

OLIVEHURST PUBLIC UTILITY DISTRICT

RESOLUTION NO. 2298

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE OLIVEHURST PUBLIC UTILITY DISTRICT
AUTHORIZING AN AMENDMENT TO THE REIMBURSEMENT SERVICES
AGREEMENT**

WHEREAS, the Olivehurst Public Utility District (District) currently offers a healthcare flexible spending account of equal benefit to all full-time, non-probationary employees, and

WHEREAS, District provision of the healthcare flexible spending account benefit is provided through a Reimbursement Services Agreement (Agreement) executed between the District and Aflac on January 5, 2011, which agreement was subsequently amended on October 1, 2012 to allow administration services by WageWorks, Inc., and

WHEREAS, Internal Revenue Code Section 125 (Section 125) requires amendment to the Agreement to preclude unnecessary, unwarranted tax consequences to the District and employers, and

WHEREAS, Specific language in the amendment is necessary to implement the requirements of Section 125 to establish "Nondiscrimination Requirements".

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Olivehurst Public Utility District as follows:

The Board authorizes the amendment to the Reimbursement Services Agreement attached as Exhibit A to this Resolution.

PASSED AND ADOPTED this 20 day of August 20, 2015.

OLIVEHURST PUBLIC UTILITY DISTRICT


President, Board of Directors

ATTEST:


District Clerk & ex-officio Secretary

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY


Deirdre Joan Cox, Legal Counsel

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I hereby certify that the foregoing is a full, true and correct copy of a Resolution duly adopted and passed by the Board of Directors of the Olivehurst Public Utility District, Yuba County, California, at a meeting thereof held on the 20th day of August 2015, by the following vote:

AYES, AND IN FAVOR THEREOF:	Director Carpenter, Bradford, Floe, Dougherty, and Burbank
NOES	: None.
ABSTAIN	: None.
ABSENT	: None.

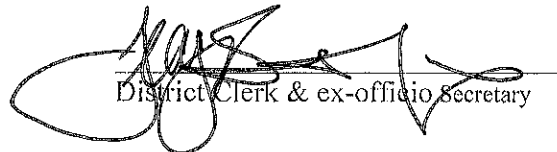

District Clerk & ex-officio Secretary

EXHIBIT A
HEALTH CARE FLEXIBLE SPENDING ACCOUNT AMENDMENT

ARTICLE I
PREAMBLE

- 1.1 **Adoption and effective date of amendment.** The Employer adopts this Amendment to the OPUD Reimbursement Services Agreement ("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 20, 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 20th day of August, 2015.

Name of Employer:

Olivehurst Public Utility District

By: _____


EMPLOYER