RESOLUTION NO. _____

A RESOLUTION TO AMEND THE MASS MUTUAL RETIREMENT PLAN DOCUMENT TO COMPLY WITH RECENT REGULATORY GUIDANCE FROM THE IRS PURSUANT TO REVENUE RULING 2013-17 AND NOTICE 2014-19.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby authorizing to amend the Mass Mutual Retirement Plan document to comply with recent regulatory guidance from the IRS pursuant to Revenue Rule 2013-17 and Notice 2014-19.

ADOPTED: _____, 2014

/mem

City of Chattanooga

Resolution/Ordinance Request Form

Date Prepared: 10/27/14

Preparer: Daisy W. Madison **Department:** Finance & Administration

Brief Description of Purpose for Resolution/Ordinance: **Res./Ord. #** _____ **Council District #** 8

Aresolution to amend the Mass Mutual Retirement Plan Document to comply with recent regulatory guidance from the IRS pursuant to Revenue Ruling 2013-17 and Notice 2014-19

Name of Vendor/Contractor/Grant, etc.		New Contract/Project? (Yes or No)	Yes
Total project cost	$	Funds Budgeted? (YES or NO)	NO
Total City of Chattanooga Portion	$	Provide Fund	1100
City Amount Funded	$	Provide Cost Center	
New City Funding Required	$	Proposed Funding Source if not budgeted	General Fund Contingency
City's Match Percentage	%	Grant Period (if applicable)	

List all other funding sources and amount for each contributor.

Amount(s)	Grantor(s)
$	
$	
$	

Agency Grant Number

CFDA Number if known

Letter from Mass Mutual with draft amendment.

Approved by: _____

Reviewed by: FINANCE OFFICE DESIGNATED OFFICIAL/ADMINISTRATOR

Please submit completed form to @budget, City Attorney and City Finance Officer

Revised: October, 2011

MassMutual
FINANCIAL GROUP®

Subject: **Important Plan Document Amendments**
Please Review with Your Legal Advisor and Retain with your Plan Records

Dear Retirement Plan Sponsor:

Enclosed please find a draft amendment provided by Thompson Hine LLC, the provider of your defined contribution retirement plan document, which is designed to comply with recent regulatory guidance from the Internal Revenue Service ("IRS").

The IRS issued *Revenue Ruling 2013-17* and *Notice 2014-19* as a result of the U.S. Supreme Court's decision in *United States v. Windsor* (the "Windsor decision"), which struck down Section 3 of the Defense of Marriage Act of 1996 ("DOMA") as unconstitutional because it prohibited the recognition of same-sex spouses for purposes of Federal tax law, including for purposes of the Internal Revenue Code with respect to qualified retirement plans, such as your plan.

The amendment revises certain provisions in your plan document to comply with the following:

- IRS *Revenue Ruling 2013-17* requires your retirement plan to recognize the term "marriage" to include a marriage between same-sex individuals recognized under state law and the terms "spouse", "husband and wife", "husband" and "wife" to include a same-sex spouse. Your plan must recognize a same-sex marriage that was validly entered into in a state or foreign jurisdiction whose laws authorize the marriage, even if the married couple lives in a state that does not recognize the validity of same-sex marriages (the "state of celebration" rule).

  NOTE: As provided in IRS *Revenue Ruling 2013-17*, a person who has entered into a registered domestic partnership, civil union or other similar formal relationship recognized under state law, but not denominated a marriage under the laws of that state, is *not* considered to be a spouse for purposes of applying the federal tax law requirements relating to qualified retirement plans, regardless of whether that person's partner is of the opposite or same sex. Accordingly, the draft amendment enclosed does not reflect corresponding changes to the plan with respect to such arrangements.

- As provided in IRS *Notice 2014-19*, qualified retirement plans must reflect the outcome of the *Windsor* decision as of June 26, 2013. Pursuant to *Revenue Ruling 2013-17*, effective September 16, 2013, qualified plans must follow the general IRS

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"state of celebration" rule and recognize a valid same-sex marriage determined under state law, even if the individuals are domiciled in a state that does not recognize the validity of same-sex marriages. However, the plan will not fail to be a qualified plan under the Internal Revenue Code solely because, between the period of June 26, 2013 to September 16, 2013, the plan's documented administrative practice was not to recognize a same-sex marriage between individuals that did not reside in a state that recognizes the validity of same sex marriages during the period (the "state of residence" rule).

- For ease of administration, Thompson Hine LLC has made the draft amendment to the plan required by *Revenue Ruling 2013-17* effective as of June 26, 2013. Please review the draft amendment with your legal advisors, make any appropriate changes, and determine whether additional documentation to reflect your prior administrative practices for the period between June 26, 2013 and September 16, 2013 would be appropriate.

- The draft amendment has also been prepared to apply the changes to the plan required by the IRS guidance for all plan purposes for ease of administration. Please review these provisions of the draft amendment with your legal advisors and make any appropriate changes to reflect your administration of the plan.

