

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

EXECUTIVE COMMITTEE

(COMMISSIONERS MARION ASHLEY, BOB BUSTER, ROGER BERG, TERRY HENDERSON, ROBIN LOWE, JEFF MILLER, JEFF STONE, JOHN TAVAGLIONE, MICHAEL WILSON, ROY WILSON)

9:30 A.M.

Wednesday, June 14, 2006

County of Riverside Administrative Center
Conference Room A
4080 Lemon Street, 3rd Floor, Riverside

In compliance with the Americans with Disabilities Act and Government Code Section 54954.2, if you need special assistance to participate in an Executive Committee meeting, please contact the Clerk of the Board at (951) 787-7141. Notification of at least 48 hours prior to meeting will assist staff in assuring that reasonable arrangements can be made to provide accessibility at the meeting.

- 1. CALL TO ORDER**
- 2. PUBLIC COMMENTS**
- 3. APPROVAL OF MINUTES – MAY 10, 2006**
- 4. ADDITIONS/REVISIONS** *(The Committee may add an item to the Agenda after making a finding that there is a need to take immediate action on the item and that the item came to the attention of the Committee subsequent to the posting of the agenda. An action adding an item to the agenda requires 2/3 vote of the Committee. If there are less than 2/3 of the Committee members present, adding an item to the agenda requires a unanimous vote. Added items will be placed for discussion at the end of the agenda.)*
- 5. PERSONNEL POLICIES AND PROCEDURES MANUAL**

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Overview

This item is for the Committee to:

- 1) Approve the revised Personnel Policies and Procedures Manual;
- 2) Adopt Resolution No. 06-013, "*Resolution of the Riverside County Transportation Commission Adopting Personnel Policies and Procedures Manual*"; and
- 3) Forward the Harassment-Free Workplace Policy, Violence in the Workplace Policy, Drug-Free Workplace Policy, Equal Opportunity Policy, and Electronic Communications Policy to the Commission for approval.

6. FLEXIBLE BENEFITS PLAN

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Overview

This item is for the Committee to:

- 1) Approve the restatement of the Riverside County Transportation Commission Flexible Benefits Plan;
- 2) Approve the Flexible Benefits Plan Summary Plan Description for distribution to employees;
- 3) Approve the Privacy Policies and Procedures Manual; and
- 4) Adopt Resolution No. 06-010, *"Resolution of the Riverside County Transportation Commission Regarding the Restated Flexible Benefits Plan"*.

7. CLOSED SESSION

Overview

Public Employee Performance Evaluation

Title: Executive Director

Conference with Labor Negotiators:

Agency representatives: Chair or designee

Unrepresented Employee: Executive Director

8. ADJOURNMENT

The next Executive Committee meeting is scheduled to be held at 9:30 a.m., **Wednesday, July 12, 2006**, Conference Room A, County of Riverside Administrative Center, 4080 Lemon Street, Third Floor, Riverside.

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

EXECUTIVE COMMITTEE

May 10, 2006

Minutes

1. CALL TO ORDER

Chair Marion Ashley called the meeting to order at 9:17 a.m., on Wednesday, May 10, 2006, at the Riverside County Transportation Commission's Conference Room A, 4080 Lemon Street, Third Floor, Riverside, California 92501.

Commissioners Present

Marion Ashley
Roger Berg
Bob Buster
Terry Henderson
Robin Lowe
Jeff Miller
Jeff Stone
Michael Wilson
Roy Wilson

Commissioners Absent

John Tavaglione

2. PUBLIC COMMENTS

There were no public comments.

3. APPROVAL OF MINUTES

M/S/C (Henderson/Stone) to approve the minutes of April 12, 2006 as corrected to include the attendance of Michael Wilson.

4. ADDITIONS/REVISIONS

There were no additions or revisions to the Agenda.

5. ADOPTION OF ORDINANCE NO. 06-001 TO AMEND THE ADMINISTRATIVE CODE TO REFLECT CHANGES TO THE COMMITTEES AND THE COMMISSION

M/S/C (R. Wilson/Henderson) to adopt Ordinance 06-001, *"An Ordinance Amending the Riverside County Transportation Commission Administrative Code"*, to reflect changes in the membership, time and/or location of certain committees and the Commission.

6. REPORT ON COMMISSIONER PER DIEMS

Eric Haley, Executive Director, reviewed the California Public Utilities Code that stipulates the per diem amount for Commissioner compensation for meeting attendance. He noted that the per diem amount at the time the Commission was created in 1976 was \$50 per meeting day. The current amount \$100 per meeting day. He also discussed the resolution that was adopted by the cities and County that established the Commission as the Service Authority for Freeway Emergencies (SAFE).

Steve DeBaun, Legal Counsel, noted that the statute the Commission is under is a different statute than Orange County Transportation Authority (OCTA) and San Bernardino Associated Governments (SANBAG). The statute that OCTA and SANBAG are under provides for a separate transportation authority.

Commissioner Jeff Stone expressed concern that the per diem amount has not increased at a reasonable rate when compared to inflation or the cost of living.

Mark Watts, RCTC's Legislative Advocate, discussed the legislative climate as it relates to per diems and recommended seeking alignment of the code sections to be in parity with the other transportation authorities.

The Committee discussed the different aspects to the Public Utilities Code and the SAFE Resolution methods for modifying the per diem.

M/S/C (Stone/Berg) to direct staff to:

- 1) Seek legislation to align the code sections to be in parity with the other transportation authorities;**
- 2) Research the resolution that established the Commission as the Service Authority for Freeway Emergencies (SAFE); and**
- 3) Report back to the Executive Committee.**

7. EMPLOYEE TRAVEL AND EXPENSE REIMBURSEMENT POLICY

Anne Mayer, Deputy Executive Director, provided an overview of the Employee and Expense Reimbursement Policy.

The Committee discussed Section 3, *Meals*, expressing concern that the reimbursable amount is insufficient for certain urbanized areas.

Eric Haley responded that the concern is addressed under Section 8, *Expenditures in Excess of Allowable Expenses*, which authorizes the Executive Director or Deputy Executive Director to approve exceptional reimbursements in excess of limits and standards established in this policy when such expenses are warranted.

M/S/C (R. Wilson/Lowe) to:

- 1) **Approve the Employee Travel and Expense Reimbursement Policy; and**
- 2) **Adopt Resolution No. 06-009, "A Resolution of the Riverside County Transportation Commission Regarding the Employee Travel and Expense Reimbursement Policy."**

8. ADJOURNMENT

There being no other items to be considered, the Executive Committee meeting adjourned at 9:55 a.m. The next meeting is scheduled to be held at 9:30 a.m., Wednesday, June 14, 2006.

Respectfully submitted,

A handwritten signature in black ink that reads "Jennifer Harmon". The signature is written in a cursive style with a large, looping initial "J".

Jennifer Harmon
Clerk of the Board

AGENDA ITEM 5

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

DATE:	June 14, 2006
TO:	Executive Committee
FROM:	Michele Cisneros, Accounting and Human Resources Manager
THROUGH:	Anne Mayer, Deputy Executive Director
SUBJECT:	Personnel Policies and Procedures Manual

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Approve the revised Personnel Policies and Procedures Manual;
- 2) Adopt Resolution No. 06-013, *"Resolution of the Riverside County Transportation Commission Adopting Personnel Policies and Procedures Manual"*; and
- 3) Forward the Harassment-Free Workplace Policy, Violence in the Workplace Policy, Drug-Free Workplace Policy, Equal Opportunity Policy, and Electronic Communications Policy to the Commission for approval.

BACKGROUND INFORMATION:

Staff has completed the review and has revised the Personnel Policies and Procedures Manual. The revised Personnel Policies and Procedures Manual was reviewed by an internal team of staff members that included the Deputy Executive Director, Chief Financial Officer, and the Director of Public Affairs. Legal counsel has also reviewed and approved this Personnel Policies and Procedures Manual.

The major changes to the Personnel Policies and Procedures Manual include:

- Implementation of the Family and Medical Leave Act (FMLA);
- Revision of the following policies: Harassment-Free Workplace Policy, Violence in the Workplace Policy, Drug-Free Workplace Policy, Equal Opportunity Policy, and Electronic Communications Policy;
- Elimination of six-month probationary period before using sick and vacation balances for probationary employees;
- Revoking the authority given to department directors to suspend employees without pay. The Executive Director shall only be given this authority;
- Implementation of the new dental and vision insurance, eliminating the dental/optical reimbursement plan;

- Revised bereavement leave to include all members of a family and use of employee's sick leave balance for each occurrence;
- Layoff guidelines shall be based in order of skill ability, performance history, and seniority; and
- Eliminated the internal procedures outlined in the manual.

Attachments:

- 1) Resolution No. 06-013
- 2) Personnel Policies and Procedures Manual

Financial Information					
In Fiscal Year Budget:	N/A	Year:	FY 2005/06	Amount:	N/A
Source of Funds:	N/A			Budget Adjustment:	N/A
GLA No.:	N/A				
Fiscal Procedures Approved:	N/A			Date:	N/A

RESOLUTION NO. 06-013

**RESOLUTION OF THE
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
ADOPTING PERSONNEL POLICIES AND PROCEDURES MANUAL**

WHEREAS, the Commission has previously adopted personnel rules and regulations establishing the terms and conditions of employment the Commission; and

WHEREAS, the Commission wishes to update its personnel rules and regulations;

NOW, THEREFORE, be it resolved by the Riverside County Transportation Commission as follows;

Section 1. The previously adopted personnel rules and regulations of the Commission are hereby repealed and the personnel policies and procedures manual dated June 14, 2006 set forth in Attachment "A", attached hereto and incorporated herein are hereby adopted as the personnel policies and procedures of the Commission.

Section 2. This resolution shall take place immediately upon its adoption.

APPROVED AND ADOPTED this 14th day of June, 2006.

Marion Ashley, Chair
Riverside County Transportation Commission

ATTEST:

Jennifer Harmon, Clerk of the Board
Riverside County Transportation Commission

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

**PERSONNEL POLICIES
AND PROCEDURES MANUAL**

June 14, 2006

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SECTION 1 GENERAL PROVISIONS

Section 1.1 Purpose

The purpose of this Personnel Policies and Procedures Manual (Manual) is to provide guidance in the application of a fair personnel management policy which promotes the efficient and economical delivery of Riverside County Transportation Commission (RCTC) services.

Section 1.2 Prior Policies Repealed

In the event that the terms and provisions of this Manual are inconsistent or in conflict with the terms and provisions of any prior RCTC personnel policy and procedures, resolutions, rules and regulations governing the same subject, the terms of this Manual shall prevail and such inconsistent or conflicting provisions or prior resolutions, rules and regulations are hereby repealed effective on the date of adoption of this manual.

Section 1.3 Term of Manual

This Manual takes effect when adopted by the RCTC. The manual shall remain in effect unless repealed, in whole or part, by the RCTC. Notwithstanding the foregoing, the RCTC's Executive Committee may, in its sole discretion, add to, delete or otherwise modify the policies and procedures of this Manual.

Section 1.4 Equal Employment Opportunity (EEO) Program

Section 1.4.1 General Provisions

Section 1.4.1.1 Purpose

The purpose of this policy is to establish an equal employment opportunity program for all applicants and employees of RCTC.

Section 1.4.1.2 Prior Policies Repealed

In the event that the terms and provisions of this Policy are inconsistent or in conflict with the terms and provisions of any prior RCTC personnel policy and procedures, resolutions, rules and regulations governing the same subject, the terms of this Policy shall prevail and such inconsistent or conflicting provisions or prior resolutions, rules and regulations are hereby repealed.

Section 1.4.1.3 Term of Policy

This Policy takes effect when adopted by the RCTC. The Policy shall remain in effect unless repealed, in whole or part, by the RCTC. Notwithstanding the foregoing, the RCTC's Executive Committee may, in its sole discretion, add to, delete or

otherwise modify this Policy.

Section 1.4.2 Policy Defined

Section 1.4.2.1 Policy

It is the policy of RCTC to provide equal employment opportunity to all applicants and employees. RCTC does not unlawfully discriminate on the basis of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), national origin, ancestry, age (40 and over), physical or mental disability, legally protected medical condition, family care status, veteran status, marital status, sexual orientation, or any other basis protected by state or federal laws.

Section 1.4.2.2 Policy Application

RCTC's Equal Employment Opportunity Policy (EEO Policy) applies to all areas of employment including recruitment, selection, promotion, termination, transfer, layoff, compensation, benefits, training, performance evaluations and other personnel actions, procedures and examinations.

Section 1.4.2.3 Responsibility Assignments

It is the responsibility of every manager and employee to conscientiously follow the EEO Policy.

Section 1.4.3 Applicants and Employees with Disabilities

Section 1.4.3.1 Non-Discrimination

It is the policy of RCTC not to discriminate on the basis of disability for employment. It is the intent of RCTC to provide disabled employees with a bias free work environment. RCTC will provide reasonable accommodation in compliance with the Americans with Disabilities Act (ADA) and the Fair Employment and Housing Act ("FEHA"). Reasonable effort will be made to provide an accessible work environment.

Section 1.4.3.2 Interactive Process

RCTC will engage in the interactive process, as defined by the ADA and FEHA, to determine whether an applicant or employee is able to perform his/her essential functions. If the employee or applicant cannot perform the essential functions of his/her position, RCTC will examine possible reasonable accommodations that will make it possible for the employee or applicant to so perform. Such interactive process will include a meeting with the employee or applicant and RCTC.

Section 1.5 Violation of Personnel Policy

Violation of the provisions of this Manual by an employee may subject the employee to disciplinary action, up to and including discharge from employment.

Section 1.6 Department Policies and Procedures

Department managers may issue such policies and procedures as deemed necessary for the efficient and orderly administration of the department. However, no such policies or procedures shall conflict with or supersede the policies and procedures in this Manual. Departmental policies and procedures shall not be effective until approved, in writing, by the Department Director and the Deputy Executive Director of Human Resources. Copies of department policies and procedures, and amendments to the policies and procedures shall be distributed to each employee of the department.

Section 1.7 Distribution of Personnel Policies

Copies of this Manual shall be distributed to each employee and will be made available electronically.

Section 1.8 Definition of Terms

Terms used in this Manual are defined as follows:

Acting Appointment - An appointment of a person on an interim basis pending later appointment of an eligible person.

Allocate – The assignment of a single position to its proper job classification in the Employee Classification Plan.

Applicant - Any person submitting a formal completed application for employment with RCTC.

Authorized Position - A specific work position within a job classification which is or may be held by an employee.

Chairperson - A member of the RCTC elected on a yearly basis to preside at all meetings of the RCTC and perform such other powers and duties as may be from time to time assigned to him/her by the RCTC.

Class - All positions substantially similar with respect to duties, responsibilities, authority, and character of work to permit grouping under a common title in the application with equity of common standards of selection, transfer, and salary.

Compensation - Salary, wages, fees, benefits, allowances or other monies paid to or on behalf of an employee for personal services.

Continuous Service - Employment which is uninterrupted except by authorized absences.

Contract Employee - An individual employed by RCTC pursuant to the terms of an individual employment contract which sets forth terms and conditions of employment. The rules shall apply to contract employees to the extent they do not conflict with the contract.

Days - Defined as working days.

Demotion - The movement of an employee from one class to another class having a lower maximum base rate of pay.

Dependent – For basis of determining eligibility for benefits, the definition of a dependent shall follow the IRS definition unless otherwise defined by the requirements of the specific benefit program.

Deputy Executive Director responsible for Human Resources - The employee of RCTC designated by the Executive Director to oversee the Human Resources Department.

Disciplinary Action - An adverse personnel action in the form of a discharge, demotion, reduction in pay, suspension without pay, oral reprimand, and written reprimand of a regular employee.

Discharge - Involuntary termination of employment with the RCTC.

Employee - A person who is occupying a position at RCTC. The various types of RCTC employees may include regular, temporary, contract and probationary. Some types of employees may also be labeled as full-time or part-time and differentiated as exempt or non-exempt employees.

Employee Classification Plan - Classes of positions defined by class specifications as approved by the Executive Committee including titles which group all positions with similar duties, responsibilities, authority, character of work, and schedules of compensation within the same class.

Executive Committee – Policymaking committee comprised of a subset of RCTC Commissioners.

Executive Director - The position selected by the RCTC to serve as the Chief Executive Officer of the RCTC.

Exempt Employee – An employee who is not eligible for overtime pay. A list of current exempt positions is contained in Section 3.8 of this Manual. Additional positions may be created.

First Line Supervisor – The most immediate person to whom an employee reports for work assignments and direction.

Fiscal Year - The fiscal year for RCTC begins on July 1 and ends on June 30 of the next year.

Full-Time Employee - An employee of RCTC who usually works forty (40) hours per week.

Grievance - Good faith complaint of an employee or a group of employees or a dispute between RCTC and said employee or group of employees involving the interpretation, application, or enforcement of this Manual; provided, however, any of the following complaints are not grievable: the content of a performance evaluation, the denial of a merit pay increase, employee classification, disciplinary action, rejection from probation, and termination of a contract, seasonal, temporary, or casual employee.

Grievance Procedure - The systematic means by which an employee may obtain consideration of a grievance.

Immediate Family Member - An employee's father, mother, spouse, registered domestic partner, child, brother, sister, grandparent, grandchild, parent-in-law, brother-in-law, sister-in-law, foster child, ward of court, or stepchild.

Job Classification – Another name for “Class”, which is all positions substantially similar with respect to duties, responsibilities, authority, and character of work, to permit grouping under a common title in the application with equity of common standards of selection, transfer, and salary.

Layoff - The separation of a regular employee from RCTC which has been made necessary by lack of work or funds and other reasons.

Leave of Absence - An authorized absence from duty for a specified period.

Merit Salary Increase - A salary increase within the limits of a pay range established for a class.

Non-exempt Employee – An employee who is eligible for overtime pay. Any employee who is not designated as being exempt in Section 3.8 of this Manual is considered to be non-exempt.

Part-time Employee - An employee of RCTC who usually works less than forty (40) hours per week, but more than 20 hours per week.

Performance Evaluation - A review and evaluation of an employee's performance and capabilities in the employee's authorized position by the employee's first line supervisor or other manager.

Position - A group of current duties and responsibilities assigned or delegated by competent authority and requiring the full or part-time services of one (1) employee.

Probationary Employee: An employee who is serving a probationary period either as a newly hired employee or as a new promotion.

Probationary Period - The first 1040 hours or such duly extended period of employment, during which an employee may be rejected without cause and without recourse to the grievance procedure or any other appeal right. Contract and temporary employees do not serve a probationary period and may be terminated at any time without cause and without recourse to the grievance procedure or any other appeal right.

Promotion - The movement of an employee from one class to another class having a higher maximum base rate of pay.

Reclassification – The movement of a position from one class to another class in accordance with a re-evaluation of the minimum qualifications, duties, and responsibilities of the position.

Reduction in Pay - A temporary or permanent decrease in salary.

Regular Employee - An employee who has successfully completed the probationary period.

Reinstatement - The restoration without examination of a former regular employee to a classification in which the employee formerly served as a regular employee

Relative – A spouse, registered domestic partner, child, step-child, parent, step-parent, parent-in-law, legal guardian, brother, sister, brother-in-law, sister-in-law, step-sister, step-brother, aunt, uncle, niece, nephew, grandchild, or grandparent, regardless of their places of residence; and any other individual related by blood or marriage living within the same household as the subject person.

Resignation - Voluntary termination of employment by an employee.

Retired Annuitant – A retired employee currently receiving benefits from CalPERS working for RCTC as a temporary employee without reinstatement and with certain restrictions as provided by law.

Salary Range - Categories which determine the minimum and maximum salary payable for each job classification

Sick Leave – A paid absence from duty by an employee due to any of the reasons set forth in Section 6.1 of this Manual.

Second Line Supervisor - A person who has responsibility for the direction of the work of a specific employee in the absence of the First Line Supervisor.

Suspension With Pay - A temporary separation of an employee, either fully or partially from assigned duties, with pay and benefits, pending investigation of alleged employee misconduct, pending imposition of discipline, or for other reasons.

Suspension Without Pay – A temporary separation of an employee from service, without pay, for a disciplinary purpose.

Temporary Employee - An employee, including, but not limited to, interns, hired for a specified purpose for a limited period of time. Such employees may be discharged without cause and without recourse to the grievance procedure or any other appeal right.

Termination - The conclusion or cessation of employment with RCTC because of retirement, resignation, discharge, or death.

Transfer - The movement of an employee within a department or between departments from one position to another position in the same class or another class having the same maximum rate of pay, involving the performance of similar duties and requiring substantially the same basic qualification.

Vacancy - An unfilled, authorized position in RCTC employment.

Section 1.9 Application of this Manual

This Manual shall apply to all positions and employments in the service of RCTC.

Section 1.10 Savings Clause

If any provision or the application of any provision of this Manual, as implemented, is rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions of this Manual shall remain in full force and effect.

SECTION 2 RECRUITMENT, SELECTION AND PLACEMENT

Section 2.1 Classification Plan

The Deputy Executive Director responsible for Human Resources, under the direction of the Executive Director, shall ascertain and record the duties and responsibilities of all positions in the RCTC. The Deputy Executive Director responsible for Human Resources at the direction of the Executive Director, shall be responsible for preparing and maintaining an employee classification plan for RCTC. The Executive Director shall recommend a classification plan for such positions. The classification plan shall consist of classes of positions defined by class specification, including the title. The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply under similar working conditions to all positions in the same class.

The classification plan shall be adopted by RCTC and may be amended from time to time. A newly created position shall not be filled until approved by the Executive Committee.

Section 2.2 Reclassification

The Executive Director can reassign position classifications, when circumstances require changes in responsibilities.

Section 2.3 Vacancies

When a vacancy occurs in an authorized position, the First Line supervisor will submit a request to fill the vacancy to the Human Resources Department. The immediate supervisor may recommend to fill the vacancy through internal or external recruitment. The Executive Director will be notified of the vacancy and the recommended process for selection. The Executive Director may determine that it is in RCTC's best interest to leave the position vacant. This section shall not be construed to limit in any way the Executive Director's right to hire the most qualified person available to fill any vacancy.

Section 2.4 Personnel Requisitions

All requests for personnel shall be submitted to the Human Resources Department on a Personnel Requisition Form. The Personnel Requisition Form shall be completed and signed by the supervisor. The Form shall be submitted to the Executive Director for approval and shall satisfy all Personnel Requisitions in accordance with RCTC's recruitment policy.

Section 2.5 Announcements

The Human Resources Department shall publish announcements which shall state the position title, rate of pay, desired qualifications, when and where to file applications and other pertinent information. Employment standards stated in the announcement shall be those established for the class.

Announcements shall be considered published when they are posted on the RCTC Internet web site. The Human Resources Department may publish additional notices in other locations.

Section 2.6 Qualification of Applicants

The person employed in or appointed to any position requiring full-time or part-time service where the position is included in the classification plan and a class specification exists must possess desired qualifications in full, by midnight of the final filing date.

Section 2.7 Submitting Application Packages

Signed original and complete application packages must be received by RCTC not later than 5:00 p.m. on the final filing date unless advertised as open until filled.

Section 2.8 Incomplete Application Packages

Incomplete application packages may be returned to the applicant with notice to amend at the discretion of RCTC. Incomplete application packages, like all other application packages, received after the filing period will not be given consideration for RCTC employment.

Section 2.9 Initial Applicant Screening

The First Line Supervisor seeking to hire a new employee may disqualify an applicant or refuse to refer any person for employment for, but not limited to, the following reasons:

1. The applicant does not possess the necessary qualifications established for the position;
2. The applicant has been dismissed for good cause from previous employment;
3. The applicant has been convicted of a felony or misdemeanor which was of such a nature as to reflect adversely and substantially on the applicant's ability to perform the duties of the position. The word "convicted" shall be construed to mean a plea of guilty or nolo contendere, verdict, or finding of guilt regardless of whether sentence is imposed by the court;

4. The applicant has practiced or attempted to practice any deception, fraud or omission of material fact in the application or interview, or in securing eligibility for employment.

The Executive Director and/or the appropriate Director shall have final approval as it pertains to qualification of applicants.

Section 2.10 Recruitment and Selection

Offers of employment shall be extended to selected candidates only by the Executive Director or the Deputy Executive Director responsible for Human Resources at the direction of the Executive Director. Employment offers for all positions shall be made in writing and shall include starting rate of pay on a monthly basis. All employment offers are contingent upon the fulfillment of any contingencies mentioned in the written offer of employment.

The Executive Director has the authority to negotiate a higher accrual rate of vacation and sick leave for new employees when in the judgment of the Executive Director, the education, training and experience of a proposed employee are superior and justify a higher rate. These changes must be documented in writing to the Human Resources Department and the Payroll Department prior to the first day of work for the new hire.

Section 2.11 Promotion

It is the policy of RCTC to fill authorized position vacancies with the most qualified individual available and to provide promotional opportunities for qualified employees. Employees interested in promotion to a position vacancy for which they are qualified shall submit an employment application per the recruitment process. Employees who have not successfully completed the probationary period for their current position are not eligible for promotional consideration.

Employees promoted to a new position shall be placed at a location within the salary range in which the position is classified which represents a ten percent increase in the employee's current salary. An employee promoted to a new position having a minimum salary range higher than a ten percent increase over the employee's current salary shall be placed at the minimum level of the new salary range.

Promotional offers shall be extended to selected candidates by the Executive Director or the Deputy Executive Director responsible for Human Resources. Employment offers for all promotional positions shall be made in accordance with Section 2.10 of this Manual.

Employees serving in an acting appointment shall not acquire probationary or permanent status or rights, and time spent in an "acting" position shall not contribute to

the probationary period if the employee is subsequently appointed to the position. Employees who are appointed to an acting position will receive a temporary five percent increase in their salary which will continue for the duration of their acting position.

SECTION 3 TERMS OF EMPLOYMENT

Section 3.1 Orientation

New employees shall be provided an orientation by their First Line Supervisor and the Human Resources Department. The orientation will address issues such as hours of work, rest periods, salary, benefits, probationary period, performance evaluation, position description, attendance, sexual harassment policy, alcohol /drug abuse in the workplace policy, sick leave, vacation, overtime and other personnel issues. The employee's First Line supervisor will provide the employee with a thorough orientation including, but not limited to, the following:

1. Outline current and long range departmental objectives;
2. Review the organization of the department and the names of key department personnel;
3. Review department procedures;
4. Explain hours of work, timesheet reporting, lunch and break periods, absence reporting and other RCTC policies;
5. Define work assignments, objectives and responsibilities;
6. Set measurable performance goals with the employee;
7. Conduct a tour of RCTC facilities including rest rooms and parking facilities.

Section 3.2 Probationary Period

To ensure that new employees are able to satisfy requirements of the position for which they were hired; each new employee, other than contract, casual, seasonal, and temporary employees shall be required to serve a probationary period of six months. The probationary period is required as part of the testing process and shall be utilized for closely observing the employee's work. All employees will receive a performance evaluation prior to completion of the probationary period.

During the probationary period, an employee may be rejected at any time without cause and without recourse to the grievance procedure or any other appeal right. If an employee's performance during the probationary period is marginal, the probationary period may be extended for an additional six months (1,040 hours) subject to the approval of the Executive Director. Any rejection of a probationary employee or any extension of a

probationary period must be communicated to the employee in writing prior to the expiration of the probationary period. The performance evaluation must be completed by the employee's First Line Supervisor. The decision to accept or reject the probationary employee, or to extend the probationary period is also made by the First Line Supervisor in consultation with the Deputy Executive Director responsible for Human Resources.

Employees promoted to another job classification, shall be considered to be probationary employees during the first six months in the new position. Employees failing to perform satisfactorily in the new classification may be rejected and returned to their former position or to a position requiring similar skill and in a similar pay grade if such a position is still available. Should the previous position not be available, the employee is subject to discharge. Rejected employees shall not have recourse to the grievance procedure or any other appeal right.

Section 3.3 Attendance

Employees shall be in attendance at their work place in accordance with the rules regarding hours of work, holidays, and leaves. All employees shall keep their daily attendance. Attendance records of employees shall be reported to payroll on the appropriate form. Absence without leave shall be cause for discipline, up to and including discharge.

RCTC will maintain records of employee attendance to identify critical and chronic attendance problems. Employee attendance will be reviewed and evaluated during the employee's annual performance evaluation.

Section 3.4 Hours of Work

It is the RCTC's objective to perform its responsibilities and meet its obligations to the public and local agencies, while allowing its employees reasonable flexibility in their work schedules. The offices of the RCTC shall be kept open exclusive of Saturdays, Sundays, and holidays from 8:00 a.m. until 5:00 p.m.

Work Schedules - The pay period is defined as eighty (80) hours of work performed on ten (10) work days on a normal 10/80 work schedule or on nine (9) work days on a 9/80 flexible work schedule. Department heads shall set and adjust the work schedules for their employees, keeping in mind that there must be coverage during the office operation hours. An employee's schedule may be adjusted to meet the RCTC's needs.

Meal Periods - Department Heads are responsible for scheduling and requiring employees to take meal periods. Meals periods may be temporarily postponed to meet unexpected office operational requirements at the discretion of a First Line Supervisor in cooperation with a Department Head.

Employees who work at least five consecutive hours shall be afforded an unpaid meal period each work day. The meal period for full-time employees working on a flexible 9-80 work schedule shall be at least 30 minutes and for those working a 10-80 work schedule shall be 60 minutes.

Discretionary Breaks - Department heads may grant employees who work at least an eight-hour day a maximum of one paid 15-minute rest break before and one paid 15-minute rest break after the meal period.

Impermissible Use of Meal Period and/or Breaks

- The meal period and the discretionary break(s) must be used separately. Discretionary breaks may not be used to extend the lunch period.
- Neither the meal period nor the break(s) may be used to compensate for an employee's late arrival or early departure, or to cover time off for other purposes.
- Discretionary breaks shall not be accumulated and, when not taken, shall not be the basis for any additional pay or time off.

Alternative Work Schedule - The RCTC may, and has, implemented alternative work schedules that differ from the standard work week (typically a five-day, 40 hour per week schedule). The Executive Director has the authority to determine which positions may be on an alternative work schedule and to continue alternative work schedules.

Section 3.5 Unauthorized Absence

Any employee who is absent without authorization for three (3) consecutive working days shall be considered to have resigned from his or her position with RCTC by reason of abandonment. For purposes of this Section, an unauthorized absence during part of a day constitutes an unauthorized absence for the entire day.

Nothing in this Section shall limit the Executive Director's authority to discipline an employee due to an unauthorized absence of less than three (3) consecutive days.

Section 3.6 Overtime

It is the policy of RCTC to avoid overtime work whenever possible. Overtime work shall be used only to supply essential public services or perform necessary duties during emergencies or where performance of overtime work by existing employees is more economical than adding new employees by creation of new positions.

Hours worked over forty (40) hours in a workweek, by a non-exempt employee, will be designated as overtime.

A non-exempt employee of RCTC shall not work overtime without obtaining authorization for the overtime, prior to commencement of overtime, from the employee's First Line supervisor or department head. Employees of RCTC required to work overtime are compensated in accordance with the Fair Labor Standards Act (FLSA) at the rate of time and one-half for each hour of overtime worked. Holiday hours shall be considered hours worked for the purpose of overtime compensation. No other form of absence from work, such as sick leave, vacation leave, jury duty leave, etc. shall be considered hours of work for purposes of calculating overtime.

Employees of RCTC designated as exempt employees shall not be eligible for overtime pay. No RCTC employee shall be eligible for FLSA compensatory time, in lieu of overtime pay.

Section 3.7 Non-Exempt Employees

The official workweek for RCTC non-exempt employees shall be seven (7) consecutive days beginning on Friday, four hours after the workday begins. For non-exempt employees on a flexible work schedule, the scheduled Friday flex day must be consistently designated in order to avoid incurring any overtime obligation.

Section 3.8 Exempt Employees

The official workweek for exempt employees shall be the same as for non-exempt employees. Exempt employees shall account for all hours worked as well as for official hours away from work such as vacation, holiday, leave and other absences. Hours worked in excess of eighty (80) hours per pay period shall be recorded for the purposes of determining administrative leave grants at the end of the fiscal year by the Executive Director.

Employees designated as either Professional/Administrative, or Executive/Supervisory, are not eligible for overtime pay or compensatory time. Employees occupying the following positions are considered to be exempt employees:

- Accounting and Human Resources Manager
- Chief Financial Officer
- Clerk of the Board
- Deputy Executive Director
- Executive Assistant
- Executive Director
- Project Delivery Director
- Public Affairs Director
- Regional Programs Director
- Program Manager
- Property Administrator
- Senior Staff Analyst
- Staff Analyst

Section 3.9 Compensation

New employees of RCTC shall normally be hired at the minimum level of the salary range assigned to the classification. In the event a potential employee possesses extraordinary skill, training or ability, or where exceptional recruitment difficulties are encountered, employment offers may be made at a higher rate whenever such would be in RCTC's best interest. Offers of employment at the minimum to middle step of the salary range may be made by the Deputy Executive Director for Human Resources in cooperation with the hiring First Line Supervisor.

Individuals hired shall be eligible for a merit salary increase upon completion of their probationary periods, and at twelve month intervals thereafter. A completed performance evaluation with a satisfactory or higher rating shall be required for all salary increase recommendations. If the probationary period for a probationary employee is extended, the employee shall be eligible for a merit salary increase upon successful completion of the probationary period.

Section 3.10 Salary Review

On a biennial basis, or at interval period approved by the Executive Committee, the Deputy Executive Director for Human Resources, under the direction of the Executive Director, shall review the salary range assigned to each position within RCTC and provide a written report of the review to the Executive Director. The Executive Director may make salary recommendations to the Executive Committee.

Section 3.11 Performance Evaluations

It is the policy of RCTC to evaluate employee performance on a regularly scheduled basis. The performance evaluation shall normally be conducted by the employee's First Line supervisor and shall be discussed with the employee. The employee's First Line supervisor shall carefully consider each item of the performance evaluation in relation to the duties outlined in the employee's position description.

A performance evaluation shall be completed at the end of the initial probationary period or any extended probationary period and annually thereafter. It is the supervisor's responsibility to assure that the performance evaluation is completed and returned to the Executive Director and the Deputy Executive Director for Human Resources for review prior to the completion of the employee's probationary period.

Employees may be eligible for merit pay increases based on funding approved by the RCTC. The Executive Director, prior to the beginning of the fiscal year, will inform Management staff on the maximum level of increase that could be granted to employees. The amount of an employee's merit pay increase, if any, will be determined by the employee's First Line Supervisor in accordance the employee's performance and based on the guidelines established by the RCTC.

Section 3.12 Service Awards

In order to recognize the contributions of long time RCTC employees, RCTC shall provide service awards to regular employees who have completed five years of consecutive service and on succeeding five-year anniversaries thereafter.

Service awards will be presented at regular RCTC meetings. Employees must have completed the appropriate years of service prior to the date of the awards ceremony to be eligible for the award. Presentation of service awards shall be made by the Chairperson of RCTC or a representative designated by the Chairperson.

Section 3.13 Safety

It is the policy of RCTC to maintain an active safety program designed to eliminate occupationally related illness and injury among RCTC employees. Every employee of the RCTC shall be required to observe all RCTC and departmental health and safety procedures.

Section 3.14 Keys and Security Codes

Keys to RCTC facilities and related security access codes will be issued to employees as designated by the Clerk of the Board. Keys are the property of RCTC and shall be surrendered to RCTC upon termination of employment. Employees shall be required to immediately report lost or stolen keys and related security cards to the Clerk of the Board.

Section 3.15 Political Activity

Political activities undertaken by employees of RCTC, while on duty and/or on the premises of RCTC, are prohibited. In accordance with the California Government Code, the following is prohibited.

1. An employee of RCTC shall not, directly or indirectly, solicit political funds or contributions, knowingly, from other officers or employees of RCTC. (Government Code Section 3205)
2. No employee of RCTC shall engage in political activity during working hours. (Government Code Section 3207)
3. No signs, posters or other political advertising materials shall be posted upon RCTC property at any time.

Section 3.16 Outside Activities/Employment

Although RCTC recognizes the employee's right to engage in private and/or commercial activities or employment outside normal working hours, RCTC expects each

employee to avoid those outside activities or employment which are a conflict of interest or which may potentially become a conflict of interest. Employees must have prior approval from their First Line Supervisor and Human Resources before securing additional employment.

Therefore, all employees interested in pursuing private and/or commercial activities outside normal working hours that have the potential for a conflict of interest shall be required to present a written explanation of such activities to the employee's supervisor for approval. If the supervisor recommends approval of the outside employment, he or she shall forward the documentation to Human Resources for consideration.

Section 3.17 Nepotism and Other Prohibited Employment

In order to assure efficiency in implementing policies of RCTC, it is necessary to restrict the employment of relatives of elected and appointed officers of RCTC. Therefore, the following restrictions will apply:

1. Relatives of the RCTC Executive Director, RCTC Legal Counsel and all elected officials who are Board members of RCTC shall not be eligible for RCTC employment in any capacity;
2. Members of the RCTC Board are ineligible for employment with the RCTC while serving on the RCTC and for one year after their service on the RCTC ends. This section shall not apply to a nonvoting board member appointed by the Governor after his or her service on the RCTC ends;
3. Relatives of RCTC employees shall not be employed in the same department of RCTC where such employment would be detrimental to the supervision, safety, security or morale of the department or RCTC, as determined by the Executive Director, nor shall any employee be placed in a position which exercises supervisory authority over a relative;
4. If two (2) RCTC employees become married or cohabitate and their employment conflicts with the provisions of this policy, they may continue employment provided that such employment does not directly or indirectly place an undue hardship on other employees within the particular work unit of the married couple and such employment is not detrimental to the supervision, safety, security or morale of the particular work unit as determined by the Executive Director;
5. In no event shall an employee participate directly or indirectly in the recruitment or selection process for a position in which an employee's relative may have filed an employment application.

Section 3.17.1 Non-Fraternization

RCTC desires to avoid misunderstandings, complaints of favoritism, possible claims of sexual harassment and the employee morale and dissension problems that can result from certain relationships between employees. Accordingly, employees are prohibited from fraternizing or becoming romantically involved with other employees when, in the opinion of RCTC, their personal relationships may create a potential conflict of interest, cause disruption, create a negative or unprofessional work environment, or present concerns regarding supervision, safety, security or morale.

All employees should also remember that RCTC maintains a strict policy against unlawful harassment of any kind, including sexual harassment.

Section 3.18 Demotion

RCTC may demote an employee whose ability to perform the required duties falls below standard or for disciplinary purposes.

Section 3.19 Suspension Without Pay

The Executive Director may suspend without pay an employee from a position at any time for a disciplinary purpose. Suspension without pay shall not exceed thirty (30) days, nor shall any employee be suspended without pay for more than thirty (30) days in any fiscal year.

Section 3.20 Termination of Probationary Employment

Probationary employees may be rejected without cause and without right of appeal at any time during a probationary period. Rejections shall be initiated by the appropriate Director and approved by the Executive Director prior to notifying the employee of termination action. The Deputy Executive Director for Human Resources must be notified of any employee termination action. Rejected probationary employees shall no longer receive employee benefits except benefits accrued under PERS and benefits to which the employee is statutorily entitled. Rejected probationary employees shall not be eligible for prior notice of termination and shall receive payments due on the date of termination.

Section 3.21 Discharge

RCTC may discharge regular employees for cause, including, but not limited to, inadequate job performance. All employees of RCTC shall be discharged in accordance with applicable provisions of this Manual. Employees discharged in accordance with this Manual shall no longer receive employee benefits except benefits accrued under PERS and benefits to which the employee is statutorily entitled. Discharged employees shall receive final compensation payments on the date of discharge.

Section 3.22 Resignation

Employees who wish to voluntarily terminate employment with RCTC shall provide a minimum of two weeks written notice to their immediate supervisor. The written resignation shall be considered accepted by RCTC immediately upon submission by the employee and shall be forwarded to the Human Resources Department for processing. Requests to revoke a resignation shall be determined in the sole discretion of the Executive Director. Any employee failing to provide RCTC with a minimum of two weeks written notice of resignation shall be ineligible for consideration for future employment with RCTC. Final compensation will be paid within 72 hours of termination.

Section 3.23 Death of Employee

In the event of a death of a RCTC employee, payment of all earned wages due shall be in accordance with California law. The payment of benefits from insurance policies and other employee programs will be paid in accordance to the terms of the specified benefit policies and in accordance with state law.

SECTION 4 EMPLOYEE BENEFITS

Section 4.1 Benefit Plan

All regular and probationary employees shall be eligible to participate in the benefit plans and programs offered by RCTC and listed herein.

Section 4.2 Medical

RCTC will provide medical coverage through the PERS. RCTC shall pay the cost of medical insurance in the PERS at the rate approved by the Executive Committee.

Employees hired after July 12, 2000 must meet RCTC's vesting requirement of five (5) years and 10 years of service credit in the Cal PERS system in order to be eligible to receive health benefits paid by the RCTC at their retirement date. The employer contribution payable for post retirement health benefits for each retired employee in this category shall remain at the same contribution rate paid at the time of the employee's retirement. Employees hired prior to July 12, 2000 are not required to meet the eligibility criteria. The employer contribution payable for post retirement health benefits for each retired employee in this category shall be at the rate paid for active employees.

Employees and their qualified dependents or beneficiaries, who lose their group health coverage and meet CalPERS' qualifying event requirements, may be eligible for Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) continuation coverage. COBRA coverage, eligibility, enrollment, costs and duration as determined by CalPERS.

