

OCT 22 2009

RESOLUTION NO. 4341

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE TWO AMENDMENTS TO THE CITY OF CHANDLER FLEXIBLE SPENDING ACCOUNT PROGRAM

WHEREAS, the City of Chandler (hereinafter "City") has employees rendering valuable services; and

WHEREAS, Resolution No. 4340 approved concurrently herewith by the Council of the City of Chandler formally adopted the City of Chandler Flexible Spending Account Program; and

WHEREAS, it is in the best interests of the City of Chandler to approve two proposed amendments to the City of Chandler Flexible Spending Account Program.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1: That the Mayor and City Council of the City of Chandler hereby approve Resolution No. 4341 authorizing the Mayor of the City of Chandler to execute the following Amendments to the City of Chandler Flexible Spending Account Program as set forth in Attachments A and B hereto:

- A. To allow City employees to take advantage of the Qualified Reservist Distribution Provisions in the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART ACT) as authorized in the Amendment to the City of Chandler Flexible Spending Account Program as set forth in Attachment A hereto, effective January 1, 2010, as set forth in Attachment A.
- B. To authorize a grace period for the use of contributions made to the City's of Chandler Flexible Spending Account Program beginning with contributions made for the 2010 calendar year for the grace period beginning January 1, 2011, and subsequent years thereto, as set forth in Attachment B.

Section 2. That the City Council of the City of Chandler hereby authorizes the Mayor to execute all of the documents set forth in Section 1.

Section 3. That the various City officers and employees be and they are hereby authorized and directed to perform all acts necessary to give effect to this Resolution.

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this ____ day of _____, 2009.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4341 was duly passed and approved by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ____ day of _____, 2009, and that a quorum was present thereat.

CITY CLERK

PUBLISHED:

APPROVED AS TO FORM:

CITY ATTORNEY



#60

OCT 22 2009



Chandler + Arizona
Where Values Make The Difference

MEMORANDUM

DATE: October 19, 2009

TO: Mayor and Council

THRU: W. Mark Pentz, City Manager *WMP*
Rich Dlugas, Assistant City Manager *RD*
Debra Stapleton, Human Resources Director *DS*

FROM: Valerie Hernandez, Benefit Programs Supervisor *VH*

SUBJECT: Approval of Resolution No. 4341 Approving and Authorizing the Mayor to Execute Two Amendments to the City of Chandler Flexible Spending Account Program

RECOMMENDATION: Adoption of Resolution 4341 approving and authorizing the Mayor to execute two amendments to the City of Chandler Flexible Spending Account Program

BACKGROUND: Recent changes to the Internal Revenue Code allow the City to provide greater flexibility in their use of the City's Flexible Spending Account Program. This Resolution No. 4341 will allow City employees to take advantage of the qualified Reservist Distribution Provisions in the Heroes Earning Assistance and Relief Tax Act of 2008 (HEART ACT). It will also authorize a grace period for the use of contributions made by employees to the City's Flexible Spending Account Program beginning with contributions made in the 2010 calendar year for the grace period beginning January 1, 2011, and subsequent years thereto.

DISCUSSION: The two amendments to the City's FSA Plan implemented by Resolution No. 4341 will allow the City's eligible employees greater flexibility in the use of their FSA funds, at no additional cost to the City.

FINANCIAL IMPLICATIONS: There are no additional costs to the City in adopting these amendments to the FSA program.

PROPOSED MOTION: Move to adopt Resolution 4341 approving and authorizing the Mayor to execute two amendments to the City of Chandler Flexible Spending Account Program.

RESOLUTION NO. 4341

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE TWO AMENDMENTS TO THE CITY OF CHANDLER FLEXIBLE SPENDING ACCOUNT PROGRAM

WHEREAS, the City of Chandler (hereinafter "City") has employees rendering valuable services; and

WHEREAS, pursuant to Resolution No. 4340 approved by the Council of the City of Chandler on September 24, 2009, the City of Chandler adopted the City of Chandler Flexible Spending Account Program; and

WHEREAS, it is in the best interests of the City of Chandler to approve two proposed amendments to the City of Chandler Flexible Spending Account Program.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1: That the Mayor and City Council of the City of Chandler hereby approve Resolution No. 4341 authorizing the Mayor of the City of Chandler to execute the following Amendments to the City of Chandler Flexible Spending Account Program as set forth in Attachments A and B hereto:

- A. To Allow city employees to take advantage of the Qualified Reservist Distribution Provisions in the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART ACT) as authorized in the Amendment to the City of Chandler Flexible Spending Account Program as set forth in Attachment A hereto, effective January 1, 2010, as set forth in Attachment A.
- B. To authorize a grace period for the use of contributions made to the City's of Chandler Flexible Spending Account Program beginning with contributions made for the 2010 calendar year for the grace period beginning January 1, 2011, and subsequent years thereto, as set forth in Attachment B.

