

**RESOLUTION CR-02-13**

**A RESOLUTION APPROVING AN AMENDMENT TO THE CITY'S  
CAFETERIA PLAN UNDER SECTION 125 OF THE INTERNAL REVENUE CODE**

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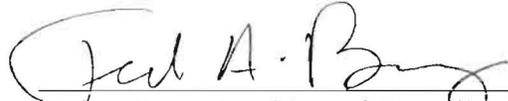
WHEREAS, in 1988 and 1989, the City initially implemented a Cafeteria Plan under Section 125 of the Internal Revenue Code; and

WHEREAS, since the Plan was last updated in 2010, the City has made changes to benefits which require the Plan be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

SECTION 1. Council hereby approves the amendment to the Cafeteria Plan and authorizes the City Administrator to execute the amendment, attached hereto as Exhibit "A".

SECTION 2. The resolution shall take effect at the earliest opportunity afforded by law.

  
\_\_\_\_\_  
Ted A. Berry, President of Council

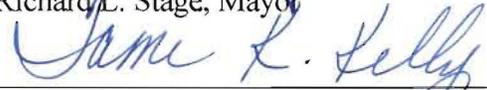
Passed: 01-07-13

Effective: 01-07-13

Attest:

I certify that this  
resolution is correct as to form.

  
\_\_\_\_\_  
Richard L. Stage, Mayor

  
\_\_\_\_\_  
Tami K. Kelly, MMC, Clerk of Council

  
\_\_\_\_\_  
Stephen J. Smith, Director of Law

Exhibit "A"  
CR-02-13

**AMENDMENT NUMBER ONE  
TO THE  
GROVE CITY CAFETERIA PLAN**

THIS AMENDMENT NUMBER ONE to the Grove City Cafeteria Plan ("Plan") is executed as of the date set forth below by the City of Grove City ("Employer").

WITNESSETH:

WHEREAS, the Employer has maintained the Plan since July 1, 1989, and most recently adopted and restated the Plan, effective as of January 1, 2011; and

WHEREAS, the Employer reserved the right to amend the Plan pursuant to Article XI of the Plan (after this Amendment Article X of the Plan);

WHEREAS, the Employer now desires to amend the Plan to remove the Health Flexible Spending Account benefit and the non-High Deductible Health Plan option.

NOW, THEREFORE, the Plan is hereby amended, effective January 1, 2013, as follows:

1. The following Articles, Sections, and subsections of the Plan shall be deleted in their entirety, and all remaining Articles, Sections, and subsections of the Plan, and references to such Articles, Sections, and subsections, shall be renumbered accordingly:
  - Section 1.17 of the Plan, regarding the definition of "Non-HDHP Health Plan."
  - Section 2.6(c) of the Plan, regarding COBRA applicability.
  - Section 4.1(1) of the Plan, regarding benefit options.
  - Section 4.2 of the Plan, regarding the Health Flexible Spending Account Benefit.
  - Section 5.4(k) of the Plan, regarding the Health FSA not changing due to insurance change.
  - Section 5.4(l) of the Plan, regarding the Health FSA amount only increasing.
  - Article VI of the Plan, regarding the Health Flexible Spending Account.
2. The last sentence of Section 2.7, regarding death, shall be deleted in its entirety.
3. The last sentence of Section 3.3, regarding periodic salary redirection contributions, shall be deleted in its entirety.

4. Section 3.2 of the Plan, regarding application of salary redirection contributions, shall be amended to be and read as follows:

**"3.2 APPLICATION OF SALARY REDIRECTION CONTRIBUTIONS**

As soon as reasonably practical after each payroll period, the Employer shall apply the Salary Redirection to provide the Benefits elected by the affected Participants. Any contribution made or withheld for the Dependent Care Flexible Spending Account shall be credited to such fund or account. Amounts designated for the Participant's Premium Expense Reimbursement Account shall likewise be credited to such account for the purpose of paying Premium Expenses."

5. Section 4.8(c) of the Plan (formerly Section 4.9(c)), regarding adjustment to avoid test failure, shall be amended to be and read as follows:

"(c) **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination or possible taxation to Key Employees or a group of employees in whose favor discrimination may not occur in violation of Code Section 125, it may, but shall not be required to, reduce contributions or non-taxable Benefits in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner. If the Administrator decides to reduce contributions or non-taxable Benefits, it shall be done in the following manner. First, the non-taxable Benefits of the affected Participant (either an employee who is highly compensated or a Key Employee, whichever is applicable) who has the highest amount of non-taxable Benefits for the Plan Year shall have his non-taxable Benefits reduced until the discrimination tests set forth in this Section are satisfied or until the amount of his non-taxable Benefits equals the non-taxable Benefits of the affected Participant who has the second highest amount of non-taxable Benefits. This process shall continue until the nondiscrimination tests set forth in this Section are satisfied. With respect to any affected Participant who has had Benefits reduced pursuant to this Section, the reduction shall be made to Dependent Care Flexible Spending Account Benefits, and once all these Benefits are expended, proportionately among insured Benefits. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and deposited into the benefit plan surplus."

6. Section 8.1(b) of the Plan (formerly Section 9.1(b)), regarding Dependent Care Flexible Spending Account claims, shall be amended to be and read as follows:

"(b) **Dependent Care Flexible Spending Account claims.** Any claim for Dependent Care Flexible Spending Account Benefits shall be made to the Administrator. If a Participant fails to submit a claim by March 31st of the year following the Plan Year in which the expense is incurred, those claims shall not be considered for reimbursement by the Administrator. If the Administrator denies a claim, the Administrator may provide notice to the Participant or

beneficiary, in writing, within 90 days after the claim is filed unless special circumstances require an extension of time for processing the claim. The notice of a denial of a claim shall be written in a manner calculated to be understood by the claimant and shall set forth:"

7. Section 8.1(e) of the Plan (formerly Section 9.1(e)), regarding forfeitures, shall be amended to be and read as follows:

"(e) **Forfeitures.** Any balance remaining in the Participant's Dependent Care Flexible Spending Account as of the end of the time for claims reimbursement for each Plan Year shall be forfeited and deposited in the benefit plan surplus of the Employer pursuant to Section 6.8, unless the Participant had made a claim for such Plan Year, in writing, which has been denied or is pending; in which event the amount of the claim shall be held in his account until the claim appeal procedures set forth above have been satisfied or the claim is paid. If any such claim is denied on appeal, the amount held beyond the end of the Plan Year shall be forfeited and credited to the benefit plan surplus."

8. The second paragraph of Section 10.2 of the Plan (formerly Section 11.2), regarding termination, shall be amended to be and read as follows:

"No further additions shall be made to the Dependent Care Flexible Spending Account, but all payments from such fund shall continue to be made according to the election in effect until 90 days after the termination date of the Plan. Any amounts remaining in any such fund or account as of the end of such period shall be forfeited and deposited in the benefit plan surplus after the expiration of the filing period."

9. In all other respects, the Plan shall be and remain unchanged.

IN WITNESS WHEREOF, this Amendment Number One is executed this \_\_\_\_\_ day of  
December, 2012.

**CITY OF GROVE CITY**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title