If an employee terminates employment with RCTC, the employee is entitled to continue participating in the RCTC group health plan for a prescribed period of time, usually 18 months. COBRA coverage is not extended to employees terminated for gross misconduct.

If a former employee chooses to continue group benefits under COBRA, the employee must pay the total applicable premium. Coverage will cease if the former employee fails to make premium payments as scheduled, becomes covered by another group plan that does not exclude pre-existing conditions or becomes eligible for Medicare.

For detailed information or questions on COBRA, employees are requested to check with the Human Resources Department.

Section 4.3 Short and Long Term Disability Insurance

RCTC shall provide short and long term disability insurance for regular employees. The premiums of regular and probationary employees are paid by RCTC. Regular and probationary employees will be enrolled in the program at the time of hire and must remain in the program while employed by RCTC.

Short term disability insurance provides for no elimination period for disability due to accidental bodily injury and seven (7) day elimination period for disability due to illness or pregnancy. The maximum benefit equals 66 2/3% of the weekly pre-disability salary or \$1777, whichever is less. Employees may use sick leave and vacation pay to supplement the disability benefit up to 100% of salary. The maximum benefit period is 180 days. A disability due to a job related injury would require Workers' Compensation insurance to be the primary insurance.

Long term disability insurance provides for a 180 day elimination period or the employee must exhaust available sick leave, whichever is longer. The maximum benefit equals 66 2/3% of the monthly pre-disability salary up to a maximum of \$10, 000. Benefit amounts exceeding \$7,000 per month must receive medical underwriting and approval.

Section 4.4 Life Insurance

RCTC shall provide a one hundred thousand dollar (\$100,000) term life insurance policy for each regular and probationary employee. Life insurance is also provided to regular and probationary part-time employees and will be on a pro-rata basis based on the hours worked. Employees may be permitted to purchase, through payroll deduction, supplemental term life insurance.

RCTC shall provide these benefits subject to carrier requirements. Selection of the insurance provider(s) and the method of computing premiums shall be within the sole discretion of RCTC.

Section 4.5 Dental/Vision Program

RCTC shall provide dental and vision insurance for regular and probationary, full-time and part-time employees and their dependents. Employees and their dependents shall be entitled to benefits as provided by the insurance carrier.

Section 4.6 Retirement Program

All regular and probationary employees shall become members of the PERS on the effective date of employment. RCTC shall pay for the employee's and employer's contribution to PERS for those employees who were hired before the hire date of November 28, 2003. Employees hired on or after November 28, 2003 will be required to pay 1% of their salary as their partial payment toward the employee's contribution. Through contract with PERS, regular employees shall receive a 2.7% at 55 benefit. Retirement shall be based on the highest one year of compensation.

Section 4.7 401(a) Qualified Plan

All regular and probationary employees shall be enrolled in the 401(a) Qualified Plan. RCTC will contribute the equivalent of 7.5% of the employee's salary to the qualified plan. Employees shall be enrolled in the program at the time of hire and are vested at a rate of 20 percent per year.

Section 4.8 457 Deferred Compensation

Regular and probationary employees of RCTC shall be eligible to enroll in the 457 deferred compensation plans offered by RCTC on the first day of employment. There is no employer contribution to the 457 deferred compensation plan. Employees are permitted to specify amounts to be deducted from the employee's paycheck for deposit to RCTC's deferred compensation carrier. Maximum contribution is in accordance to the amount set by the federal law.

Section 4.9 Workers' Compensation

RCTC shall provide workers' compensation benefits to all employees who suffer a work-related injury or illness. For an injury suffered by an employee while performing his or her duties, the employee will be placed immediately on workers' compensation. The employee must complete an Employee's Claim for Workers' Compensation Benefits (DWC Form 1) and submit it to the Human Resources Department. After receipt of the DWC Form 1, the Human Resources Department will complete the Employer's Report of Occupational Injury or Illness (SCIF 3067). Both forms shall be submitted to RCTC's Workers' Compensation carrier. It is the desire of RCTC to provide full benefits to the employee whenever possible, however, in no event shall the employee receive more salary and benefits than he or she would normally receive had the injury not occurred.

Section 4.10 Unemployment Insurance

Unemployment insurance shall be provided in accordance with the current state and federal laws.

Section 4.11 Continuation of Benefits Coverage

RCTC shall continue employer contributions to the employee benefit plan and to group life insurance programs of those regular employees placed on leave of absence with pay (excluding long-term disability) for the duration of the leave of absence with pay. Employee contributions to such programs shall be deducted from salary payments made to the employee during the paid leave of absence.

Regular employees of RCTC placed on leave of absence without pay may continue to participate in RCTC's benefit programs for the duration of the leave of absence. RCTC employer contributions to the benefit programs shall cease 5 days after the effective date of the leave of absence without pay. Regular employees placed on leave of absence without pay, who want to continue participation in the benefit programs, shall advise the Human Resources Department in writing of their intention to do so and shall submit a check for the cost of the applicable coverage to the Human Resources Department no later than the 10th day of the month preceding the month for which coverage is effective. The Executive Committee, however, may, in its sole discretion, agree to continue paying RCTC's contributions and begin paying the employee's contributions to the benefit programs, in whole or in part, during an unpaid leave of absence.

Once an employee begins to receive RCTC's Short and/or Long Term Disability benefits, employer contributions to the benefit program will cease after 12 weeks during the Short-Term Disability leave. After such time, the employee shall be required to cover both the employer's and employee's contributions if the employee chooses to continue any benefits.

Section 4.12 Education Reimbursement

Regular full-time employees of RCTC, who have completed at least 2,080 hours of consecutive service, shall be eligible for education reimbursement pursuant to this section. The RCTC will make available a maximum of \$25,000 per fiscal year for education reimbursement.

An employee may be reimbursed up to \$2,500 to cover education expenses incurred in any fiscal year. If total employee education reimbursement requests exceed available funding in a given fiscal year, reimbursement will be made on a first-come, first-served basis.

Requirements for education reimbursement are as follows:

1. Course is satisfactorily completed with a grade of "C" or higher;

2. Appropriate proof of successful completion is submitted to their First Line Supervisor and the Human Resources Department;
3. Course of instruction will enable the employee to perform his or her present duties more effectively, or will prepare them for future opportunities into which he or she could reasonably expect promotion or transfer at RCTC;
4. The hours of instruction for the course do not conflict with the employee's regularly scheduled work day;
5. The course of instruction must be presented by a technical school, vocational school, college, university, business or high school which has been accredited by a recognized governmental or professional accrediting body and has been approved by the Executive Director.

Employees shall be eligible for reimbursement of the following education expenses: tuition, textbooks, registration fees, and laboratory fees related to an approved course of instruction. Employees shall be limited to a maximum reimbursement of \$2,500 per employee per year.

Employees shall not be eligible for reimbursement of late registration penalties or fees, transportation costs, parking, interest or any other charge not specified as reimbursable in this section.

Employees shall submit an Education Reimbursement Request to their First Line Supervisor for approval prior to registration for the course. The First Line Supervisor will review the request for compliance with RCTC policies and either approve or disapprove the request. If the request is denied, the First Line supervisor will state the reason for denial. The supervisor shall forward the completed form to Human Resources for review to assure compliance with RCTC policy. One copy of the completed form, indicating the Executive Director's approval or disapproval, shall be forwarded to the employee.

Employees who successfully complete an approved course shall submit a request for reimbursement to Human Resources. The request must include receipts for all items for which the employee wishes to be reimbursed and a copy of the final grade report with a grade of "C" or higher.

RCTC expects employees who use the Education Reimbursement Program to continue as RCTC employees for at least two years after completion of the Program. Thus, as part of his or her Education Reimbursement Request, the employee shall agree that upon voluntary termination of employment within 24 months following receipt of an education reimbursement payment, there shall be a deduction from his or her final check as follows: the amount of the education reimbursement minus one twenty-fourth of the education reimbursement for each month of service following the receipt of the reimbursement.

Required education and/or training outside an employees' regular work hours shall be considered as hours worked. RCTC is responsible for all costs associated with required education and training.

Section 4.13 Employee Assistance Program

The RCTC shall provide an employee assistance program for its employees. The program will be provided through contract with the County of Riverside and/or another program provider. Refer to specific plan provisions for coverage benefits.

Employees shall use sick leave or vacation time, if the employee has no available sick leave time, for assessment consultations that are voluntary. For consultations that are obligatory and recommended by the employee's supervisor, no sick leave time or vacation time will be deducted.

The RCTC may change the program at any time.

Section 4.14 Flexible Reimbursement Plan

This plan allows employees to set aside pre-tax dollars to pay for unreimbursed health care and dependent care expenses. Employees will be able to pay for allowable expenses not covered by their medical plans as well as dependent care services with pre-tax dollars. Refer to plan enrollment package or contact the Human Resources Department for details.

Section 4.15 Employee Transportation Assistance

RCTC shall provide regular and probationary employees a monthly transportation assistance program up to the established limit under the Internal Revenue Code 1.132(f). The program will reimburse employees for the purchase of public transportation tickets to and from work, and it will pay the county directly for van pool participation through the County's vehicle program, subject to the limitations noted above.

SECTION 5 LEAVE, VACATION AND HOLIDAYS

Section 5.1 Sick Leave

1. **Accrual and Accumulation.** Regular and probationary full-time employees of RCTC shall accrue four hours sick leave for each pay period completed. Regular and probationary part-time employees shall accrue sick leave on a pro-rata basis based on the proportional hours worked. Accumulated sick leave shall be available for use the first day following the payroll period in which it is earned.

Employees on sick leave shall continue to receive their regular pay and benefits.

Except as provided differently in RCTC policies, an employee who has exhausted his or her accumulated sick leave and who is unable to work due to illness or injury

will be placed in a vacation status for the duration of the illness or injury, or until the employee has exhausted his or her accumulated vacation, whichever occurs first. If the employee has exhausted both sick leave and vacation leave accumulations, the employee may be placed on a leave without pay. In conjunction with an illness or injury, an employee may apply for short or long term disability insurance, as applicable.

2. Use. The following are considered appropriate uses of sick leave accrual; a paid absence from duty by an employee due to:
 - A. An employee's illness, injury, or disability that incapacitates the employee from performing his or her duties;
 - B. An employee who is personally undergoing medical, dental or optical treatment or examination may use sick leave accrual for the required time away from work;
 - C. An employee who, due to exposure to a contagious disease, is quarantined by an appropriate authority may use sick leave;
 - D. An employee compelled to be absent for reason of illness or injury or medical appointments and procedures, for dependents or parents may use sick leave;
 - E. Bereavement Leave. Sick leave may be used when a death occurs to an employee's relative.
3. Minimum Charge. The minimum charge against accumulated sick leave shall be fifteen (15) minutes.
4. Notice of Illness. On the first day of absence due to illness, an employee must notify their First Line or Second Line Supervisor of the intended absence at or before the start of the employee's scheduled workday. It is the responsibility of the employee to keep RCTC informed as to continued absence beyond the first day for reasons due to illness. Failure to make such notification may result in denial of sick leave and may result in disciplinary action, up to and including discharge from employment.
5. Illness During Vacation Leave. Employees who become ill while on vacation leave may request to have vacation time converted to sick leave. Approval may be granted only when the employee presents a doctor's certificate verifying an illness or injury. Such conversion shall require approval of the employee's Supervisor.
6. Other Employees. Temporary employees shall not be eligible to accrue sick leave.

7. Return from Sick Leave. Employees who have been on sick leave for three days or more may be requested to present a statement signed by a licensed physician stating that the employee has been off from work due to illness or injury and is able to resume normal duties. RCTC reserves the right to require a physician's statement for absences of less than three days.
8. Misuse of Sick Leave. Evidence substantiating the abuse and misuse of the sick leave benefit shall result in denial of sick leave and may result in disciplinary action, up to and including discharge from employment.

Section 5.2 Sick Leave Time Cash Out/Conversion to Vacation

Employees of RCTC with five years of continuous service (10,400 hours of continuous service) may choose to convert part of their sick leave to vacation leave. Only that portion of accumulated sick leave hours that exceed 240 hours may be converted. An employee may choose to convert unused sick leave as follows:

1. Sick leave accrued in excess of 240 hours could be converted to vacation at a rate of 50% (i.e., one hour of vacation for two hours of sick leave in excess of 240);
2. The option to convert unused sick leave to payment under this provision may only be exercised by the employee once per year and must be accomplished by notifying the Accounting Department and the Human Resources Department of his or her intention by March 31 for use the next fiscal year. The provisions above shall be utilized for sick leave cash out.

For terminated employees, unused sick leave time shall be reported to PERS as information to be utilized in the computation of retirement benefits. Terminated employees with 5 years of continuous service may choose to convert sick leave accrued in excess of 240 hours to a cash payout at a rate of 50%. The remaining 240 hours shall be reported to CalPERS to be utilized in retirement benefit calculation.

Section 5.3 Holiday Leave

All regular and probationary employees of RCTC who are on the payroll the day before and day after a designated holiday shall be paid for said holiday. Full-time employees shall receive eight (8) holiday pay hours for a holiday. Part-time employees shall receive holiday pay on a pro-rata basis. Temporary employees do not receive holiday benefits. The following holidays are observed by RCTC (the actual day of observance may be changed at the discretion of RCTC management):

1. New Year's Day
2. Dr. Martin Luther King, Jr. Day
3. Presidents' Day
4. Memorial Day

5. Independence Day
6. Labor Day
7. Veterans' Day
8. Thanksgiving Day
9. Day After Thanksgiving Day
10. Day Before Christmas Day
11. Christmas Day
12. Day Before New Year's Day
13. Floating Holiday

Holidays which fall on a Saturday shall normally be observed on the preceding Friday. Holidays which fall on Sunday shall normally be observed on the following Monday. When a fixed holiday falls within a vacation period, the holiday shall not be charged against the employee's accumulated vacation benefits.

Exempt employees who work on a holiday shall be granted time for hours worked on a scheduled holiday and for hours worked in excess of 80 during a work period that includes a paid holiday. Such time shall accumulate in a holiday time bank and can be used like vacation. No employee shall accumulate more than eighty (80) hours of holiday time. Accrual of holiday time will cease once the employee's accumulated holiday hours equal eighty (80) hours. Accrual of holiday time will not recommence until an employee has used some holiday time and the accumulated holiday time has once again fallen below the maximum accumulation limit.

Non-exempt employees required to work on a holiday will receive eight hours of pay plus overtime.

Section 5.4 Vacation

Regular and probationary employees of RCTC shall be entitled to accrue annual vacation based on the length of continuous service with RCTC. Employees in part-time positions shall accrue, on a pro-rata basis, vacation leave for completed pay periods. Such vacation shall be available for use on the first day following the pay period in which it is accrued.

Each regular and probationary full-time employee will accrue, based on actual hours worked, on a pay period basis, the pay period equivalent of the applicable annual number of hours of vacation, in accordance with the employee's record of continuous years of service, unless it is negotiated by the employee at the time of hire:

Continuous years of service	Bi-weekly accrual	Annual accrual	Maximum accrued balance
Hire date to completion of 3 rd year	3.08 hours	80 hours	160 hours
Beginning of 4 th year to completion of 9 th year	4.62 hours	120 hours	240 hours
Beginning of 10 th year and forward	6.16 hours	160 hours	320 hours

No full-time employee shall accumulate more vacation than twice the employee's annual accrual (for example, a full-time employee who accrues 120 hours per year cannot accumulate more than 240 hours of vacation). Accrual of vacation will cease once the employee's accumulated vacation hours equal the employee's maximum accumulation limit. Accrual of vacation will not recommence until an employee has used some vacation and the accumulated vacation has once again fallen below the maximum accumulation limit. Regular, part-time employees will accrue vacation on a pro-rated basis.

Temporary employees of RCTC shall not be eligible for vacation benefits.

Vacation may be taken in multiples of one quarter hour with the approval of the employee's immediate supervisor. Supervisors will only approve vacation for such time as will not impair the work schedule and efficiency of the department. Should employee vacation requests conflict with staffing requirements, the final determination for vacation approvals will be at the discretion of the First Line Supervisor in cooperation with the Department Head.

Section 5.5 Vacation Cash Out

Employees who have utilized at least 80 hours vacation during the previous fiscal year shall be permitted to cash out any accumulated vacation in excess of eighty (80) hours. This limitation on cashing out vacation is intended to encourage employees to take at least two weeks of vacation per year.

An employee requesting to cash out vacation who has met the requirements of a vacation cash out, must submit a written memorandum to the Accounting Department indicating the number of vacation hours for buyout in the next fiscal year. The memorandum must be submitted by March 31.

Accumulated vacation shall be paid upon termination of employment.

Section 5.6 Administrative Leave

The Executive Director may grant administrative leave to those exempt employees who performed authorized work in excess of a regular workday or on regularly scheduled days off. Administrative leave time shall be granted at the beginning of the fiscal year and must be used within the fiscal year. Administrative leave time may not be carried over to the following fiscal year. In the event that an employee separates from his or her employment with the RCTC, the employee shall be paid for any unused administrative leave for that year.

Section 5.7 Jury Duty Leave

Every regular and probationary employee, who is called or required to serve as a trial juror and upon notification and appropriate verification submitted to his/her supervisor,

shall be entitled to be absent with pay from his/her duties with RCTC during the period of such service or while necessarily being present in court as a result of such call. Employees are expected to report to work during those normal working hours which the employee is not required to be present as a juror. Employees must submit evidence of jury duty to their supervisor. Any jury fees, excluding mileage, paid to the employee must be turned in to the RCTC Accounting Department. A temporary employee shall be entitled to retain jury fees, since he/she will not be paid as an employee for time not actually worked.

Section 5.8 Leave of Absence Without Pay

The Executive Director, at his/her discretion, may grant leave of absence without pay.

RCTC shall follow the regulations of the California Family Rights Act of 1993 (CFRA) and Family and Medical Leave Act of 1993 (FMLA).

In requesting leave of absence without pay, the employee must provide a written request specifying the period of time and reason for the requested leave to the Executive Director. The Executive Director may grant a leave of absence without pay up to 480 hours (12 weeks). The Executive Committee may, in its sole discretion, grant a leave of absence without pay of any length. Any leave of absence without pay shall be for a specified period and appropriate conditions may be imposed, such as, requiring the employee to provide sufficient medical documentation or any other evidence documenting the leave, as required by the Executive Director and/or the Executive Committee. Under normal circumstances, a personal leave of absence without pay shall not be granted until after an employee has exhausted all accumulated vacation.

An employee placed on leave of absence without pay shall not accrue, for the duration of the leave of absence without pay, credited service for salary review, vacation and sick leave accrual. Eligibility for salary review and vacation and sick leave accrual shall be extended by the number of days an employee has been on leave of absence without pay. Employees placed on leave of absence without pay shall be responsible for all health insurance premiums, life insurance premiums, short and long term disability premiums and other monthly benefit payments in accordance with the provisions of Section 4.11 of this Manual.

An employee on leave of absence without pay for illness or disability reasons will be required to present a return to work order releasing the employee to full duty signed by his/her attending physician, prior to being allowed to return to work. A release to return to less than full duty will be allowed only as an accommodation as required by the Americans with Disabilities Act and California Fair Employment Housing Act. Upon expiration of a leave of absence without pay or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time leave was granted. Failure on the part of an employee on leave of absence without pay to report promptly at its expiration, or within a reasonable time after notice to return to duty, shall be deemed to

have resigned RCTC employment by reason of abandonment. The depositing in the United States mail of a first class letter, postage paid, addressed to the employee's last known address, shall be reasonable notice.

Section 5.9 Military Leave

RCTC shall grant military leave to fulfill a military service obligation in accordance with federal and state laws. Public employees are entitled to receive up to 180 days paid military leave per fiscal year. In order to be paid for military leave regular, part-time, and contract employees must have one year of employment with a public agency. The employee's military service can be counted toward the one year of public agency service. An employee granted military leave with pay shall receive all benefits related to employment that are granted when the employee is on pay status.

If the military leave extends beyond 30 days, the employee must submit a request for military leave. A copy of the military orders should be submitted to his or her First Line supervisor. The First Line supervisor shall submit the request and military order to the Human Resources Department for verification.

Any RCTC employee who has been on a leave of absence for military leave shall have such right to return, and only such right, as may be required by state and federal law in effect at the time the employee applies for reinstatement.

SECTION 6 PART-TIME AND TEMPORARY EMPLOYEES

Section 6.1 Regular Part-time Employees

Employees of RCTC designated as regular and probationary part-time employees shall be compensated on an hourly basis as specified by the position classification in which they are assigned. Such regular and probationary part-time employees shall accrue holidays, vacation, sick leave and receive other benefits as provided in this Manual on a pro-rata basis.

Part-time employees shall receive performance evaluations in accordance with Section 3.11 of this Manual. Part-time employees shall receive compensation in accordance with Section 3.9 of this Manual.

Section 6.2 Temporary Employees

Employees of RCTC designated as temporary employees shall be compensated on an hourly basis as specified at the time of hire. Such employees shall not be eligible for participation in any benefit program established by RCTC, except as required by State and/or Federal Law. Such employees shall not be eligible for merit or other pay increases and will not receive performance evaluations.

Such employment may be terminated at any time without cause or prior notice to the employee and without recourse to the grievance procedure or any other appeal right.

SECTION 7 GRIEVANCE PROCEDURE

Section 7.1 Policy

RCTC has established a grievance procedure. Grievances are defined in Section 1.8 of this Manual. The following complaints or disputes are not grievable: the content of a performance evaluation, a denial of a merit pay increase, employee classification, disciplinary action, rejection from probation, and termination of a seasonal, temporary, or casual employee.

Employees of the RCTC who pursue grievances according to the provisions of RCTC Grievance Policy and Procedure shall be free from harassment by fellow employees, supervisors and RCTC administration. The mere utilization of the grievance process shall in no way affect an employee's present or future employment status.

Section 7.2 Steps in the Grievance Procedure

The steps of the grievance procedure are as follows:

- 7.2.1 Step 1 – An employee must discuss a grievance with his or her First Line supervisor, or their second-line supervisor in the event that the employee's problem is with their First Line supervisor. This discussion must occur within five (5) working days of the occurrence of the event giving rise to the grievance. The appropriate supervisor will attempt to resolve the matter and will, within a reasonable period of time, notify the employee of the Step 1 decision.
- 7.2.2 Step 2 - If the employee is not satisfied with the Step 1 decision, the employee may, within five (5) working days of receiving the Step 1 decision, submit the grievance in writing to the appropriate Director for review. The written grievance must set forth the specific section of this Manual that has been violated, must state the facts upon which the grievance is based, must indicate who has knowledge of the relevant facts, must state that Step 1 of the grievance procedure has been completed, and must indicate the specific relief the employee is requesting. The Executive Director, or his/her designee, shall make such investigation of the facts and issues as is warranted under the circumstances and shall make a determination within five (5) working days of the timely receipt of the written Step 2 grievance. The written Step 2 decision shall be provided to the grievant.
- 7.2.3 Step 3 - If the employee is not satisfied with the Step 2 decision, the employee may, within five (5) working days of receiving the Step 2 decision, request that the grievance be reviewed by the RCTC Executive Committee.

To request such review, the grievant should submit a written request for Step 3 review to the Deputy Executive Director for Human Resources.

The Executive Committee, or its designee(s), shall make such investigation of the facts and issues as is warranted under the circumstances and shall make a determination. The written Step 3 decision shall be provided to the grievant.

The Step 3 review may involve a meeting between the employee, the Executive Director and the Executive Committee, or its designee(s). At such meeting, if any, discussion shall be limited to the issues raised in the initial written grievance and an earnest effort shall be made to resolve the problem.

If the parties fail to resolve the grievance, Executive Committee, or its designee(s), shall make a final and binding determination of the grievance.

7.2.4 If the employee fails to comply with any time limit specified above, the grievant shall have accepted the RCTC's decision on the matter. If RCTC fails to comply with any time limit specified above, the grievant may move the grievance to the next step in the procedure. The parties by mutual agreement can extend any time limit set forth in the grievance procedure.

SECTION 8 EMPLOYEE CONDUCT AND DISCIPLINE

Section 8.1 Forms of Discipline

The Executive Director, with good cause for such action, shall have the right to impose major discipline and demote, discharge, reduce in pay, or suspend without pay an employee. Minor discipline can be imposed by First Line Supervisors in cooperation with the appropriate Director and Human Resources.

8.1.1 Good Cause for Discipline – Any of the following examples of performance or behavior shall constitute good cause for discipline. This listing is representative only and does not exhaust all possible situations where disciplinary action may be imposed:

- (1) Dishonesty;
- (2) Incompetence;
- (3) Unsatisfactory performance or negligence in job performance;
- (4) Insubordination, including actions that involve resistance to, defiance of, or refusal to carry out a supervisor's lawful order,
- (5) Absence without leave;
- (6) Discourteous treatment of the public or other employees;
- (7) Falsification of RCTC records and documents including, but not limited to, employment material.

8.1.2 Categories of Discipline – Major discipline consists of a suspension without pay of six (6) or more days, demotion, reduction in pay of one (1) month or more, or discharge. Any other form of discipline is considered to be minor discipline.

Section 8.2 Predisciplinary Process

8.2.1 Notice of Proposed Disciplinary Action

Prior to the imposition of disciplinary action, regular employees shall be presented with a written Notice of Proposed Disciplinary Action informing the employee of his/her right to a pre-disciplinary meeting.

- (1) The Notice of Proposed Disciplinary Action shall include:
1. A description of the discipline proposed;
 2. A statement of the reasons the action has been proposed, which shall include a brief description of the facts upon which the proposed action is based and a statement of any rules, regulations, laws, etc. that were violated. Additionally, if applicable, a list of any previous disciplinary actions, counseling evaluations or other relevant actions taken against the employee;
 3. A copy of any documents relied upon in proposing the disciplinary action; and
 4. A statement advising the employee that he/she has the right to respond to the Executive Director, or his/her designee, regarding the proposed disciplinary action, orally or in writing, before a final decision is made on the proposed disciplinary action. This part of the Notice of Proposed Disciplinary Action shall include the name of the person to whom the response, if any, can be made. Moreover, the Notice shall include a statement notifying the employee that he or she has only five (5) working days from the date of receipt of the Notice to respond in writing or to request a meeting to make an oral response;
 5. Upon a showing of good cause, the Executive Director, or his/her designee, may extend the time for response;

6. In responding, either orally or in writing, the employee may designate a representative to assist in the presentation of the response.
- (2) Response to Notice
1. In the event that the employee chooses to respond orally, the employee must, within the period given to respond, make an appointment, and meet with the Executive Director or his/her designee.
 2. During this meeting the employee, or the employee's representative, may present any reasons why the employee feels that the proposed action is not proper. The Executive Director or his/her designee shall listen to the employee's presentation, but shall not present any evidence on behalf of RCTC, nor shall either party present any witnesses for examination.
 3. A written response must be received in the office of the Executive Director, or his or her designee, no later than 4:00 p.m. on the due date.
 4. Failure by the employee, or the employee's representative, to respond to the Notice of Proposed Disciplinary Action within the period allowed shall forfeit the right to respond to the Notice of Proposed Disciplinary Action.
- (3) If a timely oral or written response is received, the Executive Director, or his/her designee, shall take the employee's response into consideration and shall make a determination as to whether or not the proposed disciplinary action, a lesser form of discipline, or no disciplinary action shall be taken.
- (4) After completion of the predisciplinary process, the Executive Director, or his or her designee, may direct that any approved discipline take effect and establish the effective date of such approved discipline. Such imposition of discipline shall be effected by the preparation of a Notice of Discipline that informs the employee of the discipline imposed, the justification for the discipline, and any appeal rights applicable to the discipline. The Notice of Discipline should include a copy of any documents relied upon in imposing the discipline.

8.2.2 No Appeal of Minor Discipline.

In the case of minor discipline, no right of appeal is provided.

8.2.3 Right to Appeal Major Discipline.

- (1) A regular employee shall have the right to appeal a major disciplinary action.
- (2) Requests for appeal shall be made in writing, signed by the employee and filed with the Deputy Executive Director responsible for Human Resources within ten (10) working days of receipt of the Notice of Discipline.
- (3) Following receipt of a timely appeal of major discipline, the RCTC Executive Committee will determine whether the appeal will be heard by a hearing officer, an Ad Hoc Committee of the Executive Committee, or by the Executive Committee.
- (4) The Human Resources Department shall notify the employee and the Executive Director or other employee from whose action the appeal is being taken of the date, time and place of the hearing and shall publicly post at such places as the RCTC Executive Committee shall prescribe, a notice of the date, time and place of the hearing.
- (5) Hearings shall be closed unless an open hearing is requested by the employee filing the appeal.
- (6) Hearings shall be recorded by a court reporter. The court reporter shall prepare a hearing record.
- (7) The employee shall appear personally at the hearing and may be represented by counsel of his/her choice, at no cost to the RCTC. In the event that the employee fails to personally appear at the hearing, the employee shall forfeit his or her right to appeal.
- (8) All witnesses to be heard at the hearing shall testify under oath. The hearing shall not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to relying on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the

evidence over objection in civil actions. Hearsay evidence may be admitted but it may not be the sole basis upon which a finding is made.

- (9) Upon conclusion of a hearing not conducted by the RCTC Executive Committee, the hearing officer or the Ad Hoc Committee of the RCTC Executive Committee, as applicable, shall cause findings and recommendations to be prepared in writing and shall certify the same to the RCTC Executive Committee.
- (10) The Deputy Executive Director responsible for Human Resources shall deliver a certified copy of such findings and recommendations of the Hearing Officer, or Ad Hoc Committee of the RCTC Executive Committee to the RCTC Executive Committee and to any other officer or employee affected by such findings and recommendations or from whose action the appeal was taken.
- (11) After conducting the hearing itself or after considering the findings, recommendations, and hearing record of the hearing officer or Ad Hoc Committee, the RCTC Executive Committee shall issue its findings and decision. The Executive Committee may only approve or disapprove the discipline that was imposed by the Executive Director, or his or her designee. The appeal decision issued by the RCTC Executive Committee shall be final.

SECTION 9 LAYOFF POLICY AND PROCEDURE

Section 9.1 Statement of Intent

The RCTC is committed to the retaining, retraining, and development of its regular employees to provide job security and career progress, and to maintaining a skilled and stable working environment. The following guide the application of this policy:

- The provision of reasonable job security to regular employees;
- Whenever possible, to mitigate adverse effects of organizational restructuring through the retention, retraining and development of regular employees;
- Fair treatment of employees during organizational restructuring.

The RCTC recognizes that in some circumstances work force reduction becomes necessary and is unavoidable. Some of the circumstances may include the following:

- Lack of work;
- Discontinuance of a function;
- Budgetary constraints;

- Specific actions approved by the RCTC Governing Board.

Section 9.2 Guidelines

1. When it is necessary to reduce the work force, every reasonable effort shall be made to retrain employees by placing them in vacant positions in the RCTC for which they are qualified.
2. Layoffs of regular full-time and part-time employees shall be based on skill, ability and performance history. Where skill, ability and performance history are substantially equal, seniority based on date of hire shall determine the order of layoff.
3. No regular employee shall be laid off in any job classification if there are consultants, probationary or temporary employees in an active status in the same job classification within the RCTC.
4. A strategy shall be developed aimed at retention of employees in order to mitigate the impact of deletion of positions. The strategy shall:
 - A. Identify vacant positions and retraining opportunities within the RCTC;
 - B. Identify the employees who are eligible to participate in the retraining program;
 - C. Identify opportunities that may be available to affected employees.
5. The Executive Director shall provide a report to the Executive Committee. The report shall include:
 - A. the list of affected employees;
 - B. reasons that positions were deleted or reorganized;
 - C. the strategy plan that include the number of employees who chose to exercise a layoff option rather than seeking retraining; and
 - D. confirmation that all reasonable options that would have allowed for the employee to be retained were explored.
6. The layoff process shall not consider an employee's performance or conduct in determining which employees are laid off.

Section 9.3 Reporting and Communication Requirements

1. When it is determined that positions will be deleted, departmental management personnel shall, as soon as possible, meet with the employees who may be affected. Those employees will be advised of the time frame in which their positions will be deleted or reorganized.

2. At the meeting, the employee(s) shall receive a written notice of layoff.
3. The meeting and written official notice shall be at least twenty (20) working days prior to the effective date of the layoff. The official notice shall include:
 - Reason(s) for the layoff;
 - Effective date of the action;
 - Reason for being laid off out of seniority order;
 - Option for placement on Reinstatement List;
 - Options to demote or retrain;
 - Requirement to notify the RCTC of an address change.

Section 9.4 Voluntary Demotion

An employee who has received a notice of the layoff and has previously held regular status in another lower or equal job class shall, upon request, be given a transfer or demotion to such other classification, in lieu of layoff unless such an action cannot be accomplished because it displaces an employee with higher seniority. The request for the transfer or demotion must be submitted within seven days of receiving the written notice of layoff. The employee who elected demotion shall be placed at the step of the lower class, to which he or she was demoted, that is nearest to, without exceeding, his or her current salary.

Section 9.5 Reinstatement

Reinstatement is defined as recall by the RCTC into a regular position, from the reinstatement list.

1. Regular employees affected by the layoff shall be placed on a reinstatement list for the class of job from which they were laid off or demoted.
2. Any vacancy to be filled shall be offered, in order of seniority, for the classification to be filled.
3. The employee's name shall be removed from the reinstatement list, for specific classification, for any of the following reasons:
 - The expiration of two (2) years from the date of placement on the list;
 - Failure to contact RCTC within seven (7) days of RCTC's mailing of a first class letter notifying the former employee of availability of employment. It is responsibility of the former employee to notify the RCTC of an address change;
 - Request in writing to be removed from the list.
4. An employee reinstated by the RCTC shall have:
 - Their sick leave credited to his or her account as of the date of the layoff;
 - Continue his or her seniority;

- Credit for all service prior to layoff for the purposes of determining accrual of vacation leave;
 - Be placed on the salary range at a step nearest, without exceeding, to his or her former or current pay rate, whichever is higher.
5. Outside of the Reinstatement Policy, the RCTC may elect to offer laid off employees, in order of seniority, a temporary position for not less than 30 days and not more than 480 hours within a six-month period. If an employee accepts such a temporary position, it will have no affect on his/her status on a reinstatement list.

SECTION 10 REPORTS AND RECORD KEEPING

Section 10.1 Personnel Files

The Human Resources Department shall maintain a personnel record for each employee in the service of RCTC showing the name, title of position held, the department to which assigned, salary, changes in employment status, and such other information as may be considered pertinent.

Section 10.2 Change of Status Report

Every appointment, transfer, promotion, demotion, change of salary rate, change of address or any other temporary or permanent change in status of employees shall be reported to the Human Resources Department.

Section 10.3 Personnel Action Form

A personnel action form shall be completed for each employee hired, appointed, promoted, demoted, transferred, disciplined, and terminated by RCTC. The personnel action form shall include all employee information including benefit selection information. A copy of the personnel action form shall be included in the employee's personnel file. No personnel action form is effective unless it is approved by the Executive Director.

Section 10.4 Time Cards

All RCTC employees shall be required to complete and sign a time card recording all hours worked, vacation, sick leave, administrative leave, etc. Time cards shall be signed by the employee's first-line supervisor and forwarded to the Payroll Department no later than 12 noon on the next day following the end of the pay period.

Section 10.5 Records Review and Access

Access to employee records is restricted to the following:

1. Human Resources Department employees with a business need-to-know;
2. The immediate supervisor of an individual employee with a business need-to-know;
3. The Executive Director with a business need-to-know.

Section 10.6 Employee Access

An employee may, in the presence of a Human Resources Department representative, examine his or her personnel records periodically. An employee has the right to ask for a correction or a deletion, or write a statement of disagreement with any item in the file. The employee may not, however, remove any item from the file.

Section 10.7 Disclosure of Employee Information

All requests, whether written or oral, for information about a current, retired or terminated employee must be referred to the Deputy Executive Director responsible for Human Resources. No one other than the Deputy Executive Director responsible for Human Resources will respond to any such requests. Information will be given to duly authorized requests from law enforcement agencies presenting summons, subpoena and judicial orders.

Section 10.8 Protection of Confidentiality

Privacy of employee records refers to the collection, use, access, dissemination, retention and confidentiality of data maintained on employees. RCTC has a commitment to the privacy of personal information kept in its personnel records.

SECTION 11 HARASSMENT-FREE WORKPLACE POLICY

Section 11.1 General Provisions

Section 11.1.1 Purpose

The purpose of this Harassment-Free Workplace Policy (Policy) is to ensure that all employees, contract workers, volunteers, and commissioners are aware of their rights and responsibilities with regard to the prevention of harassment in the workplace, and that the RCTC workplace is free from harassment.

Section 11.1.2 Prior Policies Repealed

In the event that the terms and provisions of this Policy are inconsistent or in conflict with the terms and provisions of any prior RCTC personnel policy and procedures, resolutions, rules and regulations governing the same subject, the terms of this Policy shall prevail and such inconsistent or conflicting provisions or prior resolutions, rules and regulations are hereby repealed.

Section 11.1.3 Term of Policy

This Policy takes effect when adopted by the RCTC. The Policy shall remain in effect unless repealed, in whole or part, by the RCTC. Notwithstanding the foregoing, the RCTC's Executive Committee may, in its sole discretion, add to, delete or otherwise modify this Policy.

Section 11.1.4 Violation of Policy

Violation of the provisions of this Policy by an employee may subject the employee to disciplinary action, up to and including discharge from employment. Violation of the provisions of this Policy by any person who is not an RCTC employee may subject that person to appropriate administrative action.

Section 11.1.5 Distribution of Policy

A copy of this Policy shall be distributed to each employee, contract worker, volunteer, and commissioner.

Section 11.2 Harassment-Free Environment

All employees are entitled to a work environment free from harassment. Discriminatory treatment occurs when an individual uses a protected class as a basis for an adverse employment action or decision. Behavior constitutes harassment when it is unwelcome and unsolicited, offends or otherwise causes distress, and is undertaken because of an individual's protected status.

Harassment creates a negative atmosphere that reduces work productivity and morale, undermines the integrity of the workplace, and destroys professionalism. Harassment includes any unwelcome unsolicited and/or unwanted behavior towards coworkers, subordinates, supervisors, or volunteers, which offends, humiliates, embarrasses, intimidates, or otherwise causes distress because of a person's race, color, creed, religion, sex, national origin, age (40 or older), disability, marital status, ancestry, medical condition (e.g., AIDS/HIV, history of cancer), pregnancy, and sexual orientation. Examples include: the use of derogatory comments, slurs, jokes, pictures, cartoons, or posters.

Section 11.2.7 Good Faith Employment Actions

Good faith employment actions do not constitute harassment. Thus, good faith personnel actions taken by a supervisor or manager, such as: offering constructive feedback or criticism, holding employees accountable, and providing discipline, where appropriate, do not constitute, and should not be mistaken for, harassment or retaliation. Such actions are intended to enhance workplace productivity and/or address work performance, and are within the responsibilities and obligations of RCTC supervisors and managers.

Section 11.2.8 Response to Harassment Allegations

RCTC has a prompt response policy on allegations of harassment. Thus, every report of an alleged incident of harassment in the workplace will be subjected to appropriate investigation. The result of such investigative action may range from informal counseling to disciplinary action for employees, up to and including discharge from employment, the first time they engage in such inappropriate behavior. Prior incidents of harassment may be considered when assessing the facts and circumstances of a later complaint. The result of such investigation may result in administrative action affecting a non-employee's relationship with the RCTC.

Section 11.2.9 Support of Policy

Every employee, volunteer, and commissioner is expected to support and enforce this Policy. Supervisors and managers who observe or know of a harassing situation, and who fail to take corrective action, may be disciplined even if the harassment did not take place in their work unit.

Section 11.3 Sexual Harassment

Section 11.3.1 Sexual Harassment

Sexual harassment is a particular form of harassment, which is most prevalent in workplaces, that creates an offensive working environment. Sexual harassment is unprofessional and not supportive of a high performing work environment. With regard to sexual harassment, as with other forms of harassment, the RCTC has a prompt response policy on all allegations of harassment.

Section 11.3.2 Sexual Harassment Defined

- A. Harassment may consist of offensive verbal, physical, or visual conduct when such conduct is based on or related to an individual's sex,

Submission to the offensive conduct is an explicit or implicit term or condition of employment; and

Submission to or rejection of the offensive conduct forms the basis for an employment decision affecting the employee; or

The offensive conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.
- B. Sexually harassing conduct can occur between people of the same or opposite sex. Sexual harassment can occur between peers, supervisor to

subordinate, subordinate to supervisor, member of the governing body or the public to employee, and within or across department lines.

- C. Written examples of sexual harassment may include letters, e-mails, notes, invitations, which may be perceived as suggestive or obscene.
- D. Examples of what may constitute prohibited harassment include, but are not limited to, the following:
 - Kidding or joking about sex;
 - Recounting one's sexual exploits;
 - Starting or spreading rumors about the sex life of an employee;
 - Hugs, pats, touching, massaging, and similar physical contact;
 - Assault, impeding or blocking movement, or any physical interference with normal work or movement;
 - Revealing parts of the body when such exposure violates common decency;
 - Sexually suggestive or explicit gestures;
 - Cartoons, posters, and other materials referring to sex;
 - Threats intended to induce sexual favors;
 - Continued suggestions or invitations to social events outside the workplace after being told such suggestions are unwelcome;
 - Degrading words or offensive terms of a sexual nature;
 - Prolonged staring or leering at a person.

