

**LAKE COUNTY BOARD OF COUNTY COMMISSIONERS
IRS SECTION 125 FLEXIBLE SPENDING ACCOUNT PLAN
(CAFETERIA PLAN)**

**AMENDMENT
INCLUSION OF HEART ACT AND OTHER REVISIONS**

HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008

**ARTICLE I
PREAMBLE**

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to LAKE COUNTY BOARD OF COUNTY COMMISSIONERS SECTION 125 FLEXIBLE SPENDING ACCOUNT PLAN (CAFETERIA 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 February 17, 2009.
- 2.2 **Distribution Limit.** The maximum amount that may be distributed as a QRD to a Participant is 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.
- 2.3 **Number of Distributions.** There is no limit on how many requests may be made in a Plan Year unless otherwise elected below:
- 2.4 **Claims Process.** Claims incurred and submitted prior to the date of the payment of the QRD shall be paid as any other claim. Claims incurred or submitted after the date QRD is paid 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.

(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.

OTHER REVISIONS

4.1 Article IV entitled "BENEFITS" of the Plan Summary, is amended by eliminating the following item from section 1. (subsection 4) entitled "Premium Expense Account":

"-- Group term life insurance premiums."

4.2 Article IV entitled "BENEFITS" of the Plan Summary, is amended by adding the following wording to the end of Article IV:

"Enrollment periods apply as stated in the plan summary and master plan document, regardless if premiums are pre or post tax. Therefore, changes for "Post Tax Deductions" are allowed during the plan year, only with a change in family status (qualifying event)."

4.3 Article IV entitled "BENEFITS" of the County's master plan document, is amended by eliminating the following item from 4.1 entitled "Benefit Options":

"(5) Group Term Life Insurance Benefit"

IN WITNESS WHEREOF, the parties hereto have made and executed this Amendment on the respective dates under each signature: LAKE COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Chairman, authorized to execute same by Board action on the _____ day of _____, 2009, and _____, duly authorized to execute same.

COUNTY

ATTEST:

Board of County Commissioners
of Lake County, Florida

Neil Kelly, Clerk of the
Board of County Commissioners
of Lake County, Florida

Welton G. Cadwell, Chairman

This ____ day of _____,
2009.

Approved as to form
and legality:

Sanford A. Minkoff
County Attorney

**LAKE COUNTY BOARD OF COUNTY COMMISSIONERS
IRS SECTION 125 FLEXIBLE SPENDING ACCOUNT PLAN
(CAFETERIA PLAN)**

**CERTIFICATE OF ADOPTING RESOLUTION
INCLUSION OF HEART ACT AND OTHER REVISIONS**

The undersigned authorized representative of LAKE COUNTY BOARD OF COUNTY COMMISSIONERS (the Employer) hereby certifies that the following resolutions were duly adopted by Employer on February 17, 2009, and that such resolutions have not been modified or rescinded as of the date hereof;

RESOLVED, the Amendment to the LAKE COUNTY BOARD OF COUNTY COMMISSIONERS FLEXIBLE SPENDING ACCOUNT PLAN, generally effective for distributions made on or after February 12, 2009 is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the amendment.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

IN WITNESS WHEREOF, the parties hereto have made and executed this Amendment on the respective dates under each signature: LAKE COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Chairman, authorized to execute same by Board action on the _____ day of _____, 2009, and _____, duly authorized to execute same.

COUNTY

ATTEST:

Board of County Commissioners
of Lake County, Florida

Neil Kelly, Clerk of the
Board of County Commissioners
of Lake County, Florida

Welton G. Cadwell, Chairman

This _____ day of _____,
2009.

Approved as to form
and legality:

Sanford A. Minkoff
County Attorney