Section 2. That the City Council of the City of Chandler hereby authorizes the Mayor to execute all of the documents set forth in Section 1.

Section 3. That the various City officers and employees be and they are hereby authorized and directed to perform all acts necessary to give effect to this Resolution.

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this ____ day of _____, 2009.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4341 was duly passed and approved by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ____ day of _____, 2009, and that a quorum was present thereat.

CITY CLERK

PUBLISHED:

APPROVED AS TO FORM:

CITY ATTORNEY 

EXHIBIT B

AMENDMENT NUMBER TWO TO CITY OF CHANDLER
FLEXIBLE SPENDING ACCOUNT PROGRAM

GRACE PERIOD AMENDMENT

This Amendment Number Two to the City of Chandler Flexible Spending Account Program is approved and adopted this _____ day of _____, 2009.

WHEREAS, the City of Chandler has previously adopted a Flexible Spending Account Program; and

WHEREAS, Regulations enacted pursuant to Section of the Internal Revenue Code authorize employers to amend Retirement Health Savings Plans to allow for "Grace Period" for up to 2 ½ months after the end of the plan year, in which any qualified medical expenses incurred in that period can be paid from any amounts left in the account at the end of the previous plan year; and

WHEREAS, it is in the City's best interests to adopt a Grace Period applicable to the Flexible Spending Account Program.

NOW, THEREFORE, the City Council of the City of Chandler hereby adopts a Grace Period applicable to the Flexible Spending Account Program:

- 1) The City of Chandler hereby approves and adopts the use of a "Grace Period" for the City of Chandler Flexible Spending Account Program to authorize an optional Grace Period to extend the period for incurring expenses for qualified benefits in each plan year for the contributions made by employees in the plan year beginning January 1, 2010, through December 31, 2010, and for each plan year thereafter.
- 2) The "Grace Period" extends the normal timeframe an employee is allowed to incur eligible health care expenses. The normal timeframe, called the "plan year", runs for a 12-month period, beginning January 1 and ending on December 31. With the adoption of the "Grace Period", employees will have an additional 2 ½ months beyond December 31, allowing employees to incur expenses up until March 15 following the plan year. This will allow employees 14 ½ months to use a 12-month election and helps employees to avoid forfeiting funds placed into a healthcare account.
- 3) All Grace Period expenses will be paid out of employees' prior plan year balance automatically, allowing employees to use prior plan year balances before beginning to use contributions from the applicable plan year. For example, for contributions made between January 1, 2010, and December 31, 2010, the first plan year this Amendment is in effect, employees may incur qualified expenses for claims incurred between January 1, 2010, and March 15, 2011, for the funds contributed during the first plan year beginning January 1, 2010, and ending March 15, 2011.
- 4) Employees must file all claims for an applicable plan year and Grace Period for that plan year during the "Run Out Period", the period an employees has to file all claims incurred during the applicable plan year and Grace Period, or until March 31 of the year following the plan year. For example, for the expenses incurred between January 1, 2010, and March 15, 2011, the first Grace Period eligible pursuant to this Amendment, employees

will have between January 1, 2010, and March 31, 2011, the "Run Out Period" to submit claims incurred during the plan year and Grace Period.

- 5) If an employee's claims during the applicable plan year and "Grace Period" fall short of the elected amount contributed during the applicable plan year, any remaining amount will be forfeited. For example, for the first applicable plan year, if an employee elects \$500, has \$25 left in the account for on December 31, 2010, and the employee has a \$100 claim on February 1, 2011, and the employee submits a claim for this amount prior to March 31, 2011, then \$25 of the claim will be applied to the 2010 year and \$75 will be applied to the 2011 year if the appropriate election is made by the employee for the 2011 year. If the employee incurs no claims between January 1, 2011, and March 15, 2011, which are submitted prior to March 31, 2011, the employee will forfeit the remaining \$25 from the 2010 plan year.
- 6) Employees must file all expenses incurred during a "Grace Period" using the applicable plan year account. For example, for the first applicable Grace Period, January 1, 2011, to March 15, 2011, employees must file all expenses incurred during a Grace Period using the 2010 account. Adjustments will be made to the account at the end of the Grace Period.
- 7) Employees whose employment is terminated during the plan year for any reason are not eligible to use the grace period feature.
- 8) The Mayor of the City of Chandler is authorized to execute this Amendment to the City of Chandler Flexible Spending Account Program.
- 9) All City officers and employees are authorized to take all necessary steps to implement this Amendment.