Section 11.3.3 Policy is Broader than Law

Although actions may not rise to the level of a violation of law, they may still violate this Policy.

Section 11.3.4 Performance Evaluations

Job performance evaluations for supervisors and managers should include a review of their support of this Policy.

Section 11.4 Violation Reporting

Section 11.4.1 Reporting a Violation to RCTC

Any employee who believes this Policy is being violated should immediately bring the matter to the attention of any of the individuals or offices listed below:

- Human Resources Manager
- Deputy Executive Director
- Executive Director

A potential violation involving the Executive Director should be immediately reported to the Human Resources Manager or Deputy Executive Director. The Human Resources Manager or Deputy Executive Director will immediately consult the Commission Chairperson.

Section 11.4.2 Reporting a Violation to External Agencies

In addition to the internal reporting procedure, an employee may file a complaint directly with the following external agencies:

- State of California Department of Fair Employment and Housing (DFEH) as listed in the State Government Offices pages of the telephone directory;
- Federal Equal Employment Opportunity Commission (EEOC) as listed under "Discrimination" in the United States Government pages of the telephone directory.

Section 11.4.3 Confidentiality

When responding to a report of a Policy violation, RCTC will make a reasonable effort to protect the privacy of the individuals involved. However, anonymity and complete confidentiality cannot be guaranteed once a complaint is made, or when inappropriate behavior is made known. While an individual's expressed desire regarding confidentiality will be seriously considered, those wishes must be weighed against the responsibility of the RCTC to investigate possible violations of this Policy and to take corrective and preventive action where appropriate. Information pertaining to complaints will be maintained in confidence to the fullest extent of the law.

Section 11.5 Retaliation

Section 11.5.1 Retaliation Prohibited

Retaliation toward an employee for reporting an alleged violation of this Policy or for participating in an investigation regarding violations of this Policy is unlawful and will not be tolerated. Supervisors and managers are reminded that employees have a right and obligation to report what they believe is a violation of this Policy. Thus, RCTC will not tolerate harassment of employees for fulfilling their obligations under this Policy. Moreover, even subtle retaliation will not be permitted. Such retaliation may include: a change in work assignment or location, uncharacteristically denying leave requests, uncooperativeness toward the person who is the object of the retaliation, unsupported discipline, etc.

SECTION 12 VIOLENCE IN THE WORKPLACE POLICY

Section 12.1 General Provisions

Section 12.1.1 Purpose

The purpose of this Violence in the Workplace Policy (Policy) is to ensure that all employees, contract workers, volunteers, and commissioners are aware of their rights and responsibilities with regard to the prevention of violence in the workplace, and that the RCTC workplace is free from violence.

Section 12.1.2 Prior Policies Repealed

In the event that the terms and provisions of this Policy are inconsistent or in conflict with the terms and provisions of any prior RCTC personnel policy and procedures, resolutions, rules and regulations governing the same subject, the terms of this Policy shall prevail and such inconsistent or conflicting provisions or prior resolutions, rules and regulations are hereby repealed.

Section 12.1.3 Term of Policy

This Policy takes effect when adopted by the RCTC. The Policy shall remain in effect unless repealed, in whole or part, by the RCTC. Notwithstanding the foregoing, the RCTC's Executive Committee may, in its sole discretion, add to, delete or otherwise modify this Policy.

Section 12.1.4 Distribution of Policy

A copy of this Policy shall be distributed to each employee, contract worker, volunteer, and commissioner.

Section 12.1.5 Support of Policy

Every employee, volunteer, and commissioner is expected to support and enforce this Policy.

Section 12.2 Zero Tolerance

Section 12.2.1 Violence-Free Environment

RCTC is strongly committed to ensuring the safety of all its employees and has adopted a "Zero Tolerance Policy" for workplace violence. Consistent with this policy, threats or acts of physical violence, including intimidation, harassment and/or coercion which involves or affects RCTC employees will not be tolerated.

Section 12.3 Acts or Threats of Violence

Section 12.3.1 Acts or Threats of Violence Defined:

"Threats or acts of violence" include conduct against persons or property that is sufficiently severe, offensive, or intimidating to alter the employment conditions, or to

create a hostile, abusive, or intimidating work environment for an employee of RCTC. Although RCTC has a strong commitment to customer service, RCTC does not intend for employees to be subjected to verbal or physical abuse.

Section 12.3.2 Prohibited Conduct

General examples of prohibited workplace violence include, but are not limited to:

- A. Hitting, shoving or otherwise assaulting an individual;
- B. Threatening to harm an individual or his/her family, friends, associates or their property;
- C. Possession of firearms, weapons, or any other dangerous devices on RCTC premises or in RCTC's owned or operated vehicles;
- D. Making harassing or threatening telephone calls, letters or other forms of written or electronic communications;
- E. Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of RCTC;
- F. Harassing surveillance or stalking, which is engaging in a pattern of conduct with the intent to follow, alarm, or harass another individual, that presents a credible threat to the individual and causes that individual to fear for his/her safety or the safety of his/her immediate family;
- G. Making a suggestion or otherwise intimating that an act to injury persons or property is appropriate behavior.

Section 12.4 Reporting Procedure

Section 12.4.1 Reporting a Violation

An employee who believes that he/she has been the victim of workplace related violence or a threat of workplace related violence shall immediately report such to his/her supervisor or to a supervisory or management level employee if the immediate supervisor is not available. Any employee who has knowledge of an incident of workplace related violence or a threat of workplace related violence must immediately report it to his or her immediate supervisor or any other supervisory or management level employee.

Even without an actual threat, employees should report any behavior they have witnessed which they regard as threatening or violent, when that behavior is job related or might be carried out on an RCTC controlled site.

Section 12.4.2 Response to Allegations

Every report of an alleged incident of violence in the workplace will be subjected to appropriate investigation. The result of such investigative action may range from informal counseling to disciplinary action for employees, up to and including discharge from employment, the first time they engage in such inappropriate behavior. The result of such investigation may result in administrative action affecting a non-employee's relationship with the RCTC.

RCTC may also seek a temporary restraining order or injunction on behalf of its employees if the situation warrants such action.

Section 12.5 Disciplinary Action

Section 12.5.1 Violation of Policy

Violation of the provisions of this Policy by an employee may subject the employee to disciplinary action, up to and including discharge from employment. Violation of the provisions of this Policy by any person who is not an RCTC employee may subject that person to appropriate legal or administrative action as appropriate.

Section 12.6 Retaliation

Section 12.6.1 Retaliation Prohibited

Retaliation toward an employee for reporting an alleged violation of this Policy, furnishing information, or for participating in any manner in an investigation regarding violations of this Policy is prohibited and will not be tolerated.

Section 12.7 Training

Section 12.7.1 Employee Training

All employees shall receive training and instruction via video, written materials and/or other means on workplace security practices on a recurring basis both as new hires and during annual training.

SECTION 13 DRUG-FREE WORKPLACE POLICY

section 13.1 General Provisions

Section 13.1.1 Purpose

It is the intent RCTC to maintain a workplace that is free of drugs and alcohol and

to discourage drug and alcohol abuse by its employees. The RCTC has a vital interest in maintaining safe and efficient working conditions for its employees. Substance abuse is incompatible with health, safety, efficiency, and success at the RCTC. Employees who are under the influence of a drug or alcohol on the job compromise the RCTC's interests, endanger their own health and safety and the health and safety of others, and can cause a number of other work related problems, including absenteeism and tardiness, substandard job performance, increased workloads for co-workers, behavior that disrupts other employees, delays in the completion of jobs, inferior quality in products or service, and disruption of customer relations.

To further its interest in avoiding accidents, to promote and maintain safe and efficient working conditions for its employees, and to protect its business, property, equipment and operations, the RCTC has established this policy concerning the use of alcohol and drugs. As a condition of continued employment with the RCTC, each employee must abide by this policy.

The purpose of this Drug-Free Workplace Policy (Policy) is to ensure that all employees, contract workers, volunteers, and commissioners are aware of their responsibilities with regard to the prevention of drug and alcohol abuse in the workplace, and that the RCTC workplace is drug-free.

Section 13.1.2 Prior Policies Repealed

In the event that the terms and provisions of this Policy are inconsistent or in conflict with the terms and provisions of any prior RCTC personnel policy and procedures, resolutions, rules and regulations governing the same subject, the terms of this Policy shall prevail and such inconsistent or conflicting provisions or prior resolutions, rules and regulations are hereby repealed.

Section 13.1.3 Term of Policy

This Policy takes effect when adopted by the RCTC. The Policy shall remain in effect unless repealed, in whole or part, by the RCTC. Notwithstanding the foregoing, the RCTC's Executive Committee may, in its sole discretion, add to, delete or otherwise modify this Policy.

Section 13.1.4 Distribution of Policy

A copy of this Policy shall be distributed to each employee, contract worker, volunteer, and commissioner.

Section 13.1.5 Support of Policy

Every employee, volunteer, and commissioner is expected to support and enforce this Policy.

Section 13.2 Definitions: For purposes of this policy:

Section 13.2.1 Abuse of any Legal Drug

The use of any legal drug: (a) for any purpose other than the purpose for which it was prescribed or manufactured; or (b) in a quantity, frequency, or manner that is contrary to the instructions or recommendations of the prescribing physician or manufacturer.

Section 13.2.2 Controlled Substance

Any drug that is classified by the Drug Enforcement Administration into the five schedules or classes on the basis of their potential for abuse. These include, but are not limited to, marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine.

Section 13.2.3 Illegal Drug

A controlled substance; a legal drug which has not been legally obtained; or a legal drug which was legally obtained, but that is being sold or distributed unlawfully.

Section 13.2.4 Legal Drug

Any drug, including any prescription drug or over-the-counter drug that has been legally obtained and this is not unlawfully sold or distributed.

Section 13.2.5 Possession

An employee who has a prohibited substance on his/per person or otherwise under his/her control.

Section 13.3 Scope

Section 13.3.1 Scope of Policy

The prohibitions and other provisions of this policy apply whenever the interests of the RCTC may be adversely affected, including any time the employee is:

- A. On RCTC premises;
- B. Conducting or performing RCTC business, regardless of location;
- C. Operating or responsible for the operation, custody or care of RCTC equipment or other property; or
- D. Responsible for the safety of others.

Section 13.4 Prohibited Conduct

Section 13.4.1 Alcohol

The following acts are prohibited and subject an employee to discipline, up to and including discharge from employment:

- A. The use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of alcohol in circumstances described in Section 13.3.1, Scope; or
- B. Being under the influence of alcohol.

Section 13.4.2 Illegal Drugs

The following acts are prohibited and subject an employee to discipline, up to and including discharge from employment:

- A. The use, possession, purchase, sale, manufacture, distribution, transportation, or dispensation of any illegal drug or other controlled substance; or
- B. Being under the influence of any illegal drug or other controlled substance.

Section 13.4.3 Legal Drugs

The following acts are prohibited and subject an employee to discipline, up to and including discharge from employment:

- A. The abuse of any legal drug;
- B. The purchase, sale, manufacture, distribution, transportation, dispensation, or possession of any legal prescription drug in a manner inconsistent with law; or
- C. Working while using a legal drug whenever such use might:
 - (1) Endanger the safety of the employee or some other person;
 - (2) Pose a risk of significant damage to RCTC property or equipment; or
 - (3) Substantially interfere with the employee's job performance or the efficient operation of the RCTC's business or equipment.

Section 13.5 Alcohol/Drug Testing

When a supervisor or manager has a reasonable suspicion that an employee is using or is under the influence of drugs or alcohol in violation of this policy, that employee may be required to submit to a blood, urine, or other test or examination designed to detect such use. If an employee refuses to consent and submit to, or fails to otherwise

cooperate in, the testing/examination process where job-related drug or alcohol use is reasonably suspected, the employee will be subject to discipline, up to and including, discharge.

Section 13.5.1 Discretion Not to Discharge

In circumstances other than those described in Section 13.4.1, the Executive Director may choose not to initiate the disciplinary process for termination for a first violation of this policy if the employee satisfactorily completes participation in an approved drug or alcohol assistance or rehabilitation program.

Section 13.5.2 Last Chance Agreement

The RCTC may also allow an employee to enter into a Last Chance Agreement, in lieu of termination, the terms of which shall be established by the RCTC in its sole discretion. The Last Chance Agreement may include, but is not limited to the following:

A. An employee must agree to undertake and to complete successfully, a course of treatment as deemed appropriate by the substance abuse professional and/or rehabilitation program counselor. Any employee who fails to successfully complete the program in a timely manner and/or fails to remain drug free will be terminated in accordance with the Last Chance Agreement.

B. As part of the terms of the referral, employee agrees that the substance abuse professional, Employee Assistance Program, or rehabilitation counselor will report to Human Resources any failure on the part of the employee to cooperate in the rehabilitation program or to progress through the program.

C. Nothing in this subsection should be construed to prohibit the RCTC from terminating an employee for his/her first violation of this policy, when in the discretion of the Executive Director, such termination is warranted by the circumstances.

Section 13.5.3 Criminal Conviction

An employee who is convicted under a criminal drug statute for a violation occurring in the workplace or during any RCTC related activity or event will be deemed to have violated this policy.

Section 13.5.4 Effect of Second Violation

A second violation of this policy at any time will result in initiation of the disciplinary process for termination.

Section 13.6 Disciplinary Action

Disciplinary action will be subject to Section 8.

Section 13.7 Drug-Free Awareness Program

Section 13.7.1 Employee Awareness

As required by state and federal law, the RCTC has established a Drug-Free Awareness Program that is designed to inform employees about the dangers of drug abuse in the workplace and to help assure that employees are familiar with this policy. From time to time, RCTC will provide drug-free workplace training, including current information about the RCTC's Employee Assistance Program.

Section 13.7.2 Management Awareness

Managers and supervisors should be attentive to the performance and conduct of those who work with them and should not permit an employee to work in an impaired condition or otherwise in violation of this policy.

Section 13.7.3 Criminal Convictions

Employees are required by this policy to notify the RCTC of any conviction under a criminal drug statute for a violation occurring in the workplace or during any RCTC related activity or event, not later than five (5) days after any such conviction. When required by federal law, the RCTC will notify any federal agency with which it receives funds of any employee who has been convicted under a criminal drug statute for a violation occurring in the workplace.

Section 13.8 Use of Legal Drugs

Section 13.8.1 Prescribed Legal Drug

The RCTC recognizes that employee may, from time to time, be prescribed legal drugs that, when taken as prescribed or according to the manufacturer's instructions, may result in their impairment. Employees may not work while impaired by the use of legal drugs if the impairment might endanger the employee or someone else, pose a risk of significant damage to RCTC property, or substantially interfere with the employee's job performance. If an employee is impaired by the appropriate use of legal drugs, he/she may not report to work. To accommodate the absence, the employee may use accrued sick leave or vacation. Nothing in this policy is intended to sanction the use of accrued sick leave or vacation time to accommodate absences due to the abuse of legal drugs.

Section 13.9 Unregulated or Unauthorized Conduct

Section 13.9.1 Customary Use of Over the Counter Drugs

Nothing in this policy is intended to prohibit the customary and ordinary purchase, sale, use, possession, or dispensation of over the counter drugs, so long as that activity does not violate any law or result in an employee being impaired by the use of such drugs

in violation of this policy.

Section 13.9.2 Off the Job Conduct

This policy is not intended to regulate off the job conduct, so long as the employee's off the job use of alcohol or drugs does not result in the employee being under the influence of or impaired by the use of alcohol or drugs in violation of this policy.

Section 13.10 Confidentiality

Section 13.10.1 Disclosures to Human Resources

Disclosures made by employees to Human Resources concerning their use of legal drugs will be treated confidentially and will not be revealed to managers or supervisors unless there is an important work related reason to do so in order to determine whether it is advisable for the employee to continue working. Disclosures made by employees to Human Resources concerning their participation in any drug or alcohol rehabilitation program will be treated confidentially.

Section 13.11 Counseling/Employee Assistance

Section 13.11.1 Employee Assistance

RCTC maintains an Employee Assistance Program which provides help to employees who seek assistance for drug or alcohol abuse as well as for other personal problems. Employees who suspect they may have alcohol or drug problems are encouraged to voluntarily seek diagnosis and to follow through with the treatment as prescribed by qualified professionals. Employees who seek assistance could still be subject to disciplinary action if policies have been violated.

SECTION 14 VEHICLE OPERATION POLICY

Section 14.1 Policy

During the course of employment with RCTC, employees may be required to operate their personal vehicles to perform their assigned duties. Designated employees are required to have a valid California driver's license, a satisfactory driving record, and proof of insurance. No employee shall operate or drive any motor vehicle on behalf of RCTC unless the employee is licensed for the class of vehicle to be driven and meets all of the above requirements. Proof of insurance must be submitted to the Human Resources Department on an annual basis by January 15.

Section 14.2 Driver's License

Designated employees in positions that might require travel to outside meetings must be able to obtain a California drivers license and current employees of RCTC are

required to maintain a valid California drivers license as a continuing condition of employment.

Section 14.3 Driver's Record

All applicants for employment with RCTC, where driving is required, are required to possess a satisfactory driving record. On an annual basis, RCTC will perform a Department of Motor Vehicle check on employees that are required to drive to meetings outside of RCTC offices.

Section 14.4 Prohibition on Use of Phones While Driving

As a safety measure, RCTC employees are prohibited using a phone while driving a vehicle on RCTC business.

SECTION 15 EXPENSE REIMBURSEMENT

RCTC shall reimburse employees of RCTC for travel, lodging, meals, and other expenses directly related to the conduct of RCTC business. Consultants are not covered under this policy. Employees are expected to use good judgment in the expenditure of public funds with which they have been entrusted. Employees must substantiate expenses with original receipts, unless otherwise noted.

Section 15.1 Transportation

Transportation costs include, but are not limited to, airplane; train, bus, shuttle, and taxi fares; tolls; parking; car rental; and pool and personal vehicles. Employees should generally take the most direct and commonly traveled routes. Other routes may be authorized when official business requires their use. If an indirect route or stop along the way for personal reasons is taken, the employee will not be reimbursed for the non-business portion of the expenses.

A. Air

Air travel shall be at coach accommodations, unless the cost differential between upper class and coach accommodation is less than \$10, or single class service. Selection of carrier, reservations, and ticketing should be arranged as early as feasible to obtain the greatest discount. Alternative transportation methods, such as a nearby airport and ground transportation, should be considered if the total fares are lower. Employees are encouraged to book air travel using the RCTC Credit Cards maintained by the Chief Financial Officer or Clerk of the Board.

If an airplane ticket is not used, RCTC's Executive Assistant shall be notified so that it can be used for travel purposes by other employees. If an airline ticket exchange or change results in a fare increase, the documentation for

the original fare and fare increase must be submitted with the employee's expense report.

A private vehicle may be used in lieu of air travel if it is more advantageous to RCTC, although prior approval should be obtained. The employee's supervisor should consider the additional time spent driving prior to granting such approval. However, the total documented mileage and all other travel expenses incurred cannot exceed the airfare amount that would have been incurred. RCTC shall only reimburse the lesser of the two means of travel.

If personal travel is combined with the business-related travel by an employee, documentation of the normal cost of the business-related travel should be obtained. The employee shall be reimbursed for only the business-related portion of the travel.

B. Train, Bus, Shuttle, and Taxi Fares

Long-distance train travel arrangements should be made in a fashion similar to that of air travel. Commuter train travel is encouraged, especially if it is more efficient than pool or personal vehicle use, and shall be reimbursed at actual costs. Available courtesy shuttle services should be utilized between airports and meeting locations. Reasonable ground transportation charges (shuttle, taxi, or bus), including gratuities, for business purposes shall be reimbursed at actual costs.

C. Tolls

Toll charges incurred while traveling on highways and bridges for business purposes shall be reimbursed at actual costs.

D. Parking

Employees traveling by air and requiring parking at the airport for 24 hours or less shall be reimbursed at the short-term parking rates. Required parking for more than 24 hours shall be reimbursed at the long-term rates. Hotel parking fees shall be reimbursed at actual costs, including gratuities for valet parking. Parking fees at other locations for business purposes shall be reimbursed at actual costs.

E. Car Rental

Rental cars generally shall not be used except when there is no other economical and convenient transportation available. When there are multiple attendees at the same meeting or conference, only one car shall be rented at RCTC's, including Legislative Body Members, attendees are encouraged to share car rentals to minimize RCTC's expense, when

feasible. Approval or car rentals shall be approved by the employee's supervisor only when reasonable or necessary. Car rental charges shall be limited to the reasonable cost of non-luxury or specialty vehicles. Fuel charges for car rentals shall be reimbursed at actual costs.

F. Pool and Personal Vehicles

An RCTC pool vehicle may be used for official RCTC business by an employee, who has been certified to fuel the pool vehicle. Such certifications may be obtained through training by a certified employee or Bechtel consultant. Use of such vehicle by more than one employee on official RCTC business making the same trip is encouraged. Employees may reserve a pool vehicle in advance through the GroupWise calendar reservation system (Pool Car@rctc.org). Pool vehicles are to be returned to the RCTC parking site at the completion of RCTC business with a full tank of fuel, which will be reimbursed at actual cost. Pool vehicles may be taken home or parked off site if the employee has to attend a meeting for which the employee must leave prior to or return after normal scheduled business hours. The employee must reimburse RCTC, at the Internal Revenue Service (IRS) approved mileage reimbursement rate for employee use of private vehicles, for any miles accumulated using a pool vehicle which exceed the miles necessary for the most direct route to and from the meeting. Pool vehicle keys shall be returned to the appropriate location upon completion of the business trip.

Use of a personal vehicle for business purposes, including travel to and from the airport, shall be reimbursed at the IRS approved mileage reimbursement rate. The mileage claimed shall be from the employee's normal work location to the travel destination or from the employee's home to the destination, whichever is less. Gas, damages, service or repair to a personal vehicle while being used for business purposes are not reimbursable, as such costs are included in the IRS mileage reimbursement rate.

In the event of accident, employees using a personal vehicle for authorized travel in conducting RCTC business must rely on personal insurance for financial protection. Although RCTC's interests are protected by insurance, RCTC may not provide insurance to protect employees against damage to the employee's personal automobile or for damage to the property of others or for death or personal injury to others as a result of an employee using a personal vehicle while conducting RCTC business.

Employees are encouraged to make optimum use of carpooling or available public transit services when traveling to the same business event.

Section 15.2 Lodging

Pre/post-conference or pre/post-meeting lodging is available for regional or national travel requiring extensive travel time and adjustment. Pre-conference/pre-meeting lodging shall be offered for regional travel if such conference/meeting starts at or before 9:00 a.m. Lodging for local travel will be permitted if the length of the conference/meeting is more than one day and the distance is more than 60 miles from RCTC's offices or the employee's residence, whichever is more, or if the employee's presence is necessary for business-related activities before or after the regular conference hours.

Lodging in commercial hotels and motels shall be based on standard accommodations at single occupancy rates. Every effort should be made to obtain the government rate, if available. Additional costs incurred for additional guest(s) of the employee in the same room shall not be reimbursed. Under no circumstances should lodging expenses exceed the conference hotel rate. In instances where conference hotels are filled, the employee should attempt to secure comparable rates at the nearest hotel.

The guarantee of lodging reservations may be made using the RCTC Credit Cards maintained by the Chief Financial Officer or Clerk of the Board. A properly approved Payment Request Form may be submitted for advance payment to the hotel. A close-out folio copy from the hotel should be provided to the Accounting Department upon return from travel.

Section 15.3 Meals

A. Travel

Expenses for an employee's meals, including reasonable tips, shall be reimbursed at a per diem of \$50 per day; however, such per diem may be increased to \$60 for certain urbanized areas (e.g., New York; Washington, D.C.; San Francisco; and Chicago). Receipts for meals claimed using per diem rates are not required; receipts for meals claimed using actual, reasonable costs not to exceed daily per diem are required. Reimbursement of costs related to alcoholic beverages is prohibited.

Employees shall receive a reduced per diem if one or more meals are included in the conference cost or are otherwise covered. The per diem components are as follows:

Breakfast	\$10
Lunch	\$15
Dinner	\$25

When an employee is traveling with other RCTC employees or a Legislative

Body Member, the per diem amount shall be reduced by the cost of the employee's meal(s) paid for by other RCTC employees.

B. Local

Reasonable meal expenses associated with local business meetings, luncheons, or dinners shall be reimbursed at actual costs not to exceed the per diem of \$50 per day, including gratuities. Meal expenses for frequent internal meetings should be discouraged, unless it relates to a specific business matter.

C. Specific Documentation Requirements

Requests for meal reimbursements should include the conference attended or meeting business purpose, date of meal, restaurant name and itemized receipt of food and beverages to ensure no alcoholic beverages are being reimbursed, and listing of attendees, if any, and business relationship. When a per diem is claimed, the conference/meeting purpose and date shall be provided.

Reimbursements for room service or hotel dining meals shall be made upon presentation of an itemized receipt. Hotel folio charges for such meals without an itemized receipt are not acceptable.

Section 15.4 Communications

Expenses for telephone and internet connection charges shall be kept to a minimum and shall be reimbursed for business purposes only. For travel requiring an overnight stay, a telephone charge for one reasonable-length personal call is permitted. Employees in possession of RCTC-provided communication devices are encouraged to use such devices as much as possible rather than incurring hotel access and phone charges.

Section 15.5 Incidentals

Reasonable miscellaneous gratuities, not otherwise noted previously, shall be reimbursed at an amount not to exceed \$10 per day. Such gratuities related to guest(s) accompanying an employee on business travel shall not be reimbursed.

Laundry/dry cleaning charges shall not be reimbursed, unless the employee's travel is more than one week in duration. Items of a personal nature including, but not limited to, in-room movies, tours and entertainment, spas and gyms, barber, magazines, shoe shines, travel insurance, purchase of clothing or toiletries, fines or traffic violations, and excess baggage costs are not eligible for reimbursement.

Section 15.6 Registration Fees

Whenever possible, registration and payment for registration fees for approved classes, seminars, and conferences shall be made in advance by submitting a properly approved payment request form. Frequently, early registration discounts are offered. If a conference needs to be cancelled, such cancellation shall be made in accordance with stipulated dates in order to avoid cancellation charges or penalties. When an employee's registration is late and cannot be paid through the regular accounts payable process, the cost of registration incurred by the employee shall be reimbursed with an appropriate receipt.

Section 15.7 Memberships and Professional Certifications

Employees are encouraged to participate in professional and local organizations and maintain professional certifications which are related to the employee's specific job responsibilities. Dues for individual memberships in organizations and expenses for professional certifications are reimbursable only when such memberships provide a specific benefit to RCTC and have prior approval of the employee's supervisor.

Section 15.8 Expenditures in Excess of Allowable Expenses

The Executive Director or Deputy Executive Director is authorized to interpret these policies and to approve exceptional reimbursements in excess of limits and standards established in this policy when, in the judgment of the Executive Director or Deputy Executive Director, such expenses are warranted. Expenses in excess of the allowable amounts for meals or lodging may be reimbursed upon presentation of a memorandum of explanation/justification attached to the expense report. All expenses must be clearly substantiated prior to reimbursement. Unnecessary or exorbitant expenses will be disallowed.

Section 15.9 Travel Advance

The Executive Director or Deputy Executive Director may grant a travel advance up to \$200 to an employee traveling on RCTC business in excess of one day to defray the expenses of such travel only under extraordinary circumstances. This can be done by completing a Payment Request Form and obtaining appropriate approvals five days prior to date of business travel. An accounting of actual expenses incurred, including required receipts, must be provided on an Expense Claim Form, and any unused amounts shall be returned to the RCTC Accounting Department.

Section 15.10 Documentation

All expenses for which reimbursement is requested shall be fully documented as to date, amount, and business purpose. Exclusive of the per diem, receipts are required for all expenses of \$25 or more. Receipts are encouraged for expenses under \$25.

Expense Claim Forms must be properly completed and approved as well as submitted with required documentation and receipts attached to the RCTC Accounting Department. Employees are encouraged to submit expense claims on a timely, regular basis. Expense Claim Forms are due on Monday/Wednesday by 12:00 p.m. for regular Tuesday/Thursday accounts payable check processing.

SECTION 16 ELECTRONICS COMMUNICATIONS POLICY

Section 16.1 General Provisions

Section 16.1.1 Purposes and Scope

The purpose of this Electronic Communications Policy (Policy) is to ensure that all employees, contract workers, volunteers, and commissioners are aware of the authorized and unauthorized uses of the RCTC electronic communications resources, as defined herein, as well as disclosure of contents and records stored on the electronic communications resources.

Section 16.1.2 Electronic Communications Resources Defined

Electronic communications resources include all equipment and software that retain, transmit, copy, modify, analyze or process information in any form. Electronic communications resources include, but are not limited to, the RCTC's telephone system, voice mail system, mainframe computers, desktop and laptop computers, computer networks, printers, scanners, facsimile (fax) machines, databases, cellular phones, personal digital assistants (PDAs), internet access, internet browsers, utilities and operating systems and other electronic communications systems provided by the RCTC.

Section 16.1.3 Prior Policies Repealed

In the event that the terms and provisions of this Policy are inconsistent or in conflict with the terms and provisions of any prior RCTC personnel policy and procedures, resolutions, rules and regulations governing the same subject, the terms of this Policy shall prevail and such inconsistent or conflicting provisions or prior resolutions, rules and regulations are hereby repealed.

Section 16.1.4 Term of Policy

This Policy takes effect when adopted by the RCTC. The Policy shall remain in effect unless repealed, in whole or part, by the RCTC. Notwithstanding the foregoing, the RCTC's Executive Committee may, in its sole discretion, add to, delete or otherwise modify this Policy.

Section 16.1.5 Violation of Policy

Violation of the provisions of this Policy by an employee may subject the employee

to disciplinary action, up to and including discharge from employment. Violation of the provisions of this Policy by any person who is not an RCTC employee may subject that person to appropriate administrative action.

Section 16.1.6 Distribution of Policy

A copy of this Policy shall be distributed to each employee, contract worker, volunteer, and commissioner.

Section 16.2 Ownership, Authorization and Privacy

Section 16.2.1 Ownership

E-mail, fax, telephonic voice mail, cellular phones, internal RCTC websites, Internet access and other electronic communications systems and resources are provided for the purpose of conducting official business. All electronic communications of any type generated by employees with RCTC equipment or stored on RCTC equipment are the property of the RCTC and, therefore, are not considered private. Upon termination of employment, no employee shall remove any software or data from RCTC-owned or leased computers.

Section 16.2.2 Authorization

Access to the RCTC's electronic communication resources is within the sole discretion of the RCTC. Generally, employees are given access to the RCTC's various technologies based on their job functions. Only employees whose job performance will benefit from the use of the electronic communication resources will be given access to the necessary technology.

Section 16.2.3 No Expectation of Privacy

All electronic communication resources remain the property of RCTC and are primarily for official RCTC use; therefore, employees shall have no expectation of privacy in documents or other materials they write, receive, store or send when using these resources. All internal employee transactions and transactions on the Internet from RCTC computers, including e-mail, may be considered public information and records of these transactions may be requested by anyone at any time, subject to certain Public Records Act exceptions and attorney-client privilege material.

The RCTC recognizes that there may be incidental occasional personal use of cellular phones, e-mail, or voice mail, but these messages will be treated the same as other messages. Since personal messages can be accessed by the RCTC management without prior notice, employees should not use e-mail or voice mail to transmit messages they do not want read or listened to by a third party.

Section 16.3 Disclosure

Section 16.3.1 Access and Disclosure

RCTC officials reserve the right to access and disclose all products, materials and contents of the electronic communications systems and resources for any purpose, Access and disclosure may occur because of situations indicating impropriety, violation of RCTC policies, legal requirements, suspected criminal activities, breach of system security, to monitor employee performance and conduct or for any other reason RCTC deems appropriate.

Section 16.4 Prohibited Uses

Section 16.4.1 Prohibited Uses of Electronic Communications Resources

Prohibited uses of the RCTC's electronic communications resources include, but are not limited to the following:

- Installing programs on the RCTC's computer system without prior written consent of the Clerk of the Board;
- Unauthorized copying of RCTC software programs for personal use. No employee shall install pirated, personal or non-licensed software, data, entertainment software, music or games on RCTC-owned or leased PCs, laptops, or PDAs, or violate any copyright or licensing software laws;
- Using another employee's password to attempt to gain access to that employee's computer, e-mail, mobile messaging, telephonic voice mail, internet access or other electronic communications system or resources without prior consent of their Department Director or the Clerk of the Board;
- Connecting computers not owned or leased by the RCTC to RCTC's information systems network without the prior written consent of the Clerk of the Board;
- Disclosing access codes, log-on or passwords or otherwise making the RCTC electronic resources available to persons not authorized to have such access;
- Using RCTC computer resources for private business or commercial uses not intended to benefit the RCTC;
- Violating any federal, state or local laws in the use of RCTC electronic communications systems.

Section 16.5 Authorized Use of E-mail and Telephone Systems

Section 16.5.1 Policy for Use of E-mail and Telephone System

It is the policy of RCTC that e-mail systems will be used primarily for official business. Personal use shall be limited to those actions authorized herein. E-mail

communication is not private or confidential; therefore, E-mail users shall operate on the assumption that e-mail may be, in addition to monitoring by RCTC, subject to discovery in a court proceeding.

RCTC does understand that employees occasionally need to use the telephone system to make or receive personal calls. The employee should attempt to make personal calls during non-working hours (meal period or breaks) or a time that does not interrupt the flow of work within the department. Personal phone calls shall not reduce the employee's job performance. Excessive use of the RCTC phone system for personal calls is prohibited and may lead to disciplinary action.

Users may use the RCTC's e-mail and telephone systems for the following incidental and personal uses so long as such use does not interfere with the user's duties, does not conflict with RCTC's business, is at no cost to RCTC, and does not violate either this or any other RCTC policy:

- To send and receive occasional personal e-mail and other communications;
- To use the telephone system for brief and necessary personal calls, at the caller's expense for toll calls.

Section 16.6 Guidelines for the Use of E-mail

Section 16.6.1 Use of E-mail

The RCTC provides electronic mail for business purposes as necessary and desirable to meet RCTC organizational needs and goals. RCTC considers e-mail as an important means of communication and recognizes the importance of proper e-mail content and timely replies in conveying a professional image and delivering good customer service. Users should take the same care in drafting an e-mail as they would for any other communication.

Section 16.6.2 Prohibited Use

The following unacceptable uses of the RCTC's electronic mail system include, but are not limited to:

- Sending threatening, abusive, obscene, offensive, lewd, profane or harassing messages;
- Sending messages that violate the RCTC's Sexual Harassment Policy;
- Sending "chain letters" or similar correspondence;
- Sending copies of documents in violation of copyright laws;

- Any other use that would be deemed inappropriate for a business office.

Section 16.7 Web Internet Usage

Section 16.7.1 Purpose

The purpose of the Internet is to distribute information to public constituencies or to research various RCTC related matters. During business hours, an employee's Internet access is for business-related purposes. However, employees may use the Internet for non-business research or browsing during meal periods, breaks or outside of work hours, provided that users adhere to all RCTC policies. All existing RCTC policies apply to an employee's conduct on the Internet, including but not limited to those that deal with privacy, misuse of RCTC property, harassment, and confidentiality.

Section 16.7.2 Improper Use of the Internet

Listed below are examples of prohibited uses of the RCTC Internet system. This list is not exhaustive and common sense and good judgment should be used in determining whether the user is engaging in an activity that will violate this policy. If an employee has a question regarding whether an activity is permitted, he/she shall get the permission of his/her Department Director, Manager or Supervisor before proceeding with the Internet activity.

Examples of Inappropriate/Prohibited Use:

- Generating, sending, requesting, receiving or archiving material in any form which contains any comment or image that is discriminatory, offensive, defamatory or harassing in nature;
- Displaying sensitive or offensive material resulting in a perceived "hostile environment" to coworkers;
- Conducting personal business from the RCTC's server, i.e., placing or advertising items for sale, except in the designated Intranet site provided by the RCTC for this purpose;
- Conducting illegal activities (e.g. gambling, placing wagers or bets, etc.);
- Copyright infringement, unauthorized downloading or forwarding of protected information.

Section 16.8 Security and Audits

Section 16.8.1 Security Devices

RCTC has installed a variety of programs and devices to ensure the safety and

security of the RCTC's Electronic communications resources. Any employee found tampering or disabling any of the security devices will be subject to disciplinary action, up to and including discharge from employment.

Section 16.8.2 Audits

RCTC may perform auditing activity or monitoring to determine compliance with these policies. Audits of software and data stored on the electronic communications resources may be conducted without notice at any time.

SECTION 17 EMPLOYEE GIFT LIMITATION POLICY

All RCTC employees shall demonstrate, and be dedicated to, the highest ideals of honor and integrity in all relationships involving their employment. Employees shall conduct themselves in an ethical manner at all times in order to merit the respect, trust, and confidence of others.

Gifts extended to all employees, such as a basket of fruit, nuts, or candy is not covered under this policy. In addition, promotional items such as calendars or pens are not covered. Hospitality received by an employee as part of a seminar, convention or RCTC sponsored event is not covered, provided that such hospitality is open to all those attending the event.

The rules set forth herein are supplemental to those set forth in the Political Reform Act of the State of California (Governmental Code Section 81000 et seq.).

For purposes of this Section, "gift" shall have the same meaning as defined in Section 82028, as amended, of the California Government Code.

"Gift" means, except as provided below, any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

The term "gift" does not include:

- A. Funds, items or services donated directly to RCTC for which the employee receives no personal monetary benefit or ownership interest;
- B. Informational material such as books, reports, pamphlets, calendars, or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material";
- C. Gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation under

Section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes;

D. Gifts from an employee's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; unless the donor is acting as an agent or intermediary for any person not covered by this Subsection;

E. Campaign contributions required to be reported under state law;

F. Any devise or inheritance;

G. Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).

Violation of this policy may result in discipline up to and including discharge from employment.

SECTION 18 FAMILY AND MEDICAL LEAVE POLICY

Section 18.1 Scope

In accordance with the federal Family and Medical Leave Act (hereinafter "FMLA"), and the California Family Rights Act (hereinafter "CFRA"), RCTC has adopted the following policy regarding the rights and responsibilities of employees absent for a family and medical leave purpose. This policy shall supersede the provisions of any RCTC policy, practice, rule or procedure to the extent that such policy, practice, rule or procedure is in conflict or inconsistent with this policy.

Section 18.2 Purpose of Leave

In accordance with the CFRA, FMLA and this policy, RCTC shall provide up to 12 workweeks of CFRA and/or FMLA leave in a 12-month period to any eligible employee who requests leave for any of the following purposes:

- A. The birth or adoption of a child by the employee or placement of a child in foster care with the employee (all family and medical leave taken for one of these purposes must be concluded within one year of the event);
- B. To care for a child, parent or spouse of the employee who has a serious health condition. Under CFRA, an employee may also use leave to care for a registered domestic partner who has a serious health condition; or
- C. For an employee's own serious health condition which makes the employee unable to perform the essential functions of the employee's position.

18.3 Eligibility

Employees are eligible for family and medical leave if, at the time leave commences, all of the following apply:

- A. The employee must have at least 12 months (not necessarily consecutive months) of service with RCTC; and

- B. The employee must have worked at least 1,250 hours for RCTC during the 12 months immediately prior to the period of FMLA and/or CFRA leave.

18.4 Special Rules for Pregnancy Disability Leave

- A. The right to take CFRA leave is separate and distinct from the right to take a pregnancy disability leave. In other words, leave taken by an employee disabled by pregnancy, childbirth or related medical conditions is not family and medical leave under the CFRA, even though it may be FMLA leave.
- B. In light of the above, RCTC may require that pregnancy disability and FMLA leave run concurrently (hereinafter “pregnancy disability/FMLA leave”), but CFRA leave does not run concurrently with a pregnancy disability leave. This means that, at the end of the employee’s period(s) of pregnancy disability and/or pregnancy disability/FMLA leave, whichever occurs first, a CFRA-eligible employee may take up to 12 workweeks of CFRA leave due to the birth of her child or for other family and medical leave purposes.
 - (i) Where an employee has exhausted her entitlement to pregnancy disability/FMLA leave prior to the birth of her child, and her health care provider certifies that continued leave is medically necessary, RCTC may, but is not required to, allow the employee to utilize CFRA leave prior to the birth of her child.
 - (ii) The maximum combined leave entitlement for pregnancy disability, FMLA and CFRA leave for the birth of a child is four months and 12 workweeks. This assumes that the employee exhausted all four months of pregnancy disability leave; she exhausted her entitlement to up to 12 weeks of FMLA leave during the period of pregnancy disability leave; and the employee requested and was eligible for a 12-week CFRA leave following the birth of her child.
- C. For more information regarding your rights to pregnancy disability leave, see RCTC’s pregnancy disability leave policy and/or contact the Human Resources Department.

18.5 Special Rules Regarding the Employment of Spouses/Parents

- A. Where CFRA and FMLA leave are running concurrently, and both the “husband and wife” are employed by RCTC, their combined entitlement to CFRA/FMLA leave for the birth or adoption of a child by the employees or placement of a child in foster care with the employees shall be limited to 12 workweeks in a 12-month period between the husband and the wife.
- B. Where CFRA leave is running separate and apart from FMLA leave (such as following a pregnancy disability/FMLA leave), and both “parents” are employed by RCTC, their combined entitlement to CFRA leave for the birth, adoption or foster care placement of their child shall be limited to 12 workweeks in a 12-month period between the two parents. This provision applies to the parents of the child, regardless of their marital status.

