

2010 HEALTH CARE REFORM PROVISIONS AMENDMENT

ARTICLE I PREAMBLE

- 1.1 **Adoption and effective date of amendment.** The City of West Allis ("Employer") adopts this Amendment to the City of West Allis Flexible Benefit Plan ("Plan") to reflect certain provisions of the Affordable Care Act of 2010 (the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act). The sponsor intends this Amendment as good faith compliance with the requirements of these provisions. This Amendment shall be effective on or after the date the Employer elects in Section 2.1 or 2.2 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.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment, and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section or other numbering designations.

ARTICLE II ELECTIONS

- 2.1 **Effective Date for Article III.** The provisions of Article III, unless otherwise indicated are effective as of December 31, 2010.

ARTICLE III MISCELLANEOUS PROVISIONS

- 3.1 **Change in Reimbursement.** Effective January 1, 2011, the Plan's definition of "Medical Expenses" under the Health Care Reimbursement Arrangement or Health Flexible Spending Account is amended by the addition of the following:

Notwithstanding anything in the Plan to the contrary, a Participant may not be reimbursed for the cost of any medicine or drug that is not "prescribed" within the meaning of Code Section 106(f) or is not insulin. In addition, only medicine or drugs considered to be prescription drugs under Code Section 106(f) (not "over-the-counter" drugs obtained under prescription) shall be able to be purchased by debit and/or credit cards issued to be used in conjunction with the Plan. "over-the-counter" medicine or drugs, even with a prescription, cannot be purchased by debit and/or credit card.

- 3.2 **Dependent.** The Plan's definition of "Dependent" is amended by the addition of the following:

"**Dependent**" shall include any child of a Participant who is covered under an Insurance Contract, as defined in the Contract, *[or under the Health Flexible Spending Account]* as allowed by reason of the Affordable Care Act.

A Participant's "Child" includes his natural child, stepchild, foster child, adopted child, or a child placed with the Participant for adoption. An Employee's Child will be an eligible Dependent until reaching the limiting age of 26, without regard to student status, marital status, financial dependency or residency status with the Participant or any other person. When the child reaches the applicable limiting age, coverage will end at the end of the calendar year.

The phrase "placed for adoption" refers to a child whom the Participant intends to adopt, whether or not the adoption has become final, who has not attained the age of 18 as of the date of such placement for adoption. The term "placed" means the assumption and retention by such Participant of a legal obligation for total or partial support of the child in anticipation of adoption of the child. The child must be available for adoption and the legal process must have commenced.

3.3 Dependent. The Plan's Change in Status provisions are amended by the addition of the following:

Notwithstanding anything in this Section to the contrary, the gain of eligibility or change in eligibility of a child up to the end of the year in which a child attains age 26, as allowed under Code Sections 105(b) and 106 and IRS Notice 2010-38, shall qualify as a change in status.

This amendment has been executed this _____ day of _____, _____.

CITY OF WEST ALLIS

By: _____
Paul M. Ziebler, CAO/Clerk-Treasurer