

**NOTICE OF JOINT MEETING OF THE BOARD OF DIRECTORS OF  
THE TOWN OF CAREFREE UTILITIES COMMUNITY FACILITIES DISTRICT AND  
THE BOARD OF DIRECTORS OF THE CAREFREE WATER COMPANY, INC.**

**WHEN:** TUESDAY, JUNE 2, 2020

**WHERE:** ZOOM WEB <https://us02web.zoom.us/j/88213442506>  
MEETING ID: 882 1344 2506\*

**TIME:** 4:00 P.M.

Pursuant to A.R.S. § 10-822, notice is hereby given of the time, place, and purposes of the joint meeting of the Board of Directors of the Town of Carefree Utilities Community Facilities District and the Board of Directors of the Carefree Water Company, Inc., an Arizona corporation.

The agenda for the meeting is as follows:

**CALL TO ORDER**

**ROLL CALL**

*Members of the Board of Directors are participating by technological means or methods pursuant to A.R.S. § 10-708.*

**AGENDA**

**ITEM #1** Approval of the November 5, 2019 UCFD/CWC meeting minutes.

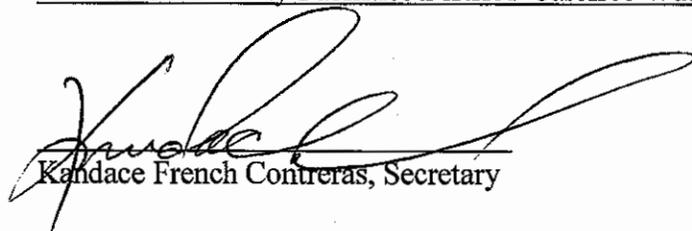
**ITEM #2** Review, discussion and possible action regarding approval of the FY 2020-2021 Carefree Water Company Budget and Rate Schedule.

**ITEM #3** Review, discussion and possible action to approve Resolution 2020-01 authorizing the creation of a Health and Dependent Care Flexible Spending Account for Water Company employees.

**ITEM #4** Adjournment

DATED this 28<sup>th</sup> day of May, 2020.

Utilities Community Facilities District/ Carefree Water Company



Kandace French Contreras, Secretary

Items may be taken out of order.

\*Due to COVID-19, this meeting is being conducted electronically by Zoom. The public can join, listen and view the meeting as follows:

On your computer:

**Click on the following link or cut and paste it into your browser:**

<https://us02web.zoom.us/j/88213442506>

**Or go to <https://www.zoom.us/join> Meeting ID: 882 1344 2506**

**A password is not required.**

**On your phone:**

Please call 1-669-900-6833



**FOR SPECIAL ACCOMMODATIONS**

Please contact the Town Clerk, 8 Sundial Circle (PO Box 740), Carefree, AZ 85377; (480) 488-3686, at least three working days prior to the meeting if you require special accommodations due to a disability.

UCFD/CWC  
JUN 2 2019  
1

**MINUTES OF JOINT MEETING OF THE BOARD OF DIRECTORS  
OF THE TOWN OF CAREFREE UTILITIES COMMUNITY FACILITIES DISTRICT  
AND THE BOARD OF DIRECTORS OF THE  
CAREFREE WATER COMPANY, INC.**

**WHEN:** TUESDAY, NOVEMBER 5, 2019

**WHERE:** CAREFREE TOWN COUNCIL CENTER  
33 EASY STREET, CAREFREE, AZ.

**TIME:** 4:00 P.M.

**Attending were:**

Chairman Les Peterson

**Absent:**

**Board Members:**

John Crane  
Vince D'Aliesio (*Telephonic*)  
Stephen Hatcher  
Michael Krahe  
Cheryl Kroyer  
Gene Orrico

**Also Attending:**

Greg Crossman, Manager; Michael Wright, Attorney; Kandace French Contreras, Board Secretary/Treasurer

Chairman Peterson opened the meeting at 4:05 p.m.

**AGENDA**

**ITEM #1 Approval of the June 4, 2019 UCFD/CWC meeting minutes.**

Chairman Peterson announced the agenda item and as for questions or comments.

There being no questions or comments, Board Member Orrico made a **motion** to approve the Minutes as presented. There was a **second** by Board Member Kroyer. The motion **carried** unanimously.

**ITEM #2 Discussion and possible action regarding 2018-2019 Fiscal Year audit.**

Chairman Peterson announced the agenda item and introduced Greg Crossman, manager of the Carefree Water Company.

Mr. Crossman presented a Power Point and explained the goals of the audit conducted by HintonBurdick including assuring that financial statements were free from material misstatements,

that the entity was observing good accounting practices and principles, and conform to GASB requirements. The audit also looks for steps to prevent fraud and misuse of funds and to provide transparency.

Mr. Crossman pointed out that it was considered a "clean audit" with no financial misstatements and that the Water Company and the UCFD were in good financial health, and the Water Company was able to cover all liabilities and grow its reserves.

Mr. Crossman also went over the debt service including a reminder that the Water Company purchase was completed in July, 2018 and that the \$414,000 a year bond repayment amount for the purchase of the Water Company has been redirected to the Town of Carefree for 8 years. This is being done to repay the Town for financial assistance to the Water Company after its initial acquisition. He also explained the repayment status of the WIFA loan through June, 2027.

Mr. Crossman introduced Crimson Singleton from the audit firm of HintonBurdick. She appeared in person as they company recently opened a local office. She reiterated that the staff at the Water Company were easy to work with, did an outstanding job of keeping records and providing information to the auditors and that there were no material findings in the audit. She highlighted that, due to the small staff, it was difficult to observe a stronger separation of duties, but the Water Company did a very good job of checks and balances.

There were comments by the Board.

Board Member Orrico made a **motion** to approve and accept the 2018-2019 Carefree Water Company Fiscal Year Audit. There was a **second** by Board Member Kroyer. The motion **carried** unanimously.

#### **ITEM #5      Adjournment**

Chairman Peterson announced the agenda item and asked for a motion to adjourn.

Board Member Orrico made a **motion** to adjourn. There was a **second** by Board Member Krahe. It **carried** unanimously.

The meeting adjourned at 4:26 p.m.

DATED this 6<sup>th</sup> day of November, 2019.

UCFD/CWC

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Kandace French Contreras, Secretary/Treasurer

BOARD OF DIRECTORS

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Les Peterson, Chairman

Attest:

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Kandace French Contreras, Secretary/Treasurer  
CERTIFICATION

I certify that the foregoing minutes are a true and correct copy of the minutes of the meeting of the Carefree Water Company/Utilities Community Facilities District Board of Directors held on November 5, 2019. I further certify that the meeting was duly called and held and that a quorum was present.

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Kandace French Contreras, Secretary/Treasurer

JUN 2 2020

# 2

CAREFREE WATER COMPANY, INC. AND  
CAREFREE UTILITIES COMMUNITY FACILITIES DISTRICT

**BOARD COMMUNICATION**

TO: PRESIDENT AND BOARD MEMBERS  
FROM: MEGHAN OREM, CONTROLLER  
THROUGH: GREG CROSSMAN, GENERAL MANAGER   
DATE: MAY 28, 2020  
SUBJECT: AGENDA ITEM NO. 2 - FY20-21 WATER COMPANY BUDGET AND RATE SCHEDULE

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Attached for your review prior to the June 2, 2020, Board meeting are proposed budget and water rate documents for FY 20-21. The Water Company's fiscal year coincides with the Town's and runs from July 1, 2020, through June 30, 2021.

Proposed for FY 20-21 is a water rate increase of 4.4%. This increase applies to both the monthly base fee and the commodity rates and results in an increase in the average residential customer's water bill of \$4.66 per month. This figure is based on an average residential water use of 12,300 gallons per month. In recognition of the economic impact of the COVID-19 emergency, this rate increase is deferred until October 2020. Rate increases normally take effect on July 1<sup>st</sup> of the fiscal year.

The Water Company's budget is developed as a balanced budget, with revenues matching expenses. Anticipated revenues for FY 20-21 are \$3.0 million.

The following is a summary of major expenses which are general indicators of overall Company costs:

- APS Power – 4% increase
- CAP Water (Untreated) – 2% increase
- Scottsdale Water (Treated) – unchanged
- General and Administrative Costs – 6% increase
- Replacement and Maintenance Costs – 9% increase
- Capital Improvement Program – 3% increase

**BUDGET DETAIL**

Included in this packet are the following FY 20-21 documents:

- Water Rates Summary and Spreadsheets (pages 2-5)
- Profit and Loss Summary and Spreadsheet (pages 6-7)
- Cost of Water Summary and Spreadsheet (pages 8-9)
- General and Administrative Budget Summary and Spreadsheet (pages 10-14)
- Replacement and Maintenance Budget Summary and Spreadsheet (pages 15-17)
- Reserve Recommendations (page 18)
- Capital Improvement Program Recommendations and Spreadsheets (pages 19-23)

Please contact Greg Crossman (480-488-9100; [greg@carefreewaterco.com](mailto:greg@carefreewaterco.com)) with any questions.