- C. The provisions above do not affect the employees' right to use any remaining CFRA and/or FMLA leave for any other qualifying purpose(s).

Section 18.6 Calculating the 12-Month Period

For the purpose of this policy, "12-month period" shall mean a 12-month period measured forward from the date the employee first uses family and medical leave.

Section 18.7 Employee Notice Requirements

- A. The employee, or a spokesperson for the employee (e.g., spouse, adult family member, or other responsible party), must notify the employee's supervisor or the Human Resources Department, preferably in writing, as soon as it becomes apparent that the employee will be needing leave for a family and medical leave purpose.
- B. Employees must provide at least 30 calendar days advance notice before leave is to begin if the need for leave is foreseeable, or notice as soon as possible for unforeseeable events.
- C. The employee must consult with his/her supervisor regarding and must make a reasonable effort to schedule any planned medical treatment or supervision so as to minimize disruption of RCTC operations. Actual scheduling is, however, subject to the approval of the patient's health care provider.
- D. Failure to comply with these notice requirements is grounds for, and may result in, deferral of the requested leave until the employee complies with these provisions. However, RCTC will not deny a leave, the need for which is an emergency or is otherwise unforeseeable, on the basis that the employee did not provide advance notice of the need for the leave.
- E. Where leave is requested on the basis of a serious health condition affecting an employee's family member, RCTC may require evidence of the family relationship.

18.8 RCTC Determination and Notification to Employee

- A. RCTC shall designate leave, paid or unpaid, as CFRA or CFRA/FMLA leave based on information provided by the employee or the employee's representative.
- B. In the event that RCTC determines that a leave of absence is for an FMLA family and medical leave purpose, RCTC shall, within two business days, notify the employee of its determination that the leave constitutes FMLA and/or CFRA leave. Such notice may be oral or in writing. However, any oral notice shall be confirmed in writing by no later than the employee's next payday (the subsequent payday where the next payday is less than a week away).

- C. Where CFRA leave is running separate and apart from FMLA leave (such as following a pregnancy disability/FMLA leave), RCTC shall respond to the leave request as soon as possible and, in any event, no later than 10 calendar days after receiving the request. Once given, approval of CFRA leave shall be deemed retroactive to the first day of the leave.
- D. RCTC's written notice to the employee shall, among other things:
 - (i) Specify the obligations of the employee while on family and medical leave and explain the consequences of a failure to meet these obligations;
 - (ii) Provide notice to the employee in the event that a period of paid leave is to be counted as family and medical leave;
 - (iii) Provide notice to the employee in the event that RCTC requires paid leave to be substituted for unpaid leave.
- E. Where the employee fails to provide sufficient information until after the leave commenced, RCTC may make a preliminary determination that the employee's absence is for a family and medical leave purpose, subject to later confirmation by medical certification.
- F. If either RCTC or the employee designates an absence as family and medical leave after the leave of absence has begun, such as when an employee advises RCTC during the leave of absence or after his/her return to work that the entire leave of absence or any part of it was for a family and medical leave purpose, that portion of the leave period which was for a family and medical leave purpose may be retroactively counted as family and medical leave.
- G. If the employee fails to advise RCTC that a leave of absence was for a family and medical leave purpose either, before, during or within two days after he/she returns to work, the employee will not be able to assert the protections of the family and medical leave laws for the leave of absence.
- H. Any dispute between RCTC and an employee as to whether paid leave qualifies as family and medical leave should be resolved through discussions between the employee and RCTC.

18.9 Medical Certification

- A. An employee's request for leave due to a serious health condition affecting the employee or the employee's child, parent, spouse, or registered domestic partner must be supported by a medical certification issued by the health care provider of the individual requiring care.
 - (i) For leave to care for the employee's child, parent, spouse, registered domestic partner, this certification need not identify the serious health condition involved, but shall contain:

- (a) The date, if known, on which the serious health condition commenced;
 - (b) The probable duration of the condition;
 - (c) An estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, spouse or registered domestic partner; and
 - (d) A statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent, spouse or registered domestic partner.
 - (ii) For leave to care for the employee's own serious health condition, this certification need not, but may, at the employee's option, identify the serious health condition involved. It shall contain:
 - (a) The date, if known, on which the serious health condition commenced;
 - (b) The probable duration of the condition; and
 - (c) A statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of his or her position.
- B. Medical certification is not required where leave is requested for the birth, adoption or placement of a child in foster care with the employee.
- C. Medical certification must be provided within 15 calendar days of RCTC's request and generally prior to the commencement of a foreseeable leave of absence, unless it is not practicable to do so despite the employee's diligent, good faith efforts to do so.
- D. With regard to leave due to the employee's own serious health condition:
- (iii) Where RCTC has reason to doubt the validity of the employee's medical certification, RCTC may require, at RCTC's expense, that the employee obtain a second medical opinion from a health care provider designated by RCTC and who is not regularly used by RCTC for this purpose; and
 - (iv) Where the second opinion differs from the first, RCTC may require that the employee obtain a third and binding medical opinion, again at RCTC's expense, from a health care provider designated or approved jointly by RCTC and the employee.
- E. RCTC may require recertification only where additional leave is requested.

- F. RCTC may also require certification at the time the employee seeks reinstatement from family leave due to the employee's own serious health condition that the employee is fit for duty and able to return to work.

18.10 Minimum Period of Leave

- A. Leave may be taken in one or more periods and does not have to cover a continuous period of time.
- B. Where leave is taken due to the serious health condition of the employee or his/her parent, child or spouse, the minimum leave increment shall be the shortest period of time RCTC's payroll system uses to account for absences or use of leave.
- C. Where CFRA leave is running separate and apart from FMLA leave (such as CFRA leave following pregnancy disability/FMLA leave), the minimum duration for leave taken in connection with the birth, adoption or foster care placement of a child is two weeks, except that the RCTC shall grant a request for CFRA leave of less than two weeks on any two occasions during the one year period following the birth or placement of the child with the employee.

18.11 Temporary Transfers

- A. Employees may take intermittent leave or leave on a reduced schedule due to a serious health condition of the employee, or the employee's child, parent, spouse or registered domestic partner, whenever medically necessary.
- B. If an employee requests intermittent leave, RCTC may require a temporary transfer to an "alternative position" for which the employee is qualified, and which:
 - (i) Provides equivalent pay and benefits; and
 - (ii) Better accommodates recurring periods of leave.
- C. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work schedule.

18.12 Continuation of Health and Other Benefits

- A. RCTC will continue group health care benefits during the period of leave, up to a maximum of 12 workweeks in any 12-month period, on the same terms and conditions as applied prior to the commencement of family and medical leave. For the purposes of continued group health coverage, the 12 weeks commences on the first day of pregnancy disability, CFRA or FMLA, whichever occurs first.

- B. During any period of leave which is unpaid, RCTC may discontinue payments made on behalf of the employee to a non-group health plan, employee retirement plan or other benefit plan, and the leave period shall not be counted for purposes of time accrued under a retirement plan.
- C. In the event that the employee is responsible for any portion of the group health insurance premium or for any other premium payment(s), the employee should, prior to the commencement of leave, make arrangements with the Human Resources Department for the submission of such payments.
- D. If the employee fails to return after the period of leave has expired, RCTC may be entitled to reimbursement for any benefit premiums paid by RCTC during a period of unpaid family and medical leave, unless:
 - (i) The reason for the employee's failure to return is due to the continuation, recurrence or onset of a serious health condition of the employee or the employee's child, spouse, parent, or registered domestic partner;
 - (ii) Other circumstances beyond the control of the employee as set forth in applicable law and regulations.
- E. Employees who are not eligible for continued paid coverage or whose entitlement to continued paid coverage has expired may continue their group health insurance coverage through RCTC pursuant to federal and state COBRA guidelines.

18.13 Coordination of CFRA and FMLA Leave

Each day of leave for a family and medical leave purpose, other than disability due to pregnancy, childbirth or related medical conditions, counts as a day of FMLA and CFRA leave.

18.14 Substitution of Leave

- A. RCTC requires that sick leave be used to provide pay during any period of otherwise unpaid family and medical leave due to the employee's own serious health condition. Sick leave may also be used in connection with family and medical leave taken for other purposes in accordance with applicable RCTC policy(ies) and upon the mutual agreement of RCTC and the employee.
- B. RCTC requires that vacation and other accrued time off (other than sick leave and compensatory time off) be used for any family and medical leave qualifying event other than pregnancy disability leave. Where pregnancy disability leave and FMLA leave are running concurrently, accrued vacation may be used at the employee's option.

- C. CFRA and FMLA leave may also run concurrently with a leave of absence covered by workers' compensation or temporary disability and an eligible employee may coordinate the use of sick leave and/or vacation to supplement workers' compensation or temporary disability insurance payments.

18.15 Reinstatement

- A. Where a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated to the same or a comparable position by the date agreed upon.
- B. If the reinstatement date differs from RCTC's and employee's original agreement, the employee will be reinstated to the same or a comparable position within two business days, where feasible, after the employee notifies RCTC of his or her readiness to return.
- C. The employee's use of family and medical leave may not result in the loss of any employment benefit that the employee earned or was entitled to before going on family and medical leave. Upon reinstatement, all employee benefits will be resumed without any new qualification period, physical examination or exclusion of preexisting conditions.

18.16 Denial of Reinstatement

- A. An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during family and medical leave. Thus, for example, if an employee is laid off while on family and medical leave, RCTC's responsibility to maintain group health plan benefits and reinstate the employee ceases at the time the employee is laid off.
- B. RCTC may also deny reinstatement to:
 - (i) An employee who gives notice that he or she no longer desires to return to employment with RCTC;
 - (ii) An employee who fails to provide certification that he or she is fit for duty and able to return to work after taking family and medical leave based on the employee's own serious health condition; or
 - (iii) A salaried "key employee" who is among the highest-paid 10% of employees employed within 75 road miles of the employee's worksite, if:
 - (a) It is necessary to prevent substantial grievous economic injury to the operations of RCTC,

- (b) Notice is given to the employee at the time of the leave request that RCTC cannot deny the leave request, but that RCTC intends to deny reinstatement, and
- (c) The employee is given a reasonable opportunity to return to employment after receiving such notice, but elects not to return, or
- (d) After the leave expires, the employee requests reinstatement, and RCTC makes a determination at the time of the reinstatement request and notifies the employee of its determination that reinstatement would cause substantial grievous economic injury to the operations of RCTC.

18.17 Benefits Accrual

Employees on family and medical leave will not continue to accrue (i) vacation; (ii) sick leave; or (iii) other seniority based benefits during unpaid family and medical leave.

18.18 Additional Information

Should you have any questions about your rights and responsibilities in connection with family and medical leave, contact the Human Resources Department.

SECTION 19 PREGNANCY LEAVE POLICY

19.1 Eligibility

In accordance with applicable law and this policy, female employees are eligible for a leave of absence and/or transfer on account of pregnancy, regardless of length of service with RCTC.

19.2 Pregnancy Disability Leave

- A. A woman is “disabled by pregnancy” if, in the opinion of her health care provider, she is unable to work at all or is unable to perform one or more of the essential functions of her job or to perform these without undue risk to herself, to the successful completion of her pregnancy, or to other persons.
- B. Pregnancy disability leave is for any period(s) of actual disability caused by pregnancy, childbirth, or related medical conditions. Where medically advisable, pregnancy disability leave may be taken for a reasonable period of time, up to four months per pregnancy (eighty-eight workdays for a full-time employee). Employees who regularly work more or less than a 40-hour workweek are entitled to such leave on a pro rata basis.

19.3 Leave Due to Normal Childbirth

Even if the employee is not disabled by pregnancy, childbirth or related medical conditions, a pregnant employee is entitled to up to six weeks of leave for normal childbirth. Employees working more or less than a 40-hour workweek are entitled to such leave on a pro rata basis.

19.4 Leave/Transfer and Other Reasonable Accommodation Requests

- A. Pregnant employees should notify the Human Resources Department as soon as possible regarding their intent/need to take a leave of absence or to transfer due to pregnancy, childbirth or related medical conditions. Such notice should specify the anticipated timing and duration of the leave or transfer.
- B. Where the need for a leave of absence or transfer is foreseeable, employees must provide such notice at least 30 days prior to the date the leave or transfer is to begin. Further, employees must consult with the Human Resources Department regarding the scheduling of any planned medical treatment or supervision so as to minimize any disruption to RCTC’s operations. (Actual scheduling of the leave/transfer is subject to the approval of the employee’s health care provider.)
- C. Where 30 days advance notice is not possible, notice must be given as soon as possible. However, RCTC will not deny a pregnancy disability

leave or transfer where the need for leave is an emergency or was otherwise unforeseeable.

- D. RCTC shall respond to the leave or transfer request as soon as practicable and, in any event, no later than 10 calendar days after receiving the request. RCTC shall attempt to respond to the leave request before the date the leave is due to begin. Once given, approval shall be deemed retroactive to the date of the first day of the leave.
- E. Reasonable accommodation other than leave or transfer will be granted upon request. Such requests must be supported by a written certification from the employee's health care provider.

19.5 Intermittent Leave

Pregnancy disability leave need not be taken in one continuous block. It may be taken on an as-needed basis, intermittently or on a reduced work schedule.

- A. If it is medically advisable and foreseeable that an employee will be taking intermittent leave or leave on a reduced work schedule, RCTC may require that the employee transfer temporarily to an available alternative position.
- B. An "alternative position" is one that provides pay and benefits equivalent to those of the employee's regular position and better accommodates recurring periods of leave than the employee's regular job. It does not have to have equivalent duties. However, the employee must be qualified for the position.
- C. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work schedule.

19.6 Temporary Transfers

- A. An employee may request a temporary transfer to a position with less strenuous or less hazardous duties when the employee's health care provider certifies that such a transfer is medically advisable.
- B. Temporary transfers will be granted where appropriate and when RCTC is able to reasonably accommodate the transfer, provided that the transfer would not require RCTC to:
 - (i) Create additional employment;
 - (ii) Discharge another employee;
 - (iii) Violate a collective bargaining agreement;
 - (iv) Transfer a more senior employee in order to make room for the pregnant employee's transfer; or

- (v) Promote or transfer the employee or any other employee to a position for which he/she is not qualified.

19.7 Certifications

- A. As a condition of taking a pregnancy disability leave or transfer, the employee must provide medical certification from her health care provider that she is disabled due to pregnancy, childbirth or related medical conditions and/or that a transfer to an alternative position is medically advisable.
- B. The medical certification should include:
 - (i) The date on which the employee become disabled due to pregnancy or the date of the medical advisability for the transfer;
 - (ii) The probable duration of the period(s) of disability or the period(s) for the advisability of the transfer; and
 - (iii) A statement that, due to the disability, the employee is unable to work at all or to perform any one or more of the essential functions of her position without undue risk to herself, to the successful completion of her pregnancy, or to other persons or a statement that, due to pregnancy, the transfer is medically advisable.

19.8 Recertification

Recertification may be required where additional time is requested.

19.9 Fitness for Duty

The employee must provide certification from her health care provider of her fitness for duty prior to being reinstated.

19.10 Pay During Leave

- A. Pregnancy disability leave is unpaid leave. However, the employee may request or RCTC may require that the employee use accrued sick leave to provide pay during the period of leave.
- B. An employee may also elect, at her option, to use accrued vacation or other accrued paid time off, if any, to provide pay during pregnancy disability leave.
- C. The employee may also be eligible to receive temporary disability insurance payments during her pregnancy disability leave, and to coordinate the use of any accrued sick leave and/or vacation to supplement temporary disability insurance payments.

19.11 Reinstatement

- A. The employee is entitled to be reinstated to the same or a comparable position upon release to return to work by her health care provider.
 - (i) Where a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated by the date agreed upon, provided that the employee has provided medical certification of her fitness for duty.
 - (ii) If the actual reinstatement date differs from the original agreement, the employee will be reinstated within two business days, where feasible, after the employee notifies RCTC of her readiness to return and provides medical certification of her fitness for duty.
 - (iii) Failure to return to work, without good cause, on the next work day following the expiration of pregnancy disability leave may be grounds for termination of employment.
- B. The employee is not, however, entitled to any greater right of reinstatement than she would have had if she had not taken leave. Thus, reinstatement to the “same position” may be denied if:
 - (i) For legitimate business reasons unrelated to the employee having taken a pregnancy disability leave or transfer, the employee would not otherwise have been employed in her same position at the time reinstatement is requested; or
 - (ii) Each means of preserving the job or duties for the employee (such as leaving it unfilled or filling it with a temporary employee) would substantially undermine RCTC’s ability to operate safely and efficiently.
- C. Also, the employee has no greater right to reinstatement to a “comparable position” or to other benefits and conditions of employment than an employee who has been continuously employed. Thus, reinstatement to a comparable position may be denied if:
 - (i) There is no comparable position open on the employee’s scheduled date of reinstatement or within 10 working days thereafter; or
 - (ii) The pregnancy disability leave does not qualify as leave pursuant to the federal Family and Medical Leave Act (“FMLA”) and a comparable position is available, but filling the available position with the returning employee would substantially undermine RCTC’s ability to operate safely and efficiently.
- D. In the event that the employee takes family and medical leave under the California Family Rights Act (“CFRA”) following her pregnancy disability

leave for the birth of her child, the employee's right to reinstatement shall be governed by the CFRA and RCTC's Family and Medical Leave Policy rather than these provisions.

19.12 Seniority and Benefits

- A. In general, employees taking pregnancy disability leave will be treated the same as other similarly situated employees taking disability leave.
- B. The employee returning from a pregnancy disability leave shall return with no less seniority than she had when the leave commenced for purposes of layoff, recall, promotion, job assignment, and seniority-related benefits such as vacation.
- C. The employee shall retain employee status during the period of leave, and the leave shall not constitute a break in service for purposes of longevity and/or seniority.

19.13 Federal Family and Medical Leave

In accordance with the FMLA, RCTC shall count each day of pregnancy disability leave against an eligible employee's entitlement to up to 12 weeks of federal family and medical leave under the FMLA.

19.14 Group Health Insurance

Pursuant to the FMLA, where an eligible employee is on pregnancy disability/FMLA leave, RCTC will continue the employee's group health insurance coverage for up to a maximum of 12 weeks under the same terms and conditions as applied prior to the leave of absence.

- A. In the event that the employee fails to return from leave, RCTC may recover premiums it paid to maintain group health insurance coverage. (For details, see RCTC's Family and Medical Leave Policy.)
- B. If the employee is not eligible for continued paid coverage or if coverage ceases after 12 weeks, the employee may continue group health insurance coverage pursuant to federal and state COBRA guidelines.

RCTC is not required to continue paying group health insurance premiums during pregnancy disability leave which does not also constitute FMLA leave.

19.15 California Family and Medical Leave

The right to take a pregnancy disability is separate and distinct from the right to take family and medical leave under the CFRA. Thus, at the end of the employee's period(s) of pregnancy disability, or at the end of four months pregnancy disability leave, whichever occurs first, an eligible employee may request to take up to 12 workweeks of CFRA leave in accordance with RCTC's family and medical leave policy.

- A. There is no requirement that either the employee or her child have a serious health condition or that the employee no longer be disabled by her pregnancy before taking CFRA leave for the birth of a child.
- B. Where the employee has used all four months of her pregnancy disability leave prior to the birth of her child, and her health care provider determines that a continuation of the leave is medically necessary, RCTC may, but is not required to, allow the use of CFRA leave prior to the birth of a child.
- C. The maximum possible combined leave for pregnancy disability/FMLA and CFRA leave due to the birth of a child is four months and 12 workweeks.
- D. CFRA leave taken due to the birth of the employee's child must be concluded within one year of the child's birth. The basic minimum duration of such leave shall be two weeks, except that RCTC will grant a CFRA leave of less than two weeks' duration on any two occasions within one year of the child's birth.

AGENDA ITEM 6

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

DATE:	June 14, 2006
TO:	Executive Committee
FROM:	Theresia Trevino, Chief Financial Officer
THROUGH:	Anne Mayer, Deputy Executive Director
SUBJECT:	Flexible Benefits Plan

STAFF RECOMMENDATION:

This item is for the Committee to:

- 1) Approve the restatement of the Riverside County Transportation Commission Flexible Benefits Plan;
- 2) Approve the Flexible Benefits Plan Summary Plan Description for distribution to employees;
- 3) Approve the Privacy Policies and Procedures Manual;
- 4) Adopt Resolution No. 06-010, *"Resolution of the Riverside County Transportation Commission Regarding the Restated Flexible Benefits Plan"*.

BACKGROUND INFORMATION:

On September 11, 2002, the Executive Committee approved the establishment of a Section 125 Premium Conversion Plan (Plan) to provide eligible Commission employees with a means of purchasing certain health benefits in a tax-effective manner. The Section 125 Premium Conversion Plan would also qualify as a cafeteria plan under Section 125 of the Internal Revenue Code (IRC) whereby benefits that the employee elects to receive under the Plan are eligible for exclusion from the employee's income for federal income tax purposes. As a result of this plan, employees were allowed to make premium payments for health coverage with pre-tax deductions.

Additionally since FY 1999/2000, the Commission has allowed employees to elect participation, on an annual basis, in medical and dependent care spending or reimbursement accounts as permitted by the IRC. Amounts determined by the participating employee, subject to certain maximum amounts, are deducted from gross pay on a pre-tax basis and are available for reimbursement of eligible health and/or dependent care expenses. Any amounts remaining after the fiscal year would be forfeited by the employee.

As it relates to the reimbursement accounts, certain changes in the IRC were recently enacted related to the availability of a 2½ month grace period after the plan year for participating employees to incur and submit reimbursement claims and minimize any forfeiture amounts. Additionally, a change from a fiscal year basis to a calendar similar to other benefit plans offered was proposed. Based on a review of the documentation for these benefit plans for the proposed changes, it was determined that a restatement of the Flexible Benefits Plan was required in order to be in compliance with the Internal Revenue Code, Employee Retirement Income Security Act of 1974 (ERISA), and Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Staff has consulted legal counsel in the restatement of the Flexible Benefits Plan, the preparation of a Summary Plan Document related to the Flexible Benefits Plan as required by ERISA, and the development of a Privacy Policies and Procedures Manual as required by HIPAA. The restatement of the Flexible Benefits Plan does not result in any new or additional benefits, except for the inclusion of the grace period as permitted by the IRC; however, the restated Flexible Benefits Plan, Summary Plan Document, and Privacy Manual do add some administrative responsibilities to the Finance and Human Resources departments. The cost of implementing these responsibilities is not considered to be significant or an administrative burden. In fact, staff has begun to implement certain provisions of the Privacy Manual.

These documents require the designation of certain responsibilities. Accordingly, staff proposes that the Deputy Executive Director for non-capital programs be designated as the Plan Administrator and the Privacy Official and the Finance Department be designated as the group permitted to have access to protected health information disclosed by or to the Plan.

Financial Information					
In Fiscal Year Budget:	Yes	Year:	FY 2006/07	Amount:	< \$5,000
Source of Funds:	Measure A and TDA Administration			Budget Adjustment:	No
GLA No.:	S-19/18-60001	Salaries and Wages			
	S-19/18-61000	Fringe Benefit Allocation			
Fiscal Procedures Approved:	<i>Theresa Trevino</i>			Date:	06/05/06

Attachments:

- 1) Resolution 06-010
- 2) Flexible Benefits Plan
- 3) Summary Plan Description
- 4) Privacy Policies and Procedures Manual

RESOLUTION NO. 06-010

**RESOLUTION OF THE
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
REGARDING THE
RESTATED FLEXIBLE BENEFITS PLAN**

WHEREAS, the Riverside County Transportation Commission (the "Commission") currently retains the authority to add, delete or otherwise modify the Commission's policies and procedures; and

WHEREAS, the Commission has granted the Executive Committee the authority to add, delete or otherwise modify the Commission's policies and procedures;

WHEREAS, the Commission had adopted the Section 125 Premium Conversion Plan on September 11, 2002; and

WHEREAS, the Commission has permitted employees to participate in medical and dependent care spending accounts since Fiscal Year 1999/2000.

NOW, THEREFORE, the Riverside County Transportation Commission does hereby resolve as follows:

Section 1. The Riverside County Transportation Commission, as Plan Sponsor, hereby adopts the restated Flexible Benefits Plan, consisting of the Section 125 Premium Conversion Plan and the medical and dependent care spending accounts, in accordance with Sections 125, 105 and 129 of the Internal Revenue Code and approves the revisions (1) to change the plan year from a fiscal year to a calendar year, and (2) to include a provision for an extended 2½ month grace period for medical and/or dependent care claims.

- Section 2. The Riverside County Transportation Commission hereby adopts the Summary Plan Description in accordance with Employee Retirement Income Security Act of 1974 (ERISA) and authorizes its distribution to Commission employees.
- Section 3. The Riverside County Transportation Commission, as Plan Sponsor, hereby designates the Deputy Executive Director for non-capital programs as the Plan Administrator of the Flexible Benefits Plan and the Finance Department as the group permitted to have access to protected health information disclosed by or to the Flexible Benefits Plan.
- Section 4. The Riverside County Transportation Commission hereby adopts the Privacy Policies and Procedures Manual in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and designates the Deputy Executive Director for non-capital programs as the Privacy Official.

APPROVED AND ADOPTED this 14th day of June, 2006.

Marion Ashley, Chair
Riverside County Transportation Commission

ATTEST:

Jennifer Harmon
Clerk of the Board

I, Jennifer Harmon, Clerk of the Board, do hereby certify that the foregoing Resolution No. 06-010 was duly and regularly adopted by the Executive Committee at a regular meeting thereof, held on the 14th day of June, 2006, and that the foregoing is a full, true and correct copy of said Resolution.

Jennifer Harmon
Clerk of the Board

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

FLEXIBLE BENEFITS PLAN

RIVERSIDE COUNTY TRANSPORTATION COMMISSION (the “Employer”) established the RIVERSIDE COUNTY TRANSPORTATION COMMISSION FLEXIBLE BENEFITS PLAN (the “Plan”) for the benefit of its employees and their dependents effective September 11, 2002. The Employer desires to restate the Plan to conform with legislative and statutory requirements. The Employer hereby amends and restates the Plan, effective July 1, 2005.

ARTICLE I **TITLE AND PURPOSE**

This Plan shall be known as the RIVERSIDE COUNTY TRANSPORTATION COMMISSION FLEXIBLE BENEFITS PLAN (the “Plan”). The purpose of the Plan is to furnish to eligible employees choices among certain Benefits provided by the Employer, so that employees may receive Benefits that best meet their individual needs. The Plan is intended to provide benefits in accordance with Sections 125, 105 and 129 of the Internal Revenue Code, as amended, and the Regulations issued thereunder, so that the Benefits that an Employee elects to receive under the Plan are eligible for exclusion from the Employee’s income for Federal Income Tax purposes.

The Plan is also intended to qualify under Sections 105(b) and 129(d) of the Internal Revenue Code with regard to the written documentation requirements for self-funded medical reimbursement and dependent care assistance plans.

ARTICLE II **COMPONENT PLANS**

The Benefits offered under this Plan are provided through separate Component Plans which are set forth in separate plan documents, group insurance policies or administrative service contracts and are incorporated herein and identified in Schedule “A” attached hereto. Notwithstanding, the provisions of the separate Medical Reimbursement Plan and Dependent Care Plan Component Plans are set forth in this Plan document.

ARTICLE III **DEFINITIONS**

The following words and phrases, when used herein, shall have the following meanings, unless a different meaning is clearly required by the context:

3.1 **Administrator.** “Administrator” shall mean the Employer or any person or entity appointed by the Employer to administer this Plan on its behalf, as provided in Article XI.

3.2 **Benefit.** “Benefit” shall mean any of the qualified benefits which may be purchased under this Plan. “Benefits” shall also mean any amounts paid to a Participant in the

Plan as reimbursement under the Medical Reimbursement Plan (see Article VIII) or the Dependent Care Plan (see Article VII).

3.3 Code. “Code” shall mean the Internal Revenue Code of 1986, as amended. References to any section of the Code include references to any comparable or succeeding provision of any legislation which amends, supplements or replaces such section.

3.4 Component Plan. “Component Plan” shall mean any plan offering Benefits available under this Plan, as set forth in the separate plan documents, except for the Medical Reimbursement Plan (see Article VIII) and the Dependent Care Plan (see Article VII).

3.5 Dependent. “Dependent” shall mean the dependent of a Participant who is eligible to receive benefits under a Component Plan and who is specifically defined as a legal dependent under Section 152 of the Code. Notwithstanding, with regard to the health benefits offered under the Plan, a dependent shall include a dependent eligible under Code Section 105(b) and a Participant’s registered domestic partner as recognized by the State of California.

3.6 Effective Date. “Effective Date” shall mean the date this Plan first became effective, which is September 11, 2002.

3.7 Eligible Dependent Care Expense. “Eligible Dependent Care Expense” means any reasonable expense incurred by the Participant or his Spouse for Qualifying Dependent Care Services or for the cost of sending a child of the Participant to a Qualifying Day Care Center. The Plan Administrator shall determine in its sole discretion whether any such expense is reasonable.

3.8 Eligible Medical Care Expense. “Eligible Medical Care Expense” means expenses incurred by the Participant, or the Participant’s Spouse or Dependents, for medical and/or dental services incurred during the Plan Year or during the grace period defined in Section 8.7 of Article VIII. “Eligible Medical Care Expenses” shall include amounts paid for medical and dental services, purchase of prescription and over-the-counter drugs and medicines, and such other expenses as are covered by Section 213(d) of the Code, as amended, or as authorized by the IRS from time to time, which are not covered by any insurance plan of which the Participant, the Participant’s Spouse or Dependents are beneficiaries, whether or not such insurance is paid for by the Employer.

3.9 Employee. “Employee” shall mean all regular and probationary employees of the Employer and, to the extent necessary, former employees who are entitled to receive benefit payments under this Plan. Temporary or contract employees are not eligible to participate. "Employee" shall also mean any individual who is treated as employed by a single employer under Sections 414(b), (c) and (m) of the Code. "Employee" shall not include any self-employed individual described in Section 401(c) of the Code.

3.10 Employer. “Employer” shall mean RIVERSIDE COUNTY TRANSPORTATION COMMISSION, any other organization which adopts this Plan with the consent of Employer, and any successor of such Employer.

3.11 Entry Date. “Entry Date” shall mean, for all newly hired Employees, the next payroll period immediately following completion and submission of the enrollment forms. In all other cases, the “Entry Date” shall mean the first day of each Plan Year.

3.12 ERISA. “ERISA” shall mean the Employee Retirement Income Security Act of 1974.

3.13 FMLA. “FMLA” shall mean the Family Medical Leave Act of 1993, as amended and including all regulations issued thereunder.

3.14 Highly Compensated Participant. “Highly Compensated Participant” shall mean a Participant who is (i) a director of the Employer, (ii) highly compensated, or (iii) a spouse or dependent of a Highly Compensated Participant. The classification of a Participant as highly compensated for this purpose shall be made on the basis of the facts and circumstances of each case.

3.15 Key Employee. “Key Employee” means any Employee defined as such in Section 416(i)(1) of the Code and the regulations issued thereunder.

3.16 Leave of Absence. “Leave of Absence” shall mean any absence of an Employee which is authorized by the Employer under the Employer’s personnel policies, including any leave designated as FMLA Leave. Additionally, an Employee shall be subject to such rights and benefits for Family or Medical Leave, as defined in the Family and Medical Leave Act of 1993, as are provided under the Act, and the California Family Rights Act of 1991.

3.17 Open Enrollment Period. “Open Enrollment Period” shall mean the period beginning at least thirty (30) days before the beginning of the next Plan Year and ending on any date preceding the commencement of the Plan Year, as determined by the Administrator. For a new Employee, “Open Enrollment Period” shall mean the period beginning the Employee’s effective date of employment and ending 31 days later.

3.18 Participant. “Participant” shall mean an Employee who becomes enrolled in the Plan pursuant to Article IV. “Participant” shall also mean a former Employee who elects to continue health coverage under the Plan.

3.19 Plan. “Plan” shall mean the RIVERSIDE COUNTY TRANSPORTATION COMMISSION FLEXIBLE BENEFITS PLAN, set forth herein, including all subsequent amendments and modifications hereto.

3.20 Plan Year. “Plan Year” shall mean the twelve (12) consecutive month period commencing July 1 and ending on June 30. Effective January 1, 2007, the Plan Year shall commence on January 1 and end on December 31.

3.21 Qualifying Day Care Center. “Qualifying Day Care Center” means a day care center which –

(a) provides full-time or part-time care for more than six individuals (other than individuals who reside at the day care center) on a regular basis during the Eligible Employee's taxable year, and

(b) which complies with all applicable laws and regulations of the state and town, city or village in which it is located; and receives a fee, payment or grant for services for any of the individuals to whom it provides services (regardless of whether such facility is operated for a profit).

3.22 Qualifying Individual. "Qualifying Individual" means a Dependent of the Participant, as defined in Code Section 152(a)(1), who is under the age of 13. "Qualifying Individual" shall also mean a Dependent or Spouse of the Participant who is physically or mentally incapable of caring for himself or herself and who has the same principal place of residence as the Participant for more than one-half of the Plan Year, provided such individual regularly spends at least eight hours a day in the Participant's home during such period.

3.23 Qualifying Dependent Care Services. "Qualifying Dependent Care Services" or "Qualifying Services" means services performed to enable a Participant or his Spouse to remain gainfully employed and which are relevant to the care of a Qualifying Individual. Qualifying Services may be performed either in the home or outside the home of the Participant. Such an expense shall be an Eligible Dependent Care Expense only if it is payable to a person who is not (1) a Dependent of the Participant; (2) the Participant's Spouse; or (3) a child of the Participant under the age of 19 as of the close of the Plan Year in which the services are rendered.

3.24 Salary Reduction. "Salary Reduction" shall mean the amounts paid into the Plan pursuant to elections made by the Participant to reduce his or her compensation for the purchase of Benefits elected by the Participant.

3.25 Short Plan Year. "Short Plan Year" shall mean a Participant's period of coverage under this Plan which is less than twelve (12) months and which ends on the last day of the Plan Year. This Short Plan Year arises in the following circumstances:

- (a) the initial Plan Year does not begin on July 1;
- (b) the Plan Year for any new Participants who enter the Plan on a date other than the first day of the Plan Year; and
- (c) a Participant completes a permitted election change during the Plan Year due to a change in family status or a significant change in the cost or coverage of the previously elected benefits.

In the event that a Short Plan Year is in effect, all references to "Plan Year" shall be replaced by "Short Plan Year" in all instances where it is appropriate.

3.26 Spouse. "Spouse" means the person to whom the Participant is legally married but shall not include an individually legally separated from a Participant under a decree of legal separation. Notwithstanding, a Participant's registered domestic partner shall be entitled

to and receive the same rights and coverage attributable to medical and health benefits offered under the Plan pursuant to the California Domestic Partner Rights and Responsibilities Act of 2003.

3.27 Student. “Student” means an individual who during each of five calendar months during a Plan Year is enrolled as a full-time student at an “educational institution.” For this purpose, “educational institution” means any institution which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

3.28 Uniformed Services. “Uniformed Services” shall mean the Armed Forces, the Armed National Guard, and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President of the United States in time of war or emergency.

ARTICLE IV ELIGIBILITY AND PARTICIPATION

4.1 Eligibility. Each Employee shall be eligible to participate in the Plan as of his or her Entry Date.

4.2 Participation. An Employee may become a Participant by completing and executing an election form and Salary Reduction Agreement and by providing such other information as is reasonably required by the Employer as a condition of such participation. A Participant’s election to participate in the Plan shall continue to be valid until expressly revoked or altered, as set forth in Article V. The Administrator shall continue to make Salary Reductions and the Participant shall be deemed to have selected the Benefits previously elected by Participant in subsequent Plan Years consistent with the Participant’s most recent election form.

4.3 Recommencement of Participation. A former active Participant may recommence participation in the Plan on his date of reemployment as an eligible Employee. However, a reemployed former active Participant may not make a new election to participate in a medical spending account and/or dependent care spending account which is effective during the same Plan Year in which he or she separated from service with the Employer.

Any employee who returns to active employment within ninety (90) days of completing a period of absence from employment for duty in the Uniformed Services shall reenter the Plan upon reemployment. A Participant whose health coverage under the Plan is terminated on account of his being in “uniformed service,” and is later reinstated, shall not be subject to a new exclusion or waiting period requirement imposed by such group health plan and/or medical spending account, provided that such requirements would not have been imposed if coverage had not been terminated as a result of the “uniformed service.”

4.4 Leave of Absence. An Employee shall not be disqualified from participating in the Plan during the period in which the Employee is on an authorized Leave of Absence; however, that Employee shall continue to have an employment relationship with the Employer and Employee shall pay the required costs of coverage as provided in Section 6.2.

A Participant who takes an unpaid leave of absence under FMLA (“FMLA Leave”) shall pay the required costs of coverage as provided in Section 6.2; however, the Employee may revoke his or her election to participate under any group health insurance benefit offered under this Plan, for the remainder of the Plan Year in which such leave of absence commences. Such revocation shall take effect in accordance with such procedures as prescribed by the Plan Administrator. Upon such Participant’s return from his or her FMLA Leave, the Participant may then elect to be immediately reinstated in the Plan, on the same terms that applied to the Participant prior to the FMLA Leave, and with such other rights to revoke or change elections as are provided to the Participants under the Plan. Notwithstanding the foregoing, a Participant on FMLA Leave shall have no greater rights to benefits for the remainder of the Plan Year in which the FMLA Leave commences as other Participants.

4.5 Cessation of Participation. An Employee shall cease to be a Participant under this Plan and therefore, under each Component Plan, as of the earliest of:

- (a) the date on which the Participant separates from service with the Employer; or
- (b) the date on which the Administrator, on a consistent and uniform basis, deems the Participant has failed to make the required premium payments, including the Salary Reduction, for the elected benefits, as provided in Section 4.6; or
- (c) the date on which the Participant is not eligible to participate in any of the Component Plans for which he or she wishes to make an election; or
- (d) the date on which the Participant dies; or
- (e) the date on which the Plan terminates.

4.6 Cessation of Required Contributions. A Participant’s election to participate in the Plan may be terminated in accordance with Subsection 4.5(b) if the Participant fails to make the required premium payments with respect to the Benefit. In such case, that individual may not make a new benefit election for the remaining portion of the Plan Year.

4.7 Eligibility Under Component Plans. The eligibility of a Participant under a Component Plan shall be the same as set forth in this Article, unless otherwise specified in the Component Plan under which a Participant has elected to receive benefits. Each Component Plan may provide more rigorous eligibility requirements which may cause a Participant to be ineligible to participate in a particular Component Plan, but continue to be eligible to participate in this Plan.

ARTICLE V ELECTIONS AND PROCEDURES

5.1 Initial Election. Prior to the annual Entry Date (or mid-year Entry Date for newly hired Employees), there shall be an Open Enrollment Period during which the

Employee may elect to participate in this Plan. The Administrator shall provide each Employee during each Open Enrollment Period with an election form and Salary Reduction Agreement which shall include, at a minimum, the following information:

(a) that the election form shall be completed and returned to the Administrator during the Open Enrollment Period; and

(b) that the election shall be effective on the Entry Date and continue in effect until the last day of the Plan Year for which the election is made, or until the Participant provides the Administrator with a new election form modifying or terminating his or her existing election; and

(c) that the election shall be irrevocable, unless the Participant is entitled to change his or her election as provided in this Article V; and

(d) that the Participant's Salary Reduction shall be considered as employer contributions used to pay for Benefits under the Plan.

5.2 Salary Reduction. Each Participant shall authorize the Employer to reduce his compensation by the amount needed for the purchase of Benefits, as elected by that Participant. The Administrator, may, in its discretion, establish a limit on the amount of Salary Reductions which a Participant may elect for the Plan Year, for purposes of complying with the nondiscrimination requirements of Article X. Salary Reductions shall be contributed to the Plan by the Employer on behalf of a Participant on a level and pro rata basis for each payroll period. In the event that an Employee ceases to be a Participant in this Plan, a Participant shall have no obligation to continue to make payments equal to the Salary Reduction.

5.3 Election of Benefits. Each Participant shall submit to the Employer on the election form provided by the Plan Administrator his or her election as to the Benefits to be provided by the Employer and the portion of his or her Salary Reductions which are to be applied to provide each Benefit.

5.4 Participant Makes Incorrect Election. If a Participant does not elect the correct amount under his or her Salary Reduction to pay for coverage of the Benefits elected under the Plan, the Administrator is authorized to increase or decrease a Participant's election by the amount necessary to provide the Participant's elected coverage under the Plan.

5.5 Cost of Coverage Increased or Decreased. If the cost of any Benefit offered under the Component Plans (except a Component Plan which provides for the reimbursement of expenses) increases or decreases during the Plan Year, the Administrator may, on a reasonable and consistent basis, automatically increase or decrease a Participant's election by a corresponding amount of Salary Reduction to ensure that the Participant continues to receive the elected coverage under the Component Plans; provided, however, that if the increase or decrease is a significant change in cost, that the Participant shall be given the option to not elect to change his or her benefits.

5.6 Administrator's Adjustment of Salary Reduction. The Administrator maintains the right to adjust any Salary Reduction election made under the Plan to ensure that the Plan complies with the nondiscrimination provisions of Article X.

5.7 Failure to Make Initial Election. If an Employee who is first eligible to participate in the Plan fails to return the election form prior to the end of the Open Enrollment Period, the Employee shall be deemed to have elected not to participate in the Plan.

5.8 Elections for Subsequent Plan Years.

(a) Open Enrollment Period. An Open Enrollment Period shall occur prior to the beginning of each Plan Year. During the Open Enrollment Period, a Participant who wishes to change his existing election, shall have the opportunity to elect new or different coverage under the Plan effective for the subsequent Plan Year subject to the terms and conditions of the Component Plans.

(b) Failure to Reelect. If a Participant fails to reelect coverage but remains eligible to participate, the Participant shall be deemed to have elected the Benefits selected on the election for the preceding Plan Year and a Salary Reduction amount necessary to provide the same coverage. However, elections to contribute to the Medical Reimbursement Plan or Dependent Care Plan must be affirmatively elected each year by the Participant and a failure to reelect shall result in nonparticipation under the Medical Reimbursement Plan or Dependent Care Plan.

5.9 Continuation Coverage. During an Open Enrollment Period, any Participant, or a Qualified Beneficiary thereof, that has elected continuation of health coverage under the Plan, shall have the opportunity to elect new or different coverage under the Plan effective for the subsequent Plan Year. However, any such election shall be limited to health care options under the Plan.

5.10 Special Enrollment Period. In accordance with the Code Section 9801(f) and the regulations issued by the Department of Health and Human Services, an eligible Employee or Dependent who either incurs a loss of health coverage or becomes otherwise eligible for health coverage under this Plan shall be permitted to enroll for health coverage under the Plan in accordance with one of the special enrollment periods described in paragraphs (a) and (b) below.

(a) Loss of Health Coverage. An Employee who is otherwise eligible to enroll in the Plan but has not elected to participate in the Plan, or a Dependent of Employee that is not enrolled but otherwise eligible under the Plan, shall be permitted to enroll for coverage under the Plan provided:

(1) The Employee or Dependent was covered under another group health plan or had alternate health insurance coverage ("Prior Health Coverage") at the time coverage under this Plan was previously offered to the Employee.

(2) The Employee stated in writing at such time that Prior Health Coverage was the reason for declining enrollment.

(3) The Employee's or Dependent's Prior Health Coverage was either:

(i) under a continuation coverage provision and the coverage period was exhausted; or

(ii) was terminated as a result of loss of eligibility (including a result from a change in family status) or employer contributions toward such coverage were terminated.

Under the terms of the Plan, the employee requests such enrollment not later than 30 days after the date of a special enrollment event or the date a certificate of group health coverage is provided following a termination of health coverage.

(b) Dependent Special Enrollment Period. Any Employee, regardless of whether said Employee is currently enrolled for health coverage under the Plan, who experiences an increase in the number of Dependents whether through marriage, birth, adoption or placement for adoption, shall be permitted to enroll for health coverage under the Plan. During the "dependent special enrollment period," Employee shall have the opportunity to enroll all other Dependents who are otherwise eligible for coverage, including the Employee if not enrolled, provided the Employee elects enrollment within thirty (30) days commencing on the later of: (i) the date dependent coverage is made available; or (ii) the date of the marriage, birth, adoption, placement for adoption, or other event which results in the change of Dependents of Employee.

(c) Medical Spending Account. Notwithstanding the foregoing, the special enrollment rights conveyed under this Section shall not extend to include an election to contribute to the Medical Reimbursement Plan offered under the Plan.

5.11 Revocability of Elections. The Administrator shall permit a Participant to make a new election outside of the Open Enrollment Period for the remainder of a Plan Year only if the new election is for one of the following reasons:

(a) both the revocation and new election are made on account of and are consistent with a change in the Participant's family status, as set forth in Section 5.12;

(b) there is a significant change in the cost or coverage of the benefits previously elected by the Participant, as set forth in Section 5.13;

(c) both the revocation and new election are made on account of and pursuant to the terms of a "qualified medical child support order" as defined in ERISA Section 609, as set forth in Section 5.15; or

(d) the Participant, spouse or dependent becomes eligible for continuation coverage under Article IX and the Participant desires to elect to increase the amount of his or her Salary Reduction in order to pay for the continuation coverage.

5.12 Change in Family Status. A Participant may make a change in coverage during a Plan Year due to a change in family status, as set forth in this Section. A Participant must notify the Administrator and must complete a new election form to change coverage. The Participant's election shall only be deemed valid if the requested change in coverage is necessitated by and corresponds with the change in family status and is consistent with the terms and conditions of the affected Component Plan. This election shall be effective as of the first day of the month following the date the Participant provides the Administrator with a new election form reflecting the change in coverage due to a change in family status.

A change in family status shall include the following:

(a) a change in the Participant's marital status, including marriage, death of spouse, divorce, legal separation, or annulment;

(b) a change in the number of dependents of a Participant (as defined in Code Section 152), including a birth of a child, adoption, placement for adoption, or death of a dependent;

(c) any change in the employment status of the Participant, spouse or dependent which results in that individual becoming or ceasing to be eligible under this Plan or other employee benefit plan maintained by the employer of the Participant, spouse or dependent, including a termination or commencement of employment; a strike or lockout; a commencement or return from an unpaid leave of absence (including leave taken under FMLA); a change in work site; or a reduction or increase in hours of employment (including a switch between part-time and full-time);

(d) a dependent satisfies or ceases to satisfy the eligibility requirements for coverage due to attainment of age, student status, or any similar circumstances as provided under the Component Plan under which the employee receives coverage;

(e) a change in the place of residence of the Participant, spouse, or dependent; and

(f) a Participant, spouse, or dependent becoming or ceasing to be entitled to coverage under MediCare or Medicaid.

To the extent the Code, and regulations issued thereunder, alters this definition of change in family status, this Section 5.12 is intended to be interpreted in accordance with any revised definition or interpretation.

5.13 Significant Change in Cost of Benefit. If the cost of a Benefit option (other than a Component Plan which provides for the reimbursement of expenses) significantly increases during a coverage period, all affected Participants may make a corresponding change in their benefit election under the Plan. Changes that may be made include the following:

(1) In the case of a Benefit option which has experienced a significant decrease in cost, a Participant may make a prospective change to an election to commence participation in that Benefit option.

(2) In the case of a Benefit option what has experienced a significant increase in cost, a Participant may change an election to terminate such coverage and either, elect prospective coverage under another Benefit option providing similar coverage or drop coverage if no other Benefit option providing similar coverage is available.

For purposes of this Section, a "cost of increase or decrease" refers to an increase or decrease in the amount of the Salary Reductions contributed by a Participant under the Plan, whether than increase or decrease results from an action taken by the Employee (such as switching between full-time and part-time status) or from an action taken by the Employer (such as reducing the amount of Employer contributions for a class of Employees).

In the case of an election for a Benefit option under the Plan which provides for the reimbursement of qualified dependent care expenses, a Participant's prior election may be changed only if the cost change is imposed by a dependent care provider who is not a relative of the employee.

5.14 Significant Change in Coverage of Component Plan Benefit.

(a) Significant Curtailment Without Loss of Coverage. If a Participant or a Participant's spouse or dependent experiences a "significant curtailment of coverage" under a Benefit option that is not a loss of coverage, including a significant increase in the deductible, co-payment, or the out-of-pocket cost sharing limit under a group health plan; the Participant may revoke his or her election for such coverage and prospectively elect to receive coverage under another Benefit option providing similar coverage. For this purpose, coverage under a Component Plan is "significantly curtailed" only if there is an overall reduction in coverage provided under the Component Plan so as to constitute reduced coverage generally. In this regard, the loss of one particular physician in a health care provider network in most cases will not qualify for a significant curtailment of coverage under this Section.

(b) Significant Curtailment With Loss of Coverage. If a Participant or a Participant's spouse or dependent experiences a significant curtailment of coverage that is a "loss of coverage" under a Benefit option, the Participant may revoke his or her election for such coverage and elect either to receive coverage under another Benefit option providing similar coverage or to drop coverage if no other Benefit option providing similar coverage is available under the Plan. For this purpose, a "loss of coverage" means a complete loss of coverage under a benefit package option or other coverage option, including the elimination of a benefits package option, an HMO ceasing to be available in the area where the individual resides, or the individual losing all coverage under the option by reason of an overall lifetime or annual limitation under a group health plan. In this regard, each of the following is considered to be a "loss of coverage" under this Section:

(1) a substantial decrease in the medical care providers available under the Benefit option (such as a major hospital ceasing to be a member of a preferred provider network or a substantial decrease in the physicians participating in a preferred provider network or an HMO);

(2) a reduction in the benefits for a specific type of medical condition or treatment with respect to which a Participant or the Participant's spouse or dependent is currently in a course of treatment; or

(3) any other similar fundamental loss of coverage;

(c) Addition or Improvement of Benefit Option. If during the Plan Year, a Component Plan adds a new benefit package option or other coverage option, or if coverage under an existing option is significantly improved, any Participant or Employee, who is otherwise eligible to participate in the Plan, may revoke his or her election under the Plan for the Plan Year and make an election on prospective basis for coverage under the new or improved benefit option.

(d) Change In Coverage Under Another Employer Plan. A Participant, or an Employee who is otherwise eligible to participate in the Plan but has elected not to participate, may make a prospective election change that is on account of and consistent with a change made under another employer plan (including a plan of the Employer or another employer) by the Employee or the Employee's spouse or dependent, provided the other employer plan allows participants to make an election change that would be permitted under the rules of IRS Reg. §1.125-4(c) and as provided in this Plan.

5.15 Qualified Medical Child Support Order. A Participant may make a change in coverage during a Plan Year to provide health coverage under the Plan for Participant's child or legal dependent pursuant to the terms of a judgment, decree, or order resulting from a family law proceeding, including a "qualified child support order" as defined under ERISA Section 609, requiring Participant to provide health coverage for the child. The Participant may also make a change which cancels health coverage for the Participant's child or dependent provided the order requires the spouse, former spouse, or other individual to provide health coverage for the child.

ARTICLE VI FUNDING AND AVAILABLE BENEFITS

6.1 Funding. The Benefits provided herein shall be paid by the Employer; provided, however, that the Employer's payments under the Plan shall be limited to such amounts of compensation as a Participant elects to forego pursuant to his or her Salary Reduction election. Amounts contributed through Salary Reduction shall be used to purchase the Benefits offered under this Plan.

6.2 Payment of Contributions While on FMLA Leave. Upon a Participant taking an unpaid FMLA leave of absence ("FMLA Leave"), each health care benefit elected by the Participant shall continue during the FMLA Leave for a period not longer than twelve (12) weeks, unless otherwise revoked by the Participant. During the unpaid FMLA Leave, the Participant shall be responsible for making the required contributions for such benefits during the

period of the FMLA Leave. The Participant may select among the Prepayment Option, Catch-Up Option, and Pay-As-You-Go Option to pay the contributions during FMLA Leave.

(a) Prepayment. The Participant may elect to prepay the contributions prior to commencing the FMLA Leave. The prepaid contributions may be made from salary, vacation pay or sick pay, to the extent permitted by applicable law and in a manner which will not defer compensation to a subsequent Plan Year. In the event, a Participant's FMLA Leave will span two Plan Years, the Participant may only prepay contributions for the remainder of the Plan Year and shall be required to utilize another payment option hereunder to make the contributions for the subsequent Plan Year. The Prepayment Option may not be required as a condition to remaining in the Plan, and prepayment may not be the sole method of making contributions hereunder.

(b) Pay-As-You-Go. The Participant may elect to pay the contributions on an after-tax basis as due. Payments shall be made on the same schedule as payments would have been due if the Participant had not been on FMLA Leave, on the same schedule as payments required for continuation coverage under Article VIII hereunder are made, under the Employer's existing rules for payment by employees on leave without pay, or on any other schedule voluntarily agreed upon by the Plan Administrator and the Participant that is not consistent with FMLA.

Contributions under the Pay-As-You-Go Option may also be paid on a pre-tax basis from taxable compensation such as vacation pay or sick pay provided such payment will not defer compensation to a subsequent Plan Year.

(c) Catch-Up Option. The Employer may assume responsibility for advancing the contributions on behalf of the Participant, and may recoup such contributions upon the Participant's return to employment. The contributions may be made on a pre-tax salary reduction basis from salary, vacation pay or sick pay when the Participant returns from FMLA Leave. The "Catch-Up Option" shall be applied in a manner consistent with Prop. Treasury Regulations Section 1.125-3.

The Prepayment Option and Catch-Up Option may not be offered without also offering the Pay-As-You-Go Option.

6.3 Uniformed Service Under USERRA. In accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), a Participant who is absent from employment with the Employer on account of being in the Uniformed Services as defined in Section 3.23, may elect to continue participation in the Plan. The coverage period shall extend for the lesser of eighteen (18) months or until the Participant fails to apply for reinstatement or to return to employment with the Employer. The Participant shall be responsible for making the required contributions to pay for benefits elected during the period during which he or she is in "uniformed service." The manner in which such payments are made shall be determined by the Plan Administrator, in a manner similar to the payment of contributions with respect to FMLA Leave.

6.4 Provision of Benefits. The Employer shall provide such Benefits as the Participant has elected under the Plan, in such amounts as do not exceed the amount allocated under the Participant's election. The Benefits shall be provided pursuant to the terms and conditions of the Component Plans, where applicable, as shall be set forth from time to time in the individual Component Plan documents; provided, however, that the terms and conditions of the Component Plans are not inconsistent with the terms and conditions of this Plan. No Benefit under the Plan shall be paid in any manner that defers the receipt of compensation beyond the last day of the Plan Year.

6.5 Spending Accounts. The amounts designated by Participant in his Salary Reduction Agreement to be applied for medical reimbursement or dependent care assistance shall be credited to a separate ledger account in the Participant's name. Such amounts credited to a Participant's spending account for any Plan Year shall be used only toward the payment of or reimbursement for Participant's Eligible Expenses incurred for such Plan Year, as determined under Article VII and Article VIII.

6.6 Reimbursements. Except as otherwise provided in this Plan or any Component Plan, contract or arrangement established to provide Benefits, reimbursement of Expenses shall be made at such time and in such amounts as shall be determined by the Employer in accordance with Treasury Regulations Section 1.125-2 Q&A 7(b)(2). The amount credited to a Participant's spending account(s) under any Component Plan for any Plan Year shall be used only to reimburse the Participant for expenses incurred for such Plan Year, and only if the Participant applies for reimbursement during the reimbursement time limits (including any extended grace period) set forth by the Component Plan.

ARTICLE VII DEPENDENT CARE SPENDING ACCOUNTS

7.1 Component Plan. This Article VII shall set forth the provisions for the RIVERSIDE COUNTY TRANSPORTATION COMMISSION DEPENDENT CARE REIMBURSEMENT PLAN ("Dependent Care Plan"). Benefits under the Dependent Care Plan shall take the form of reimbursement by the Employer for Eligible Dependent Care Expenses incurred by a Participant during the Plan Year. A Participant shall only be entitled to reimbursement of Eligible Dependent Care Expenses incurred after electing to participate in the Dependent Care Plan.

7.2 Annual Election. For each Plan Year, a Participant shall affirmatively specify the amount of the Participant's Salary Reduction to be allocated to the Dependent Care Plan. The maximum annual amount which may be allocated by a Participant may not exceed the least of the following:

- (a) \$5,000 (or \$2,500 in the case of a married Participant filing a federal income tax return separate from this Spouse);
- (b) If the Participant is unmarried at the close of the Plan Year, his Compensation for such Plan Year; or

(c) If the Participant is married at the close of a Plan Year, his Compensation for such Plan Year.

Notwithstanding the above, the maximum election amount must also be reduced by the amount of any tax-exempt dependent care assistance benefits received by the Participant or his Spouse from any other employer during the Plan Year.

For purposes of this Section 7.2, "Compensation" means all earnings of a Participant reportable on Form W-2 for the Plan Year, but does not include any amounts received from a dependent care assistance plan, any pension or annuity, or as unemployment or worker's compensation in accordance with Section 129(e)(2) of the Code.

For purposes of calculating the maximum annual benefit for a Plan Year, Compensation shall be the lesser of the Participant's Compensation determined under the preceding paragraph or the Participant's Spouse's Compensation, if the Participant is married at the close of the Plan Year. If during any taxable month the Participant's Spouse is a Student or is physically or mentally incapacitated, the Spouse's Compensation for such month shall be deemed to be \$200 if there is one Qualifying Individual for whom the Participant incurs Eligible Dependent Care Expenses during the Plan Year, or \$400 if there are two or more Qualifying Individuals, in accordance with Section 21(d) of the Code.

7.3 Spending Account. The sole source for payment of Dependent Care Benefits under this Article VII shall be the unfunded accounts established for each Participant pursuant to his annual election under Section 5.4. The Plan Administrator shall reimburse each Participant for his Eligible Dependent Care Expenses and his spending account shall be debited accordingly. The aggregate reimbursements made at any time during the Plan Year shall not exceed the Participant's total contributions to the Dependent Care Plan for the Plan Year.

7.4 Reimbursement of Eligible Expenses. A Participant shall be entitled to reimbursement of Eligible Dependent Care Expenses in an amount that does not exceed the balance of his dependent care spending account. An expense in excess of the account balance shall not be reimbursed. Reimbursement shall be provided to any individual only for Eligible Dependent Care Expenses incurred while that individual is a Participant; however, such reimbursement may be made after such participation ceases. An Eligible Dependent Care Expense shall be considered incurred when the services giving rise to such expense are provided, irrespective of when such expenses are billed to the Participant. Reimbursement shall not be made for any amount that does not qualify as an Eligible Dependent Care Expense.

7.5 Limitations on Reimbursement/Forfeiture. The Employer's payment of Dependent Care Benefits for any Plan Year will be limited to the lesser of (1) the Participant's Eligible Dependent Care Expenses for the year, or (2) the amount of the Participant's election for Dependent Care Benefits for the year. A Participant shall receive no reimbursement for Dependent Care Benefits which are elected but unused during a Plan Year, for any reason. Any balance remaining in the Participant's spending account after all Eligible Dependent Care Expenses have been paid shall be forfeited by the Participant and the account balance reduced to zero.

7.6 Claim for Benefits. Each Participant who desires to receive reimbursement under the Plan for Eligible Dependent Care Expenses shall submit to the Plan Administrator or the designated claims representative at the times indicated in Section 7.7, a form provided by the Employer, or responses to other supplementary factual requests, containing the following information:

(a) the name, age, and relationship to the Participant of the Qualifying Individual for whom the Eligible Dependent Care Expenses were incurred;

(b) if any of the Qualifying Dependent Care Services were performed outside the Participant's home for a Qualifying Individual incapable of caring for himself, a statement as to whether said Qualifying Individual regularly spends at least eight (8) hours a day in the Participant's home;

(c) if any of the Qualifying Dependent Care Services are performed for a Qualifying Individual who is physically or mentally incapable of caring for himself, a statement to that effect;

(d) the nature and dates of performance of the Qualifying Dependent Care Services subject to reimbursements;

(e) the relationship, if any, to the Participant of the person(s) providing the Qualifying Dependent Care Services;

(f) a statement indicating that the Participant will include on his federal income tax return the name, address, and (except in the case of a tax-exempt Qualifying Day Care Center) the taxpayer identification number of the provider of the Qualifying Dependent Care Services;

(g) if the Participant is married and his Spouse is employed, a statement of the Spouse's Compensation; or if the Spouse is not employed, a statement that the Spouse is incapacitated or the Spouse is a student, indicating the months of the year during which the Spouse attends an Educational Institution on a full-time basis;

(h) a statement as to the amount, if any, of tax-exempt dependent care assistance benefits received from any other employer by the Participant or his Spouse during the Plan Year; and

(i) evidence of indebtedness or payment by the Participant to the third party who performed the Qualifying Services.

As soon as administratively feasible following the end of each month, the Plan Administrator shall review all the forms submitted by Participants during that month in accordance with the foregoing procedures and shall pay each Participant the Dependent Care Benefits which each Participant is entitled to receive, in accordance with this Article VII.

7.7 Time Limit. No expenses shall be reimbursed for any Plan Year unless the Participant applies for such reimbursement within three (3) months after the end of such Plan

Year. However, any Participant who has unreimbursed contributions remaining in his spending account at the end of a Plan Year may submit claims for Eligible Dependent Care Expenses incurred during the “grace period” occurring immediately after such Plan Year. For this purpose, the “grace period” shall mean the 2 ½ month time period occurring immediately after the end of the applicable Plan Year. Said grace period will not extend beyond the fifteenth day of the third calendar month immediately following the end of the Plan Year. Claims for expenses incurred during the grace period must be submitted for reimbursement within three (3) months after the end of the grace period.

7.8 No Reversion to Employer. At no time shall any part of Plan assets be used for, diverted to, purposes other than for the exclusive benefit of Participants or their beneficiaries, or for defraying reasonable expenses of administering the Plan.

ARTICLE VIII MEDICAL SPENDING ACCOUNTS

8.1 Component Plan. This Article VIII shall set forth the provisions for the RIVERSIDE COUNTY TRANSPORTATION COMMISSION MEDICAL REIMBURSEMENT PLAN (“Medical Reimbursement Plan”). Benefits under the Medical Reimbursement Plan shall take the form of reimbursement by the Employer for Eligible Medical Care Expenses incurred by a Participant during the Plan Year. A Participant shall only be entitled to reimbursement of Eligible Medical Care Expenses incurred after electing to participate in the Medical Reimbursement Plan.

8.2 Annual Election. For each Plan Year, a Participant shall affirmatively specify the amount of the Participant’s Salary Reduction to be allocated to the Medical Reimbursement Plan. The maximum annual Medical Reimbursement Benefit elected by a Participant may not exceed Two Thousand Five Hundred Dollars (\$2,500.00).

8.3 Spending Account. The sole source for payment of Medical Reimbursement Benefits under this Article VIII shall be the unfunded accounts established for each Participant pursuant to his annual election under Section 5.3. The Plan Administrator shall reimburse each Participant for his Eligible Medical Care Expenses and his spending account shall be debited accordingly. The aggregate reimbursements made at any time during the Plan Year shall not exceed the Participant’s total contributions to the Medical Reimbursement Plan for the Plan Year. A Participant’s Medical Reimbursement Benefits shall be uniformly available throughout the Plan Year.

8.4 Reimbursement of Eligible Expenses. A Participant shall be entitled to reimbursement of Eligible Medical Care Expenses in an amount that does not exceed his total contribution to the Medical Reimbursement Plan for the Plan Year. Each payment hereunder shall be a charge to the Participant’s medical care spending account. Reimbursement shall be provided to any individual only for Eligible Medical Care Expenses incurred while that individual is a Participant; however, such reimbursement may be made after such participation ceases. An Eligible Medical Care Expense shall be considered incurred when the services giving rise to such expense are provided, irrespective of when such expenses are billed to the

Participant. Reimbursement shall not be made for any amount that does not qualify as an Eligible Medical Care Expense or exceeds the annual contribution.

8.5 Limitations on Reimbursement/Forfeiture. The Employer's payment of Benefits from the Medical Reimbursement Plan for any Plan Year will be limited to the lesser of (1) the Participant's Eligible Medical Care Expenses for the Plan Year (including the grace period described in Section 8.7), or (2) the amount of the Participant's annual election to the Medical Reimbursement Plan. A Participant shall receive no reimbursement for amounts which are elected but unused during a Plan Year, for any reason. Any balance remaining in the Participant's medical care spending account after all Eligible Medical Care Expenses have been paid shall be forfeited by the Participant and the account balance reduced to zero.

8.6 Claims for Benefits. To receive reimbursement for Eligible Medical Care Expenses, a Participant must submit a written claim for benefits to the Plan Administrator or the designated claims representative at the times indicated in Section 8.7. Said claim shall include the following:

- (a) the name of the person or persons on whose behalf Eligible Medical Care Expenses have been incurred;
- (b) a description of the nature and dates of service or expense so incurred;
- (c) a statement indicating that such expense or expenses have not otherwise been paid through insurance or reimbursed from any other source; and
- (d) a receipt or other evidence of indebtedness or payment by the Participant of the service or expense.

The Plan Administrator will review the claim as soon as administratively feasible following the end of each month, and will advise the Participant of any reimbursement amounts to which he is entitled. If a Participant believes he has been incorrectly denied reimbursement or has not been advised of his Benefits under the Medical Reimbursement Plan, he may submit a written request to the Plan Administrator to provide either an explanation of how Eligible Medical Care Expenses are reimbursed or further information of his Benefits. The Plan Administrator must respond to such a request within a reasonable time.

Additionally, the Plan Administrator will provide to every claimant, who is denied a claim for reimbursement, a written notice stating in a format determined to be understood by the claimant: (1) the specific reason or reasons for the denial; (2) specific reference to pertinent plan provisions on which the denial is based; (3) a description of any additional material or information necessary for the claimant to perfect the claim; and (4) an explanation of the claim review procedure set forth below.

Within 60 days of receipt by a claimant of a notice denying a claim under this Section, the claimant or his duly authorized representative may request in writing a full and fair review of the claim by the Plan Administrator or by the Administrator which may be appointed by the Employer for that purpose. The Plan Administrator may extend the 60-day period where

the nature of the benefit involved or other attendant circumstances make such extension appropriate. In connection with such review, the claimant or his duly authorized representative may review pertinent documents and may submit issues and comments in writing. The Plan Administrator or Administrator shall make a decision promptly, and not later than 60 days after the Plan Administrator's receipt of a request for review, unless special circumstances (such as the notice to hold a hearing, if the Administrator deems one necessary) require an extension of time for processing, in which case a decision shall be rendered as soon as possible, but not later than 120 days after receipt of a request for review. The decision on review shall be in writing and shall include specific references for the decision, written in a manner calculated to be understood by the claimant, and specific references to the pertinent Plan provisions on which the decision is based. If the decision on review is not made within such period, the claim will be considered denied.

8.7 Time Limit. No expenses shall be reimbursed for any Plan Year unless the Participant applies for such reimbursement within three (3) months after the end of such Plan Year. However, any Participant who has unreimbursed contributions remaining in his spending account at the end of a Plan Year may submit claims for Eligible Medical Expenses incurred during the "grace period" occurring immediately after such Plan Year. For this purpose, the "grace period" shall mean the 2½ month time period occurring immediately after the end of the applicable Plan Year. Said grace period will not extend beyond the fifteenth day of the third calendar month immediately following the end of the Plan Year. Claims for expenses incurred during the grace period must be submitted for reimbursement within three (3) months after the end of the grace period.

8.8 No Reversion to Employer. At no time shall any part of Plan assets be used for, diverted to, purposes other than for the exclusive benefit of Participants or their beneficiaries, or for defraying reasonable expenses of administering the Plan.

ARTICLE IX CONTINUATION COVERAGE

9.1 In General. The following provisions shall apply to Benefits provided to eligible Employees and to their eligible dependents under the Plan, but only to the extent that the Benefits selected pertain to health care coverage providing medical, surgical, or hospital benefits and to plans providing ancillary medical coverage such as dental, vision, or prescription drug benefits. This coverage shall be continued pursuant to the federal continuation coverage provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), as codified under Code Section 4980B, and the regulations promulgated thereunder.

9.2 Definitions. For purposes of this Article IX, the following words and phrases are intended to supplement, and in some instances replace, the defined terms listed generally in Article III and to the extent of any conflict between the terms set forth herein and those of Article III, the defined terms set forth herein shall control:

(a) "Dependent" means an individual who meets the definition of dependent under the participating Employer provided health plan covering the eligible Employee. For the purposes of any medical reimbursement plan, dependents will also

include individuals who are dependents within the meaning of Section 152(a) of the Code.

No person shall be considered a dependent of more than one Employee.

If both an Employee and an Employee's spouse are employed by the Employer, dependent children may be covered by either spouse, but not by both.

(b) "Election period" means the sixty (60) day period during which a Qualified Beneficiary who would lose coverage as a result of a Qualifying Event may elect continuation coverage. This sixty (60) day period begins not later than the date of termination of coverage as a result of a Qualifying Event and ends not earlier than the sixty (60) days after the later of such date of termination of coverage or the receipt of notice of the right to elect continuation coverage under this Plan.

(c) "Full-time student" means a dependent child who is enrolled in, regularly attends and is recognized by the Registrar of an accredited secondary school, college or university, institution for the training of registered nurses (R.N.), or any other accredited or licensed school for the minimum number of credit hours required by that institution in order to maintain full-time student status.

(d) "Medicare" means the Health Insurance for the Aged and Disabled Act, Title XVIII of Public Law 89-97, Social Security, as amended.

(e) "Qualified Beneficiary" means an individual who, on the day before the Qualifying Event, is covered under this Plan as the covered Employee, the spouse of the covered Employee or dependent child of the covered Employee. Qualified Beneficiary shall include a child who is born to (or placed for adoption with) a covered Employee during the coverage period. The term Qualified Beneficiary does not include an individual whose status as a covered Employee is attributable to a period in which such individual is a nonresident alien who received no earned income from the employer which constituted income from sources within the United States (within the meaning of Code Section 911(d)(2) and Section 861(a)(3)). The term Qualified Beneficiary also does not include a Covered Employee's domestic partner regardless of whether such person was a covered dependent under the Plan prior to the Qualifying Event. If an individual is not a Qualified Beneficiary pursuant to this paragraph, a spouse or dependent child of such individual shall not be considered a Qualified Beneficiary by virtue of the relationship to such individual.

(f) "Qualifying Event" means with respect to a covered Employee, any of the following events which, but for the continuation coverage under this provision, would result in the loss of coverage of a Qualified Beneficiary:

- (1) the death of the covered Employee;

(2) the termination (except by reason of such covered Employee's gross misconduct) or reduction in hours of the covered Employee's employment;

(3) the divorce or legal separation of the covered Employee from such covered Employee's spouse;

(4) the covered Employee becoming entitled to benefits under Title XVIII of the Social Security Act (Medicare);

(5) a dependent child who ceases to be a dependent child under the terms of this Plan;

(6) the Employer's filing for Chapter 11 reorganization as it would affect retiree coverage.

(g) "University/college" means an accredited institution listed in the current publication of accredited institutions of higher education.

9.3 Continuation Coverage. To the extent required by Section 9.1 above, a Qualified Beneficiary who would lose health coverage under this Plan as a result of a Qualifying Event is entitled to elect continuation coverage within the election period under this Plan. Coverage provided under this provision is on a contributory basis. No evidence of good health will be required.

Except as otherwise specified in an election, any election by a Qualified Beneficiary who is a covered employee or spouse of the covered employee will be deemed to include an election for continuation coverage under this provision on behalf of any other Qualified Beneficiary who would lose coverage by reason of a Qualifying Event.

If this Plan provides a choice among the types of coverage under this Plan, each Qualified Beneficiary is entitled to make a separate selection among such types of coverage (i.e., single, family, etc.).

9.4 Type of Coverage.

(a) Continuation coverage under this provision is coverage which is identical to the coverage provided under this Plan to similarly situated beneficiaries under this Plan with respect to whom a Qualifying Event has not occurred as of the time coverage is being provided. If coverage under this Plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all qualified beneficiaries under this Plan in connection with such group.

Continuation coverage available to a Qualified Beneficiary under this provision shall apply only to the type and level of health coverage under the Plan that a Qualified Beneficiary was actually receiving on the day before the Qualifying Event. The Qualified Beneficiary may not change his or her election except as otherwise provided under Sections 5.9 and 5.11(d).

(b) Medical Spending Account. Notwithstanding Section 9.4(a) above, an Employee that was participating in the Plan prior to the Qualifying Event may be eligible to elect continuation coverage under the medical spending account, subject to subsection (c).

(c) Unavailability of Continuation Coverage. Continuation coverage under a medical spending account shall not be offered if all of the following three conditions are satisfied:

(i) Employer provides other health coverage options which are available to the Employee;

(ii) The maximum amount required under the Plan for a year of continuation coverage under this Article IX equals or exceeds the maximum benefit available under the Plan for the year; and

(iii) The contribution premium for the remainder of the Plan Year in which the Qualifying Event occurred will exceed the maximum benefit still available to the Participant under the Plan as of the date of the Qualifying Event. The determination of whether this condition has been satisfied will be made by the Plan Administrator on a case by case basis at the time of the Qualifying Event.

(d) Limited Continuation Coverage. In the event the Plan satisfies only the first two conditions set forth in subparagraph (i and ii) above, the Employer shall offer continuation coverage under the medical spending account for the remainder of the Plan Year for the year in which the Qualifying Event occurred.

(e) Full Continuation Coverage. If the Plan Administrator finds that the Plan does not satisfy the first two conditions set forth in subparagraph (i and ii) above, the Employer must offer continuation coverage under the Plan to the Employee for the duration of the coverage period required under Section 9.5.

9.5 Coverage Period. The coverage under this provision will extend for at least the period beginning on the date of a Qualifying Event and ending not earlier than the earliest of the following:

(a) Initial 18-Month Coverage Period. If the Qualifying Event is a termination of employment (other than for gross misconduct) or a reduction in employment hours of a covered Employee, the coverage period for the Employee and his or her dependents shall extend for eighteen (18) months after the date of the Qualifying Event;

(b) Disability Extension. The initial eighteen (18) month coverage period described in (a) above may be extended to twenty-nine (29) months after the date of the Qualifying Event in the event the Qualified Beneficiary was disabled upon termination of employment or during the first sixty (60) days of continuation coverage. The Qualified Beneficiary must provide the Plan Administrator with notice of Social

Security disability determination within sixty (60) days of the disability determination and prior to the expiration of the initial eighteen (18) month continuation period provided in (a) above to become eligible for this extension of continuation coverage.

(c) Extension of Coverage Period. The initial eighteen (18) month coverage period described in (a) above may be extended to thirty-six (36) months after the date of the Qualifying Event upon the occurrence of a second Qualifying Event prior to the expiration of the initial eighteen (18) month coverage period. The Qualified Beneficiary must notify the Plan Administrator of the second Qualifying Event within sixty (60) days of the date of the second Qualifying Event and prior to the expiration of the initial eighteen (18) month period. In no event shall continuation coverage extend for a period greater than thirty-six (36) months.

(d) 36-Month Coverage Period. In the case of any Qualifying Event causing the loss of coverage, except those Qualifying Events identified in (a) above, the coverage period for the Employee and his or her dependents shall extend for thirty-six (36) months after the date of the Qualifying Event.

9.6 Notification Requirements.

(a) Notification by Qualified Beneficiary. Each covered Employee or Qualified Beneficiary must notify the Employer of the occurrence of a divorce or legal separation of the covered Employee from such covered Employee's spouse and/or the covered Employee's dependent child ceasing to be a dependent child under the terms of this Plan within sixty (60) days after the date of such occurrence. This sixty (60) day time limit shall only apply to those occurrences as described in this paragraph which occur after the date of the enactment of the Tax Reform Act of 1986.

(b) Notification by Employer. The Employer shall notify the Administrator within thirty (30) days of a Qualifying Event, as required by federal law.

(c) Notification to Qualified Beneficiary. The Administrator shall provide written notice to each covered Employee and spouse of such covered Employee of his or her right to continuation coverage under this provision upon commencement of coverage under a Component Plan providing health coverage, as required by federal law.

The Administrator shall notify any Qualified Beneficiary of the right to elect continuation coverage under this provision within fourteen (14) days of receiving notice of the occurrence of a Qualifying Event, as required by federal law. If the Qualifying Event is the divorce or legal separation of the covered Employee from the covered Employee's spouse or a dependent child ceasing to be a dependent child under the terms of this Plan, the Employer shall only be required to notify a Qualified Beneficiary of his or her right to elect continuation coverage if the covered Employee or the Qualified Beneficiary notifies the Employer of such Qualifying Event within sixty (60) days after the date of such Qualifying Event.

Notification of the requirements of this provision to the spouse of a covered Employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time notification is made.

9.7 Termination of Continuation Coverage. The continuation coverage provided hereunder shall be terminated prior to the expiration of the coverage periods provided in Section 9.5 above upon the earlier of the following:

(a) with respect to continuation coverage under a medical spending account, the last day of the Plan Year in which the Qualified Beneficiary experiences the Qualifying Event.

(b) the date on which the Employer ceases to provide any group health plan to any Employee;

(c) the date on which the Qualified Beneficiary fails to make timely payment of the required contribution pursuant to this provision provided the deficiency is not an “insignificant amount” as described in Section 9.8;

(d) the date on which the Qualified Beneficiary first becomes, after the date of the election, covered under any other group health plan as an employee or dependent. However, if the other group health plan has a preexisting condition limitation, continuation coverage under the Plan will not cease while such preexisting condition limitation under the group plan remains in effect (taking into account prior creditable coverage under the portability rules of the Health Insurance Portability and Accountability Act of 1996); or

(e) the date on which the Qualified Beneficiary becomes entitled to benefits under Title XVIII of the Social Security Act (Medicare).

9.8 Contribution.

(a) A Qualified Beneficiary shall only be entitled to continuation coverage provided such Qualified Beneficiary pays the applicable premium required by the Employer in full and in advance, except as provided in (b) below. Such premium shall not exceed the requirements of applicable federal law. A Qualified Beneficiary may elect to pay such premium in installments as indicated by the Employer.

(b) Except as provided in (c) below, the payment of any premium shall be considered to be timely if made within thirty (30) days after the date due, or within such longer period of time as applies to or under this Plan.

(c) Notwithstanding (a) or (b) above, if an election is made after a Qualifying Event during the election period, this Plan will permit payment of the required premium for continuation coverage during the period preceding the election to be made within forty-five (45) days of the date of the election.

A premium payment received by the Employer which is deficient by an insignificant amount shall be treated as full payment of the premium amount. For purposes of this section, an insignificant amount is an amount not greater than the lesser of (i) ten percent (10%) of the required amount; or (ii) fifty dollars (\$50.00). Alternatively, in the event an Employer receives an insufficient payment premium, the Employer retains the option of taking steps to collect the deficient insignificant amount by notifying the Qualified Beneficiary of the deficiency and allowing thirty (30) days after date of the notice for payment of the deficiency.

9.9 Coordination with State Continuation Coverage. In the event a Qualified Beneficiary is entitled to less than 36 months of federal continuation coverage as a result of a Qualifying Event, the Qualified Beneficiary will be notified prior to the expiration of federal continuation coverage if he or she is eligible to elect an extension of continuation coverage under the Plan for an additional period of up to 36 months from the date of the Qualifying Event pursuant to the Section 1366.20 et. seq. of the California Health and Safety Code (the “California Continuation Benefits Replacement Act” or “Cal-COBRA Program”).

A covered employee’s dependent who, (1) on the day before the Qualifying Event, is covered under this Plan as the registered domestic partner of the covered Employee and (2) loses health coverage under this Plan as a result of a Qualifying Event shall be entitled to state continuation coverage subject to the eligibility, election and contribution requirements set forth under the Cal-COBRA Program.

ARTICLE X DISCRIMINATION

10.1 Nondiscrimination Requirements.

(a) Nondiscriminatory Class. The Employer shall not provide benefits to a classification of Employees which the Secretary of the Treasury finds to be discriminatory under Section 125 of the Code and the Regulations issued thereunder.

(b) Key Employees. The Employer shall not provide qualified Benefits to Key Employees in amounts that exceed twenty-five (25%) of the aggregate of such benefits provided for all eligible Employees under the Plan. For purposes of this subsection, qualified Benefits shall not include benefits which are includible in gross income.

10.2 Avoid Discrimination.

(a) Ability to Reject Election. 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 Section 125 of the Code or the Regulations issued thereunder, it may, but shall not be required to, reject any election or reduce contributions or non-taxable benefits to assure compliance with Section 125 of the Code. Any act taken by the Administrator pursuant to this Section shall be in a nondiscriminatory and uniform manner.

(b) Manner of Rejecting Election to Avoid Discrimination. In the event the Administrator determines that it is necessary to reject an election or reduce contributions or non-taxable benefits, the rejection shall be carried out as set forth in this subsection. Non-taxable benefits of the affected Key Employee or Highly Compensated Participant who has elected the highest amount of non-taxable benefits shall be reduced until the discrimination tests set forth in this subsection are satisfied or until the amount of his or her non-taxable benefit equals the non-taxable benefit of the affected Participant who has elected the second highest amount of non-taxable benefits. This process shall continue until the discrimination tests are satisfied. Any reduction made pursuant to this subsection shall be made proportionately among non-insured benefits and once all non-insured 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 subsection shall be forfeited and deposited into the general account containing all Flexible Benefit Dollars.

10.3 Reimbursement Plans. The Plan is intended not to discriminate in favor of “highly compensated individuals” (as defined in Section 414(q) of the Code with respect to the Dependent Care Plan and as defined in Section 105(h) of the Code with respect to the Medical Reimbursement Plan) as to eligibility to participate, contributions, and/or Benefits under the Medical Reimbursement Plan and Dependent Care Plan (the “Reimbursement Plans”). If the Plan Administrator determines the operation of either Reimbursement Plan in any Plan Year would result in such discrimination, then the Plan Administrator shall select and exclude from coverage under the applicable Reimbursement Plan such Participants and/or reduce such contributions and/or Benefits to ensure compliance with the nondiscrimination requirements of Section 129 and 105 of the Code.

ARTICLE XI ADMINISTRATION

11.1 Allocation of Responsibility for Administration.

(a) Designated Representatives. The Employer may appoint an individual or an administrative committee to serve at its discretion as Administrator. The Administrator shall have only those powers, duties, responsibilities and obligations as are specifically given to the Administrator under the Plan.

(b) Employer Responsibilities. The Employer shall have the sole responsibility for making the contributions provided for under Article VI and shall have the sole authority to amend or terminate, in whole or in part, the Plan at any time.

(c) Administrator’s Responsibilities. The Administrator shall have the sole responsibility for the administration of the Plan, as set forth herein. The Administrator warrants that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of the Plan authorizing or providing for such direction, information or action. The Administrator shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations under this Plan and shall not be responsible for any act or failure to act of another Employee. Neither the

Administrator, nor the Employer makes any guarantee to any Participant in any manner for any loss or other event because of the Participant's participation in the Plan.

11.2 Transfer of Duties. The Employer may, at any time, assign all or any portion of the Administrator's duties to a contracting third party.

11.3 Powers and Duties of Administrator.

(a) Powers and Duties Delegated to Administrator. The Administrator shall supervise the administration of the Plan. The Administrator shall be responsible for ensuring that the terms and conditions of the Plan are carried out for the exclusive benefit of persons entitled to participate in the Plan without discrimination. The Administrator shall have full power to administer the Plan, subject to the applicable requirements of the law and any Administration Agreement executed by and between the Employer and the Administrator. For this purpose, the Administrator's powers shall include the following:

(1) to construe and interpret the Plan, decide all questions of eligibility and determine the amount, manner and time of payment of any benefits hereunder;

(2) to prescribe the procedures for the Participants to follow in filing applications for benefits and to prepare forms to be used by the Participants;

(3) to prepare and distribute, in such manner as the Administrator determines appropriate, information explaining the Plan;

(4) to receive from the Employer, Participants, Participant's spouses and Dependents, and other persons such information as shall be necessary for the proper administration of the Plan;

(5) to furnish to the Employer and the Participants, upon request, annual reports detailing the administration of the Plan;

(6) to receive, review and keep on file records pertaining to the Plan, as the Administrator deems convenient and proper;

(7) to allocate its administrative responsibilities;

(8) to appoint or employ individuals and any other agents the Administrator deems advisable, including legal and actuarial counsel, to assist in the administration of the Plan;

(9) to adopt such rules as the Administrator deems necessary, desirable or appropriate, subject to applicable law. All rules and decisions of the Administrator shall be uniformly and consistently applied to all Participants in similar circumstances; and

(10) to take all other steps necessary to properly administer the Plan in accordance with its terms and conditions and the requirements of the applicable law.

11.4 Powers and Duties Not Delegated to Administrator. The Administrator shall have no power to add to, subtract from or modify any of the terms of the Plan, or to change or add to any benefits provided by the Plan, or to waive or fail to apply any requirements of eligibility for a benefit under the Plan, except as may be expressly provided herein. Interpretations of the provisions of the Plan shall not be deemed to be additions, subtractions, or modifications of the Plan.

11.5 Nondiscriminatory Exercise of Authority. Whenever in the administration of the Plan any discretionary action by the Administrator is required, the Administrator shall exercise its authority in a nondiscriminatory manner so that all persons similarly situated shall receive substantially the same treatment.

11.6 Incapacity of Participant. Whenever, in the Administrator's opinion, a person entitled to receive any payment of a benefit hereunder or an installment thereof is under a legal disability or is incapacitated in any way so as to be unable to manage the person's financial affairs, the Administrator may direct the Employer to make payments to such Participant or to such person or to the person's legal representative or to a relative or friend of such person on such person's behalf, or the Administrator may apply the payment for the benefit of such Participant in such manner as the Administrator considers advisable. Any payment of a benefit or installment in accordance with the provisions of this Section shall be a complete discharge of any liability for the making of such payment under the provisions of the Plan.

11.7 Indemnification of Administrator. The Employer agrees to indemnify any Employee serving as Administrator (including any Employee or former Employee who formerly served as Administrator), against any and all liabilities, damages, costs and expenses (including attorneys' fees and amounts paid in settlement of any claims approved by the Employer) occasioned by any act or omission to act in connection with the Plan, if such act or omission is made in good faith pursuant to the provisions of the Plan and not as a result of the Administrator's gross negligence or willful misconduct.

ARTICLE XII
CLAIMS PROCEDURE

Except as provided under Article VII with respect to payment of dependent care assistance benefits and under Article VIII with respect to payment of eligible medical expenses, all claims for benefits that are provided through insurance contracts, whether such contracts are between the insurer and the Employer or the insurer and the Participant, shall be made by filing a claim for benefits in accordance with the claims procedure set forth under the insurance contract. The Employer does not have the authority or responsibility for processing, reviewing or paying such claims. All disputes regarding those claims shall be resolved in accordance with the procedure set forth in the separate Component Plan document concerning those benefits.

ARTICLE XIII
AMENDMENTS, TERMINATION AND ACTION BY EMPLOYER

13.1 Action by Employer. Any action by the Employer under this Plan, including but not limited to, termination of this Plan, shall be by action of the Employer, or by any person or persons duly authorized by action of the Employer to act on its behalf.

13.2 Amendments. The Employer reserves the right to make, from time to time, any amendment or amendments to this Plan as it deems necessary or desirable, with or without retroactive effect, to comply with the law.

13.3 Right to Terminate. The Employer may terminate this Plan at any time. In the event of the dissolution, merger, consolidation or reorganization of the Employer, the Plan shall terminate unless the Plan is continued by a successor to the Employer in accordance with the Employer's procedures.

13.4 Plan Termination. Upon the termination of the Plan, the Administrator may determine the best method to make payments to the effected Participants.

ARTICLE XIV
HIPAA PRIVACY STANDARDS

14.1 Protection of Individually Identifiable Health Information. The Employer and the Plan have adopted policies and procedures ("Privacy Policy") for the sole and limited purpose of complying with the Standards for Privacy of Individually Identifiable Health Information, 45 CFR § 164.102 *et seq.*, as amended (the "Privacy Rule"). The manner in which these provisions will be administered shall in no way affect, or be taken into account in determining, the benefits under the Plan with respect to any individual.

14.2 Definitions. The defined terms and phrases used in this Article shall carry the same meaning and intent set forth under the Privacy Rule, and in some instances may replace the defined terms listed generally in Article III and to the extent of any conflict between the terms set forth herein and those of Article III, the defined terms shall carry the meaning prescribed under the Privacy Rule.

14.3 Identity of Plan Sponsor. The Employer shall be the Plan Sponsor for purposes of the Privacy Rule when performing Plan Administration functions or Plan Sponsor functions, when acting on behalf of the Plan with respect to its obligations under the Privacy Rule, and when acting on behalf of the Plan's participants and beneficiaries with respect to Participation and Enrollment Information. The Privacy Official shall act for the Plan Sponsor and shall be entitled to delegate its powers and responsibilities in accordance with its usual practices.

14.4 Responsibilities and Undertakings. The Plan Sponsor shall be responsible for making any necessary certifications to the Plan. Such certifications shall be delivered to the Plan's Privacy Official. The Plan Sponsor also undertakes and agrees that it:

(a) Shall not use or disclose Protected Health Information (“PHI”) except as to those uses specifically permitted under the Privacy Rule.

(b) Shall require any agents or subcontractors to whom it discloses PHI to agree to the same restrictions on the use and disclosure of PHI as apply to the Plan Sponsor;

(c) Shall not use or disclose PHI for any employment-related actions of Employer;

(d) Shall not use or disclose PHI in connection with any other benefits or benefit plan, program, or arrangement of Employer.

(e) Shall report to the Privacy Official any uses or disclosures of PHI inconsistent with the Plan’s Privacy Policy of which it becomes aware.

(f) Shall make PHI available in accordance with an individual's right of access in accordance with the Plan's Privacy Policy.

(g) Shall make PHI available for amendment and shall incorporate amendments in accordance with the Plan's Privacy Policy.

(h) Shall make information available to provide any required accounting of disclosures of PHI in accordance with the Plan's Privacy Policy.

(i) Shall make available to the Secretary of Health and Human Services its internal practices, books, and records relating to the use and disclosure of PHI from the Plan for purposes of determining the Plan's compliance with the Privacy Rule.

(j) Shall, if feasible, return to the Plan or destroy any PHI from the Plan that it maintains in any form, and shall retain no copies of the PHI when the PHI is no longer needed for the purpose for which disclosure was originally made. If it is not feasible to return or destroy the PHI, the Plan Sponsor agrees that it shall further limit any uses and disclosures to those purposes that make the return or the destruction of the information not feasible.

(k) Shall ensure that adequate separation between the Plan Sponsor and the Plan is established.

14.5 Uses and Disclosures of Protected Health Information.

(a) Certification. The Plan, and any Health Insurance Issuer or Health Maintenance Organization with respect to the Plan, may disclose PHI to the Plan Sponsor only following receipt of the Plan Sponsor's certification that the Plan has been amended in accordance with the requirements of the Privacy Rule.

(b) Plan Administration. The Plan Sponsor shall be permitted to the limited use and disclosure of PHI for purposes of plan administration, including all Payment Activities and Health Care Operations, as permitted under the Plan's Privacy Policy.

(c) Compliance with Privacy Rule. The Plan Sponsor shall be entitled to those uses and disclosures of PHI as permitted by the Privacy Rule to the extent necessary for compliance, including but not limited to any uses and disclosures permitted (1) without permission from an individual; (2) only with explicit or implicit authorization; or (3) because the PHI has been cleansed.

(d) Participation and Enrollment Information. Participation and Enrollment Information may be disclosed as necessary to the Plan Sponsor.

(e) Summary Health Information. Summary Health Information may be disclosed to the Plan Sponsor for the limited purpose of performing Plan Sponsor functions.

(f) Individuals With Access to PHI. The Privacy Official and his or her delegates, if any, are permitted to have access to PHI disclosed to or by the Plan. In addition, the Plan Sponsor shall designate the individual(s) or group(s) of individuals under the direct control of the Plan Sponsor who are permitted to have access to PHI disclosed by or to the Plan.

(g) Limitations on Disclosures of, Access to, and Uses of PHI. PHI may be disclosed from the Plan only for Plan Administration Functions performed on behalf of the Plan, and the other purposes identified in the Plan's Privacy Policy.

14.6 Hybrid Entity. The provisions of this Section shall apply only to the health care component of the Plan.

ARTICLE XV
GENERAL PROVISIONS

15.1 Written Plan. The Administrator shall, upon request, provide each Participant with a copy of the written Plan(s) detailing the benefits available to the Participant.

15.2 No Trust Fund Required. The Employer shall have no obligation, but shall have the right, to insure any benefits under the Plan or to establish any fund or trust for the payment of benefits under the Plan.

15.3 Insured Benefits. The Employer shall have no responsibility for the payment of any benefits covered under the Component Plans provided by policies of insurance.

15.4 Rights to Employer's Assets. No Employee or beneficiary shall have any right to, or interest in, any assets of the Employer upon termination of employment or otherwise, except as provided from time to time under this Plan, and then only to the extent of the benefits payable under the Plan to such Employee or beneficiary. All payments of benefits as provided for in this Plan shall be made solely out of the assets of the Employer and the Administrator shall not be liable therefore in any manner.

15.5 Nonalienation of Benefits. Benefits payable under this Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, including any such liability which is for alimony or other payments for the support of a spouse or former spouse, or for any other relative of the Employee, prior to actually being received by the person entitled to the benefit under the terms of the Plan; and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable hereunder, shall be void. The Employer shall not in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder.

15.6 Divestment of Benefits. Subject only to the specific provisions of this Plan, nothing shall be deemed to divest a Participant of a right to the benefit to which the Participant becomes entitled in accordance with the provisions of this Plan.

15.7 Discontinuance of Contributions. In the event of a permanent discontinuance of contributions to the Plan, all Participants shall receive any and all benefits to which they were entitled as of the date the discontinuance of contributions occurred.

15.8 Plan Interpretation. This Plan, the Summary Plan Description and the various Component Plans are intended to be read in conjunction with one another. However, to the extent of any conflict, the provisions of the Plan shall control, unless otherwise provided by Sections 125, 129 or 105(b) of the Code or the Regulations issued thereunder.

15.9 Governing Law. The Plan shall be administered in the State of California and its validity, construction, and all rights hereunder shall be governed by the laws of the State of California.

15.10 Severability. If any provision of the Plan shall be held invalid or unenforceable, the remaining provisions shall continue to be fully effective.

15.11 Gender and Number. Words used in the masculine, feminine, or neuter gender shall each be deemed to refer to the other whenever the context so requires. Words used

in the singular or plural number shall each be deemed to refer to the other whenever the context so requires.

15.12 Headings. Headings used in the Plan are intended solely for reference and are not intended to explain, modify or place any construction on any of the provisions of the Agreement. Any conflict between such headings and the text shall be resolved in favor of the text.

15.13 Successors and Assigns. The Plan shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns.

15.14 Discharge of Employee. The adoption and maintenance of the Plan shall not be deemed to be a contract between the Employer and the Employee. Nothing herein contained shall be deemed to give any Employee the right to be retained in the employ of the Employer or to interfere with the right of the Employer to discharge any Employee at any time.

15.15 Consolidation With Other Plan Documents. In the event the Plan merges or consolidates with, or transfers the assets and liabilities to, any other plan, no Participant herein shall, solely on account of such consolidation or transfer, be entitled to a benefit on the day following such event which is less than the benefit to which he or she was entitled on the day preceding such event. For the purpose of this Section, the benefit to which a Participant is entitled shall be calculated and based upon the assumption that a Plan termination and distribution of assets occurred on the day as of which the amount of the Participant's entitlement is being determined.

15.16 Counterparts. The Plan may be executed in an original and any number of counterparts by the Employer, each of which shall be deemed an original of one and the same instrument.

IN WITNESS WHEREOF, the Employer has caused this Restated Flexible Benefits Plan, Medical Reimbursement Plan, and Dependent Care Plan to be executed on _____.

EMPLOYER:

RIVERSIDE COUNTY TRANSPORTATION
COMMISSION

By: _____

Its: Chairman

APPROVED AS TO FORM AND CONTENT:
BEST BEST & KRIEGER LLP

By: _____
Attorneys for Employer

SCHEDULE “A”

The following Schedule, which may be amended from time to time by the Employer, specifies the Benefits and the Component Plans which set forth the terms, conditions and limitations of the Benefits offered to Participants. The periods of coverage for the Component Plans shall be the same as the Plan Year of the Flexible Benefits Plan, unless specified otherwise.

BENEFIT	PROVIDER	PERIOD OF COVERAGE	MAXIMUM LEVEL OF COVERAGE
Medical	CalPERS Health Benefits Program	Plan Year	N/A
Medical Reimbursement Plan	Self-insured	Plan Year	\$2,500.00 annually
Dependent Care Reimbursement Plan	Self-insured	Plan Year	\$5,000.00 annually \$2,500.00 annually for married Participant filing separate

**CERTIFICATION OF EMPLOYER TO
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
FLEXIBLE BENEFITS PLAN**

RIVERSIDE COUNTY TRANSPORTATION COMMISSION, is the sponsor of the RIVERSIDE COUNTY TRANSPORTATION COMMISSION FLEXIBLE BENEFITS PLAN. The Plan is a hybrid entity within the meaning of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) which includes non-health care and health care components. The health care components of the Plan include the following separate group health plans:

Riverside County Transportation Commission Medical Reimbursement Plan

The Plan (excluding the non-health care components) and the health care components included in the Plan are group health plans within the meaning of HIPAA (collectively, the “Plan”). The Plan and RIVERSIDE COUNTY TRANSPORTATION COMMISSION desire to exchange health information protected under HIPAA for purposes related to administration of the Plan. RIVERSIDE COUNTY TRANSPORTATION COMMISSION, acting in its capacity as plan sponsor of the Plan (“Plan Sponsor”) makes the following certifications for purposes of administering the Plan as required by the “Standards for Privacy of Individually Identifiable Health Information,” 45 CFR § 164.102 et seq. (the “Privacy Rule”):

The plan document of the Plan has been amended to incorporate the following provisions and Plan Sponsor agrees to:

1. not use or further disclose any protected health information (“PHI”) received from the Plan (including any health insurance issuer or HMO with respect to the group health plan) except as permitted or required by the plan documents or required by law;
2. ensure that any agents or subcontractors to whom it discloses any PHI agree to the same restrictions and conditions that apply to the Plan Sponsor with respect to such information;
3. not use or disclose PHI for employment-related actions and decisions;
4. not use or disclose PHI in connection with any other benefit plan, program, or arrangement of RIVERSIDE COUNTY TRANSPORTATION COMMISSION except to the extent such other benefit plan, program or arrangement is part of an organized health care arrangement of which the Plan also is a part;
5. report to the Plan any use or disclosure of PHI that is inconsistent with the uses and disclosures specified in the Plan of which it becomes aware;
6. give individuals access rights to PHI in its possession in accordance with the policies and procedures of the Plan;

7. permit individuals to request amendment of their PHI in the Plan Sponsor's possession, and to make any necessary amendments, in accordance with the policies and procedures of the Plan;

8. make information available to provide any necessary accounting of disclosures of PHI in accordance with the policies and procedures of the Plan;

9. make its internal practices, books, and records relating to the use and disclosure of PHI from the Plan available to the Secretary of the Department of Health and Human Services for purposes of determining the Plan's compliance with the Privacy Rule;

10. if feasible, to return to the Plan or destroy any PHI from the Plan that it maintains in any form, and shall retain no copies of the PHI when the PHI is no longer needed for the purpose for which disclosure was originally made. If it is not feasible to return or destroy the PHI, the Plan Sponsor agrees that it shall further limit any uses and disclosures to those purposes that make the return or the destruction of the information not feasible; and

11. agrees to ensure that adequate separation between the Plan Sponsor and the Plan is established.

PLAN SPONSOR

PLAN

RIVERSIDE COUNTY TRANSPORTATION
COMMISSION

RIVERSIDE COUNTY TRANSPORTATION
COMMISSION FLEXIBLE BENEFITS
PLAN

By: _____

By: _____

Print Name: Marion Ashley

Print Name: Anne Mayer

Title: Chairman

Title: Privacy Official

Dated: _____

Dated: _____

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
FLEXIBLE BENEFITS PLAN**

SUMMARY PLAN DESCRIPTION

INTRODUCTION

ABOUT THIS PLAN

As of September 11, 2002, RIVERSIDE COUNTY TRANSPORTATION COMMISSION (RCTC) has established a Flexible Benefits Plan that allows its employees to elect to purchase the available benefits on a tax-favored (pretax) basis. This benefit program allows you to use your benefit dollars in a cost effective manner to select benefits based on your individual needs. The benefits described in this booklet constitute the benefits available under the plan and are referred to collectively in this booklet as the “RCTC’s Plan.”

- Plan Modification/Termination

The RCTC Plan is based on RCTC’s understanding of the current provisions of the Internal Revenue Code. RCTC intends to provide benefits under the Plan indefinitely. However, RCTC may change or terminate the benefits provided or the contributions you must pay for benefits. RCTC has the right to make these changes or to terminate benefits at any time. However, if this occurs it will not affect any benefit to which you were entitled prior to the date of the amendment or termination.

- Plan Administration

RCTC’s Accounting Department will manage the RCTC’s Plan having full discretion to determine eligibility, to interpret the RCTC’s Plan and to determine whether a claim should be paid or denied, according to the provisions of the RCTC’s Plan and with governmental regulations.

BENEFITS

The RCTC Flexible Benefits Plan is made possible by Section 125 of the Internal Revenue Code. Section 125 enables Employees to set aside money on a pre-tax basis to cover:

- ◆ Premiums for group health insurance;
- ◆ Health care expenses; and
- ◆ Dependent care expenses.

Under the RCTC Plan, contributions for any group health, prescription drugs and over-the-counter medicines, coverage offered under the RCTC’s Plan are deducted from your paycheck

on a pre-tax basis. (This was adopted on September 11, 2002 as the Premium Conversion Plan by Resolution No. 03-009.)

In addition, you may also elect to participate in the Health Care and/or Dependent Care Spending Account options, whereby RCTC takes an annual amount (on a pre-tax basis), determined by you, from your gross pay. This money is held in a spending account for reimbursement of your eligible health and/or dependent care expenses. After you incur eligible health or dependent care expenses, simply submit a claim to be reimbursed from the appropriate account.

- What Benefits Are Available Under The RCTC Plan?

You may purchase benefits under the Plan for yourself and your family. You may pay for these benefits using pretax dollars that are automatically deducted each pay period. Details relative to the cost per pay period for each benefit and the minimum and maximum amounts you may contribute to the Flexible Benefit Accounts are listed on the enrollment form.

The benefits from which you may choose include:

- ◆ medical/health plans
- ◆ two different Flexible Benefit Accounts (FBA):
 - a medical spending account (the Health Care Contribution Account)
 - a dependent care spending account (the Dependent Care Spending Account)

Each benefit under the RCTC Plan has separate rules governing benefits and plan administration to comply with various federal tax laws. These rules are explained in more detail in the plan documents, copies of which are available from RCTC's Human Resources Department.

ELIGIBILITY & ENROLLMENT

- Who May Participate In The Plan?

To be eligible for participation under the RCTC Plan, you must:

- ◆ Be a resident of the United States.
- ◆ Not be a temporary or contract Employee.
- ◆ Be a regular or probationary Employee.

- How Do I Enroll In The Plan?

The RCTC plan year begins on July 1 and ends on June 30 of the following year. Effective January 1, 2007, the RCTC plan year will begin on January 1 and end on December 31.

All Participants must enroll or re-enroll during the designated open enrollment period of May 1 through June 15 (for the six month period July 1, 2006 through December 31, 2006) or November 1 through December 15 (effective January 1, 2007) just before the beginning of

each plan year. However, if you first become eligible after July 1 (or January 1, effective January 1, 2007) of a plan year you may enroll within 31 days of the date you become eligible. Enrollment forms are available from RCTC's Accounting Department or the intranet.

You must complete a Flexible Benefits Enrollment Form prior to the beginning of each plan year selecting the benefits you would like to purchase under the Plan.

For newly eligible employees, if you fail to complete an election form, then you will be considered having elected not to participate in the Plan. If you are already a participant in the RCTC Plan and you fail to complete a new election form for the upcoming Plan year, then you will be deemed to have elected the same benefit options and salary reduction amounts for the health care contribution deduction that you elected for the prior year; however, you will not be eligible to participate in either Flexible Benefit Account.

- Can I Change My Elections?

During each annual open enrollment period, you may change all of your benefit elections with respect to the upcoming plan year. Your choices are in effect for the entire plan year. Only under special circumstances may you apply to change an election after a plan year has started and make new elections for the rest of that plan year. These special circumstances include the following:

Changes in Family Status

- ◆ *Marital Status.* Change in marital status (such as Marriage, Divorce, Legal Separation or Annulment);
- ◆ *Number of Dependents.* Change in the number of your dependents (such as the death of your spouse or a child; the birth, adoption of or placement for adoption of a child);
- ◆ *Employment.* Change in your employment status or the status of your spouse or dependent which results in that person becoming or ceasing to be eligible under this Plan or other benefit plan (such as the switching from part-time to full-time employment status or from full-time to part-time status by you or your spouse; termination or commencement of employment; a strike or lockout; the taking of or return from an unpaid leave of absence; or a change in work site);
- ◆ *Dependent Status.* Change in dependent status (your dependent satisfies or ceases to satisfy the eligibility requirements under the Plan);
- ◆ *Residency.* Change in residence causing you to be outside the plan's coverage area (if applicable); or
- ◆ *Medicare or Medicaid.* Entitlement to or ceasing to be entitled to Medicare or Medicaid.

Changes in election must be consistent with the change in family status. For example, the birth of a child may necessitate an increase in the Health Care Contribution Account, but not a decrease.

Changes in Cost or Coverage

Special circumstances also include cost and coverage changes to the group health plan in which you participate, such as a significant increase in the cost of your group health coverage, a significant decrease in or cessation of your group health coverage or a significant change in your group health coverage or your spouse's attributable to your spouse's employment. For these instances, however, only a change to another health plan with similar coverage is permitted.

To change your election, complete a new Flexible Benefits Enrollment Form available at RCTC's Accounting Department or the intranet.

PARTICIPATION IN THE PLAN

- What Are The Advantages Of A Section 125 Plan?

A Section 125 Plan can significantly lower your tax burden, because you pay no Federal Income Tax on compensation allocated to the RCTC Plan. Furthermore, you do not have to pay state income taxes on this money.

- How Does RCTC Provide Benefits Under The Plan?

RCTC each year provides a Flexible Benefit Allowance related to health care benefits for each eligible employee. The amount of this allowance is announced before the beginning of each year. Each employee elects how much of this allowance is to be applied to the health care benefits available under the Plan.

- Will The Flexible Benefit Allowance Pay For All Available Benefits?

One of the advantages of a Section 125 Plan is that the employee, rather than the employer, decides which benefits he or she should receive. Consequently, a wider range of choices is offered allowing you to make the choices as to the particular benefits which fit your situation. The cost of benefits for employees electing certain types of coverage may not be fully covered by the allowance.

- How Do You Pay For Benefits Not Covered By The Flexible Benefit Allowance?

You purchase the additional benefits through a payroll deduction from your salary. Any amounts deducted are not subject to income taxes and any other payroll taxes.

HOW DOES THE HEALTH CARE CONTRIBUTION DEDUCTION WORK?

You may choose health care benefits from one of the several different health care options offered through CalPERS. You share the cost of your health benefits with RCTC and your share of the premium is deducted from each paycheck. When you participate in the Health Care Contribution Deduction option, your share of the premiums is deducted from your paycheck on a pre-tax basis. Because contribution costs are deducted from gross pay before taxes are calculated, you save tax dollars.

If the cost of medical and prescription drug coverage increases or decreases, then your payroll deduction will be automatically adjusted to reflect the change.

HOW DO THE FLEXIBLE BENEFITS ACCOUNTS WORK?

You may establish special accounts for two separate categories of predictable expenses: medical and dependent care. You specify on your enrollment form how much you want to contribute to each account for the year. This is your annual contribution which will be deducted from your pay throughout the year. The Internal Revenue Service states that the balances of these spending accounts cannot be combined or used for purposes other than for which they were originally intended. That means that if you have money left over in your Dependent Care Account at the end of the year, you cannot use it for medical expenses.

- What Are The Advantages Of Electing this Benefit?

There are some expenses you know you will have to pay for in the coming year; for example, new eye glasses, orthodontia services not covered by insurance or daycare for a child or an incapacitated dependent adult while you are at work. Normally, you would pay for these expenses with after-tax income. However, when you participate in the Health Care Account or Dependent Care Account, you may set aside pre-tax earnings in special accounts to pay for these expenses.

THE HEALTH CARE ACCOUNT

- What Are The Advantages of Contributing to a Health Care Account?

You choose the amount to be deducted from your gross pay, up to a maximum of \$2,500.00 in any one plan year. This amount will be:

- ◆ Transferred to a health care account in equal amounts each pay period; and
- ◆ Used to reimburse you for allowable medical expenses incurred during a plan year. This includes any deductibles and co-payment percentages you must pay.

- What Are Allowable Medical Expenses?

“Allowable medical expenses” means those expenses defined in Section 213 of the Internal Revenue Code for diagnosis, treatment, or prevention of disease, excluding any contributions for health coverage, that are not otherwise used as a tax deduction by you and that are incurred on or after the date you become covered under the RCTC’s Plan. This includes expenses such as deductibles and copayments, uninsured medical and dental expenses, vision care and hearing care. Generally, the expenses covered must be “medically necessary,” or prescribed by a licensed physician to qualify.

Examples of allowable medical expenses:

- ◆ Acupuncture;
- ◆ Alcoholism and drug abuse treatment;
- ◆ Ambulance services;
- ◆ Artificial limb or teeth;
- ◆ Chiropractor;
- ◆ Contact lenses;
- ◆ Cosmetic surgery necessary to improve a deformity caused by congenital abnormality, accident or trauma, or disfiguring disease;
- ◆ Crutches;
- ◆ Dental treatment (non-cosmetic);
- ◆ Deductibles or co-payments for medical, dental, or vision Plans;
- ◆ Eyeglasses;
- ◆ Eye surgery;
- ◆ Fertility enhancement;
- ◆ Guide dog or other animal;
- ◆ Hearing aids;
- ◆ Hospital services;
- ◆ Laboratory fees;
- ◆ Nursing home and nursing devices;
- ◆ Oxygen;
- ◆ Prescription or eligible over-the-counter drugs or insulin;
- ◆ Psychiatric care, psychoanalysis, and psychologist services;
- ◆ Stop-smoking programs, including prescribed drugs;
- ◆ Transportation expenses for, and essential to, medical care;
- ◆ Vaccinations or Immunizations;
- ◆ Weight-loss programs related to specific disease diagnosed by physician; and
- ◆ Wheelchairs.

For a more comprehensive list, contact RCTC’s Accounting Department.

- What Health Care Expenses Are Ineligible?

You will not be reimbursed for ineligible expenses. Examples of ineligible expenses are:

- ◆ Any illegal operations or treatment;
- ◆ Unnecessary cosmetic surgery;
- ◆ Babysitting, childcare and nursing services for a normal, healthy child;
- ◆ Cost of special foods taken as a substitute for a regular diet, where the special diet is not medically necessary or the taxpayer cannot show cost in excess of cost of a normal diet;
- ◆ Cost of toiletries, cosmetic and sundry items (e.g. soap, toothbrushes);
- ◆ Diaper service;
- ◆ Fees for exercise, athletic or health club membership where there is no specific health reason for needing the membership;
- ◆ Funeral expenses;
- ◆ Hair removal (electrolysis) or hair transplants;
- ◆ Premiums paid for other health plan coverage;
- ◆ Maternity clothes;
- ◆ Mechanical exercise device not specifically prescribed by a doctor;
- ◆ Nutritional supplements for general well-being;
- ◆ Teeth whitening; and
- ◆ Weight-loss program for general well-being.

For a complete list of eligible and ineligible expenses, review the IRS Publication 502 available at <http://www.irs.gov/pub/irs-pdf/p502.pdf> or contact RCTC's Accounting Department.

THE DEPENDENT CARE ACCOUNT

- What Are The Advantages of Contributing to a Dependent Care Account?

The cost of dependent care can be a major expense for today's working parents. When you participate in your Plan's Dependent Care Account, you may set aside pre-tax earnings to pay for dependent care expenses incurred to enable you or your spouse to work.

When you enroll at the beginning of each plan year, you choose the amount to be deducted from your gross pay. The maximum that can be set aside for dependent care in any one plan year is:

- ◆ \$5,000.00 for a single Employee, or a married Employee filing a joint federal income tax return; and
- ◆ \$2,500.00 for a married Employee filing a separate federal income tax return.

The amount deducted from your pay will be:

- ◆ Transferred to your Dependent Care Account in equal amounts each pay period; and
- ◆ Used to reimburse you for employment-related dependent care expenses incurred during the plan year.

- What Are Employment-Related Dependent Care Expenses?

“Employment-Related Dependent Care Expenses” means expenses incurred for care of qualifying dependent to enable you or your spouse to be gainfully employed. This includes:

- ◆ Charges for daily care of any of your children who are under the age of 13. Care may be provided either in or outside your home by any person except:
 - A child of yours who is under age 19; or
 - A person for whom you claim a federal income tax deduction.

If care is provided outside the home by a facility that cares for more than 6 children, the facility must be licensed.

- ◆ Charges for daily care of any member of your immediate family who is physically or mentally incapable of self-care.
- ◆ Included are payments to child care centers, nursery schools, kindergarten and schools for children up to but not including first grade. Eligible expenses also include payment for summer day camps, after-school care and elderly care provided this care is required to enable you (or your spouse) to work.

The expenses must be incurred on or after the date you become covered under the RCTC’s Plan.

- Who is A Qualifying Dependent?

“Qualifying dependent” for purposes of the Dependent Care Account means your child (up to age 13) or any other individual for whom you claim an income tax exemption. This could also include a disabled child, regardless of age, or an elderly parent who lives with you.

- Can I Still Take The Federal Income Tax Credit For Dependent Care Expenses?

You cannot use the same expenses for both the tax credit and Dependent Care Account. However, if you elect the Dependent Care Account option, you may still be eligible for the federal income tax credit for dependent care expenses. You can:

- ◆ Apply eligible dependent care expenses toward the tax credit;
- ◆ Use them as a claim against the Dependent Care Account; or
- ◆ Split them and apply some toward the tax credit and some toward the Dependent Care Account.

The federal income tax credit is determined as a percentage of adjusted gross income. This percentage rises as the adjusted gross income declines. No more than \$4,800 of expenses (\$2,400 if you just have one dependent) is eligible for the federal tax credit. This dollar limit

is reduced dollar for dollar by the amount excluded from income under the Dependent Care Account.

THINGS TO CONSIDER:

When deciding whether to set aside part of your pay for dependent care, you need to consider how the tax break for the Dependent Care Account compares with the tax credit for dependent care.

The federal income tax credit is subtracted from your income tax, while the Dependent Care Account reduces your taxable income. The method that gives you the greatest tax savings depends on your individual situation. In some cases, either the tax credit or the Dependent Care Account may be better. In other cases, using a combination of the two may provide the most tax savings.

HOW MUCH SHOULD I CONTRIBUTE TO MY FBA ACCOUNTS?

- IRS Regulations

There are certain federal regulations to consider before enrolling in either of the Flexible Benefit Accounts.

- ◆ Federal regulations require that you designate how much money you wish to contribute annually to each account at the beginning of the plan year.
- ◆ You may change your annual contribution only if you experience a change in family status, such as marriage, divorce or the addition or loss of a spouse's income. (A complete list of circumstances that qualify as a change in family status is given under "Can I Change My Elections?" earlier in this section.)
- ◆ Due to IRS regulations, you must use all of the funds in your FBA by the end of the coverage period or you will lose them. Any money left in your Health Care Account or your Dependent Care Account after all claims have been processed for that plan year must be forfeited. IRS regulations prohibit RCTC from returning these forfeitures directly to the Employees who forfeited the funds. Any forfeited amounts will be applied toward plan expenses.
- ◆ Money set aside for medical expenses cannot be used for dependent care expenses, or vice versa. Therefore, if you have money left over in one account that you would otherwise forfeit, you cannot use that money for other types of expenses. That is why it is important to estimate your expenses carefully.
- ◆ Once you make an election, you cannot change it until the end of the plan year unless you have a change in family status.

- ◆ If you do not enroll in the Plan during the annual election period, you must wait until the next annual election period to enroll unless you have a change in family status. See “Can I Change My Elections?” for additional information.

- Questions To Ask Yourself

Here are a few questions that might help you decide how much money to set aside in your Flexible Benefit Accounts:

- ◆ What is your health care plan deductible? Do you think you will incur enough expenses to meet it during the plan year?
- ◆ At what percentage does your health care plan pay benefits? You can pay the remaining portion with pre-tax dollars.
- ◆ What medical, prescription drug, dental or vision care expenses do you expect to incur that may not be covered under your plan? Are you or any of your dependents on long-term medication?
- ◆ How much do you expect to pay for dependent care during this plan year? Be sure to consider expenses for child care, elder care and care for a disabled dependent.

HOW DO I GET REIMBURSED?

Reimbursement payments under the Health Care or Dependent Care Account will be made directly to you. Simply complete an Flexible Benefit Account Reimbursement Request form available from RCTC’s Accounting Department or the intranet, attach a copy of your receipts, and send it to RCTC’s Accounting Department.

- When Will I Receive My Reimbursements?

FBA Reimbursement Requests are usually processed twice a week. Currently, the “cut off” is Monday/Wednesday 12:00 p.m. for Tuesday/Thursday checks, respectively.

Effective June 14, 2006, and each Plan year thereafter, there will be a two and a half month grace period after the end of the plan year (i.e., through the 15th day in the third month) to be reimbursed from the prior plan year balance, if any, for expenses incurred during the grace period. Claims will be processed in the order received; first to the prior plan year balance, if any, and then to the current plan year balance.

All claims for payment in any plan year must be made no later than 90 days after the end of that plan year.

Employees who terminate employment during the Plan Year will be given three months from their date of termination in which to submit expenses incurred prior to their termination.

Any questions regarding the administration of the FBA should be directed to the Accounting and Human Resources Manager.

- Health Care Account

Allowable health care expenses incurred during a plan year will be reimbursed, up to the amount you have elected for the plan year, even if you have not yet accumulated that amount in your account.

Copies of receipts from service providers or the Explanation of Benefits Form from an insurance carrier must be submitted with the completed Expense Reimbursement Claim Form. The documentation from the service providers must contain the following information:

- ◆ Name of the provider;
- ◆ Patient name;
- ◆ Date of service;
- ◆ Description of service; and
- ◆ Amount charged.

- Dependent Care Account

Employment-related dependent care expenses incurred during a plan year will be reimbursed when you have a positive, or funded, balance in your dependent care account for that plan year.

Submit an itemized receipt or canceled check, along with a completed Expense Reimbursement Claim Form, to RCTC's Accounting Department. The Tax I.D. Number (or Social Security Number) of the care provider must be included on the claim form. The tax law requires you to give this number, and your dependent care provider is required by law to give you this number.

- How Will I Know How Much I Have In My Accounts?

For each Employee, a detail statement is maintained that clearly states the balance in each account. It lists the year-to-date deposits, claims submitted and claims paid, as well as any carry-over amounts. It may be requested from RCTC's Accounting Department. In addition, three months prior to the end of the plan year, each participating Employee will receive an Employee Account Status Report. This report is your reminder to submit any remaining claims you may have to avoid plan forfeitures.

HOW LONG CAN I PARTICIPATE IN THE PLAN?

You can participate in the Plan as long as you remain eligible (See “Who May Participate In The Plan?”.)

Remember, to participate in the Health Care and Dependent Care Accounts you must elect to participate in the Spending Accounts before the beginning of each plan year.

- What Happens If My Employment Terminates Or The Plan Terminates?

If your employment terminates or the Plan is terminated, then, unless you elect to continue your participation under the Health Care Account, no further additions will be made to your Spending Account(s).

However, benefits for expenses incurred prior to termination will be paid until the earlier of:

- ◆ The end of the plan year; or
- ◆ The account balance in your Spending Account has been reduced to zero.

- What If I Have A Pre-Existing Condition And Lose Coverage?

Under the Health Insurance Portability and Accountability Act of 1996, you have certain rights to the reduction or elimination of exclusionary periods of coverage for preexisting conditions under your group health plan, if you have creditable coverage from another plan. You should be provided a certificate of creditable coverage, free of charge, from your group health plan or health insurance issuer when you lose coverage under the Plan, when you become entitled to elect continuation coverage, when your continuation coverage ceases, if you request it before losing coverage, or if you request it up to 24 months after losing coverage. Without evidence of creditable coverage, you may be subject to a preexisting condition exclusion for 12 months (18 months for late enrollees) after your enrollment date in your coverage.

- Family Medical Leave Act

As an Employee, you may be entitled under the federal Family and Medical Leave Act (FMLA) to up to 12 work-weeks of unpaid, job-protected leave in any 12-month period. You may be eligible if you have worked for RCTC for at least one year, and for 1,250 hours during the previous 12 months. Such leave may be available for the birth and care of a newborn child, placement of a child for adoption or foster care, a serious health condition of a family member (child, spouse, or parent) or a personal serious health condition.

As a participant in the health care part of the RCTC’s Plan, you have, while on FMLA leave, the option to continue your health benefits on the same terms and conditions as immediately prior to your taking FMLA leave. You and your eligible dependents shall remain covered under the RCTC’s Plan while you are on FMLA leave as if you still were at work. Your coverage will be maintained until you return to work or, if earlier, you notify RCTC that you

will not return to work. If you choose not to remain covered under the RCTC's Plan while on FMLA leave, and subsequently return to work before or at the end of FMLA leave, you and your eligible dependents shall immediately become covered under the RCTC's Plan without proof of insurability and without regard to pre-existing conditions that arise while on FMLA leave.

- Continuation Coverage Following Termination of Employment

Continued health care coverage may be available to you under the terms of the component health plans. If you are covered under one of Plan's group health plans, you have the right to choose continuation coverage if you lose health coverage for any reason other than termination due to gross misconduct. Your spouse or eligible dependent covered under a health plan shall have a separate right to continuation coverage for themselves if they lose group health plan coverage for any of the following reasons:

- ◆ your death;
- ◆ the termination of your employment (for any reasons other than gross misconduct) or reduction in your hours of employment;
- ◆ your divorce or legal separation;
- ◆ you become entitled to Medicare; or
- ◆ the dependent ceases to be a "dependent child" under the terms of a group health plan.

The terms on which continuation coverage is available are explained in the information provided to you in connection with your enrollment in the particular health plans.

If you have a balance in your flexible spending account upon your termination of employment, you may elect to continue your participation under the Health Care account until the end of the plan year. Your continued participation is subject to payment of required contributions on an after-tax basis. If you incur allowable medical expenses during the period of continued participation, you will be reimbursed for those expenses according to "How Do I Get Reimbursed?". However, in no event will you receive benefits in excess of the elected salary reduction for that plan year.

OTHER INFORMATION YOU NEED TO KNOW

- Qualified Medical Child Support Orders

Generally, your Plan benefits may not be assigned or alienated. However, an exception applies in the case of a "qualified medical child support order." Basically, a qualified medical child support order is a court-ordered judgment, decree, order or property settlement agreement in connection with state domestic relations law which either (1) creates or extends the rights of an "alternate recipient" to participate in a group health plan, including this Plan, or (2) enforces certain laws relating to medical child support. An "alternate recipient" is any child of a Participant who is recognized by a medical child support order as having a right to enrollment under a Participant's group health plan.

