ORIGINAL

RESOLUTION NO. 2013-46

RESOLUTION AUTHORIZING THE ADOPTION OF THE STATE OF TENNESSEE'S EMPLOYEES DEFERRED COMPENSATION PLAN II (401K) FOR WEAKLEY COUNTY, TENNESSEE

WHEREAS, the County Commission of Weakley County, Tennessee has determined that in the interest of attracting and retaining qualified employees, it wishes to offer a 401(k) defined contribution plan, funded by employee deferrals and, if elected pursuant to Section N, Q, or HH of the Participating Employer Agreement, employer contributions; and

WHEREAS, Tennessee Code Annotated, Section 8-25-111(a) allows a Tennessee local governmental entity to participate in the State of Tennessee's 401(k) defined contribution plan subject to the approval of the Chair of the Tennessee Consolidated Retirement System (hereinafter referred to as the "Chair"); and

WHEREAS, the liability for participation and the costs of administration shall be the sole responsibility of the Employer and/or its employees, and not the State of Tennessee; and

WHEREAS, the Employer has also determined that it wishes to encourage employees' saving for retirement; and

WHEREAS, the Employer has reviewed the Tennessee State Employees Deferred Compensation Plan II Adoption Agreement for a Section 401(k) Cash or Deferred Arrangement for Governmental Employers, as adopted by the State of Tennessee, as amended and restated effective January 1, 2010, and as amended December 21, 2010, and as amended by Amendment Number Two dated January 4, 1012, as well as the Section 401(k) Cash or Deferred Arrangement for Governmental Employer Basis Plan Document (collectively known as the "Plan" or "Plan Document"); and

WHEREAS, the Employer wishes to provide certain benefits to its employees, reduce overall administrative costs, and afford attractive investment opportunities; and

WHEREAS, the Employer is eligible to become a Participating Employer in the Plan, pursuant to Article XX of the Plan Document; and

WHEREAS, the Employer is concurrently executing a Participating Employer Agreement for the Plan; and

WHEREAS, the Weakley County Commission ("Governing Authority") of the Employer is authorized by law to adopt this resolution approving the Participating Employer Agreement on behalf of the Employer.

NOW, THEREFORE, the Governing Authority of the Employer hereby resolves:

1. The Employer adopts the Plan Document for its Employees; provided, however, that for the purpose of the Plan, the Employer shall be deemed to have designated irrevocably the Chair as its agent, except as otherwise specifically provided herein or in the Participating Employer Agreement.

2. The Employer acknowledges that the Plan does not cover, and the Trustees of the Plan ("Trustees") have no responsibility for, other employee benefit plans maintained by the Employer.

3. The Employer acknowledges that it may not provide employer contributions to the Plan on behalf of any of its employees that exceed three percent (3%) of the respective employees' salary if the employees are members of the Tennessee Consolidated Retirement System or of any other retirement program financed from public funds whereby such employees obtain or accrue pensions or retirement benefits based upon the same period of service to the Employer.

4. The Employer hereby adopts the terms of the Participating Employer Agreement, which is attached hereto and made a part of this resolution. The Participating Employer Agreement (a) permits all employees of the respective entity to make elective deferrals; (b) sets forth the Employees to be covered pursuant to Section N, Q, or HH of the Participating Employer Agreement for employer contributions, if any; (c) outlines the benefits to be provided by the Participating Employer under the Plan; and, (d) states any conditions imposed by the Participating Employer with respect to, but not inconsistent with, the Plan. The Participating Employer reserves the right to amend its elections under the Participating Employer Agreement, so long as the amendment is not inconsistent with the Plan, the Internal Revenue Code ("hereinafter known as the 'Code' "), Tennessee law, or other applicable law and is approved by the Chair.

5. The Chair may amend the Plan on behalf of all Employers, including those Employers who have adopted the Plan prior to a restatement or amendment of the Plan, for changes in the Code, the regulations thereunder, Tennessee law, revenue rulings, other statements published by the Internal Revenue Service ("IRS"), including model, sample, or other required good faith amendments, and for other reasons that are deemed at the Chair's sole discretion to be in the interest of the Plan. These amendments shall be automatically applicable to all Employers.

6. The Chair will maintain, or will have maintained, a record of the Employers and will make reasonable and diligent efforts to ensure that Employers have received all Plan amendments.

7. The Employer shall abide by the terms of the Plan, including amendments to the Plan and Trust made by the Chair, all investment, administrative, and other service agreements of the Plan, and all applicable provisions of the Code, Tennessee law, and other applicable law.

8. The Employer accepts the administrative services to be provided by the Tennessee Treasury Department and any services provided by Plan vendors. The Employer acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the Participants' Accounts and/or charged to the Employer.

