

2021 CAFETERIA PLAN AMENDMENT

ARTICLE 1 PREAMBLE

- 1.1 Adoption of Amendment. The Employer adopts this Amendment to implement provisions of the laws and other regulations and Notices issued by the IRS or DOL which affect the Plan, including CARES (Coronavirus Aid, Relief, and Economic Security Act), CAA (Consolidated Appropriations Act), and ARPA (American Rescue Plan Act) provisions; the provisions under IRS Notices 2020-29, 2021-15, and 2021-26; and Announcement 2021-7; and the DOL/IRS updates to the claims procedures and COBRA timelines (IRS Notice 2020-23 and EBSA Disaster Relief Notices 2020-01 and 2021-01).
- 1.2 Superseding of inconsistent provisions. This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment. The timeframes for application of provisions are as selected in Article 2, and, if appropriate, provisions only apply for the Plan Year selected.
- 1.3 Construction. Except as otherwise provided in this Amendment, any "Section" reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment and does not relate to the Plan article, section, or other numbering designations.
- 1.4 Effect of restatement of Plan. If the Employer restates the Plan then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions).

ARTICLE 2 IDENTIFYING INFORMATION; EMPLOYER ELECTIONS

- 2.1 **Identifying information.**
 - A. Name of Employer: COUNTY OF MONTEREY
 - B. Name of Plan: COUNTY OF MONTEREY FLEXIBLE BENEFITS PLAN
- 2.2 **Change in Status for Health Flexible Spending Account.** The Plan adopts the new change in status events for Participants related to Health Flexible Spending Accounts, as described in Section 3.2.
For plan years ending in 2021.
- 2.3 **Change in Status for Dependent Care Flexible Spending Account.** The Plan adopts the new change in status events for Participants related to Dependent Care Flexible Spending Accounts, as described in Section 3.2.
For plan years ending in 2021.
- 2.4 **Carryover.** The Plan adopts the carryover provisions and/or the new adjustment for the carryover of unused benefits, contributions or amounts to be used in the health and dependent care flexible spending

accounts as follows:

Yes, for the Health FSA for:

Plan year ending in 2020 into plan year ending in 2021.
Plan year ending in 2021 into plan year ending in 2022.

Yes, for the Dependent Care FSA for:

Plan year ending in 2020 into plan year ending in 2021.
Plan year ending in 2021 into plan year ending in 2022.

2.5 Dependent Care Assistance Program Provisions.

The Plan will adopt the new limits of \$10,500 and \$5,250, as described in Article 5.

2.6 Effective Date. This Amendment is effective as of January 1, 2020.

**ARTICLE 3
CHANGE IN STATUS EVENTS**

- 3.1 **Application.** The Plan's provisions concerning "Change in Status" under the Plan are amended by the addition of the following provisions. Such provisions can apply to the Health Flexible Spending Account and Dependent Care Flexible Spending Account, as elected at 2.2 and 2.3 above for mid-year elections made during 2021.
- 3.2 **Change in Status – Health or Dependent Care Flexible Spending Account.** A Participant who has previously rejected coverage under the selected flexible spending account may now elect to contribute prospectively to such account. A Participant who has previously elected an amount to be reimbursed under the flexible spending account may now adjust or lower that amount, subject to the statutory and plan limitations on the maximum allowable contribution and the limitations elected above in Election 2.5 This section applies to Plan Years and accounts as elected at 2.2 and 2.3. No amounts may be transferred from the health flexible spending account to the dependent care flexible spending account or vice versa.

**ARTICLE 4
FLEXIBLE SPENDING ACCOUNT CARRYOVER**

- 4.1 **Application.** A Participant in the Health Flexible Spending Account may carry over unused amounts for a Plan Year beginning on or after January 1, 2020 to the immediately following Plan Year. For the 2020 and 2021 Plan Years, as selected, a Participant in the Health or Dependent Care Flexible Spending Accounts may carry over unused amounts remaining at the end of one Plan Year to the immediately following Plan Year (ending in 2022 for 2021 amounts). Unless such Health Flexible Spending Account is a limited purpose flexible spending account, a Participant will not be permitted to contribute to a Health Savings Account (HSA) during the carryover period.