## **Water Rates Summary Carefree Water Company – FY 20-21**

- 4.4% Overall Water Rate Increase – Base Fee and Commodity Rates
- Rate increase takes effect October 2020 instead of July
- Average Monthly Bill Increase (Residential): \$4.66
- Current Average Monthly Residential Bill: \$107.00 – Proposed Average Monthly Residential Bill: \$111.66
- Average Residential Monthly Water Use: 12,300 gallons
  
- Current Residential Base Fee: \$46.27 – Proposed Residential Base Fee: \$48.31 – Up \$2.04
- Commodity Rates: Remain in 5 Tiers to Encourage Conservation
  - Tier Break Points Have Remained the Same
  - Rate in Each Tier (per 1,000 gallon charge) has Increased 4.4%
- Similar 4.4% adjustments to other rate categories (commercial meters and master meters)

**Carefree Water Company**  
**Effective October 1, 2020**  
**Rate Sheet @ 4.4% Base and Commodity Increase**

WR1 & WR4

Rate Class	Rate	2019		2020		2021		2022		2023		2024
		Usage	Rate									
WR1 - 10000 Usage - 10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000
	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000
	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000
	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000
	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000
WR4 - 10000 Usage - 10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000
	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000
	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000
	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000
	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000	10000

Average Residential Usage

**CAREFREE WATER COMPANY RATE SCHEDULE**  
**Effective October 1, 2020**  
**Before Taxes**

Meter Type	Meter Size	Meter Classification	Monthly Base Fee	Monthly Commodity (Usage) Charges and Tier Breakdown									
				Tier 1 \$3.90 per 1,000 gal.		Tier 2 \$5.25 per 1,000 gal.		Tier 3 \$6.90 per 1,000 gal.		Tier 4 \$8.92 per 1,000 gal.		Tier 5 \$11.59 per 1,000 gal.	
				From (gallons)	To (gallons)	From (gallons)	To (gallons)	From (gallons)	To (gallons)	From (gallons)	To (gallons)	From (gallons)	To (gallons)
<b>RESIDENTIAL METERS</b>													
Residential	5/8 x 3/4 Inch	WR1	\$ 48.31	0	8,000	8,001	20,000	20,001	30,000	30,001	50,000	50,001 and over	
Residential	1 inch	WR4	\$ 48.31	0	8,000	8,001	20,000	20,001	30,000	30,001	50,000	50,001 and over	
<b>COMMERCIAL METERS</b>													
Commercial	1 inch	WR5	\$ 86.97	0	8,000	8,001	16,000	16,001	32,000	32,001	64,000	64,001 and over	
Commercial	1-1/2 inch	WR6	\$ 215.85	0	11,000	11,001	16,000	16,001	35,000	35,001	70,000	70,001 and over	
Commercial	2 inch	WC8	\$ 517.41	0	20,000	20,001	40,000	40,001	80,000	80,001	160,000	160,001 and over	
Commercial	3 inch	WC9	\$ 689.68	0	100,000	100,001	200,000	200,001	400,000	400,001	600,000	600,001 and over	
<b>MASTER METERS</b>													
Master Meter 1		MM1 - 8	\$ 367.14	0	30,000	30,001	40,000	40,001	60,000	60,001	80,000	80,001 and over	
Master Meter 2		MM2 - 4	\$ 183.58	0	30,000	30,001	50,000	50,001	70,000	70,001	90,000	90,001 and over	
Master Meter 3		MM3 - 8	\$ 367.14	0	40,000	40,001	80,000	80,001	100,000	100,001	150,000	150,001 and over	
Master Meter 4		MM4 - 6	\$ 275.37	0	50,000	50,001	100,000	100,001	190,000	190,001	250,000	250,001 and over	
Master Meter 5		MM5 - 12	\$ 562.15	0	30,000	30,001	50,000	50,001	80,000	80,001	100,000	100,001 and over	
Master Meter 6		MM6 - 38	\$ 1,743.92	0	170,000	170,001	270,000	270,001	300,000	300,001	350,000	350,001 and over	
Master Meter 7		MM7 - 18	\$ 826.09	0	80,000	80,001	100,000	100,001	120,000	120,001	150,000	150,001 and over	
Master Meter 8		MM8 - 11	\$ 504.82	0	90,000	90,001	150,000	150,001	200,000	200,001	250,000	250,001 and over	
Master Meter 9		MM9 - 10	\$ 458.93	0	75,000	75,001	105,000	105,001	135,000	135,001	165,000	165,001 and over	
Master Meter 10		MM10 - 11	\$ 504.82	0	60,000	60,001	120,000	120,001	190,000	190,001	220,000	220,001 and over	
<b>STAND PIPE</b>													
Stand Pipe		CWH	-	\$6.91 per 1000 gallons - Minimum Billing \$5.00 - Additional Keys \$10.00									
<b>FIRE HYDRANT METER</b>													
Fire Hydrant		FHY	\$ 151.84	\$6.91 per 1000 gallons after the first 20,000 gallons									

**Temporary Turn-Off Policy** - Customers may request their water service to be turned off temporarily or permanently at any time. If water service is off for less than nine (9) months, at the time service is re-established, the customer will be billed the monthly base fee plus tax for the number of months the water was off. If water service is off for more than nine (9) months, the customer will be billed the New Account Set-Up Fee at the time service is re-established.

NEW ACCOUNT SETUP FEES	
Residential and Commercial	\$50.00
Landlord (Transfer to Info on File)	\$10.00
Fire Hydrant	\$100.00

TAXES		
State Sales Tax	6.3%	
Town Sales Tax	3.0%	
State Water Tax	\$0.0065	/1,000 gal. billed

REFUNDABLE DEPOSITS	
Residential	\$200.00
Commercial	3X Average Water Bill
Stand Pipe	\$50.00
Fire Hydr. Meter	\$900.00

PAYMENT AND BILLING FEES	
Credit Card Convenience Fee (per transaction)	
Monthly Billings & Other Charges Under \$500	\$3.50
Other Charges Over \$500	3% of Amount
Late Payment or Delinquent Charge (per month)	\$7.00
Foreign Currency Transaction	\$5.00
Foreign Mailing Fee	\$2.00
Insufficient Funds or Returned Check Fee	Bank Charge Amt
Interest on Outstanding Balance	1.5% per month

MISCELLANEOUS SERVICES AND FEES	
Data Log Fee - Beginning With Second Data Log	\$30.00
Meter Re-Read (Customer Request)	\$25.00
Account Re-Establishment Fee	\$125.00
Change-Out or Moving Meter	At Water Co. Cost
Third Party Meter Test (Customer Request)	At Water Co. Cost
Emergency Call Out (If Water Company is Not Responsible for Problem)	\$80.00
Unauthorized Meter Turn-On - Residential	\$150.00
Unauthorized Meter Turn-On - Commercial	\$250.00
Unauthorized Fire Hydrant Use - Per Use	\$300.00

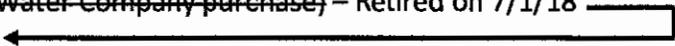
NEW CONSTRUCTION CHARGES AND FEES			
Meter and Service Size	Service Connection Charge	Water Capacity Fee <sup>1</sup>	Total
1" Meter and Service	\$3,080.00	\$3,639.00	\$6,719.00
1" Meter Only-New Subdivision	\$965.00	\$3,639.00	\$4,604.00
1-1/2" Meter and Service	\$4,275.00	\$6,595.00	\$10,870.00
2" Meter and Service	\$6,480.00	\$10,244.00	\$16,724.00
3" Compound Meter	\$20,175.00	\$20,806.00	\$40,981.00
4" Compound Meter	\$25,000.00	\$31,880.00	\$56,880.00
1" Meter & Serv. Upgrade(from 3/4")	\$2,515.00	-	\$2,515.00
1" Meter Only Upgrade (from 3/4")	\$400.00	-	\$400.00

<sup>1</sup>Distribution, Storage, and Pumping Capacity

SAMPLE RESIDENTIAL WATER BILL CALCULATION <sup>2</sup>				
1 inch Residential Meter (WR4 Classification) @ 24,000 gallons				
Tier 1:	8,000 gallons	@	\$ 3.90 /1000 gal.	= \$ 31.20
Tier 2:	12,000 gallons	@	\$ 5.25 /1000 gal.	= \$ 63.00
Tier 3:	4,000 gallons	@	\$ 6.90 /1000 gal.	= \$ 27.60
Tier 4:	0 gallons	@	\$ 8.92 /1000 gal.	= \$ -
Tier 5:	0 gallons	@	\$ 11.59 /1000 gal.	= \$ -
Month Total:	24,000 gallons			
			Base Fee	\$ 48.31
			Total (Does not include taxes)	\$ 170.11

