

CITY OF VINELAND

RESOLUTION NO. 2017-463

RESOLUTION AUTHORIZING AN AGREEMENT WITH  
AMERICAN FIDELITY ASSURANCE COMPANY FOR  
ADMINISTRATIVE SERVICES IN CONNECTION WITH A  
SECTION 125 PLAN FOR THE CITY OF VINELAND

WHEREAS, the City of Vineland desires to establish a “cafeteria plan” under the provisions of Section 125 of the Internal Revenue Code (Plan) to be made available to eligible employees; and

WHEREAS, American Fidelity Assurance Company is an insurance company licensed to practice in the State of New Jersey which has been found to possess the necessary administrative, enrollment and servicing capabilities for the Plan, providing services to employees of the City of Vineland for several years and has proven its ability to adequately and properly represent the needs of said employees.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Vineland that American Fidelity Assurance Company shall be retained by the City of Vineland beginning January 1, 2018 and ending December 31, 2018, to administer a Section 125 Cafeteria Plan under the Internal Revenue Code for the City of Vineland in accordance with a proposal provided and attached hereto and further to educate all eligible employees of the City of Vineland regarding the Plan, and to enroll and service those eligible employees who participate in the Plan.

BE IT FURTHER RESOLVED that the Mayor and Clerk are authorized to execute an agreement, in a form to be approved by the City of Vineland Legal Department, with American Fidelity Assurance Company commencing January 1, 2018 through December 31, 2018.

Adopted:

\_\_\_\_\_  
President of Council

ATTEST:

\_\_\_\_\_  
City Clerk

Thank you for continuing to use American Fidelity as the administrative services provider for your Section 125 cafeteria plan. Based on information you provided to us, we have prepared the attached amended and restated sample plan document for review by you and your legal counsel. The amended and restated plan document supersedes your previous plan document. The previous plan document should be retained as part of your permanent records and filed under the Tab "Amendments" or "Previous Documents" in your binder. **After reviewing the attached documentation to ascertain its correctness, and if all is in order, remove the "sample" page and sign where necessary (you will need to print the documents if received via e-mail).** If changes are necessary, please proceed with signing the document to ensure it is executed timely. Then, send an email to WG-AcctAdmin-S125@americanfidelity.com to request corrections.

It is recommended that you review the documents with your legal counsel for accuracy. **Proposed Regulations Code Section 1.125-1 require a Section 125 plan be in writing and adopted (signed) prior to the effective date. NEW! AF will now require a copy of the signature page (page 7) for our records.** Having a copy of the signature page will allow us to help you in the event you lose your copy and will help us ensure the document is executed timely. You may email, fax, or mail the copy of the signature page to AF.

Email: WG-AcctAdmin-S125@americanfidelity.com  
Fax: 866-721-0909  
Mail: American Fidelity  
ATTN: Section 125  
PO Box 25640  
Oklahoma City, OK 73125-0640

Our services include assisting you in the administration of your cafeteria plan. We will prepare amended and restated plan documents, if necessary, based on information provided by you; provide an updated administration guide to assist you in the on-going administration of your plan (**This guide is located on our website, [www.americanfidelity.com](http://www.americanfidelity.com). See additional information in the 'Important Reminders' section of this letter.**); provide either an annual re-enrollment of your employees, or enrollment forms, prior to the plan anniversary date; provide a 25% key employee discrimination worksheet and a 55% average benefits discrimination worksheet for dependent daycare, if applicable; provide compliance assistance in interpreting the IRS regulations governing cafeteria plans, and furnish a semi-annual newsletter outlining any changes to sections of the tax code impacting on cafeteria plans and other pertinent information. Copies of the laws and regulations governing cafeteria plans are provided on request.

As the plan sponsor/plan administrator, it is your responsibility, among other things, to prepare and file any required reports for the underlying welfare benefit plans, to prepare and distribute a summary plan description to employees, provide COBRA, FMLA or HIPAA administration, verify that all benefits provided by other carriers in the plan are qualified for tax-exemption, assure that the plan is not discriminatory, and calculate imputed tax for employer-provided (Section 79) group term life coverage exceeding \$50,000, whether outside a cafeteria plan or being salary-reduced within a cafeteria plan. A copy of the Section 79 Uniform Table Calculation is enclosed.

