

RESOLUTION NO. 072715-1

**A RESOLUTION AMENDING THE HEALTH CARE FLEXIBLE SPENDING ACCOUNT  
NONDISCRIMINATION REQUIREMENTS**

**ARTICLE I PREAMBLE Adoption and effective date of amendment.** The Employer adopts this Amendment to the City of Abilene Flexible Benefits Plan to reflect changes to the Nondiscrimination Requirements of the Plan. The sponsor intends this Amendment as good faith compliance with the requirements of this provision. This Amendment shall be effective 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 NONDISCRIMINATION REQUIREMENTS**

**2.1 Effective Date.** This Amendment is effective as of August 1, 2015.

**2.2 Nondiscrimination Requirements.** Notwithstanding any provision contained in this Health Care Flexible Spending Account Plan to the contrary, the "Adjustment to avoid test failure." shall 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 the Code and regulations. Any act taken by the Administrator shall be carried out in a uniform and nondiscriminatory manner. With respect to any affected Participant who has had Benefits reduced pursuant to this Section, the reduction shall be made proportionately among Health Flexible Spending Account Benefits and 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.

This Amendment has been executed this 27th day of July, 2015.



City of Abilene, Kansas

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

Dennis P. Weishaar, Mayor

*Penny L. Soukup, CMC*  
Penny L. Soukup, CMC  
City Clerk