



SAN BERNARDINO COUNTY

RETIREMENT MEDICAL TRUST PLAN

Established June 1, 1998
Amended January 27, 2004
Amended December 20, 2005
Amended March 14, 2006
Amended July 17, 2007
Amended April 23, 2013
Amended June 16, 2015
Amended December 15, 2020

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**SAN BERNARDINO COUNTY
RETIREMENT MEDICAL TRUST PLAN**

**ARTICLE I
ESTABLISHMENT AND PURPOSE OF PLAN**

- 1.01 Pursuant to the terms and conditions of the San Bernardino County Retirement Medical Trust (Trust) to provide certain benefit payments for Eligible Employees of an Employer as defined herein. The County of San Bernardino hereby establishes this Trust known as the San Bernardino County Retirement Medical Trust (RMT). The terms of this RMT is subject to and governed by this document. The RMT is intended to be a VEBA [Voluntary Employees' Beneficiary Association within the meaning of Internal Revenue Code (IRC) section 501(c)(9)]. The purpose of the VEBA is to allow Contributions to be made by the Employer to the Trust for the benefit of an Eligible Employee, free of tax, to be used for the reimbursement or payment of Qualified Medical Expenses when an Eligible Employee has Separated from Service and has reached Normal Retirement Age or received a disability retirement all as defined in the Eligible Employee's Memorandum of Understanding (MOU), salary ordinance, employment contract or other document establishing terms and conditions of employment.

**ARTICLE II
DEFINITIONS**

- 2.01 Account
An account established by the Plan Administrator for an Eligible Employee or Participant for receipt of deposits and/or Employer Contributions as designated in this Plan.
- 2.02 Active Participant
An Eligible Employee who has Separated from Service and who has satisfied the Normal Retirement Age or received a disability retirement as specified in the RMT on whose behalf the Employer has made a Contribution to an Account established under the RMT pursuant to Article V of the Trust. Active Participants are eligible for reimbursement of Qualified Medical Expenses.
- 2.03 Base Salary
For Eligible Employees paid on an hourly basis, Base Salary for each Pay Period shall be equal to the number of hours regularly scheduled to work for that Pay Period times hourly rate of pay. An exception to this definition shall be made for hours paid for Short-Term Disability (STD). STD hours shall only be included in the computation of Base Salary for each Pay Period if the Participant has elected to fully integrate STD with paid leave and/or regular time for that Pay Period. Base Salary shall not include payment for overtime, or payments made through the County's Medical Emergency Leave or Workers' Compensation Programs. For Eligible Employees who are elected officials paid on a daily basis, Base

Salary for each Pay Period is equal to the number of days paid during that Pay Period times daily rate of pay.

2.04 Beneficiary(ies)

Upon the death of an Eligible Employee, the surviving Spouse, if any, shall become his/her Beneficiary who shall be entitled to the rights and benefits under this Plan for the Spouse and any Dependent(s) of the Eligible Employee. In the event there is no Spouse, or upon the death of the surviving Spouse, the Beneficiary shall be the Eligible Employee's remaining Dependent(s), if any. If there is no surviving Spouse or Dependents of the Eligible Employee, the amounts on deposit in the Eligible Employee's Account shall become property of the Trust, which shall be used for purposes of the RMT, including administrative expenses or funding of additional Plan Benefits, if any.

2.05 Board

The Board of Trustees of the Trust, which administers and manages the resources of the Trust for the payment of Qualified Medical Expenses or other qualified benefits approved by the Board. The Board shall be the County's Defined Contribution Committee.

2.06 Code

The Internal Revenue Code (IRC) of 1986, as amended.

2.07 Contributions

The amounts authorized by the Employer pursuant to the Trust that shall be deposited into Accounts as described in Article V, Contributions, of this RMT or such other amounts as shall be authorized by the County Board of Supervisors pursuant to the terms of a MOU, salary ordinance, employment contract or other document establishing terms and conditions of employment for the purpose of funding benefits under the RMT.

2.08 County

The County of San Bernardino, California, the Employer of County Eligible Employees and Participants.

2.09 Defined Contribution Committee

The Defined Contribution Committee (DCC) has been established to advise the County on all matters concerning the administration of the RMT.

The DCC has established bylaws to identify its roles and responsibilities to the Plan. The bylaws establish terms of office, trustee duties, selection and removal of trustees and other parameters to determine the governance of the Plan.