**Some important reminders:**

- You must have an executed written cafeteria plan document meeting the legal requirements of Internal Revenue Code Section 125 and formally adopted by the employer. The plan must contain operating rules covering benefit descriptions, eligibility rules, manner of employer contributions, maximum amount of employer and employee contributions, the plan year, timing of participant elections and the irrevocability of participant elections. In addition, the plan cannot discriminate in favor of highly compensated employees or key employees either as to eligibility to participate or in contributions and benefits.

- If your plan provides either eligibility requirements or contributions and benefits that are not the same for all eligible employees it may be considered to be discriminatory. Please seek advice from your tax or legal counsel.
- If you did not specify the amount of non-elective employer contributions provided under your Section 125 plan, we will use special wording in that portion of your plan document. It will read as follows:
 

“The Employer may at its sole discretion provide a non-elective contribution to provide benefits for each Participant under the Plan. This amount will be set by the Employer each Plan Year in a uniform and non-discriminatory manner. The amount of such contribution, if any, will be set forth in the enrollment materials. If the non-elective contribution exceeds the cost of benefits elected by the Participant, excess amounts (will) (will not) be paid to the Participant as taxable cash.”

Specifying non-elective employer contributions is a statutory requirement under the Code Section 125 regulations. Therefore, if these contributions are not specified in the Plan Document, you must include the dollar amount of employer contributions in the enrollment materials.

- In order to avoid the doctrine of constructive receipt, elections of pre-tax benefits must be made prior to the anniversary date of the plan. All employees should sign either an affirmative election, or a statement that they are not making any changes for the coming plan year, and if waiving participation, should sign a waiver. Mid-year election changes are only allowed if (1) a qualified event has occurred and (2) the change requested is on account of and consistent with the event. A change verification form should be signed by the employee (see the Administration Guide for further guidance). Election forms must be maintained for a period of at least three years for audit purposes, and longer if you are subject to ERISA regulations. ERISA regulations require that records be maintained for a period of at least six years; *the plan document and any amendments thereto must be maintained permanently.*
- It is very important that you review the Section 125 Administration Guide and, if applicable, the URM Policy, and Recordkeeping Terms and Conditions. You are provided with the Recordkeeping Agreement with each plan document you receive. The Administration Guide and URM Policy are available on our website, <http://americanfidelity.com/for-employers.aspx>. You will be prompted for a password to access each document. The password is 'sect125'. Once opened you may view and/or print. If you do not have internet access, please contact us to have the documents mailed to you.

**If your Section 125 cafeteria plan includes flexible spending accounts, the following may clarify frequent areas of concern:**

- Changes in the Unreimbursed medical (Health FSA) Account – When American Fidelity assumes the risk on the Health FSA, participants will not be allowed to make mid-year election changes for any reason except for termination of employment. No other change of status will be accepted. Employers who assume their own risk can refer to the Section 125 Administration Guide for qualified mid-year election changes.
- Leave of Absence (LOA) – During an unpaid leave of absence, contributions to the Health FSA account may either be pre-taxed in advance prior to the LOA, made on an after-tax basis while out on leave, or upon return to work, may be prorated over the remaining pay periods. Contributions must continue in order for coverage to continue.
- Options at Termination of Employment – Terminating participants in the Health FSA must be offered COBRA, as follows: if the employer makes no contributions to the Health FSA and if the employee is exempt from HIPAA (has other medical coverage), then you are only required to offer COBRA through the end of the cafeteria plan year. As of the date of termination, if the employee has taken more out of the account than he has contributed, then you do not have to offer any COBRA coverage.

Please refer to the administration guide for more information. Once again we look forward to assisting you with your Section 125 plan. Please call us at (800)662-1113 ext. 8904 or email us at [WG-AcctAdmin-S125@americanfidelity.com](mailto:WG-AcctAdmin-S125@americanfidelity.com) anytime you have a question about your Section 125 Plan.

Sincerely,  
The Section 125 Administration Department