

**CITY OF COLORADO SPRINGS**  
**DEPENDENT DAY CARE SPENDING**  
**ACCOUNT PLAN DOCUMENT**

**Effective January 1, 2014**

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**ARTICLE I. PURPOSE AND COORDINATION WITH OTHER PLAN**

- 1.01 This Plan, established for the exclusive benefit of Employees, is intended to reimburse Participants for Dependent Day Care Expenses on a tax exempt basis as permitted under section 129 of the Code.
- 1.02 This Plan shall be administered in conjunction with the Cafeteria Plan.
- 1.03 This Plan is established with the intent that it be maintained indefinitely, but the City may amend or terminate the Plan at any time.
- 1.04 This Plan shall be interpreted in a manner that is consistent with the Code and any other applicable law.

**ARTICLE II. DEFINITIONS**

When capitalized, the following words and phrases have the meanings set forth below, and if not set forth below, the capitalized words and phrases have the meanings set forth in the Cafeteria Plan:

- 2.01 “Cafeteria Plan” means the Cafeteria Plan adopted by the City.
- 2.02 “Dependent” means a “qualifying individual” as that term is defined in section 21(b)(1) of the Code.
- 2.03 “Dependent Day Care Assistance” means the provision of services that, if paid for by the Employee, would be considered employment-related expenses with respect to a Dependent as the term “employment-related expenses” is defined and limited by section 21 (b)(2) of the Code.
- 2.04 “Dependent Day Care Expenses” means the financial obligation incurred by a Participant to acquire Dependent Day Care Assistance.
- 2.05 “Earned Income” means earned income as defined by section 129(e)(2) of the Code.
- 2.06 “Married” means married for purposes of the Code, but excludes any person described in section 21(e)(3) or section 21(e)(4) of the Code.

2.07 "Participant" means an Employee who participates in this Plan.

2.08 "Plan" means this plan.

### **ARTICLE III. PARTICIPATION AND REIMBURSEMENTS**

3.1 An Employee participates in this Plan by participating in the Cafeteria Plan and electing under the Cafeteria Plan to contribute to this Plan. Termination of participation shall be as specified under the Cafeteria Plan.

3.2 The Plan will reimburse the Participant for substantiated Dependent Day Care Expenses in an amount equal to the lesser of: (i) the amount claimed by the Participant as Dependent Day Care Expenses or (ii) the amount of Contributions to this Plan from the Cafeteria Plan made as of the date the reimbursement is authorized, less any reimbursements previously authorized. The Administrator shall pay the amount to be reimbursed not later than thirty days after the claim for reimbursement is accepted by the Administrator.

3.3 If as of the close of the Plan Year the Administrator determines that any reimbursement does not comply with the Code for any reason, the Administrator shall treat the amount reimbursed erroneously as a debt of the Employee to the City and shall recover that amount from the Employee as provided under policies established by the City.

3.4 As of the Close of the Plan Year, the Administrator shall cause the City to exclude from the reporting of gross income of the Participant for tax purposes reimbursements to the Participant for Dependent Day Care Expenses in an amount equal to the lowest of the following: (i) the amount reimbursed from this Plan for the Plan Year; (ii) \$5,000 (or a higher amount if the \$5000 amount is indexed under the Code) if the Participant is single or is Married and will file a joint federal income tax return for the Plan Year, or \$2,500 (or a higher amount if the \$2,500 amount is indexed under the Code) if the Participant is Married and will file a separate federal income tax return for the Plan Year; or (iii) the lesser of the Earned Income of the Participant for the Plan Year, or if the Participant is Married as of December 31 the lesser of the Earned Income of the Participant for the Plan Year or the Earned Income, including amounts deemed to have been earned under section 21(d)(2) of the Code, of the spouse of the Participant, as spouse is defined by IRS Rev. Rul. 2013-17, for the Plan Year. If the Administrator has insufficient information to determine whether all or a portion of the reimbursed amount may be excluded from the gross income of the Participant, the Administrator shall cause only that portion of the reimbursed amount that the Administrator determines may be excluded under the Code as reimbursements for Dependent Day Care Expenses to be excluded from the gross income of the Participant for tax reporting purposes. Reimbursements to a

Participant for Dependent Day Care Expenses incurred after a Participant terminates employment with the City shall be reported as required by law.

- 3.5 Notwithstanding any other provision of this Plan, reimbursements for Dependent Day Care Expenses for the Plan Year to “highly compensated employees,” as that term is defined for purposes of section 129(d)(8) of the Code, shall not be excluded from gross income for tax reporting purposes to the extent necessary to comply with section 129(d)(8) of the Code. The determination by the Administrator not to exclude reimbursements from gross income shall be applied on a consistent basis for all highly compensated employees under a method the Administrator determines to be appropriate.
- 3.6 Dependent Day Care Expenses are substantiated only if all of the following conditions are met: (i) the Participant submits a claim on a form approved by the Administrator; (ii) the Participant submits a receipt or other document from the entity that provided the Dependent Day Care Assistance stating the date or dates of the services provided, the individual to whom the services were provided, the services that were provided, the amount owed or paid by the Participant for the services, and any other information the Administrator determines is necessary or appropriate for the administration of this Plan; (iii) the service was provided during the Plan Year and during the time the Employee was a Participant; (iv) the Participant submits a written statement stating that the Dependent Day Care Expenses were not reimbursed, and are not reimbursable under any other dependent day care plan (or if reimbursable, that no claim for reimbursement under any other dependent day care plan has been or will be claimed), (v) the claim form is submitted not later than March 31 following the close of the Plan Year; and (vi) the Administrator is satisfied that all the requirements of this Plan and the Code are met.
- 3.7 Any Contributions of a Participant remaining after all claims made by the Participant for reimbursement have been paid or denied for the Plan Year shall be forfeited by the Participant and shall be (i) used to pay the current or future costs of administration of this Plan or any other plan or (ii) distributed to Participants under any method chosen by the Administrator that is permissible under the Code.

#### **ARTICLE IV. ADMINISTRATION**

- 4.1 The Administrator shall administer the Plan and shall have the power and the duty to take all actions and to make all decisions that are necessary or proper to carry out the intent of this Plan. Actions taken under the Plan by the Administrator with respect to the allowance or disallowance of reimbursements and the inclusion or exclusion of reimbursements from the reporting of gross income for tax purposes shall be consistent with applicable law, and shall be uniform with regard to similarly situated Employees and Participants. The

Administrator shall also have the specific powers and duties under this Plan as are granted to or imposed upon the administrator of the Cafeteria Plan.

4.2 Article V of the Cafeteria Plan shall apply to this Plan and is incorporated by reference.

**ARTICLE V. AMENDMENT AND TERMINATION**

5.1 Article VI of the Cafeteria Plan shall apply to this Plan and is incorporated by reference.

**ARTICLE VII. GENERAL PROVISIONS**

6.1 Article VII of the Cafeteria Plan shall apply to this Plan and is incorporated by reference.

Effective the first day of January 2014.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

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Effective the first day of January 2014.

Adopted this 3rd day of January, 2014.

Chris Sullivan  
Name  
Dir., H.R.  
Title