2.10 Dependent(s)

Dependents shall include an Eligible Employee's spouse and/or such other individuals whose relationship to the Eligible Employee meets the qualifications of a dependent as described in IRC section 152.

2.11 Disability Retirement

Severance from employment due to permanent incapacity to work and through application and qualification for Disability Retirement benefits under the SBCERA Retirement Plan.

2.12 Eligible Employee

An Eligible Employee is a member of an employer group as defined in Attachment A and who meets the eligibility requirements of an applicable Eligible Employee Memorandum of Understanding (MOU). In addition, any other groups of employees who are made specifically eligible for RMT coverage through formal action of the County Board of Supervisors.

For purposes of this term, an Eligible Employee must have contributed to the San Bernardino County Employees' Retirement Association (SBCERA) Retirement Plan or other public entity retirement plan for a time period specified in the employee's MOU, salary ordinance, contract or other document establishing terms and conditions of employment. Employees who wish to receive credit for participation in a retirement plan other than SBCERA or exempt employees that have purchased and paid for additional retirement credit, must provide the RMT Administrator with a written statement from the retirement plan stating length of participation and/or purchase and that contributions have not been withdrawn.

2.13 Employee Association

Any collective bargaining representative employee group that has qualified to be recognized for purposes of representing Eligible Employees in the matter of participating in the Trust.

2.14 Employer

The County of San Bernardino (County), any Board Governed Special District (District), Superior Court of California, County of San Bernardino (Courts), Local Agency Formation Commission (LAFCO), and San Bernardino Associated Governments (SANBAG). In addition, any other employer who is made specifically eligible for RMT coverage through formal action of the County Board of Supervisors.

2.15 Inactive Participant

An Eligible Employee who has Separated from Service who has not yet satisfied the Normal Retirement Age specified in the RMT on whose behalf the Employer has made a Contribution to an Account established under the Plan pursuant to Article V of the Trust. Inactive Participants are not eligible for reimbursement of Qualified Medical Expenses until they satisfy the Normal Retirement Age or received a disability retirement as specified in the RMT.

2.16 Investment Manager

An investment consultant appointed by the DCC to manage the investment of the Trust Fund's assets, pursuant to the directions of the DCC. The Investment Manager shall be registered as such under the Investment Advisor's Act of 1940, or be a bank, as defined in such Act, or be an insurance company admitted to do

business in California and qualified to manage the assets of employee benefit plans under relevant California and federal law.

2.17 Investment Policy Statement

Investment Policy Statement shall mean the adopted investment policy and administrative procedures by the County identifying the risks associated with the Plan by Plan Eligible Employees and Participants, the procedures for determining investment selection, the monitoring of investment performance, and procedures for replacing under-performing funds.

2.18 Memorandum of Understanding (MOU)

The written agreement between the Employer and an Employee Association, if any, which sets forth the terms of employment, including types of fringe benefit plans to be provided to the employees and Contribution amounts by the Employer, employee or both in the RMT.

2.19 Normal Retirement Age

Normal Retirement age means the age designated by the Participant within the range of ages ending with 70½ and beginning not earlier than the earliest age at which the Participant has the right to retire through the San Bernardino County Employees Retirement Association and receive retirement benefits without actuarial reduction. For a Participant who continues in the service of the Employer after age 70½, Normal Retirement Age shall mean the age at which the Participant separates from service with the Employer.

2.20 Participant

Either an Active or Inactive Participant.

2.21 Plan Administrator

The Plan Administrator shall mean the County's Human Resources Benefits Chief, Employee Benefits and Services Division who shall exercise the discretion or other functions given to the County under the Plan.

2.22 Plan Benefits

The reimbursement of Qualified Medical Expenses incurred by an Active Participant, Dependent or Beneficiary under the Plan up to the total value in the applicable Account at the time the request for payment is made. All claims for Plan Benefits must be requested or directed by the Active Participant or Beneficiary on an appropriate County claim form.

2.23 Plan Year

The Plan Year shall be the calendar year, January 1 through December 31.

2.24 Qualified Medical Expense(s)

Post-separation medical and/or dental expense(s) incurred by an Active Participant and his/her Dependent(s) or Beneficiary(ies) otherwise not reimbursed, that are defined in Code Section 213(d)(1).

- 2.25 Retirement Medical Trust (RMT)
The San Bernardino County Retirement Medical Trust Plan as described in this document.
- 2.26 RMT Members
The collective set of Eligible Employees, Inactive Participants and Active Participants and Beneficiaries.
- 2.27 Separation (Separated) from Service
The severance from employment of an Eligible Employee for reasons other than death.
- 2.28 Service Retirement
The severance of an Eligible Employee's employment, upon satisfying the retirement age and retirement service requirements specified in the SBCERA Retirement Plan.
- 2.29 Spouse
An individual who is legally married to or a registered domestic partner of an Eligible Employee within the meaning of the IRC at the time Qualified Medical Expenses are incurred by the Spouse or at the time of death of the Eligible Employee. For purposes of this Plan, Spouse is used interchangeably with Dependent(s).
- 2.30 Trust
The San Bernardino County Retirement Medical Trust, the trust created by the San Bernardino County Retirement Medical Trust Agreement effective June 1, 1998.
- 2.31 Trust Fund
The fund established by Employer Contributions to the Trust for the payment or reimbursement of Qualified Medical Expenses for Active Participants and their Dependents or Beneficiaries, invested at the direction of the Board, its designated Investment Manager, or by Eligible Employees, Participants and Beneficiaries.
- 2.32 Trustee
The Board of Trustees of the San Bernardino County Retirement Medical Trust is the DCC.
- 2.33 VEBA
A tax-exempt Voluntary Employees' Beneficiary Association (VEBA), described in Code Section 501(c)(9), that provides for the payment of life sickness, accident or other benefits to its members or their Dependents. This RMT is intended to be a VEBA within the meaning of IRS Section 501(c)(9).

ARTICLE III ADMINISTRATION

- 3.01 The Plan Administrator shall have full authority to adopt rules and regulations for the administration of the Plan and to interpret, alter, amend, or revoke any rules and regulations so adopted. Plan Administrator shall have full discretion to construe and interpret the terms and provisions of this Plan and all rules and regulations related thereto, which interpretation or construction shall be final and binding on all parties including, but not limited to, the Employer, the Employee Associations and any Eligible Employee, Participant, or Beneficiary, except as otherwise provided by law. Plan Administrator shall administer such terms and provisions in a uniform and nondiscriminatory manner and in full accordance with any and all laws applicable to the Plan.

ARTICLE IV PARTICIPATION

- 4.01 The Retirement Medical Trust Plan is not a voluntary benefit. Those Eligible Employees who Separate from Service must have the cash value of their unused accumulated sick leave, if any, contributed to the Trust as outlined in Article V.

Eligible Employees Separating from Service prior to Normal Retirement Age shall be considered Inactive Participants and shall not be entitled to receive Plan Benefits until they have satisfied the Normal Retirement Age or received disability retirement benefits under the SBCERA Retirement Plan.

If an Eligible Employee dies while actively employed and before Service Retirement and has an Account with a balance, his or her surviving spouse, if any, shall be entitled to the rights and benefits under the Plan for the Spouse or Dependent(s). In the event there is no Spouse, or upon the death of the surviving Spouse, the Account shall be available to pay for Plan Benefits for the Eligible Employee's Dependent(s), if any. If there is no surviving Spouse or Dependent(s) of the Eligible Employee, the Account balance held by the Trust on his or her behalf shall become property of the Trust which shall be used for administrative expenses or other purposes of the Trust, including funding of additional Plan Benefits, if any.

ARTICLE V CONTRIBUTIONS

- 5.01 Contributions are made on the Eligible Employee's behalf by the Employer in accordance with the MOU, salary ordinances, employment contracts or other documents establishing terms and conditions of employment.
- 5.02 In the event that an Eligible Employee dies while actively employed, their sick leave balance will not be transferred to the RMT. The sick leave balance will be cashed out to the Eligible Employee's Beneficiary, in accordance with the terms of the Eligible Employee's MOU, salary ordinance, employment contract or other

documents establishing terms and conditions of employment. If the terms of how to disburse the sick leave balance are not defined, the Beneficiary of the deceased employee will be paid for unused sick leave balances according to the same rate table as established for the RMT.

- 5.03 In the event that contributions are made to an Eligible Employee's Account, and it is subsequently determined that the contribution was not authorized, those unauthorized contributions shall be withdrawn from the Eligible Employee's Account and returned to the source of the contribution. If any of the unauthorized contributions have been distributed from the Account, the balance, if any, of the unauthorized contribution shall be returned to the source of contribution, and the employee shall have no recourse for the return of any funds that have been distributed.

ARTICLE VI ELIGIBLE EMPLOYEE/PARTICIPANT'S ACCOUNT

- 6.01 Trustee, or Investment Manager on behalf of Trustee, shall maintain an Account for each Eligible Employee and Participant for deposit of Contributions made on his or her behalf by the Employer for the payment of Plan Benefits. Each Eligible Employee/Participant's Account shall further be credited with earnings, gains, or losses applicable thereto, less any charges for administrative costs determined by Trustee.
- 6.02 Trustee, or Investment Manager on behalf of Trustee, may select and maintain investment options for an Eligible Employee/Participant's Account Contributions. Such investment options shall be suitable to achieve the purposes of this RMT. There shall be sufficient liquidity to pay for Qualified Medical Expenses or Plan Benefits.
- (a) If the Eligible Employee/Participant has a choice of investment options, the Eligible Employee/Participant shall designate, in writing, his or her choice of investment options, if any, for his or her Account Contributions. If no option is selected, the Trustee or Investment Manager shall have the discretion to deposit the contribution in an investment option on behalf of Eligible Employee/Participant. The Trustee or Investment Manager shall administer the Eligible Employee/Participant's Account in accordance with Article VI, Trustee's Duties, as contained in the First Amended San Bernardino County Retirement Medical Trust Agreement.
 - (b) If the Eligible Employee/Participant has a choice of investment options, the Eligible Employee/Participant may change the total distribution of the Account between investment options or the distribution of future Contributions on a quarterly basis, upon providing written instructions to the Trust.
 - (c) Such investment deposits and all income attributable to such amounts shall be held in trust for the exclusive benefit of Eligible

Employee/Participants and their Beneficiaries. All such amounts shall not be subject to the claims of the County's general creditors.

- (d) The County and Employee Associations, if applicable, shall not be responsible for the investment performance of investment choices made by a Eligible Employee/Participant, or those made by Trustee or Investment Manager on behalf of a Eligible Employee/Participant.
- (e) The existence of neither the RMT nor the Trust Fund shall entitle any Eligible Employee/Participant or Beneficiary, or creditor of any Eligible Employee/Participant or Beneficiary to a claim or lien against the assets of the Account. Eligible Employee/Participants and their Dependent(s) and Beneficiary(ies) shall have the exclusive right to receive the benefits payable under the RMT.

6.03 The Trustee, or Investment Manager or Plan Administrator acting on behalf of the Trustee, shall furnish to each Eligible Employee/Participant statements of his or her Account on at least an annual basis, or more often as Trustee deems appropriate. If multiple investment products are available to the Eligible Employee/Participant, the value of any available benefit shall be determined by the actual value of the investment product(s) at the time a claim for Plan Benefits is received, unaffected by any independent or arbitrary standard of calculation with respect to such investment product(s). If investment options are not available to the Eligible Employee/Participant, the value of any available benefit shall be the value of the Account as of the last day of the calendar quarter immediately preceding the date on which a claim for Plan Benefits is received. The account statements will disclose:

- (a) The accumulated amounts that were invested at the beginning of the accounting period;
- (b) Any amounts credited to the Eligible Employee/Participant's Account by way of interest, dividends or other income from his or her Account balance during the accounting period;
- (c) Any amounts debited from the Eligible Employee/Participant's Account by way of fees or qualified Plan expenses;
- (d) Disbursements for Qualified Medical Expenses during the accounting period; and
- (e) The balance of such Eligible Employee/Participant's Account at the end of the accounting period.

**ARTICLE VII
DISTRIBUTION OF BENEFITS**

- 7.01 Account balances shall be used to pay for Qualified Medical Expenses, as defined in Code Section 213(d), incurred by an Active Participant or the Dependent(s)/Beneficiary(ies) of an Active Participant that are not otherwise reimbursed by insurance or other means. Examples of health care expenses are listed in Publication 502 of the Internal Revenue Service, "Medical and Dental Expenses." The Plan's obligations are limited to the value of the Account including investment earnings, if any.
- 7.02 To receive Plan Benefits, the Active Participant shall submit the appropriate County claim form along with a copy of the receipt for post-separation expenses covered under this Plan and medical certification, when required, to the Trustee, its designated Plan Administrator or third party administrator (TPA), no later than two (2) years following the date of the expense. The Trustee, Plan Administrator or TPA shall reimburse the amount of Qualified Medical Expenses, not otherwise reimbursed, to each Active Participant or Beneficiary from the Eligible Employee's Account balance not later than thirty (30) calendar days following the Trustee's, Plan Administrator's or TPA's approval of the expense item, unless more time is required to liquidate an investment option to convert Eligible Employee's Account funds to cash, in which case the Trustee shall have a reasonable period of time to make payment.
- 7.03 The Trustee, Plan Administrator or TPA shall determine whether an expense qualifies for reimbursement under this RMT. A denied claim may be appealed to the Trustee within sixty (60) calendar days, in writing, stating the reasons reimbursement should be approved along with additional supporting documentation, if any. Trustee or designated representative(s) shall duly consider such appealed claims and shall notify the Active Participant or the Beneficiary of the determination within thirty (30) days of receipt of the appeal. The decision of the Trustee or the designated representative(s) shall be binding on an Eligible Employee or Beneficiary.
- 7.04 If an Eligible Employee dies while actively employed by an Employer and before Service Retirement and has an Account with a balance, his or her surviving spouse, if any, shall be entitled to the rights and benefits under the RMT for the Spouse or Dependent(s). In the event there is no Spouse, or upon the death of the surviving Spouse, the Account shall be available to pay for Plan Benefits for the Eligible Employee's Dependent(s), if any. If there is no surviving Spouse or Dependent(s) of the Eligible Employee, the Account balance held by the Trust on his or her behalf shall become property of the Trust which shall be used for administrative expenses or other purposes of the Trust, including funding of additional Plan Benefits, if any.
- 7.05 Upon the death of an Eligible Employee who has Separated from Service, his or her surviving Spouse, if any, shall be entitled to the rights and benefits under the RMT for the Spouse or Dependent(s). In the event there is no Spouse, or upon

the death of the surviving Spouse, the Account shall be available to pay for Plan Benefits for the Eligible Employee's Dependent(s), if any. Any person who becomes entitled to receive Plan Benefits pursuant to this section shall be deemed a Beneficiary for purposes of the RMT. If there is no surviving Spouse or Dependent(s) of the Eligible Employee located or found, the amounts on deposit in such Account shall become the property of the Trust no later than two years after the plan administrator is notified of the Eligible Employee's death, and shall be used for administrative expenses, or other purposes of the Trust including funding of additional Plan Benefits, if any. The provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99-272 (April 7, 1986), as amended, are applicable to the RMT.

ARTICLE VIII ADMINISTRATIVE COSTS

- 8.01 Trustee shall determine in a manner it deems fair and equitable the cost of investing and administering the Plan. Trustee shall allocate such costs to all Accounts in the Trust in a fair and equitable manner, and shall inform Eligible Employee/Participants at least annually of the Plan's administrative fees, if any, that are assessed to their Accounts.

ARTICLE IX TERMINATION OR AMENDMENT

- 9.01 The County, Employee Associations, and Employer may at any time terminate the agreement to fund the RMT. In the event of such termination, all Accounts then held by the Trust shall be paid out by the Trustee, Plan Administrator or TPA as and when directed by the Trustee or the County in accordance with the provisions of Article VII, Distribution of Benefits, of this RMT. Upon such termination no further Contributions shall be made to any Account; however, investment earnings, if any, shall continue to post to each active Account until such time as an Account balance is depleted or the Account reverts to the Trust pursuant to the relevant portions of this RMT.
- 9.02 The provisions of this RMT may be amended to any extent and at any time by an instrument in writing signed by the Trustee provided that no amendment shall alter the purpose of this RMT and that all Eligible Employees have at least sixty (60) days notice of any amendment which directly affects participation, Accounts or the receipt of Plan Benefits, prior to the effective date of such amendment.
- 9.03 No amendment shall authorize or permit any part of the Trust Fund to be used or diverted to purposes other than for the exclusive benefit of Eligible Employee/Participants and their Dependents and Beneficiaries.

ARTICLE X MISCELLANEOUS

- 10.01 It is agreed that neither the Eligible Employee/Participant, Dependent, Beneficiary nor any other designee shall have any right to commute, sell, assign,

transfer or otherwise convey the right to receive any payments hereunder which payments and right thereto are expressly declared to be nonassignable and nontransferable; and, any such assignment or transfer shall not be recognized by Trustee, and if made by the Eligible Employee/Participant or Beneficiary in writing shall be deemed to constitute an immediate revocation. In the event that a Eligible Employee/Participant or Beneficiary commits or attempts to commit a prohibited act, Trustee is relieved of all liability under the RMT. Except as otherwise required by law notwithstanding this provision, any benefits paid pursuant to this RMT shall not be subject to attachment, garnishment, or execution, or to transfer by operation of law in the event of bankruptcy or insolvency.

- 10.02 The RMT has been adopted in the State of California and shall be construed and governed in all respects under and by the laws of said state.
- 10.03 The captions used in the RMT are for the purpose of convenience only and shall not limit, restrict or enlarge the provisions of the RMT.
- 10.04 The RMT shall be binding upon and shall inure to the benefit of the County, its successors and assigns, all Eligible Employee/Participants and Beneficiaries, their heirs and legal representatives.
- 10.05 As used in the RMT, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others unless the context clearly indicates otherwise.
- 10.06 Any notice or other communications required or permitted under the RMT shall be in writing and, if directed to Trustee, shall be sent to:

County of San Bernardino, Department of Human Resources
Employee Benefits and Services Division
157 West 5th Street, First Floor
San Bernardino, CA 92415-0440

If directed to an Eligible Employee, Participant, Dependent or Beneficiary, at his/her last known address as it appears in the Employer's or Employee's records, whichever is applicable.

- 10.07 Trustee shall have the right to contract for administration, legal, accounting and investment services with regard to the operation of the RMT.
- 10.08 This RMT is intended to qualify as an eligible "voluntary employees' beneficiary association" (VEBA) as defined under IRC section 501(c)(9) and any successor sections, and shall be interpreted and administered in a manner consistent with section 501(c)(9).
- 10.09 Upon written request, a copy of this RMT shall be made available to each Eligible Employee, Participant, or Beneficiary.

10.10 This plan shall be administered in compliance with state and federal law, including but not limited to, the Affordable Care Act.

ARTICLE XI
PROVISION OF PROTECTED HEALTH INFORMATION TO EMPLOYER

11.01 Permitted Disclosures of Protected Health Information (PHI)

Unless otherwise permitted by law, and subject to obtaining written certification pursuant to certification by Employer, on and after April 14, 2003, the San Bernardino County Retirement Medical Trust Plan may disclose PHI (as defined in 45 CFR, 164.501) to the Employer solely for the purpose of enabling the Employer to perform administrative functions related to the treatment, payment and health care operations of such Plan as defined in 45 CFR, 164.501.

In no event shall the Employer be permitted to use or disclose PHI in a manner that is inconsistent with 45 CFR, 164.504(f).

11.02 Conditions of Disclosure

The Employer agrees that with respect to any PHI disclosed to it by the San Bernardino County Retirement Medical Trust Plan that it shall:

- (a) Not use or further disclose the PHI other than as permitted or required by the RMT or as required by law.
- (b) Ensure that any agents, including a subcontractor, to whom it provides PHI received from the RMT, agree to the same restrictions and conditions that apply to the Employer with respect to PHI.
- (c) Not use or disclose the PHI for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Employer.
- (d) Report to the RMT any use or disclosure of the information that is inconsistent with the uses or disclosures provided for of which it becomes aware.
- (e) Make available PHI in accordance with 45 CFR, 164.524.
- (f) Make available PHI for amendment and incorporate any amendments to PHI in accordance with 45 CFR, 164.526.
- (g) Make available the information required to provide an accounting of disclosures in accordance with 45 CFR, 164.528.
- (h) Make its internal practices, books, and records relating to the use and disclosure of PHI received from the RMT available to the Secretary of Health and Human Services for purposes of determining compliance by the RMT with subpart E of 45 CFR, 164.

- (i) If feasible, return or destroy all PHI received from the RMT that the Employer still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- (j) Ensure that the adequate separation between the RMT and Employer, required in 45 CFR, 504(f)(2)(iii), is satisfied.

11.03 Separation between RMT and Employer

To satisfy the requirements of Conditions of Disclosure above, the following conditions shall apply:

- (a) Only the following employees, or classes of employees, or other persons under control of the Employer, shall be given access to the PHI to be disclosed: Plan Administrator; those Human Resources Department employees acting as claims administrator with the responsibility for RMT enrollment, claim processing, investigating questions and recommending decisions, investigating appeals and recommending decisions to the Plan Administrator; RMT management and quality assessment activities; and finance department employees.
- (b) The access to and use of PHI by the individuals described above shall be restricted to the RMT administration functions that the Employer performs for the RMT.
- (c) An individual described above who fails to comply with the provision of the RMT document relating to the use and disclosure of PHI shall be subject to disciplinary action under the Employer's established policies and procedures.