Do you as the Plan Sponsor need to take any action with respect to the amendment provided by Thompson Hine LLC?
Yes. You should review the content of the draft amendment provided in light of the IRS guidance and the terms of your plan with your legal advisors and make any appropriate changes.

You are required to adopt a plan amendment by the end of the first regular legislative session of the legislative body with the authority to amend the plan that ends after December 31, 2014. Please provide us with a copy of your executed amendment so that we may update our records.

You should also discuss with your legal advisors whether additional documentation to memorialize your administrative practices (especially during the period between June 26, 2013 and September 16, 2013) would be appropriate.

You should retain a copy of all materials in your plan file.

Please also note that IRS *Notice 2014-19* also states that a sponsor of a qualified retirement plan may voluntarily choose to retroactively amend the plan to comply with the outcome in the *Windsor* case prior to June 26, 2013 but cautions that it may result in numerous difficult administrative challenges. If, after consulting with your legal advisor you wish to pursue this option, please let us know.

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Is there a Summary of Material Modifications for the amendments?
Yes. MassMutual checked as a default election the box indicating that between the period of June 26, 2013 to September 16, 2013 the plan's documented administrative practice was to recognize a same-sex marriage between individuals that did not reside in a state that recognizes the validity of same sex marriages during that period (the "state of residence" rule). If this was not your administrative practice, please revise and check the other box.

If you have questions, please contact your MassMutual Retirement Services representative.

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COMPLIANCE AMENDMENT
TO
City of Chattanooga 401(a) Retirement Plan

This amendment is adopted for purposes of complying the Plan with the Supreme Court's decision in United States V. Windsor. The provisions of this amendment take precedence over any inconsistent provisions of the Plan.

(1) Definition of Spouse: Except as may be provided in (2) below and notwithstanding any other provision of the Plan to the contrary, effective September 16, 2013, the term "spouse" is defined for those purposes indicated in (3) below to mean the person to whom the participant is legally married under the laws of the state or country in which the marriage was celebrated, without regard to whether such marriage is recognized under the laws of the state or country in which the participant resides.

(2) Transition Period: For the period June 26, 2013 through September 15, 2013, the Plan *(choose one)*:

☐ recognized a person as a participant's spouse regardless of whether the marriage was also recognized under the laws of the state or country in which the participant was domiciled. (Recognition based on state of celebration)

☒ recognized a person as a participant's spouse only if the marriage was also recognized under the laws of the state or country in which the participant was domiciled. (Recognition based on state of domicile)

(3) Application of New Spouse Definition: The definition of spouse described in this amendment applies *(choose one)*:

☐ for all Plan purposes.

☒ only for those Plan purposes that are subject to federal, rather than state law. Specifically, the definition of spouse above applies for purposes of (i) hardship withdrawals under the Code Section 401(k) safe harbor rules, if applicable, (ii) the minimum distribution requirements under Code Section 401(a)(9), and (iii) the direct rollover rules under Code Section 401(a)(31). For all other Plan purposes, the term "spouse" has the meaning provided under the terms of the Plan other than this amendment.

* * *

EXECUTED AT _____, _____, this _____ day of _____, _____.

City of Chattanooga, Tennessee

By: _____

Title: _____

SAMPLE
Summary of Material Modifications to the City of Chattanooga 401(a) Retirement Plan (the "Plan")

The following sample is provided to the Plan Sponsor for informational purposes only. You should consider the specific circumstances of your Plan prior to developing any Summary of Material Modifications, Summary Plan Description or other communications for use with Plan participants.

This Summary of Material Modifications to the City of Chattanooga 401(a) Retirement Plan (the "Plan") describes certain changes that have been made to the Plan. This summary updates the Summary Plan Description (employee booklet) previously provided by the Plan Sponsor. To the extent a provision of this summary conflicts with a provision in the employee booklet, the provision in the summary is controlling. This summary should be kept with your current employee booklet.

Effective June 26, 2013, a "**Spouse**" for purposes of hardship withdrawals (if applicable), minimum required distributions, and direct rollovers means the person to whom you are legally married under the laws of the state or country in which the marriage originated. Beginning September 16, 2013, such a person must be recognized as your Spouse for those purposes even if the marriage is not recognized under the laws of the state or country in which you reside. For the period June 26, 2013 through September 15, 2013, the Plan was administered recognizing a person as a Spouse for those purposes *(check one)*:

☐ even if the marriage was not recognized under the laws of the state or country in which the Participant resided.

☐ only if the marriage was also recognized under the laws of the state or country in which the Participant resided.

Unless elected below, a "Spouse" for all other Plan purposes continues to be as defined under the Plan before June 26, 2013.

☐ The Sponsor elects to use the definition of Spouse above for all Plan purposes.

A person who has entered into a registered domestic partnership, civil union or other similar formal relationship recognized under state law, but not denominated a marriage under the laws of that state, is *not* considered to be a "Spouse" for purposes of applying the federal tax law requirements relating to qualified retirement plans (such as the Plan), regardless of whether that person's partner is of the opposite or same sex.

[To be edited by the Plan Sponsor: Therefore, your Domestic Partner is only treated as your Spouse to the extent specifically provided in your employee booklet.]