<sup>2</sup> A Residential Water Bill Calculator is available on our website at [www.carefreewaterco.com](http://www.carefreewaterco.com)

## Profit and Loss Summary Carefree Water Company – FY 20-21

- “All encompassing” spreadsheet to ensure cash flow needs are met (revenue stream matches expenditures)
- Looks at anticipated revenues (primarily from water sales) in relation to anticipated expenditures (e.g., Cost of Water, General & Administrative, Replacement & Maintenance)
- The Profit and Loss spreadsheet also includes other cash uses such as:
  - WIFA Loan Repayment
  - ~~Bond Debt Repayment (original Water Company purchase)~~ – Retired on 7/1/18 
  - Town of Carefree Repayment
  - Water Company Building Rent
  - Reserve Deposits
  - Capital Improvement Projects
- Bottom Line: Revenue stream must cover all cash uses (cash flow/expenditures)

**Carefree Water Company**  
**PROFIT AND LOSS**  
**2020-2021 Budget**

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	Total
Revenues	9.7%	9.5%	9.1%	9.1%	8.4%	7.5%	7.2%	6.6%	7.4%	7.8%	8.6%	9.3%	100%
Water Sales	284,962	283,246	261,370	270,871	248,658	211,800	212,826	195,551	208,650	232,414	255,538	267,388	2,933,274
New Meter & Service Fees	3,743		3,743			3,743			3,743			3,743	18,715
DFGC Electrical Fees			6,439			6,439			6,439			6,439	25,756
Cell Tower Rental Fees (net)	1,737	1,737	1,737	1,737	1,737	1,737	1,737	1,737	1,737	1,737	1,737	1,737	20,844
Other Revenues	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	2,000	24,000
<b>Total Revenues</b>	<b>292,442</b>	<b>286,983</b>	<b>275,289</b>	<b>274,608</b>	<b>252,395</b>	<b>225,719</b>	<b>216,563</b>	<b>199,288</b>	<b>222,569</b>	<b>236,151</b>	<b>259,275</b>	<b>281,307</b>	<b>3,022,589</b>
<b>Cost of Water</b>													
Scottsdale CAP	70,544	70,106	63,029	62,373	52,864	43,818	44,353	38,955	44,499	52,062	58,895	62,251	663,749
Cave Creek CAP	-	-	-	-	-	-	-	-	-	-	-	-	-
Ground Water Pumped	13,375	11,326	10,527	10,453	9,379	8,358	10,418	7,809	8,435	9,289	10,060	10,439	119,872
Central Ariz Project	17,382	17,311	16,171	16,066	14,534	13,076	13,499	17,602	13,524	14,782	15,918	16,476	186,341
<b>Total Water Costs</b>	<b>101,301</b>	<b>98,743</b>	<b>89,727</b>	<b>88,892</b>	<b>76,777</b>	<b>65,252</b>	<b>68,270</b>	<b>64,366</b>	<b>66,458</b>	<b>76,133</b>	<b>84,873</b>	<b>89,166</b>	<b>969,962</b>
<b>General and Administrative</b>	<b>75,385</b>	<b>75,385</b>	<b>75,385</b>	<b>75,385</b>	<b>75,385</b>	<b>75,385</b>	<b>75,384</b>	<b>75,384</b>	<b>75,384</b>	<b>75,384</b>	<b>75,384</b>	<b>75,384</b>	<b>904,614</b>
Maintenance	13,249	13,249	13,249	13,249	13,249	13,249	13,249	13,249	13,249	13,249	13,250	13,250	158,990
Depreciation	42,000	42,000	42,000	42,000	42,000	42,000	42,000	42,000	42,000	42,000	42,000	42,000	504,000
<b>Total Other Costs</b>	<b>130,634</b>	<b>130,634</b>	<b>130,634</b>	<b>130,634</b>	<b>130,634</b>	<b>130,634</b>	<b>130,633</b>	<b>130,633</b>	<b>130,633</b>	<b>130,633</b>	<b>130,634</b>	<b>130,634</b>	<b>1,567,604</b>
<b>REVENUES LESS COSTS</b>	<b>60,507</b>	<b>57,606</b>	<b>54,928</b>	<b>55,082</b>	<b>44,984</b>	<b>29,833</b>	<b>17,660</b>	<b>4,289</b>	<b>25,478</b>	<b>29,385</b>	<b>43,768</b>	<b>61,507</b>	<b>485,023</b>

**CASH FLOW**

Cash Flow		Cash Uses		Capital Projects	
Net Gain	485,023	Reserves	20,000	Fire Protection	20,000
Depreciation	504,000	Capital Advance	414,340	System Automation & Tech.	20,000
Equipment Loss W/O	12,000	WIFA Payment	244,764	System Improvements	220,419
		UCFD Rent	33,000	Capital Equipment	28,500
		Total Operating Uses	712,104	Capital Reserves	-
<b>Total Available</b>	<b>1,001,023</b>	<b>Cash Available</b>	<b>288,919</b>	<b>Total Capital Uses</b>	<b>288,919</b>
				<b>Cash Utilized</b>	<b>288,919</b>

## **Cost of Water Summary Carefree Water Company – FY 20-21**

- Water use is based on a 3-year average
- The cost of water is the Water Company's single largest expense at \$969,962
- Continued Focus on Utilizing Renewable CAP Supply (Saving GW for Emergencies)
  - 65% CAP Water
  - 35% Groundwater
- Water costs are increasing about \$27,500 this FY due to the following:
  - 2% Increase in CAP Costs
  - 4% Increase in APS Costs
  - Treated CAP Water Mix - Assumption for Budgeting:
    - 100% Scottsdale/0% from Cave Creek
    - \$3.10/Kgal. vs. \$2.73/Kgal.
    - Cave Creek Working Through Water Quality Issues

**Carefree Water Company  
Estimated Water Costs  
Fiscal Year 2020-21**

May 2020

325.851	Acre-Feet												Total
	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	March	April	May	June	
Water Sold FY19-20 (19 Only)	97.7	93.2	84.3	88.5	68.5	57.8							
Water Sold FY18-19	102.9	96.1	87.9	73.2	69.6	55.7	63.1	51.2	55.7	72.8	68.6	77.2	874.0
Water Sold FY17-18	88.2	97.7	85.7	93.5	78.0	65.4	67.0	57.0	66.1	73.5	89.3	89.9	951.3
Water Sold FY16-17 (17 Only)							51.0	50.7	59.9	66.5	83.0	87.6	398.7
3-yr Average Water Sold (Use for 20-21)	A.F.	96.3	95.7	86.0	85.1	72.0	59.6	60.4	53.0	60.6	70.9	80.3	904.7
3-yr Average Water Sold (Use for 20-21)	'000 Gal.	31,369	31,173	28,012	27,719	23,472	19,432	19,671	17,259	19,736	23,114	26,166	294,787
Percent of Annual Usage (Use for 20-21)		10.6%	10.6%	9.5%	9.4%	8.0%	6.6%	6.7%	5.9%	6.7%	7.8%	8.9%	100.0%
Water Supplied (Sold/0.9) (Use for 20-21)		107.0	106.3	95.5	94.5	80.0	66.3	67.1	58.9	67.3	78.8	89.2	1005.2
Ground Water A.F. (35%)		37.4	37.2	33.4	33.1	28.0	23.2	23.5	20.6	23.6	27.6	31.2	351.8
CAP Water A.F. (65%)		69.5	69.1	62.1	61.4	52.0	43.1	43.6	38.3	43.7	51.2	58.0	653.4
CAP Water A.F. +5%		3.5	3.5	3.1	3.1	2.6	2.2	2.2	1.9	2.2	2.6	2.9	32.7
<b>CAVE CREEK WATER</b>	0%	of CAP Water											
Acre-Feet		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1,000's Gallons		0	0	0	0	0	0	0	0	0	0	0	0
Cost @\$2.73/1,000 Gal.	Total Cost	\$2.73	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>SCOTTSDALE WATER</b>	100%	of CAP Water											
Acre-Feet		69.5	69.1	62.1	61.4	52.0	43.1	43.6	38.3	43.7	51.2	58.0	653.4
1,000's Gallons		22,655	22,514	20,231	20,019	16,952	14,034	14,207	12,465	14,254	16,693	18,898	212,901
Cost @\$3.10/1,000 Gal.*	\$3.10	\$70,231	\$69,793	\$62,716	\$62,060	\$52,551	\$43,505	\$44,040	\$38,642	\$44,186	\$51,749	\$58,582	\$61,938
Meter Fee		\$313.00	\$313.00	\$313.00	\$313.00	\$313.00	\$313.00	\$313.00	\$313.00	\$313.00	\$313.00	\$313.00	\$3,756
* \$3.19/1,000 Gal. After Oct. 2020	Total Cost	\$70,544	\$70,106	\$63,029	\$62,373	\$52,864	\$43,818	\$44,353	\$38,955	\$44,499	\$52,062	\$58,895	\$66,370
<b>POTABLE GROUNDWATER</b>													
Pumped Groundwater (A.F. - From Above)		37.4	37.2	33.4	33.1	28.0	23.2	23.5	20.6	23.6	27.6	31.2	351.8
Pumped Groundwater ('000 gallons)		12,199	12,123	10,894	10,780	9,128	7,557	7,650	6,712	7,675	8,989	10,176	114,639
Cost @\$0.650/1,000 Gal. (4% Increase)	\$0.650	\$7,929	\$7,880	\$7,081	\$7,007	\$5,933	\$4,912	\$4,972	\$4,363	\$4,989	\$5,843	\$6,614	\$74,515
Groundwater Withdrawal Fee (ADWR)								\$2,000					\$2,000
Chemicals and Testing		\$3,300	\$1,300	\$1,300	\$1,300	\$1,300	\$1,300	\$1,300	\$1,300	\$1,300	\$1,300	\$1,300	\$17,600
Total Cost		\$11,229	\$9,180	\$8,381	\$8,307	\$7,233	\$6,212	\$8,272	\$5,663	\$6,289	\$7,143	\$8,293	\$94,115
<b>GOLF COURSE GROUNDWATER</b>													
A.F. Pumped (2019)													A.F.
(2018)													300.0
(2017)													214.8
(3-yr Ave.)													225.8
													246.9
Electrical Cost	kWh/AF \$/kWh (From Desert Forest Agreement)	745.22	0.14	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32
		\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$2,146.32	\$25,756
<b>CAP COSTS</b>	2020 2021												
Capital Cost	\$56 \$57	\$6,067	\$6,067	\$6,067	\$6,067	\$6,067	\$6,067	\$6,175	\$6,175	\$6,175	\$6,175	\$6,175	\$73,450
M&I Cost	\$155 \$160	\$11,315	\$11,245	\$10,105	\$9,999	\$8,467	\$7,009	\$7,324	\$6,427	\$7,349	\$8,607	\$9,743	\$107,891
CAP Contingency									\$5,000				\$5,000
Total Cost		\$17,382	\$17,311	\$16,171	\$16,066	\$14,534	\$13,076	\$13,499	\$17,602	\$13,524	\$14,782	\$15,918	\$186,341
<b>ALL WATER COSTS</b>		\$101,301	\$98,744	\$89,728	\$88,892	\$76,778	\$65,252	\$68,271	\$64,365	\$66,458	\$76,133	\$84,874	\$969,962