9. Subject to the provisions of Section 20.06 of the Plan, the Employer may terminate its participation in the Plan, including but not limited to, its contribution requirements pursuant to the Plan, if it takes the following actions:

    a. A resolution must be adopted by the Governing Authority of the Employer terminating the Employer's participation in the Plan.

    b. The resolution must specify the proposed date when the participation will end, which must be at least six calendar months after notice to the Chair and the Employer's employees.

    c. The Chair shall (i) determine whether the resolution complies with the Plan, and all applicable federal and state laws, (ii) determine an appropriate effective date, and (iii) provide appropriate forms to terminate ongoing participation. Distributions under the Plan of existing accounts to Participants will be made in accordance with the Plan Document.

    d. Once the Chair determines the appropriate effective date, the Employer shall immediately notify all its Employees participating in the Plan of the termination and the effective date thereof.

    e. The Chair can, in the Chair's sole discretion, reduce the six month notice and withdrawal period to a shorter period if the Employer so requests, but in no event shall the period be less than three months.

10. The Employer acknowledges that the Plan Document contains provisions for Plan termination by the Trustees, subject to applicable Tennessee law.

11. The Employer acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan, shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan and subject to the vesting provisions of the Plan. All contributions to the Plan must

be timely transferred by the Employer to the Trust Fund pursuant to and in the manner provided by the Chair. The Employer acknowledges that if the Employer fails to remit the requisite contributions in a timely manner, the Chair reserves the right, at the Chair's sole discretion, to terminate the Employer's participation in the Plan. In such event, the Chair shall notify the Employer of the effective termination date, and the Employer shall immediately notify all its employees participating in the Plan of the termination and the effective date thereof. Notwithstanding the foregoing, the Employer acknowledges that it is the sole responsibility of the Employer to remit the requisite reports and contributions to the Plan and that neither the State, the Chair, the Trustees, its employees, or agents shall have any responsibility or liability for ensuring or otherwise monitoring that this is done. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

12. The Employer agrees to offer and enroll only those persons, whether appointed, elected, or under contract, wherein an employee-employer relationship is established, providing service to the Employer for which compensation is paid by the Employer.

13. The Employer understands that IRS rules and Tennessee law limit participation in the Plan to governmental entities and their respective employees. The Employer will notify the Chair in writing within ten (10) calendar days if it ceases to be a governmental entity under applicable federal or Tennessee law, and/or if it discovers that it is transferring or having transferred employee deferrals and/or employer contributions to the Plan on behalf of an individual who does not meet the requirements in Paragraph 12 above.

14. The Employer acknowledges that the Chair and other Trustees are the fiduciaries of the Plan and have sole and exclusive authority to interpret the Plan and decide all claims and appeals for Plan benefits. The Employer agrees to abide by the Chair's decisions on all matters involving the Plan.

15. This resolution and the Participating Employer Agreement shall be submitted to the Chair for approval. The Chair shall determine whether the resolution and the Agreement comply with the Plan, and, if they do, shall provide appropriate forms to the Employer to implement participation in the Plan. The Chair may refuse to approve a Participating Employer Agreement executed by an Employer that, in the Chair's sole discretion, does not qualify to participate in the Plan.

16. The Governing Authority hereby acknowledges that it is responsible to assure that this resolution and the Participating Employer Agreement are adopted and executed in accordance with the requirements of applicable law

BE IT FURTHER RESOLVED, that all resolutions of the Board of County Commissioners of Weakley County, Tennessee, which are in conflict with this resolution are hereby repealed.

BE IT FURTHER RESOLVED, that this resolution take effect from and after its passage, the public welfare requiring it. This resolution shall be spread upon the minutes of the, Board of County Commissioners.

Pursuant To The Rules Of The Commission, This Resolution Is Sponsored By The Following Members Of The Weakley County Board of County Commissioners:

SPONSORED BY:

ACKNOWLEDGED AND APPROVED:

Chairman, Persn., Legal, & Intergov.Affiairs Committee

SPONSORED BY:

ACKNOWLEDGED AND APPROVED:

Chairman, Finance, Ways, & Means Committee

Motion made by Commissioner Fortner that the foregoing resolution be adopted:

Motion seconded by Commissioner Stewart.

Upon being put to a roll call vote, Motion carried by a vote of 17 Yeas, 0 Nays,

0 Passed and 1 Absent.

ATTESTED:

Pat Scarbrough, County Clerk

APPROVED:

James H. Westbrook, Jr., Chrm, County Commission

THIS THE 27th DAY OF JUNE, 2013.

APPROVED:

Houston W. Patrick, County Mayor

Date: July 1, 2013

VETOED:

Houston W. Patrick, County Mayor

Date: