

**RESOLUTION NO. 45-07-20**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK AUTHORIZING A TEMPORARY AMENDMENT TO THE TOWN'S SECTION 125 CAFETERIA PLAN TO ALLOW TOWN EMPLOYEES TO MAKE A MID-YEAR ELECTION CHANGE TO THEIR FLEXIBLE SPENDING ACCOUNTS (FSA); AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in response to the 2019 Novel Coronavirus outbreak (COVID-19) the IRS is allowing Employers to make a Temporary Amendment to their Section 125 Cafeteria Plans to allow Employees to make a mid-year change in their Flexible Spending Accounts (FSA); and

**WHEREAS**, the Town Manager recommends that employees be permitted to make mid-year changes in their FSA accounts; and

**WHEREAS**, the Town Manager recommends that the Commission adopt a Temporary Amendment to the Town's Section 125 Cafeteria Plan to allow Town employees to make mid-year election changes to their Employer-sponsored FSAs during the 2019-2020 Plan year.

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

**Section 1.** The foregoing recitals are incorporated herein.

**Section 2.** The Mayor is hereby authorized and directed to execute the Temporary Amendment to the Section 125 Plan, a copy of which is attached hereto and incorporated herein as Exhibit A.

**Section 3.** This Resolution shall take effect upon execution.

The foregoing Resolution was offered by Vice-Mayer Glas-Castro, who moved its adoption. The motion was seconded by Commissioner Michewel and upon being put to a roll call vote, the vote was as follows:

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

The Town Commission thereupon declared the foregoing Resolution No. 45-07-20 duly passed and adopted this 19<sup>th</sup> day of July, 2020.

TOWN OF LAKE PARK, FLORIDA

BY:   
MICHAEL O'ROURKE  
MAYOR

ATTEST:

 ON BEHALF OF  
VIVIAN MENDEZ  
TOWN CLERK

Approved as to form and legal sufficiency:

BY:   
THOMAS J. BAIRD  
TOWN ATTORNEY



# **Town of Lake Park**

## **Temporary Amendment to the Section 125 Plan**

**Tax ID Number – 59-6000355**

**The Section 125 Plan effective on October 1, 2017 is hereby amended on July 1, 2020 only for the plan year beginning on October 1, 2019 and otherwise ending on September 30, 2020 (2019-2020 Plan Year). This Amendment is authorized by IRS Notice 20-29 issued in response to the 2019 Novel Coronavirus outbreak (COVID-19).**

### **A. Elections Under a § 125 Cafeteria Plan**

The Employer will permit employees to make certain prospective mid-year election changes for Employer-sponsored health coverage, health FSAs, and dependent care FSAs during 2019-2020 Plan Year. Specifically, the Employer will allow each employee who is eligible to make salary reduction contributions under the plan to make prospective election changes (including an initial election) during 2019-2020 Plan Year regarding the health FSA and the dependent care FSA, regardless of whether the basis for the election change satisfies the criteria set forth in Treas. Reg. § 1.125-4.

In particular, the Employer will allow employees to revoke an election, make a new election, or decrease or increase an existing election regarding a health FSA on a prospective basis; and revoke an election, make a new election, or decrease or increase an existing election regarding a dependent care FSA on a prospective basis. No mid-year election for a health FSA or dependent care FSA may be for aggregate plan year contributions less than amounts already reimbursed.

Only one new election may be made for each benefit (health FSA and/or dependent care FSA) during the special enrollment period. Such elections must be made during the period starting July 1, 2020 and ending on July 31, 2020 via means of a designated electronic system or paper form as required by the Employer.

The Employer under § 125 is not required to provide unlimited election changes but may, in its discretion, determine the extent to which such election changes are permitted and applied, provided that any permitted election changes are applied on a prospective basis only, and the changes to the plan's election requirements do not result in failure to comply with the nondiscrimination rules applicable to § 125 cafeteria plans.

This temporary modification of the Section 125 Plan is intended to be consistent with the requirements for the relief provided in IRS Notice 20-29.

**B. Extended Claims Period for Health FSAs and Dependent Care Assistance Programs**

The Employer will provide an extended period to apply unused amounts remaining in a health FSA or dependent care FSA to pay or reimburse medical care expenses or dependent care expenses providing the employee meets eligibility requirements and remains a participant in the respective FSA plan. Employees will allow unused amounts remaining in a health FSA or a dependent care FSA as of September 30, 2020 to be used to pay or reimburse expenses incurred for the same qualified benefit through December 31, 2020. Employees may apply unused amounts remaining in an employee's health FSA for medical care expenses incurred through December 31, 2020. Employees may also apply unused amounts remaining in an employee's dependent care FSA for dependent care expenses incurred through December 31, 2020. This relief applies to all health FSAs, including limited purpose health FSAs compatible with HSAs. However, health FSA amounts may only be used for medical care expenses, and dependent care FSA amounts may only be used for dependent care expenses.

Employees may file claims for FSA expenses incurred on or before December 31, 2020 until January 15, 2021. The health FSA rollover of up to \$500 into the next plan year, if the employee remains a participant, will occur on or about January 31, 2021.

IN WITNESS WHEREOF, the Employer has adopted this caused this Temporary Amendment to the Section 125 Plan to be executed on this 1<sup>st</sup> day of July, 2020.

By: 

Printed Name: Michael O'Rourke

Title: Mayor

ATTEST:

By: 

Title: Deputy Town Clerk