## **General and Administrative (G&A) Summary Carefree Water Company – FY 20-21**

- Overall G&A expenses up 6% (up approx. \$56,000) compared to last FY
  - Three significant drivers of increase
    - Unfunded Federal Mandate – AWIA (America’s Water Infrastructure Act)
      - Risk and Resilience Assessment
      - Emergency Response Plan
    - Payroll expenses up about 4%
      - 6% Increase in Health Insurance Costs
      - 2.5% Cost-of-Living Adjustment – All employees
      - Potential for operator certification upgrades – 3 field crew members
      - No merit increases
    - Annual software fees
      - Work Order System

**General and Administrative Budget by Category  
for 2020-21**

	2019-2020 Budget	2020-2021 Budget	Difference	
<b><u>Payroll, Payroll Taxes, Group Insurance &amp; Benefits</u></b>				
Base Salaries	400,117	425,638		
Overtime	4,000	4,000		
Compensation Time	3,000	3,000		
Bonus	4,000	4,000		
Merit Increase	10,000	-		
Emgr. On-Call	11,000	11,000		
All Health Insurance Combined	100,184	106,405		
IRA and Retirement	44,344	44,367		
All Payroll taxes	28,604	32,282		
Medicare	6,690	7,550		
Unemployment	-	-		
Equalization Taxes	-	-		
	<u>611,938</u>	<u>638,242</u>	<u>26,304</u>	4%
<u>Training Expense A/C 60154</u>	<u>4,000</u>	<u>4,000</u>	<u>0</u>	0%
<u>Employee Expenses A/C 60152</u>				
Uniforms	1,800	2,100		
	<u>1,800</u>	<u>2,100</u>	<u>300</u>	14%
<u>Safety Equipment A/C 60156</u>				
Personal Protective Equipment	1,450	1,450		
Safety Equipment	1,500	1,500		
	<u>2,950</u>	<u>2,950</u>	<u>0</u>	0%
<u>Accounting and Professional Services A/C 60201</u>				
Auditors	9,500	6,500		
Dasco	2,000	2,000		
ER System	6,000	6,000		
Payroll Experts	2,000	2,350		
Emergency Response Planning AWIA	-	30,000		
	<u>19,500</u>	<u>46,850</u>	<u>27,350</u>	58%
<u>Legal A/C 60202</u>	<u>2,000</u>	<u>3,000</u>	<u>1,000</u>	33%
<u>Cleaning Service A/C 60204</u>				
Regular	6,000	5,500		
	<u>6,000</u>	<u>5,500</u>	<u>(500)</u>	-9%

<u>SCADA A/C 60207</u>				
SCADA	3,200	5,000		
Go to My PC	204	210		
Wonderware/Standard Automation	1,000	1,000		
Specter - WIN 911	500	500		
	<u>4,904</u>	<u>6,710</u>	<u>1,806</u>	27%
<u>Computer A/C 60205</u>				
Continental	2,900	2,900		
Sage	3,000	3,000		
Read Center	900	900		
Beacon Mobile	2,340	2,340		
Computer Repair	4,560	4,560		
Backup Software	50	50		
Printer	500	500		
Bitdefender - Virus Protection	600	600		
Fixed Asset Software	300	300		
Offsite Backup	2,100	2,100		
Log Me in	500	500		
Firewall	140	140		
	<u>17,890</u>	<u>17,890</u>	<u>0</u>	0%
<u>Insurance A/C 60250</u>				
Cincinnati Insurance	48,000	46,000		
Claims (Insurance Deductible- Contingency)	5,000	5,000		
	<u>53,000</u>	<u>51,000</u>	<u>(2,000)</u>	-4%
<u>Postage A/C 60300</u>				
Billings	7,200	6,000		
Mail Pickup	420	500		
Additional mailings	1,300	1,300		
	<u>8,920</u>	<u>7,800</u>	<u>(1,120)</u>	-14%
<u>Telephone A/C 60351</u>				
Cox	2,900	2,900		
Verizon	3,800	3,800		
Replacement Cell Phones	500	500		
	<u>7,200</u>	<u>7,200</u>	<u>0</u>	0%

<u>Promotional A/C 60353</u>			
Truck Magnets	120	240	
Advertisement	500	500	
	<u>620</u>	<u>740</u>	<u>120</u>
			16%
<u>Auto Expense A/C 60400</u>			
Repairs, batteries, tires	2,000	2,000	
Fuel *	15,500	15,500	
Fuel Adj.(Potential Increase)	3,000	3,000	
	<u>20,500</u>	<u>20,500</u>	<u>0</u>
			0%
<u>Office Supplies A/C 60452</u>			
Printing	3,500	3,500	
All Other	3,500	3,500	
	<u>7,000</u>	<u>7,000</u>	<u>0</u>
			0%
<u>Security and Emergency A/C 60453</u>			
Safeguard - Office	700	700	
	<u>700</u>	<u>700</u>	<u>0</u>
			0%
<u>Office Utilities A/C 60454</u>			
	<u>5,000</u>	<u>4,500</u>	<u>(500)</u>
			-11%
<u>Fees and Permits A/C 60501</u>			
Maricopa County	5,000	3,100	
ACC	46	50	
Carefree Shadows HOA	124	125	
PO Boxes	106	125	
TPT License	24	-	
Town License	40	40	
	<u>5,340</u>	<u>3,440</u>	<u>(1,900)</u>
			-55%
<u>Dues and Subscriptions A/C 60458</u>			
Blue Stake	1,000	1,000	
AWWA Membership	340	350	
Rural Water Association	750	750	
WEF	205	205	
American Society of Civil Engineers	280	300	
AZ State Board of Accountancy	300	300	
Costco	260	260	
Water Operator Certifications	-	300	
	<u>3,135</u>	<u>3,165</u>	<u>30</u>
			1%