11.04 Certification by Employer

The Plan shall disclose PHI to the Employer only upon the receipt of a certification by the Employer that the Plan Document has been amended to incorporate the provisions of 45 CFR, 164.504(f)(2)(ii), and that the Employer agrees to the conditions of disclosure set forth in this document. The RMT shall not disclose and may not permit a health insurance issuer or HMO to disclose PHI to the Employer as otherwise permitted herein unless the statement required by 45 CFR, 164.520(b)(1)(iii)(C) is included in the appropriate notice.

IN WITNESS WHEREOF, the County of San Bernardino, has executed this RMT Amendment as of June 16, 2015.

COUNTY OF SAN BERNARDINO

James Ramos, Chairman, Board of Supervisors

Dated _____

ATTACHMENT A

Eligible Employee's as defined in Article II Definition 2.11.

1. An employee of the County in the Safety Management and Supervisory Unit on or after June 6, 1998; or
2. An employee of the County in the Exempt Group or a person who receives Exempt Group benefits from the County by approval of the Board of Supervisors by way of contract or County Code provisions on or after July 3, 1999; or
3. An employee of the County in the Management Unit or a person who receives Management Unit benefits from the County by approval of the Board of Supervisors by way of contract or County Code provisions on or after December 28, 2002; or
4. An employee of the County in the Specialized Peace Officer or Specialized Peace Officer - Supervisory Units or a person who receives Specialized Peace Officer/Specialized Peace Officer Units benefits from the County by approval of the Board of Supervisors by way of contract or County Code provisions on or after January 7, 2006; or
5. An employee of the County in the Safety Unit or a person who receives Safety Unit benefits from the County by approval of the Board of Supervisors by way of contract or County Code provisions on or after December 24, 2005; or
6. An employee of the County in the Attorneys Unit or a person who receives Attorney Unit benefits from the County by approval of the Board of Supervisors by way of contract or County Code provisions on or after January 7, 2006; or
7. An employee of the Professional Unit, Supervisory Unit, or Supervisory Nurses Unit or a person who receives benefits of these Units from the County by approval of the Board of Supervisors by way of contract or County Code provisions on or after March 14, 2006; or
8. An employee of the District in the San Bernardino County Professional Firefighters IAFF, Local 935 (Professional Firefighters Unit) on or after January 7, 2006; or
9. Elected officials of the County on or after July 3, 1999. Elected officials shall comprise less than ten percent (10%) of the census of Eligible Employees and Participants in the Trust.
10. An employee of SANBAG on or after July 7, 2007; or
11. An employee of the County in the Nurses Unit or a person who receives Nurses Unit benefits from the County by approval of the Board of Supervisors by way of contract or County Code provisions on or after December 8, 2007; or
12. An employee of the District in the Hazardous Materials Unit on or after January 5, 2008; or
13. An employee of LAFCO on or after July 3, 1999.
14. An employee of the County in the Administration Unit on or after July 19, 2008.
15. An employee of Clerical, Technical & Inspection, and Craft, Labor & Trade on August 12, 2008.
16. An employee of the Probation Unit on or after January 7, 2006.
17. An employee of the Fire Management Unit on or after January 6, 2015.
18. Any other groups of employees who are made specifically eligible for RMT coverage through formal action of County Board of Supervisors.



ATTACHMENT B

AMENDMENT TO

San Bernardino County Retirement Medical Trust Plan

BY THIS AGREEMENT, the San Bernardino County Retirement Medical Trust Plan (herein referred to as the "Plan") is hereby amended as follows:

ARTICLE I PREAMBLE

- 1.1 **Purpose.** The purpose of this Amendment is to authorize the receipt of benefits under the Plan by use of electronic payment (i.e., debit) cards in accordance with the rules applicable under the Internal Revenue Code ("Code").
- 1.2 **Effective Date.** This Amendment shall be effective on December 15, 2020.
- 1.3 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.4 **Construction.** Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment, and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section or other numbering designations.