**ARTICLE 5
CLAIMS SUBMISSION AND OTHER PROVISIONS**

- 5.1 **Dependent Care Assistance Program Limits.** For calendar year 2021, amounts paid from a Participant's Dependent Care Flexible Spending Account in or on account of any taxable year of the Participant shall not exceed the lesser of the Earned Income limitation described in Code Section 129(b) or \$10,500 (\$5,250 if a separate tax return is filed by a Participant who is married as determined under the rules of paragraphs (3) and (4) of Code Section 21(e)). Application of limits and taxation of any dependent care benefits shall be in accordance with Notice 2021-26.

* * * * *

This Amendment has been executed this _____ day of _____, 20_____.

Name of Plan: _____

Name of Employer: _____

By: _____
EMPLOYER

CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of _____ (the Employer) hereby certifies that the following resolution was duly adopted by Employer on _____, and that such resolution has not been modified or rescinded as of the date hereof;

RESOLVED, this Amendment to the _____ Plan is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Plan Administrator the Amendment and to take any and all actions as it may deem necessary to effectuate this resolution.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: _____

Signed: _____

[print name/title]

SUMMARY OF MATERIAL MODIFICATIONS
for the

COUNTY OF MONTEREY
FLEXIBLE BENEFITS PLAN

I
INTRODUCTION

This is a Summary of Material Modifications regarding the FLEXIBLE BENEFITS PLAN ("Plan"). This is merely a summary of the most important changes to the Plan and information contained in the Summary Plan Description ("SPD") previously provided to you. It supplements and amends that SPD so you should retain a copy of this document with your copy of the SPD. If you have any questions, contact the Administrator. If there is any discrepancy between the terms of the Plan, as modified, and this Summary of Material Modifications, the provisions of the Plan will control.

II
SUMMARY OF CHANGES

This amendment is effective January 1, 2020.

For plan year 2021, you may have a change in status for your Health Flexible Spending Account as described below.

- You may elect to contribute to your Health Flexible Spending Account if you declined to do so during the enrollment period.
- You may elect to increase your Health Flexible Spending Account, up to the maximum that we allow, current max allowed \$2,750.
- You may elect to decrease the amount you contribute to your Health Flexible Spending Account on a prospective basis (however, it may not be less than the amount you have already contributed to the plan or have already been reimbursed, if greater).

For plan year 2021, you may have a change in status for Dependent Care Flexible Spending Account:

- You may elect to contribute to your Dependent Care Flexible Spending Account if you declined to do so during the enrollment period.
- You may elect to increase your Dependent Care Flexible Spending Account, up to the maximum that we allow, the IRS has temporarily increased the max to \$10,500.
- You may elect to decrease the amount you contribute to your Dependent Care Flexible Spending Account on a prospective basis (however, it may not be less than the amount you have already contributed to the plan or have already been reimbursed, if greater).

For the 2020 and 2021 plan year, you may carryover amounts that are left in your Health or Dependent Care Flexible Spending Accounts.

- This means that amounts you did not use during the 2020 Plan Year can be carried over to the 2021 Plan Year and used for expenses incurred in the 2021 Plan Year. Additionally, amounts you did not use during the 2021 Plan Year can be carried over to the 2022 Plan Year and used for expenses incurred in 2022 Plan Year.

For 2021, the law places limits on the amount of money that can be paid to you in a calendar year from your Dependent Care Flexible Spending Account.

- Your reimbursements may not exceed the lesser of: (a) \$10,500 (if you are married filing a joint return or you are head of a household) or \$5,250 (if you are married filing separate returns).