<u>Office Equipment Rental A/C 60457</u>			
Postage Machine	2,000	2,500	
Folding and Stuffing Machine	5,700	6,000	
	<u>7,700</u>	<u>8,500</u>	<u>800</u>
			9%
<u>Bad Debt Write-off A/C 60550</u>			
	<u>3,000</u>	<u>3,000</u>	<u>0</u>
			0%
<u>Loss Write Off - Meters</u>			
	<u>12,000</u>	<u>12,000</u>	<u>0</u>
			0%
<u>Income Tax</u>			
State	52	52	
	<u>52</u>	<u>52</u>	<u>0</u>
			0%
<u>Credit Card Charges A/C 60652</u>			
	<u>6,500</u>	<u>4,000</u>	<u>(2,500)</u>
			-63%
<u>Bank Charges A/C 60653</u>			
All Other Banks	500	500	
Chase (Electronic Banking)	8,500	9,500	
	<u>9,000</u>	<u>10,000</u>	<u>1,000</u>
			10%
<u>GIS Mapping A/C 60206</u>			
GPS Annual Fee	2,400	2,400	
Monthly MIFI Fee	400	400	
ARC Service Agreement	1,475	1,475	
Support	20,000	20,000	
Elements Annual Maintenance	1,500	7,500	
True Image Backup	40	-	
	<u>25,815</u>	<u>31,775</u>	<u>5,960</u>
			19%
<u>Water Conservation Costs A/C 6100</u>			
Literature/Community Events	2,000	2,000	
	<u>2,000</u>	<u>2,000</u>	<u>0</u>
			0%
<u>Total Costs</u>			
	<u>848,464</u>	<u>904,614</u>	<u>56,150</u>
			6%

## **Replacement and Maintenance (R&M) Summary Carefree Water Company – FY 20-21**

- Funds the normal water system maintenance items we do everyday
- Unscheduled repair/replacement costs are the hardest to predict
- Utilized historical expenses from the last 3 years, plus knowledge of what needs to be done
- Last year R&M went up 21%, 6 years prior to that had been very flat, even decreased
- This FY expecting 9% increase in costs
  - Two primary drivers:
    - “Routine” cleaning of our 1 MG water tank, hub of system
    - Moved Town Equipment Cost Sharing (\$8,850) into this category

**Replacement and Maintenance Budget  
2020-2021**

	2019-2020 Budget	2020-2021 Budget	Variance	Percentage
<u>R &amp; M Tanks</u>				
Tank Maint.	30,000	41,000		
Misc.	3,000	3,000		
	<u>33,000</u>	<u>44,000</u>	<u>11,000</u>	<u>33%</u>
<u>R &amp; M Pumps and Wells</u>				
Pumps Stations	10,000	10,000		
Wells	5,000	5,000		
	<u>15,000</u>	<u>15,000</u>	<u>0</u>	<u>0%</u>
<u>R &amp; M Mains and Valves</u>				
Valves	10,000	10,000		
Mains Repairs	18,000	20,000		
Other Distribution Repairs	0	0		
	<u>28,000</u>	<u>30,000</u>	<u>2,000</u>	<u>7%</u>
<u>R &amp; M Services/Meters</u>	<u>25,000</u>	<u>25,000</u>	<u>0</u>	<u>0%</u>
<u>R &amp; M Easements &amp; Right of Way Landscape</u>	<u>2,000</u>	<u>2,000</u>	<u>0</u>	<u>0%</u>
<u>R &amp; M Equipment</u>				
Backhoe	3,000	3,000		
Mini Excavator	1,000	1,000		
Trucks	1,500	1,500		
Chlorination	250	1,500		
Town Equipment Cost Sharing	0	8,850		
	<u>5,750</u>	<u>15,850</u>	<u>10,100</u>	<u>176%</u>
<u>Fire Hydrant Maintenance</u>	<u>3,000</u>	<u>3,000</u>	<u>0</u>	<u>0%</u>
<u>R &amp; M Generator</u>	<u>25,000</u>	<u>14,500</u>	<u>(10,500)</u>	<u>-42%</u>
<u>R &amp; M Interconnect</u>	<u>2,000</u>	<u>2,000</u>	<u>0</u>	<u>0%</u>
<u>R &amp; M Supplies</u>	<u>4,000</u>	<u>4,000</u>	<u>0</u>	<u>0%</u>

R & M General

AC Units	1,700	1,700		
Fire Protection	400	400		
Exterminating	540	540		
	<u>2,640</u>	<u>2,640</u>	<u>0</u>	<u>0%</u>
<u>Equipment Rental</u>	<u>1,000</u>	<u>1,000</u>	<u>0</u>	<u>0%</u>
<u>Total Maint. and Replacement</u>	<u>146,390</u>	<u>158,990</u>	<u>12,600</u>	<u>9%</u>

## Reserve Recommendations Carefree Water Company – FY 20-21

- **Target Balance:** **\$1,000,000** (based on AWWA recommendations)
- **Current Reserve Balance:** **\$ 960,000**  
**Shortfall:** **\$ 40,000**

### **Recommended Reserve Deposits:**

**FY 20-21: \$ 20,000**  
**FY 21-22: \$ 20,000**

## Capital Improvement Program Recommendations Carefree Water Company – FY 20-21

**Total FY 20-21 Capital Budget - \$288,919**

- Fire Protection - \$20,000
- System Automation and Technology - \$20,000
- System Improvements - \$220,419
- Capital Equipment - \$28,500
- Water Rights - \$0 (Fully Funded)
- Capital Reserves (Large Project Improvement Fund) - \$0

### **CAPITAL IMPROVEMENT PROGRAM DETAILS**

#### **Fire Protection - \$20,000**

- 2 Replacement Fire Hydrants – \$10,000  
1969-1990 Hydrants, non-standard, hard to operate
- 2 New Fire Hydrants - \$10,000

#### **System Automation and Technology - \$20,000**

Billing System Upgrades

#### **System Improvements - \$220,419**

- Annual Meter Replacement Program – \$31,250 (125 meters)
- Valve Replacement Program – \$20,000
- Pipeline Upgrade Projects - \$169,169

#### **Capital Equipment Account – \$28,500 (Annual FY 20-21 Deposit)**

Anticipated Available Funds FY 20-21	\$ 67,395
<u>Anticipated Account Expenditures for FY 20-21*</u>	<u>\$ 39,000</u>
End of FY 20-21 Account Balance	\$ 28,395

\*FY 20-21 Planned Expenditures:

Vehicles (Work Truck):	\$30,000
Large Tools (Welder)	\$ 2,000
<u>Technology:</u>	<u>\$ 7,000</u>
<b>FY 20-21 Account Expenditures</b>	<b>\$39,000*</b>

#### **Water Rights - \$0**

Fully Funded for 112 AF @ \$1,288/AF = \$144,332

#### **Capital Reserve Account – FY 20-21 Deposit - \$0**

Account Balance (Carry Over) \$127,700  
(To be utilized for Pipeline Upgrade Projects)

**CAREFREE WATER COMPANY  
10-YEAR CAPITAL IMPROVEMENT PLAN  
FY 20-21 THRU FY 29-30**

Capital Improvement Description	Fiscal Year (FY)											Line Item Total	Category Total	
	Carryover	20-21	21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29	29-30			
<b>Fire Protection</b>														
Number of Fire Hydrants		4 <sup>†</sup>	3	3	3	3	3	3	3	3	3	3	30	
Fire Hydrants		\$ 20,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ 155,000	\$ 155,000
<b>System Automation and Technology</b>														
SCADA System Improvements								\$ 50,000					\$ 50,000	
Billing System Upgrades		\$ 20,000					\$ 30,000						\$ 50,000	\$ 100,000
<b>System Improvements</b>														
Annual Meter Replacement (125 per year)		\$ 31,250	\$ 31,250	\$ 31,250	\$ 31,250	\$ 31,250	\$ 31,250	\$ 31,250	\$ 31,250	\$ 31,250	\$ 31,250	\$ 31,250	\$ 312,500	
Valve Replacement Program		\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 200,000	
Pipeline Upgrade Projects**	\$ 267,670	\$ 169,169	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 1,786,839	\$ 2,299,339
<b>Capital Equipment</b>														
Annual Contribution*	\$ 33,985	\$ 28,500	\$ 26,000	\$ 26,000	\$ 26,000	\$ 26,000	\$ 26,000	\$ 26,000	\$ 26,000	\$ 26,000	\$ 26,000	\$ 26,000	\$ 296,485	\$ 296,485
<b>Water Rights</b>														
Non-Indian Ag CAP	\$ 144,379												\$ 144,379	\$ 144,379
<b>Capital Reserve</b>	\$ 127,700		\$ 50,000	\$ 50,000	\$ 50,000		\$ 50,000	\$ 50,000	\$ 50,000		\$ 50,000		\$ 477,700	\$ 477,700
<b>Total FY Expenditure</b>	<b>\$ 673,734</b>	<b>\$ 288,919</b>	<b>\$ 292,250</b>	<b>\$ 292,250</b>	<b>\$ 292,250</b>	<b>\$ 242,250</b>	<b>\$ 322,250</b>	<b>\$ 342,250</b>	<b>\$ 292,250</b>	<b>\$ 242,250</b>	<b>\$ 292,250</b>	<b>\$ 3,472,903</b>	<b>\$ 3,472,903</b>	