A medical child support order must satisfy certain specific conditions to be qualified. You will be notified by the Plan Administrator if it receives a medical child support order that applies to you and the Plan's procedures for determining whether the medical child support order is qualified.

- **Maternity and Newborn Coverage**

Group health plans and health insurance carriers generally may not, under Federal law, restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child to less than 48 hours following a normal vaginal delivery, or less than 96 hours following a cesarean section. However, Federal law generally does not prohibit the mother's or newborn's attending provider, after consulting with the mother, from discharging the mother or her newborn earlier than 48 hours (or 96 hours as applicable). In any case, plans and issuers may not, under Federal law, require that a provider obtain authorization from the plan or the insurance issuer for prescribing a length of stay not in excess of 48 hours (or 96 hours).

- **Confidentiality of Your Private Health Information**

A federal law, the Health Insurance Portability and Accountability Act of 1996, or HIPAA, requires that health plans protect the confidentiality of your private health information. Because this Plan offers certain health plan benefits, such as a medical plan and medical spending account, it is required by HIPAA to safeguard your private health information. This section of the Plan relating to HIPAA will apply only to those health plan benefits provided under the Plan.

This Plan and RCTC will not use or further disclose information that is protected by HIPAA except as necessary for treatment, payment, health plan operations and plan administration, or as permitted or required by law. By law, the Plan has required all of its business associates (those entities that perform functions on behalf of the Plan and need access to private health information) to also observe HIPAA's privacy rules. In particular, the Plan will not, without authorization, use or disclose protected health information for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of RCTC.

Under HIPAA, you have certain rights with respect to your protected health information, including certain rights to see and copy the information, receive an accounting of certain disclosures of the information and, under certain circumstances, amend the information. You also have the right to file a complaint with the Plan or with the U.S. Department of Health and Human Services if you believe your rights under HIPAA have been violated.

A complete description of your rights under HIPAA can be found in the Plan's privacy notice, which was either distributed to you upon enrollment or prior to June 15, 2006. For a copy of this notice, if you have questions about the privacy of your health information or if you wish to file a complaint under HIPAA, please contact the Privacy Official and Complaint Manager for RCTC.

- Examination of Records

RCTC will make available to each Employee such records as pertain to the Employee, for examination at reasonable times during normal business hours.

- Amendment or Termination of the Plan

RCTC, at any time or from time to time, may amend any or all of the provisions of the Plan without your consent.

No amendment will have the effect of reducing any of your benefit elections in effect at the time of such amendment, unless such amendment is made to comply with federal law or local statute or regulations.

RCTC reserves the right to terminate this Plan, in whole or in part, at any time.

- Non-Alienation of Benefits

Except for Qualified Medical Child Support Orders received by RCTC, no benefit, right or interest of any person under this Plan will be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, seizure, attachment or legal, equitable or other process or be liable for, or subject to, the debts, liabilities or other obligations of such person, except as otherwise required by law.

- Limitation on Employee Rights

Nothing appearing in or done pursuant to this Plan will be held or construed:

- ◆ To give any person any legal or equitable right against RCTC, except as expressly provided herein or provided by law; or
- ◆ To create a contract of employment with any Employee, to obligate RCTC to continue the service of any employee or to affect or modify his or her terms of employment in any way.

- Other Salary-Related Plans

It is not intended that any other salary-related Employee benefit plans that are maintained or sponsored by RCTC will be affected by this Plan. Any contributions or benefits under such other plans with respect to you will, to the extent permitted by law, be based on your compensation from RCTC, including any amounts by which your salary or wages may be reduced.

- Jurisdiction

The RCTC Plan is governed by the Internal Revenue Code and the regulations issued thereunder (as they might be amended from time to time).

COMPLIANCE WITH THE EMPLOYEE RETIREMENT INCOME ACT OF 1974 (ERISA)

The information furnished herein constitutes the Summary Plan Description required by federal law. To comply with the law, the following additional information is also furnished. Note: Dependent care assistance plans are not covered under the Employee Retirement Income Security Act (ERISA).

- Name and Identification Number of Plans

Riverside County Transportation Commission Flexible Benefits Plan (501), Riverside County Transportation Commission Dependent Care Reimbursement Plan (502) and Riverside County Transportation Commission Medical Reimbursement Plan (503).

- Participants

The plans provide benefits for all employees of RCTC who meet the eligibility requirements described herein.

- Plan Administrator

Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92501
(951) 787-7141

Contact: Anne Mayer, Deputy Executive Director

If you have a question about the Plan, then contact RCTC's Finance Department:

Chief Financial Officer	(951) 787-7926
Accounting Human Resources Manager	(951) 787-7941
Accounting Technicians	(951) 787-7925 or 787-7959
Senior Accounting Assistant	(951) 787-7930

- Employer Identification Number (EIN)

33-0072823

- Agent for Service of Legal Process

Clerk of the Board
Riverside County Transportation Commission
4080 Lemon Street, 3rd Floor
Riverside, CA 92501

- Plan Year

Effective January 1, 2007, the plan year will be based on the calendar year beginning on January 1 and ending on December 31.

- Plan Definition and Funding

This is a Section 125 flexible benefits plan classified as a “cafeteria” plan by the Internal Revenue Code. It includes a Section 105 health flexible spending account, classified by the Department of Labor as a “welfare” plan, and a Section 129 dependent care flexible spending Account. The Plan is funded by both employer and employee contributions.

- Health Insurance Issuer

The name and address of the health insurance agent is:

CalPERS
Office of Employer & Member Health Service
P.O. Box 942714
Sacramento, CA 94229-2714
(888) CalPERS (225-7377)

- Not a Contract of Employment

No provision of the Plan is to be considered a contract of employment between you and RCTC or any Participating Employer. RCTC’s rights with regard to disciplinary action and termination of any Employee, if necessary, are in no manner changed by any provision of the Plan.

GLOSSARY

The following defined terms have a special meaning with respect to the benefits outlined in this booklet.

- Employee

A person in the Service of RCTC.

“Employee” only includes a person who is a resident of the United States.

- RCTC

Riverside County Transportation Commission, as the employer.

- Service

Work with RCTC:

- ◆ on an active regular or probationary basis; and
- ◆ not as a temporary or contract employee.

**PRIVACY POLICIES AND PROCEDURES MANUAL
FOR GROUP HEALTH PLANS OF
RIVERSIDE COUNTY TRANSPORTATION COMMISSION**

I. INTRODUCTION

A. GENERAL POLICY

As part of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Department of Health and Human Services has established certain standards to protect the privacy of Protected Health Information (“Privacy Rule”). The Privacy Rule requires certain Covered Entities that maintain Protected Health Information to implement policies and procedures in order to safeguard the use and disclosure of such information. Accordingly, this policies and procedures manual is designed to provide appropriate standards for the group health plans provided by **Riverside County Transportation Commission (the “Company”)** to ensure compliance with HIPAA, applicable California privacy laws, and other federal laws.

B. SCOPE

The Company currently sponsors and maintains the following group health plans (the “Group Health Plans”) which are subject to the policies and procedures stated herein and the HIPAA Privacy Rule. Any group health plans hereinafter adopted by the Company shall also be subject to these policies and procedures.

**Riverside County Transportation Commission Flexible Benefits Plan
Riverside County Transportation Commission Medical Reimbursement Plan**

C. MORE STRINGENT STATE LAW

Generally, the Privacy Rule will apply or displace California laws that govern the same or similar areas. However, where California law or other federal law provisions relating to the privacy of individually identifiable health information are more stringent than HIPAA’s Privacy Rule, such provisions shall apply. In that case, where such laws have been enacted, Company will follow the more stringent state privacy laws that relate to uses and disclosures of Personal Health Information concerning HIV or AIDS, mental health, substance abuse/chemical dependency, genetic testing, reproductive rights, etc.

D. HIPAA PRIVACY DESIGNATIONS

The following designations have been made, as required by the Privacy Rule:

Privacy Official:	Anne Mayer, Deputy Executive Director
Contact to Receive Privacy Complaints:	Anne Mayer
Contact to Receive Privacy Notice Inquiries:	Anne Mayer
Contact to Handle Requests for Restriction of Uses/Disclosures, Access to PHI, Amendment of PHI and Accounting of PHI Disclosures:	Anne Mayer

II. POLICY DEFINITIONS

Business Associate means a person (not an employee of Company) who helps the Company or Group Health Plans with a function or activity involving the use or disclosure of individually identifiable health information. Such functions may include claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management or repricing, legal, actuarial, accounting, consulting, data aggregation management, administrative, accreditation or financial services.

Covered Entity means a health plan, a health care clearinghouse, or a health care provider who transmits health information in electronic form in connection with a transaction for which the U.S. Department of Health and Human Services has adopted a standard.

Designated Record Set means the enrollment, payment, claims adjudication and case or medical management record systems maintained by or for a health plan or used in whole or in part, by or for the Covered Entity to make decisions about Individuals.

Disclose and **Disclosure** mean the release, transfer, provision of access to, or divulging in any other manner of Personal Health Information outside Business Associate's internal operations or to other than its employees.

ERISA means the Employee Retirement Income Security Act of 1974.

Health Care means care, services, or supplies related to the health of an individual, including (1) preventative, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, services, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual that affects the structure or function of the body; and (2) sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

Health Care Operations means any of the following activities of the Covered Entity to the extent that the activities are related to covered functions: (1) conducting quality assessment and improvement activities, population-based activities, and related functions that do not include treatment; (2) reviewing the competence or qualifications of health care professionals, evaluating practitioner, provider, and health plan performance, conducting training programs where students learn to practice or improve their skills as health-care providers, training or nonhealth-care professionals, accreditation, certification, licensing, or credentialing activities; (3) underwriting, premium rating, and other activities relating to the creation, renewal, or replacement of a contract of health insurance or benefits; (4) conducting or arranging for medical review, legal services, and auditing functions; (5) business planning and development, and (6) business management and general administrative activities of the entity.

Health Information means any information, whether oral or recorded in any form or medium, that (1) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and (2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual.

Health Plan means, with certain exceptions, an individual or group plan that provides or pays the cost of medical care. This includes insured and self-insured group health plans of employers, if the plan either has 50 or more participants or "is administered by an entity other than the employer that established and maintains the plan." The definition also includes government plans, health insurers, HMOs and similar organizations. Workers' compensation, auto medical pay or other types of property and casualty insurance are excluded.

HHS means the U.S. Department of Health and Human Services.

HIPAA means the Health Insurance Portability and Accountability Act of 1996, and all rules and regulations promulgated thereunder, as either or both are amended and revised from time to time.

Individual means the person who is the subject of Personal Health Information and shall include a person who qualifies as a personal representative thereof.

Individually Identifiable Health Information means information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (2) relates to Protected Health Information; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

Participant means any individual enrolled in any or all of the Group Health Plans sponsored by Company and can be any employee or former employee who is or may become eligible to receive a benefit of any type from the group health plan.

Plan Sponsor means the employer in the case of an employee benefit plan. The Plan Sponsor for the Group Health Plans to which these policies and procedures apply is **Riverside County Transportation Commission**.

Privacy Rule means the Standards for Privacy of Individually Identifiable Health Information promulgated under HIPAA.

Protected Health Information or **PHI** means information that (a) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; (b) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual); and (c) is limited to the information created or received by Business Associate from or on behalf of Group Health Plans, or is made accessible to Business Associate by the Company. Further, PHI means Individually Identifiable Health Information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. § 1232g, records described at 20 U.S.C. § 1232g(a)(4)(B)(iv), and employment records held by a covered entity in its role as employer.

Small Health Plan is defined as a health plan with annual receipts of \$5 million or less. The Company's Group Health Plans are classified as small health plans within the meaning of the Privacy Rule.

Summary Health Information is information that has been stripped of certain personal identifiers and includes summaries of claims history, claims expenses, or type of claims experienced by the participant and their dependents under a health plan or plans.

III. BUSINESS ASSOCIATES

Policy

In order to conduct business and perform health care operations while at the same time ensuring confidentiality of Protected Health Information (PHI), Company will enter into agreements on behalf of the Group Health Plans with all relevant service providers or Business Associates. Company will obtain assurances that the Business Associate will safeguard PHI that Company discloses to the Business Associate, or receives or creates on behalf of the Group Health Plans.

Procedures

1. Business Associate Contracts. All Group Health Plans' service providers who are business associates under the Privacy Rule must have business associate contracts that are compliant with HIPAA and applicable California or other federal laws. Both the Company and the Group Health Plans will be signatories on all business associate contracts.

2. Business Associate Contract Violations. If Company learns of a service provider's potential violation of its business associate contract (either through a participant or beneficiary complaint, during a performance audit, or otherwise), it will take the steps outlined below.

a. The Privacy Official will investigate all potential or alleged business associate contract violations, and, in conjunction with legal counsel, will determine if there is an actual violation.

b. Upon determining that there is an actual business associate contract violation, Company's Finance Department Personnel will work with the business associate to end the violation or to cure any harm caused. Refer to Mitigation of Harm at Section B of Part VI for procedures.

c. If Company's Finance Department Personnel determines that the business associate is unwilling to cure or end the violation, then the Privacy Official, in consultation with legal counsel, will determine if it is feasible to terminate the contract. It is feasible to terminate the contract if there is any other service provider who can supply the same services, even if the cost is higher.

d. If Privacy Official determines that terminating the contract is not feasible, it will report the violation to the Secretary of HHS.

IV. GENERAL POLICIES AND PROCEDURES (USE OF PROTECTED HEALTH INFORMATION)

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A. PERMITTED USES AND DISCLOSURES

Policy

The uses and disclosures discussed in the procedures below are permitted without the participant or beneficiary's permission (written or otherwise), provided the particular requirements of these procedures and the Privacy Rule are met, as more fully described in Company's Notice of Privacy Practices. Such uses shall not require an Authorization and shall be referred to as "Permitted Uses."

Procedures

The following uses and disclosures of Group Health Plans' PHI are permitted in this policy:

1. For Payment, Health Care Operations, and Treatment.
 - a. Payment: to fulfill Group Health Plans' responsibilities for coverage and providing benefits as established under the respective plans;
 - b. Health Care Operations: to support Group Health Plans' business functions. These functions include, but are not limited to: quality assessment and improvement, reviewing provider performance, licensing, business planning, and business development; and
 - c. Treatment: for treatment purposes. Treatment is the provision, coordination or management of health care and related services. It also includes but is not limited to consultations and referrals between one or more of the participant's or beneficiary's providers.
2. Business Associates. To service providers, or Business Associates, to perform various functions on Group Health Plans' behalf, but only after Company agrees in writing to contract terms requiring the Business Associate to appropriately safeguard the participant's or beneficiary's information.
3. Other Covered Entities. To other covered entities to assist health care providers in connection with their treatment or payment activities, or to assist other covered entities in connection with certain health care operations.
4. Required by Law. Company may use or disclose PHI to the extent required by federal, state, or local law. Privacy Official will ensure that uses or disclosure required by law will be limited to the statutory requirements.
5. Public Health Activities. For public health activities that are permitted or required by law (such as for purposes of preventing or controlling disease, injury, or disability, or information) may be disclosed to a public health authority authorized to receive reports of child abuse or neglect. Company may disclose PHI, if directed by a public health authority, to a foreign government agency that is collaborating with the public health authority.
6. Health Oversight Activities. To a health oversight agency for activities authorized by law. For example, these oversight activities may include audits; investigations; inspections; licensure or disciplinary actions; or civil, administrative, or criminal proceedings or actions. Oversight agencies seeking this information include government agencies that oversee the health care system, government benefit programs, other government regulatory programs, and government agencies that ensure compliance with civil rights laws.

7. Lawsuits and Other Legal Proceedings. In the course of any judicial or administrative proceeding or in response to an order of a court or administrative tribunal (to the extent such disclosure is expressly authorized). If certain conditions are met, Company may also disclose a participant's or beneficiary's PHI in response to a subpoena, a discovery request, or other lawful process.

8. Abuse or Neglect. To a government authority that is authorized by law to receive reports of abuse, neglect, or domestic violence. Additionally, as required by law, if the Privacy Official believes the participant or beneficiary has been a victim of abuse, neglect, or domestic violence, he or she may disclose PHI to a governmental entity authorized to receive such information.

9. Law Enforcement. Under certain conditions, to law enforcement officials for law enforcement purposes. These law enforcement purposes include, by way of example, (1) responding to a court order or similar process; (2) as necessary to locate or identify a suspect, fugitive, material witness, or missing person; or (3) as relating to the victim of a crime.

10. Coroners, Medical Examiners, and Funeral Directors. To a coroner or medical examiner when necessary for identifying a deceased person or determining a cause of death. Company may disclose PHI to funeral directors as necessary to carry out their duties.

11. Organ and Tissue Donation. To organizations that handle organ, eye, or tissue donation and transplantation.

12. Research. To researchers when (1) their research has been approved by an institutional review board that has reviewed the research proposal and established protocols to ensure the privacy of a participant's or beneficiary's PHI, or (2) the research involves a limited data set which includes no unique identifiers (information such as name, address, social security number, etc., that can identify the participant or beneficiary).

13. To Prevent a Serious Threat to Health or Safety. Consistent with applicable laws, if disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. It also may disclose PHI if it is necessary for law enforcement authorities to identify or apprehend an individual.

14. Military. Under certain conditions, if a participant or beneficiary is, or was, Armed Forces personnel for activities deemed necessary by appropriate military command authorities. If a participant or beneficiary is a member of foreign military service, Company may disclose, in certain circumstances, a participant's or beneficiary's information to the foreign military authority.

15. National Security and Protective Services. To authorized federal officials for conducting national security and intelligence activities, and for the protection of the President, other authorized persons, or heads of state.

16. Workers' Compensation. To comply with workers' compensation laws and other similar programs that provide benefits for work-related injuries or illnesses.

17. Disclosures to Plan Sponsor. To plan sponsor to assist the plan sponsor in the performance of plan administration functions. Group Health Plans may also provide summary health information to the plan sponsor so that the plan sponsor may obtain premium bids or modify, amend, or terminate Group Health Plans. Summary health information will not directly identify the participant or beneficiary, but summarizes claims history, claims expenses, or types of claims experienced. Also, Group Health Plans may disclose a participant's or beneficiary's enrollment and disenrollment information to the plan sponsor.

18. Others Involved in a Participant's or Beneficiary's Health Care. To a friend or family member that is involved in the participant's or beneficiary's health care, unless the participant or beneficiary objects or requests a restriction. Company may disclose PHI to an entity assisting in a disaster relief effort so that a participant's or beneficiary's family can be notified about his or her condition, status, and location. If the participant or beneficiary is not present or able to agree to these disclosures of his or her PHI, then, using professional judgment, the Company may determine whether the disclosure is in the participant's or beneficiary's best interest. (*Refer to "Disclosures to Others Involved in Care of Payment" at Section C of Part IV*).

19. Disclosures to the Secretary of the U.S. Department of Health and Human Services. To the Secretary of the U.S. Department of Health and Human Services when the Secretary is investigating or determining Company's compliance with the HIPAA Privacy Rule.

20. Disclosures to the Participant or Beneficiary. To the participant or beneficiary, or his or her personal representative, when access to this information is requested. Company will disclose PHI to an individual who has been designated by the participant or beneficiary as his or her personal representative and who has qualified for such designation in accordance with relevant law. Prior to such a disclosure, however, Company must be given written documentation that supports and establishes the basis for the personal representation. The Privacy Official may elect not to treat the person as the participant's or beneficiary's personal representative if he or she has a reasonable belief that the participant or beneficiary has been, or may be, subjected to domestic violence, abuse, or neglect by such person; treating such person as the participant's or beneficiary's personal representative could endanger the participant or beneficiary; or the Privacy Official determines, in the exercise of his or her professional judgment, that it is not in the participant's or beneficiary's best interest to treat the person as the participant's or beneficiary's personal representative.

21. More Stringent State Privacy Laws. Generally, the HIPAA Privacy Rule will apply or displace California laws that govern the same or similar areas. However, where California law provisions relating to the privacy of individually identifiable health information are more stringent than HIPAA's Privacy Rule, such California law provisions shall apply. In that case, the uses and disclosures allowed under HIPAA may be limited by applicable California law.

B. AUTHORIZATIONS TO USE OR DISCLOSE PROTECTED HEALTH INFORMATION

An authorization is permission from an individual to use or disclose his or her Protected Health Information (PHI) for a specific purpose. Under HIPAA, an authorization must contain specific provisions. An Authorization is NOT required for “Permitted Uses” (as defined in Section A of Part IV).

Policy

Company will obtain written authorizations for any “Non-Permitted” use or disclosure of PHI. Company will disclose PHI upon the request of another entity only after receiving a valid authorization.

Procedures

1. Authorization Required. Written authorizations must be obtained from participants and beneficiaries before using and/or disclosing their PHI for a Non-Permitted Use.

2. Content of Authorizations. Company will use its standard form, *Authorization to Use and Disclose Your Protected Health Information (See FORM “B”)*, unless authorizations are initiated by participants, beneficiaries, other covered entities or third parties.

a. Authorizations will be completed to specifically state the PHI to be used or disclosed, to whom it will be disclosed, and the purpose of the disclosure.

b. Authorizations shall be signed by the individual, or personal representative, allowing the use and or disclosure of his or her PHI.

c. Privacy Official will review each authorization to ensure it meets the requirements of the Privacy Rule. PHI will not be disclosed if an authorization fails to satisfy such requirements.

d. Multiple authorizations may be combined for uses or disclosures of PHI, except that an authorization may not be combined with any non-authorization document or with an authorization for the use or disclosure of psychotherapy notes.

e. Written authorizations are not required to be notarized or include a witness’ signature.

3. Revocations. Company will honor all written revocations of authorizations.

a. Written revocations should be given to Privacy Official.

b. Privacy Official will ensure that Non-Permitted uses and disclosures previously authorized cease. Written revocations shall not apply, however, if Company has already used and disclosed the individual’s PHI for a Non-Permitted Use in reliance on the written authorization.

4. Miscellaneous.

a. Refusal to sign an authorization does not affect a participant’s or beneficiary’s rights relating to eligibility for, enrollment in, or coverage under any of the Group Health Plans.

b. Company shall accept a copy, fax or electronically transmitted version of a signed authorization.

c. Company may disclose an individual's PHI specified in an authorization even if such information is created after the authorization is signed.

d. Company's minimum disclosure Policy does not apply to uses or disclosures made pursuant to an authorization. The PHI used or disclosed will be consistent with the information authorized to be used or disclosed.

5. Personal Representative. Privacy Official will treat representatives of a participant or beneficiary as if they were the participant or beneficiary when (1) the representative has legal standing to act on behalf of the participant or beneficiary who is an adult or emancipated child; (2) the representative is the parent or guardian of the participant or beneficiary who is a minor child; and (3) the representative is the executor or administrator of the deceased participant or beneficiary or his or her estate.

C. DISCLOSURES TO OTHERS INVOLVED IN CARE OR PAYMENT

Policy

Company, on behalf of the Group Health Plans, will disclose PHI to a family member, other relative or close personal friend of a participant or beneficiary who is directly involved in a participant's or beneficiary's health care or payment related to that health care if Company obtains the participant's or beneficiary's verbal agreement, provide a notice and opportunity to object, or reasonably determine that the participant or beneficiary does not object to the disclosure. If the participant or beneficiary is unable to agree or object, Company may rely upon professional judgment and applicable experience to make reasonable inferences of the participant's or beneficiary's best interest.

Procedures

1. Disclosure of PHI when Participant or Beneficiary is Present.

a. If an individual contacts the Plan Sponsor regarding a participant's or beneficiary's status or benefits, Company's Finance Department Personnel should in all cases try to obtain an oral agreement from the participant or beneficiary before communicating with the individual.

(i) If the inquiry is in person, and the participant or beneficiary is present, obtain his or her verbal agreement that PHI may be shared with the inquiring individual.

(ii) If the inquiry is by phone, ask to speak with the participant or beneficiary, if he or she is available, and obtain his or her verbal agreement that PHI may be shared with the inquiring individual.

b. Once verbal agreement is obtained, Company's Finance Department Personnel may disclose only the minimum necessary to communicate the information.

c. Authorization. Suggest to the participant or beneficiary that he or she may wish to give the Company written authorization to disclose PHI to certain family members or friends involved in the participant's or beneficiary's health care. (*Refer to policy for Authorizations to Use or Disclose Protected Health Information at Section B of Part IV.*)

2. Disclosure of PHI when Participant or Beneficiary is Not Present.

a. If the participant or beneficiary is not present at the time an inquiry is made on his or her behalf, Company's Finance Department Personnel should:

(i) verify the identity of the individual and his or her relationship to the participant or beneficiary;

(ii) determine whether the individual has demonstrated his or her involvement in the participant's or beneficiary's care or payment for that care;

(iii) review the participant's or beneficiary's records to ensure that there is no restriction or confidential communication request in place. (If there is, Finance Department Personnel should not disclose any PHI to the individual.)

b. Finance Department Personnel should determine if the disclosure requested is in the best interests of the participant or beneficiary. If so, the disclosure should be limited to only information relating to claims payment or enrollment status.

c. The PHI disclosed must be limited to the inquiring individual's involvement in the participant's or beneficiary's health care.

d. Authorization. If Company's Finance Department Personnel receives written authorization from the participant or beneficiary to disclose PHI to an individual, Finance Department Personnel shall disclose PHI to the extent allowed by the authorization.

D. MINIMUM NECESSARY USE AND DISCLOSURE

Policy

Company, on behalf of the Group Health Plans, will use or disclose only the “minimum necessary” amount of PHI in order to achieve the purpose of the use or disclosure. Company is not required to apply the minimum necessary standard under the following circumstances:

- for disclosures to or requests by a health care provider for purposes of diagnosing or treating an individual;
- to the individual;
- pursuant to an authorization;
- to the Department of Health and Human Services for HIPAA compliance purposes; and
- for any other purposes required by law.

Procedures

1. Need for Access to PHI. At those times when the Company’s Finance Department Personnel will need access to PHI relating to enrollment, payment and other business functions in order to carry out their duties with respect to the Group Health Plans, the Privacy Official will determine whether to implement the minimum necessary standard by first assessing whether any of the circumstances listed in the Policy above apply.

2. Access Limited to Designated Employees. The Privacy Official will make reasonable efforts to limit the access of PHI only those employees designated in the Policy. (*Refer to policy for Safeguarding Protected Health Information at Section A of Part VI.*)

3. Routine and recurring uses and disclosures. For routine and recurring uses and disclosures, the Privacy Official shall limit the PHI disclosed to the information reasonably necessary to achieve the purpose of the disclosure.

4. Non-routine disclosures. The Privacy Official will review non-routine uses and disclosures on a case-by-case basis to determine the minimum necessary requirement.

5. Reliance on request for PHI. The Privacy Official need not make a determination of minimum necessary in the following situations (and can, instead, assume that the requestor’s statement of information needed is the minimum necessary):

- a. a public official when the disclosure is one that is permitted pursuant to Company’s use and disclosure Policy (pursuant to law, for health oversight purposes, etc.);
- b. covered entities; and
- c. Company’s service provider Business Associates, as long as the disclosure is for the purposes of carrying out the services under the service provider contract.

E. DE-IDENTIFICATION OF PROTECTED HEALTH INFORMATION

Policy

Company, on behalf of the Group Health Plans, may use or disclose de-identified PHI without obtaining an individual's authorization and will use or disclose de-identified information instead of PHI to the extent practicable.

Procedures

1. The Privacy Official will review uses and disclosures on a case-by-case basis to determine if de-identified information is preferable to PHI.

2. Privacy Official will work with the Group Health Plans' third-party administrator, insurer, HMO, or Company's Finance Department Personnel to obtain the relevant PHI for purposes of creating de-identified information.

3. If necessary, Privacy Official will engage a service provider to create the de-identified information. Any such service provider will sign a business associate agreement as required under Company's policy and procedures for Business Associates.

4. Privacy Official will ensure that only the following data elements are not included in any de-identified information:

- Names
- All geographic units smaller than a state (except for the first three zip code digits if the number of persons in that zip code region is greater than 20,000)
- All ages over 89
- Internet Protocol address numbers
- Medical record numbers
- Account numbers
- Vehicle identifiers and serial numbers (including license plate numbers)
- Full face photos (and comparable images)
- All dates (except year)
- Telephone and fax numbers
- Social security numbers
- Health plan beneficiary numbers
- Certificate/license numbers
- Device identifiers and serial numbers
- E-mail addresses
- URLs
- Biometric identifiers (including finger and voice prints)
- Any other unique identifying number, characteristic, or code

F. DATA SETS

Policy

Company, on behalf of the Group Health Plans, may use and disclose a limited data set without an individual's authorization for the purposes of research, public health, or health care operations, provided the Privacy Official determines the release of the data is in the best interests of the Company or is in the public interest. The recipients of limited data sets must enter into a data use agreement ensuring the protection of the disclosed information. Company may use PHI to create a limited data set, or disclose PHI to a Business Associate to create a limited data set on behalf of the Group Health Plans.

Procedures

1. Review by Privacy Official. All requests for PHI, in the form of a limited data set, for research or public health purposes must be reviewed by Privacy Official. Privacy Official will determine if the purpose for the requested limited data set is in the best interests of the Company or is in the public interest. The Privacy Official will work with the Group Health Plans' third-party administrator, insurer, HMO, or Company's Finance Department to obtain the relevant PHI.

2. Outside Services. If necessary, Privacy Official will engage a service provider to create the limited data set. Any such service provider will sign a business associate agreement as required under Company's business associate policy and procedures.

3. Content of limited data set. Privacy Official will ensure that the limited data set complies with the Privacy Rule as follows:

a. The following data elements will be removed from the PHI (including data elements relating to the participant or beneficiary, relatives, employers, or household members):

- Names
- All dates (except year)
- Telephone and fax numbers
- Social security numbers
- Health plan beneficiary numbers
- Certificate/license numbers
- Device identifiers and serial numbers
- URLs
- Internet Protocol address numbers
- Full face photos (and comparable images)
- Postal address information (except for town, city, state, and zip code)
- All ages over 89
- E-mail addresses
- Medical record numbers
- Account numbers
- Vehicle identifiers and serial numbers (including license plate numbers)
- Biometric identifiers (including finger and voice prints)
- Any other unique identifying number, characteristic, or code

4. Data Use Agreement. Privacy Official will ensure that the recipient of the limited data set enters into a Data Use Agreement. Privacy Official will ensure that such agreement:

- a. establishes the permitted uses and disclosures of the limited data set,
- b. establishes who is permitted to use or receive the limited data set, and
- c. provide that the recipient of the information will (1) not use or further disclose the information other than as permitted by the agreement; (2) use appropriate safeguards to prevent use or disclosure other than as permitted by the agreement; (3) report to Company any uses or disclosures the recipient is aware of that is not provided for by the agreement; (4) ensure that the recipient's agents who have access to the information agree to the same restrictions as imposed on the recipient; and (5) not identify the information or contact the individuals.

G. NOTICE OF PRIVACY PRACTICES

Policy

Pursuant to HIPAA's Privacy Rule, Company is required to provide participants with a Notice of Privacy Practices.

Procedures

1. Responsibility. The Privacy Official shall be responsible for preparing a *Notice of Privacy Practices* (**see Form Tab "A"**) and amending it when necessary to comply with applicable laws. The Notice will be maintained by the Privacy Official, and the Notice will be provided upon a participant's or beneficiary's request.

2. Distribution. The Privacy Official will distribute the Notice to the participants of all Group Health Plans sponsored by the Company. No Notices need to be distributed to spouses or other dependents.

3. Schedule for Distribution. For all health plans, the Privacy Official will distribute the Notice (either by paper copy or by e-mail) at the following times:

- a. upon adoption of this policy by Company;
- b. when participants first enroll in the plan; and
- c. within 60 days of a material change in the Notice. If more stringent state privacy laws are described in a separate section of the Notice, the Privacy Official may just provide the revised version of this section to participants.

In addition, every three years, the Privacy Official shall remind existing participants about the Notice's availability and how to obtain it.

4. Method of Distribution. For all health plans, the Privacy Official shall distribute the Notice to the participant in one or more of the following ways: (1) by paper copy to the participant's workplace or home address of record; (2) by e-mail if a participant has agreed to the electronic distribution and that agreement has not been withdrawn; and (3) by posting on the plan sponsor's intranet site at the Finance Department link.

5. Electronic Distribution. The Privacy Official will first obtain the consent of the participant to provide the Notice electronically before distributing such Notice via e-mail. If enrollment or employment forms request the ability to send information via e-mail and a participant provides an e-mail address, the Privacy Official will infer that participant agrees to obtain the Notice electronically. If the Privacy Official's attempt to e-mail the Notice fails, a paper copy will be provided to Participant.

V. COMPLAINTS / VIOLATIONS

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Section C	Employee Sanctions	Pg 5

A. COMPLAINT RESOLUTION PROCESS

Policy

The Company's designated Privacy Complaints Contact (*see Section D of Part I under HIPAA Privacy Designations*) will receive and respond to all complaints, both written and verbal, regarding Company's privacy policies and procedures, its adherence to those policies, and compliance with the Privacy Rule. The Privacy Official will investigate all complaints.

Procedures

1. Complaints, either verbal or written, should be routed to the designated Privacy Complaints Contact who will then provide a copy of the complaint to the Privacy Official.

2. Upon receiving the complaint, the Privacy Official will investigate the complaint and determine, with the assistance of legal counsel, if there is any validity to such complaint.

3. If the complaint is not valid, the individual who submitted the complaint will receive a written response from the Privacy Official within 30 days from receipt of the complaint detailing the reasons why Company's policies and procedures or the Privacy Rule has not been violated. Privacy Official may use the ***Response to Privacy Complaint*** form for this purpose. (**See Form Tab "C"**)

4. If the complaint is determined to be valid, the following steps will be taken:

a. If the complaint alleges that Company's policies and procedures or its Notice of Privacy Practices do not comply with the Privacy Rule, the Privacy Official will determine whether the policies and procedures or notice need to be amended in order to correct the violation.

(i) The Privacy Official will respond in writing using the ***Response to Privacy Complaint*** form (**See Form Tab "C"**) within 30 days from receipt of the complaint explaining what steps Company will take (such as amending the notice) to comply with the Privacy Rule.

b. If the complaint alleges that Company, an employee of Company, or a Business Associate used or disclosed PHI inappropriately, the following steps will be taken by the Privacy Official:

(i) if the inappropriate use or disclosure was by a Company employee, determine if sanctions are appropriate and enforce them under the sanctions policy (*Refer to procedures for Employee Sanctions at Part C of Section V*);

(ii) determine whether there is any harm that should be mitigated, if practicable, pursuant to Company's mitigation of harm policy;

(iii) if the use or disclosure was by a business associate, determine whether the business associate's policies and procedures adequately protect health information; and if not, coordinate with the business associate the actions necessary to ensure future violations do not occur. If the Privacy Official determines that the business associate's proposed actions will not protect health information from being used or disclosed, the Privacy Official has the discretion to recommend to Company that such business associate's services should be terminated;

(iv) a written response will be sent to the individual submitting the complaint explaining what steps the Company will take to mitigate, if practicable, any harm resulting from the improper use and disclosure of PHI and to correct any future improper uses and disclosures of PHI; and

(v) determine whether further employee training should be conducted by Company and whether any privacy compliance documents and/or the Company's policies and procedures need to be amended.

B. MITIGATION OF HARM DUE TO IMPROPER USES AND DISCLOSURES

Policy

Company will mitigate, to the extent practicable, any harm caused by a use or disclosure of a participant's or beneficiary's PHI that is in violation of Company's policies and procedures or the Privacy Rule.

Procedures

Upon learning of an improper use or disclosure by a plan sponsor workforce member or service provider, Privacy Official will take the following steps:

1. determine whether a participant or beneficiary could be, or has been harmed by, the improper use or disclosure;
2. determine whether there are any practicable steps that might have a mitigating effect with regard to the potential harm identified; and
3. if so, implement the mitigating steps.

C. EMPLOYEE SANCTIONS

Policy

Company will sanction any employee that uses or discloses a participant's or beneficiary's PHI in violation of Company's policies and procedures or in violation of the Privacy Rule.

Procedures

1. Reporting and Review of Allegations. Privacy Official will review all allegations of privacy policies and procedures and Privacy Rule violations received by Company's designated Privacy Complaint Contact.

2. If a violation is determined pursuant to the Complaint Resolution Process (at Section III. C), Privacy Official shall take the following steps:

a. Determine if the improper use or disclosure was intentional or unintentional;

b. Determine if the improper use or disclosure was a one-time incident or constitutes a pattern or practice;

c. Determine if there are any mitigating factors (such as self-reporting or lack of proper training or supervision); and

d. Based on the results of Privacy Official's investigation, sanction the employee or employees who improperly used or disclosed the PHI as follows:

(i) Unintentional Violations of Privacy Policy. Violations of the Privacy policies and procedures that are determined to be unintentional will be handled as follows:

(a) first violation – verbal warning

(b) second violation – written warning

(c) third warning – termination of employment.

(ii) Intentional Violations of Privacy Policy. Upon determining that an intentional violation has occurred, the employee violating such Policy shall be terminated.

Depending on the nature and severity of the violation, Company has the discretion to alter the disciplinary steps listed above. Repetition of an unintentional violation after it has been addressed with the employee will be considered an intentional violation and subject the employee to termination of employment.

3. Privacy Official shall determine whether the improper use or disclosure could harm the participant or beneficiary whose PHI was improperly used or disclosed. If harm may occur, Privacy Official shall implement policy relating to mitigation of harm.

4. Privacy Official shall consider, in light of the nature of the improper use or disclosure of PHI, if additional training should occur for one or more employees.

5. Privacy Official shall consider, in light of the nature of the improper use or disclosure of PHI, whether any of Company's policies or procedures need to be amended.

6. Documentation. Privacy Official or his/her designee will maintain records showing the sanctions imposed under this Policy for six years following the date the sanctions are imposed. These documents will be maintained by the Privacy Official.

VI. EMPLOYER RESPONSIBILITIES

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Section C	Designated Privacy Officials	Pg 6
Section D	Privacy Training	Pg 7

A. SAFEGUARDING PROTECTED HEALTH INFORMATION

Policy

Company will institute appropriate administrative, technical, and physical safeguards to protect PHI which is created and/or maintained by the plan sponsor for plan administration purposes.

Procedures

1. Administrative Safeguards.

a. All Company employees, which include Company's Finance Department Personnel, who have access to PHI will receive training on the HIPAA Privacy Rules in accordance with the privacy training policies and procedures.

b. Access to PHI in computer systems and file storage will be limited to designated Finance Department Personnel.

c. The Company employees will not disclose PHI in any format or manner (electronic, paper or verbal) except as necessary for business reasons and in compliance with the Company's privacy policies and procedures and the Privacy Rule.

2. Technical Safeguards.

a. All computers used to store PHI data will have password protocols to prevent unauthorized access to PHI data on the computers' hard drive. Access to such PHI data shall be limited to appropriate Company employees, whose access shall be limited by password.

3. Physical Safeguards.

a. Company's paper records containing PHI (such as enrollment forms, explanation of benefits, etc.) are stored in a file drawer which will be locked at all times and separate from all other records of the employer.

b. Company employees with access to PHI will secure any PHI at their workstation in a locked file cabinet prior to leaving for the day. No records containing PHI shall be brought home by Company employees.

c. All electronic transmissions (fax or email) of PHI will include a company-approved statement of confidentiality.

d. All paper documents containing PHI will be shredded prior to disposal for recycling.

e. Material containing PHI will not be left unattended in common areas.

f. Human Resource Personnel will ensure the privacy of all conversations or discussions involving participant and beneficiary PHI.

g. Conversations involving PHI shall take place only in enclosed offices or other private areas.

h. Human Resource Personnel will ensure that PHI is not readily visible from their workstations. All PHI shall be placed in locked drawers when workforce members must leave their workstations because of other duties or during non-work periods.

i. Computer screens at workstations shall not be visible to non-workforce members.

j. Company's paper records will be locked at all times. Only designated Finance Department Personnel may access these records.

B. DOCUMENT RETENTION

Policy

HIPAA's Privacy Rule requires that all required documentation must be retained, either in written or electronic form, for a period of six years from the later of the date it was created or the date it was last in effect. Under ERISA, ERISA-related documents must be retained for at least six years after the filing date of the documents. Accordingly, Company must retain required documentation pertaining to the Group Health Plans for the applicable time period under either HIPAA or ERISA.

The following documents are required to be retained under the Privacy Rule:

- Plan documents, any amendments and summary plan descriptions
- Policies on uses and disclosures of PHI
- Signed authorizations
- Privacy Notice
- Business associate contracts
- All individual complaints, response to complaints and any materials relating to complaints
- Records of any sanctions imposed on employees, agents or business associates
- Records of disclosures of PHI not for treatment, payment or health care operations purposes which must be made available to an individual for six years after the request date
- Plan sponsor certifications to the health plan regarding plan amendments
- Documentation regarding participants' individual rights such as:
 - > the designated record sets that are subject to inspection and copying by an individual, and the name or title of persons or offices responsible for receiving and processing the requests;
 - > the name and title of the persons or offices responsible for receiving and processing individual requests for PHI amendment; and
 - > documentation of any agreed-upon restrictions on the PHI use or disclosure requested by an individual
- Minimum necessary policies and procedures, including protocols for PHI use, routine disclosures and requests
- Signed agreements to receive Privacy Notice electronically
- Workforce training certifications

Procedures

1. Documentation required to be maintained by the Privacy Rule will be (1) password protected if electronically stored and passwords will be limited to Company's designated Finance Department Personnel; and (2) maintained separate from all other files, including employment records, in a filing cabinet located in Finance Department which is locked during nonbusiness hours at the offices of **Riverside County Transportation Commission**.