ARTICLE II AMENDMENT

- 2.1 **Claim for Benefits.** The Plan is amended to provide that a Participant may receive reimbursement of a Qualified Medical Expense(s) ("QME") by use of an electronic payment card at the time the QME is incurred. The use of the electronic payment card shall be subject to the following conditions:
 - (1) The Participant must make an affirmative action to use the electronic payment card in accordance with procedures established by the Plan Supervisor (Total Administrative Services Corporation (TASC)).
 - (2) The electronic payment card will be deactivated when a Participant's participation in the Plan terminates.
 - (3) A Participant agrees through use of the electronic payment card that:
 - i. the electronic payment card will be used only for a QME that has not been reimbursed under any other plan covering similar benefits; and
 - ii. the Participant will not seek reimbursement for any expense paid with the electronic payment card under any other plan covering benefits.

The electronic payment card shall include a statement providing that each use of the card shall constitute a reaffirmation of the certification.

- (4) The electronic payment card may be used only at merchants who are healthcare providers (e.g., doctor's office, hospital, pharmacy, etc.) or other merchants identified in applicable IRS guidance.
- (5) Each time the electronic payment is used, a Participant shall obtain and retain a third party statement from the health care provider containing the information necessary to substantiate that the expense paid by the card was a QME.
- (6) Claims shall be substantiated if one of the following conditions is satisfied:
 - i. The Participant provides, upon request by the Claims Administrator (or its designee), the third party statement with respect to the claim.
 - ii. The payment was made to a merchant who is a health care provider and it matches a specific co-payment the Participant has under a group medical or group dental plan sponsored by the Plan Sponsor or a multiple of that co-payment of not more than five (5) times the dollar amount of the co-payment.
 - iii. The payment was made to a merchant who is a health care provider and is for an expense with the same amount, duration, and health care provider as previously approved expense under this Plan.
 - iv. The payment was made to a merchant who is a health care provider and the electronic claim file with respect to the expense is accompanied by an electronic or written confirmation from the health care provider that verifies the nature and amount of the expense and that the expense is a QME.
 - v. The electronic payment card is used at a merchant (of any kind) that participates in an inventory information approval system developed by the card provider that verifies, at the time of purchase, that the goods being purchased constitute medical care.
- (7) Special rules apply to the use of the electronic payment card to purchase over-the-counter drugs and medicines other than insulin. Notwithstanding the rules described above regarding the use of the card to purchase medical care, the card may be used to purchase such over-the-counter drugs and medicines only in the following circumstances:
 - i. At any 90% pharmacy if the expense is substantiated after the purchase in accordance with (6)(i) above.
 - ii. At drug stores, pharmacies, non-health care merchants that have pharmacies, and mail order or web-based merchants that sell prescription drugs if (a) the cardholder presents the prescription to the pharmacist; (b) the pharmacist assigns a prescription number and dispenses the over-the-counter drug or medicine in accordance with applicable law; (c) the pharmacy retains a record of the transaction, including the name on the prescription, prescription number, date and the amount of the purchase; (d)

the pharmacy's records are accessible to the employer or its agent; (e) the debit card system does not allow over-the-counter drugs or medicines without a prescription number; and (f) the expense is substantiated in accordance with the standard rules described above in paragraph (6).

iii. At merchants having healthcare related merchant codes (other than merchants described in item ii above) if the expense is substantiated in accordance with the standard rules described in paragraph (6).

(8) A Participant shall repay the Plan for an electronic payment card payment where the claim is not substantiated (and therefore not eligible for reimbursement) as required above. The Plan shall handle unsubstantiated claims as required under the Code and applicable regulations.

(9) The use of an electronic payment card does not constitute a "claim" under the claims procedures.

2.2 **Restrictions on Investment of Health Care (HC) Account.** The Plan is amended to provide that, if a Participant elects to use an electronic payment card, a portion of the Participant's HC Account will be segregated in a separate subaccount for purposes of provided funding for electronic payment card transactions. The funds held in such subaccount shall be unavailable for investment and shall be held as cash. The balance of such subaccount shall be equal to the lesser of \$2,000 or the balance of the Participant's HC Account. In the event a Participant's entire HC Account is not held in such subaccount, the Plan Supervisor (TASC) will liquidate the Participant's investments and transfer funds to the cash subaccount on a weekly basis in an amount sufficient to maintain the required balance of the subaccount.

IN WITNESS WHEREOF, the County of San Bernardino has executed this Retirement Medical Trust Plan Amendment as of this 15th day of December, 2020.

Signature: _____

Name: Curt Hagman, Chairman, Board of Supervisors

Date: _____