\* See Supplemental Capital Equipment Plan Spreadsheet

\*\* See Supplemental Pipeline Upgrade Projects Spreadsheet

† 2 Replacement Hydrants, 2 New Hydrants

**CAREFREE WATER COMPANY  
10-YEAR CAPITAL EQUIPMENT PROGRAM  
FY 20-21 THRU FY 29-30**

Capital Equipment Description	Fiscal Year (FY)									
	20-21	21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29	28-29
<b>Vehicles and Heavy Equip.</b>										
Work Truck #1		\$ 34,000						\$ 34,000		
Work Truck #2			\$ 34,000						\$ 34,000	
Work Vehicle - GM	\$ 30,000						\$ 30,000			
Backhoe (75/25 Cost Split w/Town)					\$ 52,000					
Large Tools	\$ 2,000		\$ 2,000		\$ 2,000		\$ 2,000		\$ 2,000	
<b>Technology &amp; Misc. (Computers, Printers, Work Stations, etc.)</b>										
Computer Replacements (\$1500/computer)	\$ 3,000			\$ 3,000	\$ 3,000			\$ 3,000	\$ 3,000	
Server and Components		\$ 11,000			\$ 8,500					
Meter Reading Technology Upgrades	\$ 4,000		\$ 6,000					\$ 8,000		
<b>Total FY Expenditure</b>	<b>\$ 39,000</b>	<b>\$ 45,000</b>	<b>\$ 42,000</b>	<b>\$ 3,000</b>	<b>\$ 65,500</b>	<b>\$ -</b>	<b>\$ 32,000</b>	<b>\$ 45,000</b>	<b>\$ 39,000</b>	<b>\$ -</b>
<b>Prior FY Balance</b>	<b>\$ 33,895</b>	<b>\$ 28,395</b>	<b>\$ 15,395</b>	<b>\$ 5,395</b>	<b>\$ 34,395</b>	<b>\$ 895</b>	<b>\$ 32,895</b>	<b>\$ 32,895</b>	<b>\$ 19,895</b>	<b>\$ 12,895</b>
<b>Annual FY Contribution</b>	<b>\$ 28,500</b>	<b>\$ 27,000</b>								
<b>Misc. Sales</b>	<b>\$ 5,000</b>									
<b>End of FY Balance</b>	<b>\$ 28,395</b>	<b>\$ 15,395</b>	<b>\$ 5,395</b>	<b>\$ 34,395</b>	<b>\$ 895</b>	<b>\$ 32,895</b>	<b>\$ 32,895</b>	<b>\$ 19,895</b>	<b>\$ 12,895</b>	<b>\$ 44,895</b>

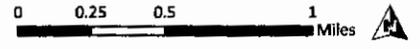
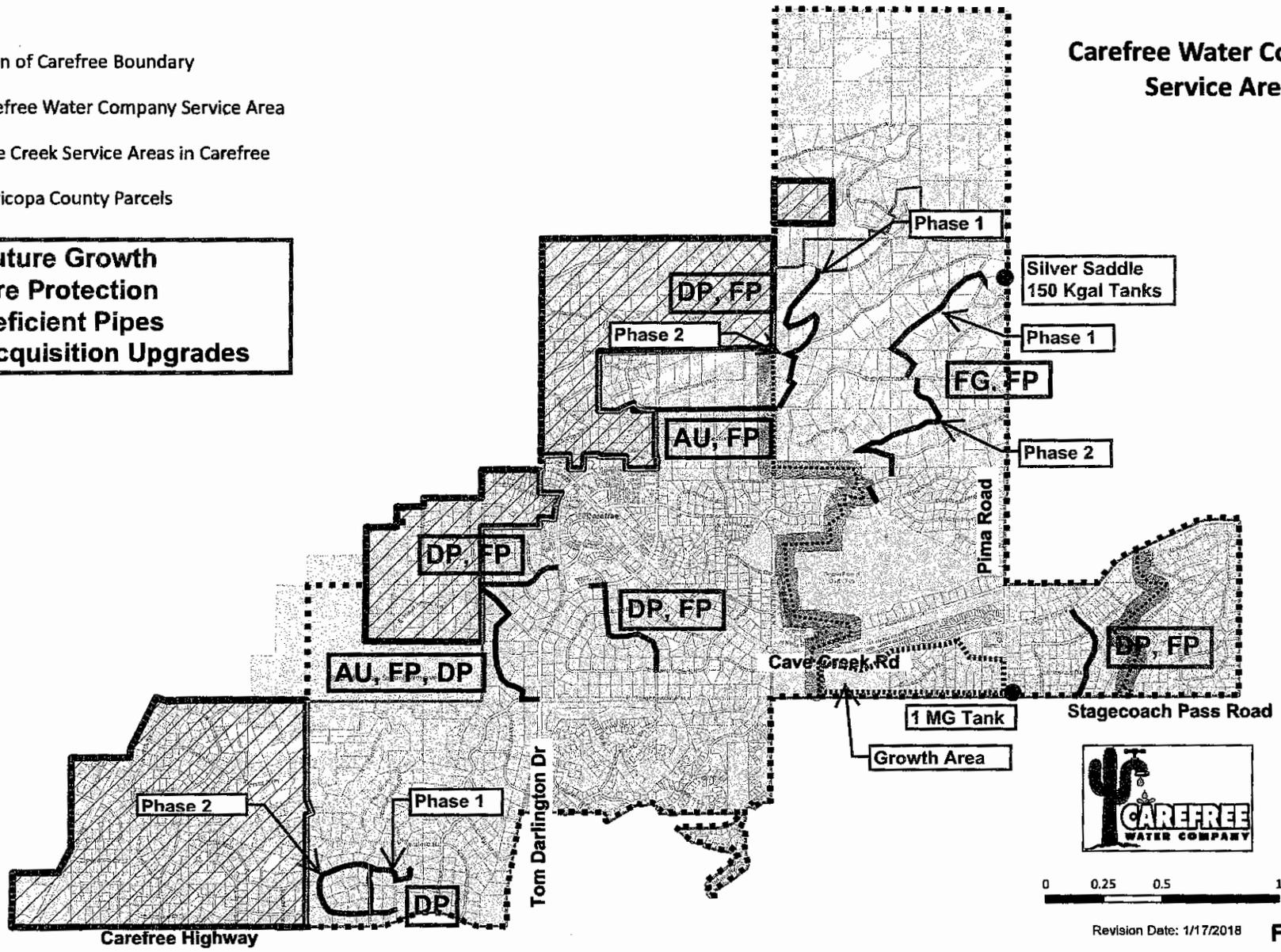
**PIPELINE UPGRADE PROJECTS - PRIORITIZATION SUMMARY**

Priority	Project Description	Lineal Feet	Project Cost	FY 19-20 Expenditures	FY 20-21 Funding			Unfunded Balance
					Capacity Fees	Carryover & Capital Reserves	CIP	
1	Silver Saddle Gravity Zone Upgrades - Ph. 1	3,800	\$ 760,000	\$ 25,270	\$ 568,320	\$ 166,410	\$ -	\$ -
2	Black Mtn. Foothills - Ph. 1	2,850	\$ 511,875	\$ 25,810		\$ 228,960	\$ 169,169	\$ 87,936
3	Spanish Boot/Golden Spur - Ph. 1	3,025	\$ 529,375					\$ 529,375
4	Black Mtn. Foothills - Ph. 2	3,125	\$ 546,875					\$ 546,875
5	Spanish Boot/Golden Spur - Ph. 2	1,825	\$ 319,375					\$ 319,375
6	Silver Saddle Gravity Zone Upgrades - Ph. 2	5,200	\$ 910,000					\$ 910,000
7	Milky Way Fire Protection Upgrades	2,150	\$ 322,500					\$ 322,500
8	Sidewinder Fire Protection Upgrades	3,200	\$ 560,000					\$ 560,000
9	Carefree Drive Fire Protection Upgrades	2,000	\$ 350,000					\$ 350,000
		<b>27,175</b>	<b>\$ 4,810,000</b>	<b>\$ 51,080</b>	<b>\$ 568,320</b>	<b>\$ 395,370</b>	<b>\$ 169,169</b>	<b>\$ 3,626,061</b>
					<b>Total FY 20-21 Funding</b>		<b>\$ 1,132,859</b>	

-  Town of Carefree Boundary
-  Carefree Water Company Service Area
-  Cave Creek Service Areas in Carefree
-  Maricopa County Parcels

**FG = Future Growth**  
**FP = Fire Protection**  
**DP = Deficient Pipes**  
**AU = Acquisition Upgrades**

## Carefree Water Company Service Area



Revision Date: 1/17/2018

**FIGURE 1**

JUN 2 2020

3

**CAREFREE WATER COMPANY, INC. AND  
CAREFREE UTILITIES COMMUNITY FACILITIES DISTRICT****BOARD COMMUNICATION**

**TO:** PRESIDENT AND BOARD MEMBERS

**FROM:** GREG CROSSMAN, GENERAL MANAGER *GC*

**DATE:** MAY 28, 2020

**SUBJECT:** AGENDA ITEM NO. 3 – WATER COMPANY HEALTH AND DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT (FSA) BENEFIT

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Attached for your review prior to the June 2, 2020, Board meeting is Resolution 2020-01 which authorizes the Water Company to offer to its employees health and dependent care Flexible Spending Accounts (FSA's) as part of its "cafeteria" health insurance benefits.

