if there is one Qualifying Individual for whom the Participant incurs Eligible Employment Related Expenses; or
- b. \$500, if there is more than one Qualifying Individual for whom the Participant incurs Eligible Employment Related Expenses.

A Participant may not receive Benefits for Eligible Employment Related Expenses for any calendar year in excess of \$5,000.00. A married Participant who files a separate individual tax return may not receive Benefits for Eligible Employment Related Expenses for any calendar year in excess of \$2,500.00.

Funding

Contributions required to pay benefits under this Plan shall consist of contributions by the Participants under the Employer's Flexible Benefit Plan, and other funds from the general assets of the Employer.

Plan Administrator

The Plan Administrator shall be the named fiduciary of the Plan and shall have the authority to manage the operation and administration of the Plan and to adopt such rules and regulations consistent with the Plan as it shall deem appropriate to administer the Plan. All determinations by the Plan Administrator shall be binding upon Participants, their spouses and dependents.

Claims Procedure

A Participant shall make a claim for Benefits by making a request in accordance with the Claim for Benefits section.

If a claim is wholly or partially denied, notice of a decision shall be furnished to the Participant within a reasonable period of time, not to exceed ninety (90) days after receipt of the claim by the Plan Administrator, unless special circumstances require an extension of time for processing the claim. If an extension of time is required, written notice of the extension shall be furnished to the Participant prior to the termination of the initial ninety (90) day period. In no event shall the extension exceed a period of ninety (90) days from the end of the initial period. The extension notice shall indicate the special circumstances requiring an extension of time and the date on which the Plan Administrator expects to render a decision.

The Plan Administrator shall, upon request, provide a Participant who is denied a claim for benefits written notice setting forth, in a manner calculated to be understood by the claimant, the following:

- a. a specific reason or reasons for the denial;
- b. specific reference to pertinent Plan provisions upon which the denial is based;
- c. a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why that material or information is necessary;
- d. an explanation of the Plan's claim review procedure.

The purpose of the review procedure is to provide a procedure by which a Participant, under the Plan, may have reasonable opportunity to appeal a denial of a claim to the Benefit Administrator for a full and fair review. To accomplish that purpose, the Participant, or his duly authorized representative may:

- a. request review upon written application to the named fiduciary;
- b. review pertinent Plan documents; and
- c. submit issues and comments in writing.

A Participant or his duly authorized representative shall request a review by filing a written application for review with the Benefit Administrator at any time within sixty (60) days after receipt of written notice of the denial of the claim.

Decision on review of a denied claim shall be made in the following manner:

- a. The decision on review shall be made by the Benefit Administrator, which may, at its discretion, hold a hearing on the denied claim. The Benefit Administrator shall make its decision not later than sixty (60) days after the Benefit Administrator receives the request for review, unless special circumstances require extension of time for processing, in which case a decision shall be rendered as soon as possible, but not later than one hundred twenty (120) days after receipt of the request for review. If an extension of time for review is required, written notice of the extension shall be furnished to the Participant prior to the commencement of the extension.
- b. The decision on review shall be in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the Participant, and specific references to the pertinent Plan provisions on which the decision is based.
- c. In the event that the decision on review is not furnished within the time period set forth, the claim shall be deemed denied on review.

If a dispute arises with respect to any matter under this Plan, the Plan Administrator may refrain from taking any other or further action in connection with the matter involved in the controversy until the dispute has been resolved.

Amendment and Termination

This Plan may be amended, suspended or terminated at any time by the Commission or other governing body of the Employer.

Miscellaneous

Except where otherwise indicated by the context, any masculine terminology used herein shall also include the feminine and vice versa, and the definition of any term herein in the singular shall also include the plural, and vice versa.

This Plan shall not be deemed to constitute a contract between the Employer and any Participant or Employee or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect the discharge shall have upon him as a Participant of this Plan.

This Plan shall be construed and enforced according to the laws of the State of Florida, except to the extent those laws are preempted by the laws of the United States of America.

IN WITNESS WHEREOF, the Employer has caused this indenture to be executed on the 4 day of September, 2019.

By: 

Title: Mayor

ATTEST:

By: 

Title: Town Clerk