

**RESOLUTION AMENDING AND RESTATING
COUNTY OF SANTA CLARA
IRC SECTION 125
FLEXIBLE BENEFITS PLAN**

WHEREAS, the County of Santa Clara (County) has previously approved and implemented its IRC Section 125 Flexible Benefits Plan as a qualified “cafeteria plan” as defined under Section 125 of the Internal Revenue Code of 1986; and

WHEREAS, the Flexible Benefits Plan includes a Dependent Care Assistance Plan (DCAP), originally approved with an effective date of May 1, 1990 and subsequently amended twice effective January 1, 1999 and January 1, 2005; and

WHEREAS, the Flexible Benefits Plan also includes a Health Flexible Spending Account Plan (FSA), originally approved with an effective date of January 1, 1999 and subsequently amended effective January 1, 2005; and

WHEREAS, a Premium Only Plan (POP) was most recently added to the Flexible Benefits Plan effective January 1, 2009; and

WHEREAS, the DCAP, FSA, and the POP are collectively referred to as the Flexible Benefits Plan and the approval of which has been determined to be in the best interest of the County and its employees by allowing voluntary contributions to these plans to be set aside from employees’ salary compensation on a pre-tax basis in order to reimburse themselves or to pay for:

- 1) qualified dependent care expenses under the DCAP;
- 2) qualified medical, dental, and vision out of pocket and other expenses not covered by County sponsored health benefit insurance plans under the FSA;
and
- 3) the employees’ share of health insurance premium costs not paid for by the County under the POP

WHEREAS, the Flexible Benefits Plan and its component plans are subject to federal regulatory changes and updates, which require periodic amendment and restatement of the plan documents as needed in order for the Flexible Benefits Plan to remain in compliance with the Internal Revenue Code; and

WHEREAS, under the FSA plan, the County also desires to increase the maximum annual contributions allowable for employees from the current \$2,000 limit to \$5,000, which is comparable to many other public agencies’ flexible spending plans; and

WHEREAS, the current maximum annual FSA contribution limit has not increased since January 1, 2005, yet out of pocket and other health related expenses have continued to increase, and participants have requested that the FSA limit be increased to allow for greater voluntary pre-tax contributions to meet these increased expenses; and

WHEREAS, the Board of Supervisors of the County of Santa Clara deems it to be in the best interest of the County and its employees to amend and restate its Flexible Benefits Plan to reflect these changes;

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors of the County of Santa Clara hereby delegates authority to the Deputy County Executive (responsible for Employee Services Agency) to execute all documents and agreements as may be necessary to amend and restate the County of Santa Clara IRC Section 125 Flexible Benefits Plan, which is comprised of the Dependent Care Assistance Plan, Health Flexible Spending Account Plan, and the Premium Only Plan documents to reflect updates and changes as required by federal regulations for plan compliance, and to increase the maximum annual limit to \$5,000 for the Health Flexible Spending Account Plan, to become effective January 1, 2010, following approval by County Counsel as to form and legality. The delegation of authority shall expire on December 31, 2009.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California on October 20, 2009 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

VACANT:

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors

ATTEST:

MARIA MARINOS
Clerk of the Board of Supervisors

LIZ KNISS, President
Board of Supervisors

**APPROVED AS TO FORM
AND LEGALITY:**



NANCY J. CLARK
Deputy County Counsel