The following is a summary of pertinent information regarding this program:

- Administrative services for the FSA program is provided free of charge by the Water Company's health insurance provider, UnitedHealthCare.
- Participation in the FSA program is optional for all employees.
- Employees can choose to deposit pre-tax income into a health or dependent care FSA as a payroll deduction (i.e., participation is funded by employee, not the Water Company).
- Deposits are limited by IRS to \$2,750/year for health and \$5,000/year for dependent care.
- Deposits do not "role over" from year to year (must be used during the current plan year).
- Employees covered under the Water Company's "High Deductible" health insurance option cannot participate in the FSA program. Instead, all "High Deductible" employees qualify for a Health Spending Account (HSA).
- Risks:
  - Employee: Any unused deposits at the end of the plan year are forfeited.
  - Water Company: An employee's plan-year health FSA election must be fully "covered" by the Water Company even if the employee leaves employment and will no longer be making payroll deductions. Only health expenses that are incurred prior to the end of employment must be "covered" by the Water Company.

Please contact Greg Crossman (480-488-9100; [greg@carefreewaterco.com](mailto:greg@carefreewaterco.com)) with any questions.

**RESOLUTION 2020-01**

**A RESOLUTION OF  
THE DISTRICT BOARD OF THE  
TOWN OF CAREFREE, ARIZONA  
UTILITIES COMMUNITY FACILITIES DISTRICT**

*CONCERNING authorization to establish health and dependent care Flexible Spending Accounts for eligible Carefree Water Company employees.*

At a meeting of the members of the District Board of the Town of Carefree, Arizona Utilities Community Facilities District (the "UCFD"), duly held on Tuesday, June 2, 2020 at 4:00 p.m. via technological methods pursuant to A.R.S. 10-708, which meeting was open to the public, the following Resolution was adopted.

*WHEREAS*, UCFD is the sole shareholder for the Carefree Water Company (the "Water Company"); and

*WHEREAS*, the employees of the Water Company are its most valuable asset; and

*WHEREAS*, the Water Company desires to offer to its eligible employees the opportunity to deposit pre-tax income into a personal health or dependent care Flexible Spending Account; and

*WHEREAS*, UnitedHealthCare Benefit Services ("UHC Benefit Services"), the Water Company's health insurance provider, offers administrative services for Flexible Spending Accounts free of charge as a service to its clients; and

*WHEREAS*, participation in this program requires authorization from the Water Company's governing board;

*NOW, THEREFORE, BE IT RESOLVED*, that the Board of Directors of the UCFD, hereby approves and adopts the "Carefree Water Company Flexible Benefit Plan" (the "Plan") attached hereto as Exhibit A and authorizes the General Manager of the Water Company to execute any and all documents necessary to implement the Plan and deliver those documents to UHC Benefit Services ("Plan Administrator").

\_\_\_\_ AYES \_\_\_\_ NOES \_\_\_\_ ABSTENTIONS \_\_\_\_ ABSENT

Dated this 2<sup>nd</sup> day of June, 2020.

\_\_\_\_\_  
Les Peterson, Chairman of the Board of Directors

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Kandace French Contreras, Secretary/Treasurer

\_\_\_\_\_  
Michael Wright, Attorney

# **Exhibit A**

**CAREFREE WATER COMPANY FLEXIBLE BENEFIT PLAN**

The Employer recognizes that the Plan Document is an important legal document and this document has been prepared based on UnitedHealthcare's understanding of the Employer's desired provisions. It may not conform to the Employer's situation and the Employer should consult with its attorney on the legal and tax implications of the Plan. The Employer is responsible for reviewing all legal documents and ensuring that the documents are compliant with applicable law and consistent with the goals of the benefit plan. UnitedHealthcare is not engaged in the practice of law or giving tax advice and cannot be responsible for the legal and tax aspects of the Plan nor its appropriateness for the Employer's situation.

## ADOPTION INFORMATION

**PLAN TYPE:** Section 125 Flexible Benefit Plan

**EMPLOYER, ADMINISTRATOR AND PLAN SPONSOR:** Carefree Water Company  
7181 East Ed Everett Way  
Carefree, AZ 85377

**EMPLOYEE CLASSIFICATION:** Full-time employees working a minimum of 40 hours per week.

**NEW HIRE ELIGIBILITY:** First of the month following one month of employment.

**PLAN NUMBER:** 501

**ORIGINAL EFFECTIVE DATE:** August 1, 2013

**PLAN YEAR:** Short Plan Year: January 1, 2020 – October 31, 2020  
Subsequent Plan Years: November 1 – October 31

**PLAN SERVICE PROVIDER:** UnitedHealthcare Benefit Services  
P.O. Box 30506  
Salt Lake City, UT 84130-0506  
Fax: 1-844-881-2247  
Customer Service: 1-877-797-7475

**PLAN YEAR MAXIMUM HEALTH FLEXIBLE SPENDING ACCOUNT REDUCTION:** \$2750 (with future increases to allow for inflation)

**Note:** The maximum is pro-rated for Plan Years less than 12 months.

**CARRYOVER:** A maximum of \$500 may be carried forward each Plan Year to use for Health Flexible Spending Account expenses incurred in the next Plan Year.

**PLAN YEAR MAXIMUM DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT REDUCTION:** \$5000  
Refer to the Dependent Care section for additional information.

**CLAIMS PROCESSING SCHEDULE:** Daily – (all mailed or faxed claims must be received at least five (5) business days prior to this day). UnitedHealthcare Benefit Services has a minimum reimbursement amount of \$25.00 for participants being reimbursed by check.

**RUNOUT PERIOD FOR HEALTH AND DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS:** Claims for expenses incurred in the prior Plan Year must be received no later than 45 days following the end of the Plan Year.

### TERMINATION GUIDELINES:

#### HEALTH FLEXIBLE SPENDING ACCOUNT EMPLOYEE TERMINATION GUIDELINES:

**NUMBER OF DAYS TO INCUR CLAIMS:** For a medical expense to be eligible, it MUST be INCURRED prior to the employee's last day of employment.

**NUMBER OF DAYS TO SUBMIT CLAIMS AFTER LAST DAY OF EMPLOYMENT:** 45 days

#### DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT EMPLOYEE TERMINATION GUIDELINES:

**NUMBER OF DAYS TO INCUR CLAIMS:** The terminated employee has the remainder of the Plan Year to incur eligible dependent care expenses.

**WHEN MUST CLAIMS BE RECEIVED BY UNITEDHEALTHCARE BENEFIT SERVICES AFTER LAST DAY OF EMPLOYMENT:** Claims for expenses incurred in the prior Plan Year must be received no later than 45 days following the end of the Plan Year.

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## CAREFREE WATER COMPANY FLEXIBLE BENEFIT PLAN

### INTRODUCTION

The Employer has amended this Plan effective January 01, 2020. The concept of this Plan is to allow Employees to choose among different types of benefits based on their own particular goals, desires and needs. This Plan is a restatement of a Plan which was originally effective on August 01, 2013. The Plan shall be known as Carefree Water Company Flexible Benefit Plan (the "Plan").

The intention of the Employer is that the Plan qualify as a "Cafeteria Plan" within the meaning of Section 125 of the Internal Revenue Code of 1986, as amended, and that the benefits which an Employee elects to receive under the Plan be excludable from the Employee's income under Section 125(a) and other applicable sections of the Internal Revenue Code of 1986, as amended.

### ARTICLE I DEFINITIONS

1.1 **"Administrator"** means the Employer unless another person or entity has been designated by the Employer pursuant to Section 9.1 to administer the Plan on behalf of the Employer. If the Employer is the Administrator, the Employer may appoint any person, including, but not limited to, the Employees of the Employer, to perform the duties of the Administrator. Any person so appointed shall signify acceptance by filing written acceptance with the Employer. Upon the resignation or removal of any individual performing the duties of the Administrator, the Employer may designate a successor.

1.2 **"Affiliated Employer"** means the Employer and any corporation which is a member of a controlled group of corporations (as defined in Code Section 414(b)) which includes the Employer; any trade or business (whether or not incorporated) which is under common control (as defined in Code Section 414(c)) with the Employer; any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in Code Section 414(m)) which includes the Employer; and any other entity required to be aggregated with the Employer pursuant to Treasury regulations under Code Section 414(o).