CITY OF CHANDLER

MAYOR

APPROVED AS TO FORM:

City Attorney



ATTEST:

City Clerk

Seal

HEART ACT AMENDMENT

ARTICLE I
PREAMBLE

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to _____ PayFlex _____ (enter name of plan that includes health FSA) ("Plan") to reflect certain provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART Act") relating to Qualified Reservist Distributions (QRDs) from health Flexible Spending Arrangements ("health FSAs"). The sponsor intends this Amendment as good faith compliance with the requirements of these provisions. This Amendment shall be effective with respect to distributions on or after the date the Employer elects in Section 2.1 below.
- 1.2 **Supersession of inconsistent provisions.** This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.

ARTICLE II
EMPLOYER ELECTIONS

- 2.1 **Effective Date.** This Amendment is effective as of
 - a. ____January 1, 2010_____(cannot be earlier than June 18, 2008).
- 2.2 **Distribution Limit.** The maximum amount that may be distributed as a QRD to a Participant is: (select one):
 - a. the entire amount elected for the health FSA by the Participant for the Plan Year less health FSA reimbursements received (or in process) as of the date of the QRD request.
 - b. the amount contributed by the Participant to the health FSA as of the date of the QRD request less any health FSA reimbursements received as of the date of the QRD request.
 - c. _____ (an amount not exceeding the entire amount elected for the health FSA minus reimbursements).
- 2.3 **Number of Distributions.** There is no limit on how many requests may be made in a Plan Year unless otherwise elected below:
 - a. The Employer limits the number of QRDs processed for a Participant to _____ per Plan Year.
- 2.4 **Claims Process.**

Claims incurred prior to the date of the payment of the QRD shall be paid as any other claim. Claims incurred after the date QRD is paid shall (select one):

- a. [X] be paid on submission as any other claim. The Plan will treat the QRD payment as a health FSA reimbursement for purposes of applying this provision.
- b. [] shall not be paid. The Participant's right to submit a claim is terminated as of the date of the QRD request.

ARTICLE III QUALIFIED RESERVIST DISTRIBUTIONS

3.1 **Ability to elect QRD.** All Participants may request a QRD provided the provisions of this Article are satisfied.

3.2 **Definition of QRD.** A QRD means any distribution to a Participant of all or a portion of the balance in the Participant's health FSA if both (a) and (b) below are satisfied.

(a) Such Participant is a member of a reserve component (as defined in Section 101 of Title 37, United States Code) and is ordered or called to active duty for a period of 180 days or more or for an indefinite period, according to the following:

(1) If the effective date of the amendment is June 18, 2008, then a Participant who was called or ordered to duty prior to June 18, 2008 is eligible to request a QRD provided the individual's period of active duty continues after June 18, 2008 and meets the duration requirement in (a) above.

(2) A QRD may only be made if the Participant is ordered or called to active duty, not the Participant's spouse or dependents.

(3) Eligibility for a QRD is not affected if the order or call is for 180 days or more or is indefinite, even if the actual period of active duty is less than 180 days or is changed otherwise from the order or call.

(4) If the period specified in the order or call is less than 180 days, then no QRD is permitted. However, if there are subsequent calls or orders that increase the total period of active duty so that it meets the duration requirement of (a) above, then the Participant may request a QRD as of the date of such subsequent calls or orders.

(b) The request for the distribution is made during the period beginning on the date of the order or call that applies to the Participant and ending on the last day of the Plan Year (or the last day of the grace period, if the Plan provides for a grace period) which includes the date of such order or call.

3.3 **Conditions.**

(a) The Employer must receive a copy of the order or call to active duty and may rely on the order or call to determine the period that the Participant has been ordered or called to active duty.

HEART Act Amendment

(b) In general, QRDs are only permitted prospectively after the Plan is amended to permit QRDs. However, QRDs are permitted prior to the time the Plan is amended to permit QRDs provided: (1) the Plan is retroactively amended by December 31, 2009, and (2) the amendment is retroactively effective to the date of the first QRD paid under the Plan, but not prior to June 18, 2008.

(c) A QRD may only be made with respect to a Participant's health FSA balance in existence on or after June 18, 2008. A QRD may not be made with respect to amounts (1) forfeited on or before June 18, 2008, (2) attributable to a prior Plan Year (including a Plan Year ending on or before June 18, 2008), or (3) attributable to a non-health FSA.

3.4 **Time of Request.** The QRD request must be made on or after the call or order and before the last day of the Plan year (including grace period if applicable). The QRD shall be paid within a reasonable time but in no event more than 60 days after the date of the request.

CITY OF CHANDLER

MAYOR

APPROVED AS TO FORM

_____
City Attorney

ATTEST:

City Clerk

Seal