2. If state or other federal laws require longer retention periods, such requirements control.

3. All records will be maintained for a period of six years from the date they were created or last in effect, whichever is later.

C. DESIGNATED PRIVACY OFFICIALS

1. Privacy Contact

The Privacy Contact is **Anne Mayer, Deputy Executive Director**. The Privacy Contact is responsible for receiving all complaints relating to Company's privacy policies and procedures and compliance with the Privacy Rule. The Privacy Contact is also responsible for receiving inquiries about information in Company's Notice of Privacy Practice.

The Privacy Contact will promptly forward all complaints, questions, or other inquiries, when received, to Privacy Official, unless the Privacy Contact is the Privacy Official.

2. Privacy Official

The Privacy Official is **Anne Mayer, Deputy Executive Director**. The Privacy Official is responsible for developing and implementing the policies and procedures necessary for compliance with the HIPAA Privacy Rule to ensure the privacy of, access to and disclosure of, certain PHI. The Privacy Official is also responsible for monitoring and deciding any issues that occur under the HIPAA rules.

Privacy Official's duties and responsibilities are described in the ***Privacy Official Job Description***, which can be found at Part VIII of these policies and procedures.

D. PRIVACY TRAINING

Policy

HIPAA's Privacy Rule requires covered entities to train their "workforce" on policies and procedures regarding PHI. Further, all training and retraining must be documented. Workforce members are employees of **Riverside County Transportation Commission** and other persons likely to have access to PHI. Accordingly, such persons shall be trained on policies and procedures regarding PHI.

Procedure

1. Privacy Official is responsible for implementing this Policy and will be the contact for privacy questions and problems.

2. Timing of training. All workforce members will be trained (1) prior to adoption of the Company's privacy policies and procedures; (2) within a reasonable time after becoming an employee; (3) within a reasonable time after material changes to the privacy policies and procedures; and (4) whenever the Privacy Official determines additional training is necessary to ensure compliance with Company's privacy policies and procedures.

3. Content of training. Company employees (i.e., anyone who is likely to have access to PHI) will be provided a copy of Company's privacy policies and procedures and, at a minimum, be required to read and understand such policies and procedures. The Privacy Official shall determine if further training is warranted in order to ensure compliance with the Company's privacy policies and procedures or the Privacy Rule.

4. Certification. All Company employees who have completed privacy training will be required to certify they have reviewed the policies and, if applicable, completed further training. Each person will sign a ***Certification of Completion of Privacy Training*** (see Form Tab "D"). A copy of the Certification shall be retained with these policies and procedures.

VII. PARTICIPANT RIGHTS UNDER HIPAA

Section A	Right to Request Access To and Inspect Protected Health Information	Pg 2
Section B	Right to Request an Accounting of Disclosures	Pg 4
Section C	Right to Request an Amendment of Protected Health Information	Pg 7
Section D	Right to Request Confidential Communications	Pg 9
Section E	Right to Request Restrictions of the Use and Disclosure of Protected Health Information	Pg 10
Section F	No Retaliation or Intimidation	Pg 12
Section G	No Waiver of Rights	Pg 12

A. RIGHT TO REQUEST ACCESS TO AND INSPECT PROTECTED HEALTH INFORMATION

Policy

HIPAA guarantees beneficiaries and participants, or their personal representatives, the right to access their PHI contained in Group Health Plans' designated records sets. Upon written request, beneficiaries and participants, or their personal representatives (or "Requestor") will be given access to inspect or obtain a copy of their PHI. Records in Group Health Plans' designated records sets subject to inspection include:

- claims and billing records
- enrollment and payment records
- underwriting files, including medical records obtained
- health plan case or medical management record systems and utilization review/precertification files
- records used to make decisions about individuals.

Access to information will only be denied if the following records are **not** in Company's Group Health Plans files or are not considered part of our designated records sets. The following information is **not** required to be produced to the requesting participant, beneficiary or personal representative:

- psychotherapy notes
- information compiled for use in a legal proceeding
- information subject to the Privacy Act (5 U.S.C. § 552a) and the denial for access meets the requirements of that law
- information received from a source, other than a health care provider, that requested confidentiality and the access would be reasonably likely to reveal that source;
- information subject to the Clinical Laboratory Improvements Amendments of 1988 (42 U.S.C. § 263a) to the extent access to information would be prohibited by law;
- information compiled in reasonable anticipation of or for use in a civil, criminal or administrative action or proceeding
- information that has been determined by a licensed health care professional as likely to endanger the life or physical safety of the individual or another person
- information that has been determined by a licensed health care professional as likely to endanger or cause substantial harm to another person referenced in the information
- information requested by a personal representative and a licensed health care professional has determined that access is likely to cause substantial harm to the individual that is the subject of the information or to another person.

Procedures

1. All requests for access to PHI must be submitted in writing to the Privacy Official on the ***Request to Access and Inspect Protected Health Information*** form. (**See Form Tab "E"**).

2. The Privacy Official will review the request and determine whether such request will be accepted or declined for one of the reasons listed under the Policy section.

3. Response Time Requirements. Requests for access must be granted or denied within 30 days from the date a written request is received. If the PHI is off-site or more time is needed to process the request, the Privacy Official will have up to 60 days from the date a written request is received to grant or deny the request.

4. After reviewing the request, the Privacy Official will send the Requestor the ***Response to Access and Inspection Request*** (**See Form Tab “E”**) either granting or denying the request, or requesting additional time to access PHI.

5. Granting a Request. If the request is granted, the Privacy Official will compile the PHI and provide the access or information in the manner requested, if possible. Paper copies or electronic copies (if available and feasible) will be provided at no charge.

6. If a portion of the information requested will be declined for one of the reasons listed under the Policy section, the Privacy Official will provide access to the remaining portion of the information as provided in paragraph 5.

7. Appeal of Access Denials. If access to health information is denied because a licensed health care professional, in the exercise of professional judgment, determines the access requested is reasonably likely to cause substantial harm to the Requestor or another person, the Requestor has the right to have the decision reviewed. Requestor should submit an appeal in writing to the Privacy Official. The decision will be reviewed by a licensed health care professional chosen by Company who did not participate in the original decision. A written response will be provided to the Requestor within 30 days, or within a reasonable time, of receipt of the appeal.

8. Tracking. All requests for access received by the Privacy Official must be tracked on the ***Request to Access and Inspect Health Information Log***. This log will be maintained by Company’s Finance Department Personnel. (**See Form Tab “E”**).

B. RIGHT TO REQUEST AN ACCOUNTING OF DISCLOSURES

Policy

Participants and beneficiaries, or their personal representatives, have a right to request, and receive, an accounting of certain disclosures of their PHI made by Company for any period of time, not to exceed six years preceding the date of the request for the accounting except that no accounting of disclosures will be made prior to adoption of this policy and procedures. One free accounting within a twelve-month period shall be provided. If more than one request is made within a twelve-month period, Employer has the discretion to charge reasonable actual costs.

Procedures

1. The Privacy Official is responsible for implementing this Policy.
2. Exceptions to Disclosure. A participant or beneficiary shall not have a right to an accounting of PHI if disclosure is made:
 - a. to carry out the functions of treatment, payment and health care operations;
 - b. to the individual who authorized the disclosure by signing an Authorization Form;
 - c. that are incidental to a use or disclosure otherwise permitted under the Privacy Rule;
 - d. to the individual that is the subject of the information;
 - e. as part of a limited data set;
 - f. to persons involved in the participant's or beneficiary's care or for notification purposes;
 - g. for national security or intelligence purposes;
 - h. to correctional institutions or law enforcement officials; and
 - i. prior to the effective date of this policy and procedures.
3. Written request required. Participants and beneficiaries, or their personal representatives, must request an accounting of disclosures of their PHI in writing. Participants and beneficiaries, or their personal representatives, may use the ***Request for an Accounting of Disclosures of Protected Health Information*** form (**See Form Tab "F"**) to request an accounting of Company's disclosures of their PHI.
4. Time Requirements for Responses. Privacy Official will respond to requests for accounting of disclosures of PHI during the six-year period preceding the date of the individual's request within 60 days from the date a written request is received. If Privacy Official needs additional time to respond, he or she will send a ***Notification of Additional Time to Respond to Accounting Request*** (**See Form Tab "F"**) explaining the reasons for the delay and the date it will respond to the request, which date will be a 30-day extension from the original 60 days in which Company is allowed to respond.

5. Information to be Included in Accounting. An accounting must include the following information for each disclosure:

- a. the date of the disclosure;
- b. the name of the entity or person who received the PHI and that address, if known;
- c. a brief description of the PHI; and
- d. a brief statement of the disclosure purpose or a copy of the written disclosure request, if any (see Request for an Accounting of Disclosures form).

6. Responding to the Request.

a. Determine if the requestor has submitted an accounting request in the last 12 months. If so, Company may charge the requestor a reasonable cost-based fee for each additional accounting requested by the requestor within the 12-month period following the first request. Accordingly, Company shall notify the requestor that a reasonable fee will be charged (state amount) for fulfilling his or her request, and that the requestor has the opportunity to withdraw or modify the request in order to avoid or reduce the fee. Respond to the accounting request once a written acknowledgment from the requestor agreeing to pay costs of accounting is received.

b. If the request has been submitted by a personal representative, review and substantiate personal representative status. Ensure participant or beneficiary has not requested (and been granted) a restriction on disclosures of confidential communications (see policy and procedures for *Requests for Restrictions* and policy and procedures for *Requests for Confidential Communications*).

c. Compile the applicable disclosures within the time frame covered by the request but no more than six years from the date of the request and no disclosures prior to adoption of this policy and procedures.

d. Request from all relevant business associate service providers any covered disclosures within the applicable time frame of the request.

e. Using the standard *Accounting of Disclosures* letter (**See Form Tab “F”**), provide an accounting of disclosures.

7. Examples of Disclosures Required to be Listed in an Accounting.

a. Abuse report. PHI regarding an individual disclosed pursuant to mandatory abuse reporting laws to an entity authorized by law to receive the abuse report.

8. Tracking. All documents received or sent relating to the right to request an accounting must be tracked on the *Accounting Request Tracking Log* (**See Form Tab “F”**). This log will be maintained by Company’s Finance Department Personnel.

9. Documentation.

a. Disclosures. Documentation of all covered disclosures will be maintained by the plan sponsor on the *Health Information Disclosures Log (See Form Tab "F")*. This log will be maintained by Company's Finance Department Personnel.

b. Accounting requests and responses. All written requests for accountings, responses to such requests, and other related correspondence will be maintained by the plan sponsor.

C. RIGHT TO REQUEST AN AMENDMENT OF PROTECTED HEALTH INFORMATION

Under HIPAA, beneficiaries and participants, or their personal representatives, have the right to have Company amend the Requestor's PHI contained in a designated record set.

Policy

Upon written request, beneficiaries and participants, or their personal representatives (or "Requestor") will be given access to inspect or obtain a copy of their PHI. Records in Company's designated record sets subject to amendment include:

- claims and billing records;
- enrollment and payment records;
- underwriting files, including medical records obtained;
- health plan case or medical management record systems and utilization review/precertification files; and
- records used to make decisions about individuals.

Access to information will only be denied if the following records are not in Company's files or are not considered part of our designated record sets. The following information is not required to be produced to the requesting participant, beneficiary or personal representative because it:

- is accurate and complete as stated in our records;
- is not subject to amendment because we are not required under the "right of access" provisions of the HIPAA Privacy Rule to make the information available to the Requestor for inspection (*Refer to policy on Requests to Access and Inspect Protected Health Information at Section A of Part VII*); and
- was not created by Company. However, if the creator of the information is unavailable to act on the request to amend, please notify Company in writing, and we will reconsider the request.

Procedures

1. All requests to amend PHI must be submitted in writing to the Privacy Official on the *Request to Amend Protected Health Information* form. (**See Form Tab "G"**).

2. The Privacy Official will review the request and determine whether such request will be accepted or declined for one of the reasons listed under the Policy section.

3. Response Time Requirements. Requests to amend PHI must be either granted or denied within 60 days from the date a written request is received. If more time is needed to process the request, the Privacy Official may extend the time in which to respond by no more than 90 days from the date a written request is received from the Requestor provided that the Privacy Official furnish the Requestor with a written statement of the reasons for delay and the date by which Company will either grant or deny the request (see paragraph (4) for the applicable form). Such request for extension of time must be provided to the Requestor within 60 days from the date a written request is received.

4. After reviewing the request, the Privacy Official will send the Requestor the *Response to Amendment or Correction Request* form (**See Form Tab "G"**) either granting or denying the request, or requesting additional time to amend PHI.

5. Granting a Request. If the request is granted, the Privacy Official will:

a. identify the records in the designated record sets affected by the amendment and link or append the amendment to the PHI in those records;

b. provide written notice of the amendment to any persons or entities listed as requiring notification of the amendment in the *Request to Amend Protected Health Information* form. The *Notice to Others of Amendment* form shall be used. (See Form Tab “G”).

c. provide written notice of the amendment to any Business Associate that Company knows was provided the original information and who may rely on it to the detriment of the Requestor. The *Notice to Others of Amendment* form (See Form Tab “G”) shall be used.

6. Denying a Request in Part. If a portion of the information requested will be declined for one of the reasons listed under the Policy section, the Privacy Official will provide access to the remaining portion of the information as provided in paragraph 5.

7. Amendment Denials. Participants and beneficiaries do not have a right to appeal a denial of their amendment requests. Rather, if the Requestor disagrees with the denial, he or she has the right to file a written statement disagreeing with the denial of the amendment. The statement of disagreement must be limited to one page and will be included with any future disclosures of the Requestor’s PHI. Company has the right to prepare a rebuttal statement to the Requestor’s statement of disagreement, and the Requestor will receive a copy if it does so. If the Requestor chooses not to file a statement of disagreement, he or she may request that we include the request for amendment and the denial of amendment with any future disclosures of the records at issue. For either option, the Requestor must submit his or her statement or request in writing to the Privacy Official.

8. Notice from Other Covered Entities to Amend Personal Health Information. All notices to amend PHI must be in writing and identify the specific information to be amended. Upon receipt of a valid notice, the Privacy Official will append or link the amendment to the records affected by the amendment and provide written notice of the amendment to any Business Associate that Company knows was provided the original information and who may rely on it to the detriment of the Requestor.

9. Tracking. All documents relating to the right to amend PHI will be logged in the *Request to Amend Personal Health Information Log* (See Form Tab “G”) and maintained by the Privacy Official as part of the Requestor’s file for a period of at least 6 years.

D. RIGHT TO REQUEST CONFIDENTIAL COMMUNICATIONS

Policy

Participants and beneficiaries have the right to request that communications to them about their PHI be made in a confidential manner (e.g., by alternative means or in alternative locations). Company shall accommodate reasonable requests to receive confidential communications but only if (1) the requestor states that disclosure of the information at issue could endanger him or her; (2) the request is in writing; and (3) the alternative means or alternative locations given for the communications are administratively reasonable.

Procedures

1. Participants and beneficiaries who wish to request confidential communications must do so in writing using the *Confidential Communications Request* form. (**See Form Tab “H”**).

2. Grounds for denial. Privacy Official should deny the request if it does not include a statement that the participant or beneficiary fears he or she will be endangered or if the requested alternative means of location is not feasible by using the *Response to Request for Confidential Communications* form. (**See Form Tab “H”**).

3. Granting a request. If the request is feasible, or partially feasible, the Privacy Official should send the *Response to Request for Confidential Communications* form (**See Form Tab “H”**) and include a statement describing what communications are covered and the manner in which they will be communicated.

4. Business Associates. If the request for confidential communications is granted, inform applicable business associates of any agreed-to confidential communication.

5. Tracking. All written requests for privacy protection must be tracked on the *Restricted Use and Private Communication Tracking Log*. (**See Form Tab “H”**).

6. Documentation. All written requests for confidential communication to which Company has agreed must be maintained by Privacy Official for six years from the date the document was created or the date it was last in effect, whichever is later.

E. RIGHT TO REQUEST RESTRICTIONS ON THE USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

Policy

Participants or beneficiaries have the right to request restrictions on the use and/or disclosure of their PHI (1) for payment and health care operations activities and (2) to family members or friends involved in their care or payment relating to their care. While Company is not generally required by law to agree to requested restrictions in how it uses and discloses PHI, it will generally accommodate requests to restrict disclosures to family members, friends or other individuals involved in the care or payment of care of the participant or beneficiary, provided those restrictions are administratively feasible. Company will not agree to restrictions on its use and disclosure of PHI related to payment and health care operations.

Procedures

1. All requests for restrictions must be made in writing by having the participant or beneficiary complete the *Request to Restrict Certain Uses and Disclosures* form (See Form Tab “I”) and submitting the completed form to the Privacy Official for review and appropriate action.

2. Company is not obligated to agree to a restriction and may deny the request or may agree to a restriction more limited than what the participant or beneficiary requested.

3. If the request is to restrict payment or health care operations activities, Company shall deny such request and send a *Response to Request for Restriction* (See Form Tab “I”) stating that the request has been denied.

4. If the request is to restrict disclosures to family members or other individuals, the Privacy Official shall determine whether it would be administratively feasible to grant the restriction. If the restriction is feasible, the Privacy Official shall send a *Response to Request for Restriction* (See Form Tab “I”) stating that the request has been granted.

a. Appropriate business associates shall be informed of the restriction within a reasonable time after the request has been granted and asked to comply with such request.

b. If the request is denied, a *Response to Request for Restrictions* (See Form Tab “I”) shall be sent to the participant or beneficiary stating that the request has been denied.

5. Terminating a restriction. Company may terminate its agreement to a restriction if:

a. the participant or beneficiary agrees to or requests termination of the restriction in writing. Assent should be documented. PHI created or received while the restriction was in plan shall not remain subject to the restriction; or

b. Company informs the participant or beneficiary in writing that Company is terminating their agreement to the restriction. PHI created or received while the restriction was in effect shall remain subject to the restriction.

6. If the participant or beneficiary notifies Company that he or she no longer needs the restriction, the restriction will be lifted both prospectively and retrospectively.

7. Prior to any use or disclosure of PHI, Company will confirm that such use and disclosure has not been granted a restriction by reviewing the *Restricted Use and Confidential Communications Tracking Log*. (See Form Tab “I”)

8. Tracking. Company will document the participant’s or beneficiary’s request, and the reasons for granting or denying the requests in the *Restricted Use and Confidential Communications Tracking Log*. (See Form Tab “I”)

9. Documentation. All written requests for privacy protection to which Company has agreed, and any termination documentation, must be maintained by Privacy Official for six years from the date the document was created or the date it was last in effect, whichever is later.

F. NO RETALIATION OR INTIMIDATION

Company will not retaliate against any participant or beneficiary who chooses to exercise his or her individual privacy rights, including the right to access PHI, the right to request amendment of PHI, the right to an accounting of disclosures, and the right to request certain privacy restrictions. Company also will not intimidate any participant or beneficiary who seeks to exercise those rights. Further, Company will not retaliate against or intimidate any person or organization that files a complaint regarding Company's privacy practices with HHS, that participates in any investigation of Company's privacy practices, or that opposes any act of Company that allegedly violates the Privacy Rule.

G. NO WAIVER OF RIGHTS

Company will not require participants or beneficiaries to waive any rights under the Privacy Rule in order to enroll in Group Health Plans or to receive the provision or payment of benefits under such plans.

HIPAA FORMS

THE FOLLOWING FORMS HAVE BEEN PROVIDED TO YOU IN ELECTRONIC FORMAT ON THE ENCLOSED DISC SO THAT YOU MAY TAILOR SUCH FORMS TO YOUR PARTICULAR CIRCUMSTANCES. PLEASE NOTE THAT THE FORMS HAVE BEEN DRAFTED WITH THE ASSUMPTION THAT ONLY ONE GROUP HEALTH PLAN APPLIES. HOWEVER, YOU, AS THE PLAN SPONSOR, MAY PROVIDE SEVERAL HEALTH PLANS FOR YOUR EMPLOYEES. IN THAT CASE, THESE FORMS MAY APPLY TO ONE OR ALL OF THE HEALTH PLANS. WHERE “GROUP HEALTH PLAN” IS MENTIONED, INSERT THE PLANS THAT APPLY, OR IF ALL APPLY, INSERT, “RIVERSIDE COUNTY TRANSPORTATION COMMISSION GROUP HEALTH PLANS.”

ACCOUNTING OF DISCLOSURES

INSTRUCTIONS

Use form letter (A) when responding to a request for an accounting with the applicable disclosure. Use form letter (B) when the request for an accounting covers disclosures that are exempted from the accounting requirement. Either of these letters must be sent to the requestor within 60 days of the request unless an additional 30-day extension to respond is sent to the requestor (see Notification of Additional Time to Respond to Accounting Request form letter).

Form Letter A

Dear **[participant, beneficiary, or personal representative]**:

We received your request for an accounting of disclosures of PHI on **[date]**. We **[set forth below]** <or> **[enclose]** an accounting of those disclosures that, by law, must be provided in response to your request.

<u>Information Disclosed</u>	<u>Date Disclosed</u>	<u>Disclosed To:</u>	<u>Purpose of Disclosure</u>
	[Note: For multiple disclosures to the same entity, include all information for first such disclosure, how often or when subsequent disclosures were made, and the date of the last disclosure.]	[Note: Include contact and address information, if known.]	[Note: If disclosure was made pursuant to a written request, you may include copies of the written request instead of describing the purpose of the disclosure.]

There is no charge for this accounting. However, if you request additional accountings within the next 12 months, there will be a charge to you for our costs in complying with your requests.

Please feel free to contact us if you have any questions.

Sincerely,

[Name]

[Title]

for the [Group Health Plan]

Form Letter B

Dear **[participant, beneficiary, or personal representative]**:

We received your request for an accounting of disclosures of PHI on **[date]**. The Health Insurance Portability and Accountability Act (HIPAA) does not require an accounting of disclosures made:

- to carry out the functions of treatment, payment and health care operations;
- to the individual who authorized the disclosure by signing an Authorization Form;
- that are incidental to a use or disclosure otherwise permitted under the Privacy Rule;
- to the individual that is the subject of the information;
- as part of a limited data set;
- to persons involved in the participant's or beneficiary's care or for notification purposes;
- for national security or intelligence purposes;
- to correctional institutions or law enforcement officials; and
- prior to the effective date of this privacy policy which is April 14, 2004.

Your request for an accounting asks for disclosures of PHI that fall within one or more of the exceptions noted above. Accordingly, we are denying your request for an accounting of disclosures.

Please feel free to contact us if you have any questions.

Sincerely,

[Name]

[Title]

for the [Group Health Plan]

AGREEMENT TO RECEIVE ELECTRONIC NOTICE

I, _____, agree to receive electronically the Notice of Privacy Practices for the Riverside County Transportation Commission Group Health Plans, as well as all information relating to the Notice. I understand that I may still receive a paper copy of the Notice of Privacy Practices upon request. **[Include following paragraph if you maintain a copy of the Privacy Notice on your Intranet.]** I further understand that the Notice of Privacy Practices will be available for viewing and printing on Riverside County Transportation Commission’s Intranet site.

I understand that I may withdraw this request at any time.

I authorize Riverside County Transportation Commission, on behalf of the Riverside County Transportation Commission Group Health Plan, to send this information to the following e-mail account (*choose one*):

My work e-mail account: _____

A different e-mail account: _____

Signature

Date

CERTIFICATION OF COMPLETION OF PRIVACY TRAINING

I, _____, acknowledge that I have received training in **Riverside County Transportation Commission's** Group Health Plans' Privacy Policies and Procedures by reading and understanding such policies and procedures regarding the privacy of PHI (PHI), as mandated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Confidentiality of Medical Information Act (CMIA) under California law. I further acknowledge that I have received training in **Riverside County Transportation Commission's** Group Health Plans' Privacy Policies and Procedures by reading and understanding such policies and procedures concerning PHI, use, disclosure, storage and destruction as required by HIPAA.

In consideration of my employment or compensation from **Riverside County Transportation Commission**, as Plan Sponsor, I hereby agree that I will not at any time, either during my employment or association with the Plan Sponsor or after my employment or association ends, use, access or disclose PHI to any person or entity, internally or externally, except as is required and permitted in the course of my duties and responsibilities with the Plan Sponsor, as set forth in **Riverside County Transportation Commission's** Group Health Plans' Privacy Policies and Procedures or as permitted under HIPAA, the CMIA, or as otherwise required by law. I understand that this obligation extends to any PHI that I may acquire during the course of my employment or association with the Plan Sponsor, whether in oral, written or electronic form and regardless of the manner in which access was obtained.

I understand that health information maintained by **Riverside County Transportation Commission** in its capacity as employer is not covered by HIPAA but that such information may still be protected under the CMIA and other applicable federal and state laws.

I further understand and acknowledge my responsibility to apply **Riverside County Transportation Commission's** Group Health Plans' Privacy Policies and Procedures during the course of my employment or association. I also understand that unauthorized use or disclosure of PHI will result in disciplinary action, up to and including the termination of employment or association with the Plan Sponsor and the imposition of civil penalties and criminal penalties under applicable federal and state law, as well as professional disciplinary action as appropriate.

I understand that this obligation will survive the termination of my employment or end of my association with the Plan Sponsor, regardless of the reason for such termination.

Signed _____

Date _____

Name _____

Title _____

CONFIDENTIAL COMMUNICATIONS REQUEST

The Health Insurance Portability and Accountability Act (HIPAA) requires a group health plan to accommodate reasonable requests to provide PHI by an alternative means or at an alternative location when an individual clearly indicates that disclosure by normal means may endanger the individual. A request to provide all PHI relating to an individual at an alternate address or through other means of communication designated by the individual will be considered a reasonable request.

Please complete the information below and send this form to:

[contact and Group Health Plan]

Name: _____ Telephone Number: _____

Address: _____

Name of Group Health Plan(s) to which this request applies:

I request that the **[Group Health Plan]** provide alternate means or alternative locations for me to receive a private communication because I believe that a disclosure of my PHI can endanger me.

I understand that the [Group Health Plan] must accommodate my request if reasonable.

I request confidential communications of the following types of communications:

Such communications should be made to me in the following manner (provide an alternative address, telephone number, e-mail address or other means of communication):

Signature of Individual or (Authorized Representative)

Date

(Print) Name of Authorized Representative (if applicable)

Relationship to Individual

NOTICE TO OTHERS OF AMENDMENT

INSTRUCTIONS

Use this form letter to inform other entities of an amendment to a participant's or beneficiary's PHI. The entities that must be notified are ones identified by the participant or beneficiary and entities known by the Plan to have relevant PHI and may have relied on it or may do so in the future.

Dear **[person or entity in possession of amended PHI]**:

You have been identified as having received the following protected health or medical information about [name of participant or beneficiary]:

[description of PHI]

The health or medical information you possess has been amended recently as follows:

[describe amendment]

[Add when notice goes to a business associate.] Pursuant to your agreement with us, you are a business associate of ours, and, as such, are required to append or link this notice or, if you choose, the amendment described above, to the health or medical information described.

Please make a note of it in your records. This notice is being given as required by 45 CFR § 164.526, which is part of the Privacy Rule issued by the U.S. Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act.

If you have any questions, please do not hesitate to call us.

Sincerely,

[Name]

[Title]

for the [Group Health Plan]

**NOTIFICATION OF ADDITIONAL TIME TO RESPOND
TO ACCOUNTING REQUEST**

INSTRUCTIONS

This letter may be used if more than 60 days is needed to respond to a request for an accounting. This letter must be sent within 60 days from the date the request for an accounting is received by [employer].

Dear **[participant, beneficiary, or personal representative]**:

We received your request for an accounting of our disclosures of your PHI on **[date]**. We have been unable to respond due to **[give reason for delay]**. We will respond to your request by **[specific date no more than 30 days from original due date of response]**.

If you have any questions, please do not hesitate to call us.

Thank you for your patience.

Sincerely,

[Name]

[Title]

for the [Group Health Plan]

**REQUEST FOR AN ACCOUNTING OF DISCLOSURES
OF PHI**

Name: _____

I request the **[Group Health Plan]** provide me with an accounting of certain disclosures that it has made of my PHI. I understand the **[Group Health Plan]** does not require an accounting of disclosures to be made, pursuant to the Health Insurance Portability and Accountability Act of 1996, or HIPAA, in the following instances:

1. to carry out the function of treatment, payment and health care operations;
2. to the individual that is the subject of the information;
3. pursuant to an authorization as provided under the regulation (see *Authorization to Use or Disclose PHI* form);
4. that are incident to a use or disclosure otherwise permitted under the regulation;
5. as part of a limited data set as provided under the regulation;
6. to persons involved in the individual's care or for notification purposes;
7. for national security or intelligence purposes;
8. to correctional institutions or law enforcement officials; and
9. prior to the **[Group Health Plan's]** compliance date of April 14, 2004 as required under the HIPAA Privacy Rule regulations.

Pursuant to my right afforded me under the HIPAA Privacy Rule regulations, I would like an accounting of covered disclosures of my PHI made by **[Group Health Plan]** between the following dates:

_____ and _____

I understand that the **[Group Health Plan]** must respond to my request no later than 60 days after receiving my request. However, if the **[Group Health Plan]** needs more time to process my request, I understand that the **[Group Health Plan]** may extend the time in which to respond by an additional 30 days. I further understand that the **[Group Health Plan]** will provide the requested accounting of disclosures if required to do so under applicable law. I understand that **[Group Health Plan]** will notify me of its reasonable costs for complying with my request and provide me with the opportunity to agree to pay those charges in order to receive the requested accounting.

Signature of Individual or (Authorized Representative)

Date

(Print) Name of Authorized Representative (if applicable)

Relationship to Individual

REQUEST TO ACCESS AND INSPECT PHI

Name: _____

I request access to health information held about me in the **[Group Health Plan's]** "designated record set" pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). A "designated record set" includes information such as medical records; billing records; enrollment, payment, claims adjudication and health plan case or medical management record systems; or records used to make decisions about individuals.

I understand that the **[Group Health Plan]** must respond to my request no later than 30 days after receiving the request. However, if the PHI is held off-site, or held by someone else, the **[Group Health Plan]** shall have 60 days to respond. If the **[Group Health Plan]** does not maintain such health information but knows where it is maintained, the Plan shall inform me as to where or to whom my request to access and inspect health information should be directed.

I request that the information be provided, at no charge, in the following format:

Paper

Electronic (if available and feasible)

I understand that this request does not apply to certain health information including:

1. information that is not held in the designated record set;
2. psychotherapy notes;
3. information compile in reasonable anticipation of or for litigation; and
4. other information not subject to the right to access information under HIPAA.

I would like access to the following information:

Please indicate the dates associated with the requested health information:

Start Date: _____ End Date: _____

Signature of Individual or (Authorized Representative)

Date

(Print) Name of Authorized Representative (if applicable)

Relationship to Individual

REQUEST TO AMEND PHI

Name of Requestor: _____

Name of Group Health Plan: _____

I request the **[Group Health Plan]** to amend my PHI contained in its designated record set as provided for under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

I would like to request an amendment to the following information:

I would like my information corrected as follows:

I believe this information is incorrect and should be amended because:

I request that the following persons or entities be notified of this correction:

Name of Person/Entity	Address
_____	_____
_____	_____
_____	_____

I understand that **[Group Health Plan]** will agree to my requested amendment unless it may deny the request under applicable law. I further understand that **[Group Health Plan]** will respond to my request within 60 days.

Signature of Individual or (Authorized Representative)

Date

(Print) Name of Authorized Representative (if applicable)

Relationship to Individual

REQUEST TO RESTRICT CERTAIN USES AND DISCLOSURES

Name: _____ Telephone Number: _____

Address: _____

Name of Group Health Plan(s) to which this request applies:

I understand that I have a right under the Health Insurance Portability and Accountability Act (HIPAA) to request the **[Group Health Plan]** to restrict its use and disclosure of my PHI:

- for payment or health care operations activities; or
- to family members or individuals involved in my care or payment relating to my care.

I understand that the [Group Health Plan] is NOT required to agree to my restriction request.

I understand that if **[Group Health Plan]** agrees to my request, it may terminate its agreement upon informing me of the termination. I further understand that any PHI created or received while the restriction was in effect will remain subject to the restriction, and the termination will apply prospectively only.

[NOTE: If you believe you will be endangered if your PHI is disclosed to another individual, please submit *the Private Communications Request Form.*]

Please complete either or both of the requests below:

I request the **[Group Health Plan]** to restrict its uses or disclosures of my PHI for purposes of payment or health care operations as follows (please describe restrictions):

I request the **[Company Group Health Plan]** to not make disclosures to the following family members or friends who may be involved in my health care or payment with respect to my health care (list names):

Signature of Individual or (Authorized Representative)

Date

(Print) Name of Authorized Representative (if applicable)

Relationship to Individual

RESPONSE TO ACCESS AND INSPECTION REQUEST

Name of Requester: _____

Date Request Received: _____

Your request for access and inspection of your PHI is:

- Approved. Paper copies or electronic copies (if feasible) of the requested information will be provided to you within 30 days from receipt of your request. You will not be charged for paper or electronic copies.
- Denied. Pursuant to the Health Insurance Portability and Accountability Act (HIPAA), your request to access and inspect PHI is denied because the information requested:
 - is not maintained by the **[Group Health Plan]**. That information is maintained by _____ and you must direct your request to that entity;
 - is subject to the Privacy Act 5 (U.S.C. § 552a) and the denial meets the requirements of that law;
 - was received from a source, other than a health care provider, that requested confidentiality and the access would be reasonably likely to reveal that source;
 - is subject to the Clinical Laboratory Improvements Amendments of 1988, 42 U.S.C. § 263a, to the extent access to information would be prohibited by law;
 - is psychotherapy notes;
 - has been compiled in reasonable anticipation of or for use in a civil, criminal, or administrative action or proceeding;
 - has been determined by a licensed health care professional as likely to endanger the life or physical safety of the individual or another person;
 - has been determined by a licensed health care professional as likely to endanger or cause substantial harm to another person referenced in the information;
 - was requested by a personal representative and a licensed health care professional has determined that access is likely to cause substantial harm to the individual that is the subject of the information or to another person.

If access to health information is denied because a licensed health care professional, in the exercise of professional judgment, determines the access requested is reasonably likely to cause substantial harm to you or another person, you have a right to have that determination reviewed. If you wish to appeal the decision, please submit a written request to have the decision reviewed. The decision will be reviewed by a licensed health care professional designated by the **[Group**

Health Plan] who did not participate in the original decision. A written response will be provided to you within 30 days, or within a reasonable period of time, of receipt of your appeal.

You may file a complaint regarding the denial with the **[Group Health Plan]** or the Secretary of the U.S. Department of Health and Human Services. If you file a complaint with the **[Group Health Plan]**, the complaint must be in writing and directed to **Anne Mayer, Deputy Executive Director**, who is designated to receive complaints at (951) 787-7141.

- Need for Extension of Time. The **[Group Health Plan]** received your request to access health information on _____ . We have been unable to respond for the following reason:

The **[Group Health Plan]** will respond to your request by _____ but no later than 60 days from the date of your request.

RESPONSE TO AMENDMENT OR CORRECTION REQUEST

Date Request Received: _____

Name/Title of Reviewer: _____

Date Reviewed: _____

Your request to amend your PHI is:

- Approved. We will amend or link the corrected information to the health records, in our possession, affected by the amendment. We will notify the persons you identified in your request and any other relevant persons who could rely on the information, of the amendment. You will not be charged for this service.
- Denied. Pursuant to the Health Insurance Portability and Accountability Act (HIPAA), your request to access and inspect PHI is denied, in whole or in part, because the information requested:
 - is not maintained by the **[Group Health Plan]** as part of its designated record set. Accordingly, we are not required to provide it under the HIPAA Privacy Rule;
 - is accurate and complete as stated in our records;
 - is not subject to amendment because we are not required under the “right of access” provisions of the HIPAA Privacy Rule to make the information available to the Requestor for inspection;
 - is not created by the **[Group Health Plan]**. However, if the creator of the information is unavailable to act on the request to amend, please notify the **[Group Health Plan]** in writing, and we will reconsider the request.

If you disagree with our denial, you have the right to file a written statement disagreeing with the denial of the amendment. The statement of disagreement must be limited to one page and will be included with any future disclosures of your PHI. The Plan has the right to prepare a rebuttal statement to your statement of disagreement, and you will receive a copy if it does so. If you choose not to file a statement of disagreement, you may request that we include your request for amendment and this denial of amendment with any future disclosures of the records at issue. If you wish to pursue either option, please submit your statement or request in writing to the Privacy Official.

You may file a complaint regarding the denial with the **[Group Health Plan]** or the Secretary of the U.S. Department of Health and Human Services. If you file a complaint with the **[Group Health Plan]**, the complaint must be in writing and directed to **Anne Mayer, Deputy Executive Director** who is designated to receive complaints at (951) 787-7141. The Plan will not retaliate against you for filing a complaint.

- Need for Extension of Time. The **[Group Health Plan]** received your request to amend your PHI on _____. We have been unable to respond for the following reason:

The **[Group Health Plan]** will respond to your request by _____ but no later than 90 days from the date of your request.

RESPONSE TO PRIVACY COMPLAINT

INSTRUCTIONS

Use this form when responding to a participant or beneficiary that the Group Health Plan, plan sponsor or workforce, or a business associate has violated the Plan's Privacy Policies and Procedures or the Privacy Rule.

Dear **[participant, beneficiary, or personal representative]**:

We received your complaint regarding the use or disclosure of your PHI. The privacy of your medical information is important to us and we take it very seriously.

Option 1: You stated that **[brief description]**. We have investigated this matter and determined that no violation of our Privacy Policies and Procedures or the Privacy Rule occurred. **[Brief description of why use/disclosure was proper or policies/procedures are appropriate.]**

Option 2: You stated that **[brief description]**. We have investigated this matter and determined that a violation of our Privacy Policies and Procedures or the Privacy Rule may have occurred. Accordingly, the following actions have been taken to comply with our Privacy Policies and Procedures. **[Brief description of the actions (i.e., amendment of notice or policy)]**

Please feel free to contact us if you have any questions.

Sincerely,

[Name]

[Title]

[Group Health Plan]

RESPONSE TO REQUEST FOR CONFIDENTIAL COMMUNICATIONS

INSTRUCTIONS

This form letter may be used in response to a request for confidential communications.

RE: Your Request for Private Communications

Dear **[participant, beneficiary, or personal representative]**:

We received your request that we communicate with you at a different location or in a different means.

We **will** agree to your request by **[describe how communications will take place]**.

[ALTERNATIVE PARAGRAPH: We **will not** agree to your request because **[explain why alternative location or means was not reasonable or that no statement was made regarding harm to the requestor]**.

Please feel free to contact us if you have any questions.

Sincerely,

[Name]

[Title]

[Group Health Plan]

RESPONSE TO REQUEST FOR RESTRICTION

INSTRUCTIONS

Use this form when responding to a participant or beneficiary who requests a restriction on the use or disclosure of PHI.

RE: Request to Restrict Use or Disclosure of Your PHI

Dear **[participant, beneficiary, or personal representative]**:

We have received your request to limit the manner in which your PHI (PHI) is used or disclosed. As you know, the law does not require us to agree to your requested restriction.

We will not be able to agree to your requested restriction on the use and disclosure of your PHI for payment or health care operations activities. If you believe, however, that you will be endangered if your PHI is disclosed to an individual who resides in your household, please submit the *Private Communications Request Form*.

[ALTERNATE PARAGRAPH: As you requested, we will agree to restrict uses and disclosures of your PHI to the following individuals: (insert name(s), nature of relationship(s) to participant/beneficiary, and description of the uses and disclosures that will not be made).

We may terminate our agreement to this restriction upon providing notice to you. However, any PHI created or received within the period of restriction will remain subject to the restriction, and the termination will apply prospectively only.]

Please feel free to contact us if you have any questions.

Sincerely,

[Name]

[Title]

[Group Health Plan]

ACCOUNTING REQUEST TRACKING LOG

(refer to *Policy and Procedures on Right to Request an Accounting* for information on how to complete this log)

Requestor	Date Rec'd	Request Forwarded to Business Associates	Notification of Charges (more than one request in 12 months)	Acceptance of Charges Rec'd	Extension	Accounting Provided
(ex) Don Ho	6/14/04	6/17/04			8/12/04	8/31/04

HEALTH INFORMATION DISCLOSURES LOG

(refer to *Policy and Procedures on Authorization to Use or Disclose PHI* for information on how to complete this log)

Date	Name of Individual	Name of Party To Whom Information Was Disclosed	Summary of Disclosed Information	Date of Authorization

RESTRICTED USE AND CONFIDENTIAL COMMUNICATIONS TRACKING LOG

(refer to Policies and Procedures on Right to Request Restrictions on the Use and Disclosure of PHI and Right to Request Confidential Communications for information on how to complete this log)

Requestor	Date Rec'd	Restricted Use	Confidential Communication	Request Granted	Communicated to Business Associates	Comments
(ex) Don Ho	6/14/04		Yes	Yes	Yes, 8/12/04	No disclosures to wife