1.3 **"Benefit" or "Benefit Options"** means any of the optional benefit choices available to a Participant as outlined in Section 4.1.

1.4 **"Cafeteria Plan Benefit Dollars"** means the amount available to Participants to purchase Benefit Options as provided under Section 4.1. Each dollar contributed to this Plan shall be converted into one Cafeteria Plan Benefit Dollar.

1.5 **"Code"** means the Internal Revenue Code of 1986, as amended or replaced from time to time.

1.6 **"Compensation"** means the amounts received by the Participant from the Employer during a Plan Year.

1.7 **"Dependent"** means any individual who qualifies as a dependent under an Insurance Contract for purposes of coverage under that Contract only or under Code Section 152 (as modified by Code Section 105(b)). Any child of a Plan Participant who is determined to be an alternate recipient under a qualified medical child support order under ERISA Sec. 609 shall be considered a Dependent under this Plan.

**"Dependent"** shall include any Child of a Participant who is covered under an Insurance Contract, as defined in the Contract, or under the Health Flexible Spending Account or as allowed by reason of the Affordable Care Act.

For purposes of the Health Flexible Spending Account, a Participant's "Child" includes his/her natural child, stepchild, foster child, adopted child, or a child placed with the Participant for adoption. A Participant's Child will be an eligible Dependent until reaching the limiting age of 26, without regard to student status, marital status, financial dependency or residency status with the Employee or any other person. When the child reaches the applicable limiting age, coverage will end at the end of the calendar year.

The phrase "placed for adoption" refers to a child whom the Participant intends to adopt, whether or not the adoption has become final, who has not attained the age of 18 as of the date of such placement for adoption. The term "placed" means the assumption and retention by such Employee of a legal obligation for total or partial support of the child in anticipation of adoption of the child. The child must be available for adoption and the legal process must have commenced.

1.8 **"Effective Date"** means August 01, 2013.

1.9 **"Election Period"** means the period immediately preceding the beginning of each Plan Year established by the Administrator, such period to be applied on a uniform and nondiscriminatory basis for all Employees and Participants. However, an Employee's initial Election Period shall be determined pursuant to Section 5.1.

1.10 **"Eligible Employee"** means any Employee who has satisfied the provisions of Section 2.1.

An individual shall not be an "Eligible Employee" if such individual is not reported on the payroll records of the Employer as a common law employee. In particular, it is expressly intended that individuals not treated as common law employees by the Employer on its payroll records are not "Eligible Employees" and are excluded from Plan participation even if a court or administrative agency determines that such individuals are common law employees and not independent contractors.

1.11 **"Employee"** means any person who is employed by the Employer. The term Employee shall include leased employees within the meaning of Code Section 414(n)(2).

1.12 **"Employer"** means Carefree Water Company and any successor which shall maintain this Plan; and any predecessor which has maintained this Plan. In addition, where appropriate, the term Employer shall include any Participating, Affiliated or Adopting Employer.

1.13 **"ERISA"** means the Employee Retirement Income Security Act of 1974, as amended from time to time.

1.14 **"Insurance Contract"** means any contract issued by an insurer underwriting a Benefit.

1.15 **"Insurance Premium Payment Plan"** means the plan of benefits contained in Section 4.1 of this Plan, which provides for the payment of Premium Expenses.

1.16 **"Insurer"** means any insurance company that underwrites a Benefit under this Plan.

1.17 **"Key Employee"** means an Employee described in Code Section 416(i)(1) and the Treasury regulations thereunder.

1.18 **"Participant"** means any Eligible Employee who elects to become a Participant pursuant to Section 2.3 and has not for any reason become ineligible to participate further in the Plan.

1.19 **"Plan"** means this instrument, including all amendments thereto.

1.20 **"Plan Year"** means the 12-month period beginning November 01 and ending October 31, except for the short Plan Year beginning January 01 and ending on October 31. The Plan Year shall be the coverage period for the Benefits provided for under this Plan. In the event a Participant commences participation during a Plan Year, then the initial coverage period shall be that portion of the Plan Year commencing on such Participant's date of entry and ending on the last day of such Plan Year.

1.21 **"Premium Expenses" or "Premiums"** mean the Participant's cost for the Benefits described in Section 4.1.

1.22 **"Premium Expense Account"** means the account established for a Participant pursuant to this Plan to which part of his Cafeteria Plan Benefit Dollars may be allocated and from which Premiums of the Participant shall be paid or reimbursed. If more than one type of insured Benefit is elected, sub-accounts shall be established for each type of insured Benefit.

1.23 **"Salary Redirection"** means the contributions made by the Employer on behalf of Participants pursuant to Section 3.1. These contributions shall be converted to Cafeteria Plan Benefit Dollars and allocated to the funds or accounts established under the Plan pursuant to the Participants' elections made under Article V.

1.24 **"Salary Redirection Agreement"** means an agreement between the Participant and the Employer under which the Participant agrees to reduce his Compensation or to forego all or part of the increases in such Compensation and to have such amounts contributed by the Employer to the Plan on the Participant's behalf. The Salary Redirection Agreement shall apply only to Compensation that has not been actually or constructively received by the Participant as of the date of the agreement (after taking this Plan and Code Section 125 into account) and, subsequently does not become currently available to the Participant.

1.25 **"Spouse"** means spouse as determined under Federal law.

## ARTICLE II PARTICIPATION

### 2.1 ELIGIBILITY

Any Eligible Employee shall be eligible to participate hereunder as of the date he satisfies the eligibility conditions defined in the Adoption Information (or the Effective Date of the Plan, if later). However, any Eligible Employee who was a Participant in the Plan on the effective date of this amendment shall continue to be eligible to participate in the Plan.

### 2.2 EFFECTIVE DATE OF PARTICIPATION

2.1. An Eligible Employee shall become a Participant effective as of the date on which he satisfies the requirements of Section

### 2.3 APPLICATION TO PARTICIPATE

An Employee who is eligible to participate in this Plan shall, during the applicable Election Period, complete an application to participate in a manner set forth by the Administrator. The election shall be irrevocable until the end of the applicable Plan Year unless the Participant is entitled to change his Benefit elections pursuant to Section 5.4 hereof.

An Eligible Employee shall also be required to complete a Salary Redirection Agreement during the Election Period for the Plan Year during which he wishes to participate in this Plan. Any such Salary Redirection Agreement shall be effective for the first pay period beginning on or after the Employee's effective date of participation pursuant to Section 2.2.

Notwithstanding the foregoing, an Employee who is eligible to participate in this Plan and who is covered by the Employer's insured Benefits under this Plan shall automatically become a Participant to the extent of the Premiums for such insurance unless the Employee elects, during the Election Period, not to participate in the Plan.

## 2.4 TERMINATION OF PARTICIPATION

A Participant shall no longer participate in this Plan upon the occurrence of any of the following events:

- (a) **Termination of employment.** The Participant's termination of employment, subject to the provisions of Section 2.5;
- (b) **Death.** The Participant's death, subject to the provisions of Section 2.6; or
- (c) **Termination of the plan.** The termination of this Plan, subject to the provisions of Section 10.2.

## 2.5 TERMINATION OF EMPLOYMENT

If a Participant's employment with the Employer is terminated for any reason other than death, his participation in the Benefit Options provided under Section 4.1 shall be governed in accordance with the following:

- (a) **Insurance Benefit.** With regard to Benefits which are insured, the Participant's participation in the Plan shall cease, subject to the Participant's right to continue coverage under any Insurance Contract for which premiums have already been paid.
- (b) **Dependent Care FSA.** With regard to the Dependent Care Flexible Spending Account, the Participant's participation in the Plan shall cease and no further Salary Redirection contributions shall be made. However, such Participant may submit claims for employment related Dependent Care Expense reimbursements for claims incurred up to the end of the Plan Year in which termination occurred and submitted within the timeframe listed in the Adoption Information, based on the level of the Participant's Dependent Care Flexible Spending Account as of the date of termination.
- (c) **COBRA applicability.** With regard to the Health Flexible Spending Account, the Participant may submit claims for expenses that were incurred during the portion of the Plan Year before the end of the period for which payments to the Health Flexible Spending Account have already been made. Thereafter, the health benefits under this Plan including the Health Flexible Spending Account shall be applied and administered consistent with such further rights a Participant and his Dependents may be entitled to pursuant to Code Section 4980B and Section 11.14 of the Plan.

## 2.6 DEATH

If a Participant dies, his participation in the Plan shall cease. However, such Participant's Spouse or Dependents may submit claims for expenses or benefits for the remainder of the Plan Year or until the Cafeteria Plan Benefit Dollars allocated to each specific benefit are exhausted. In no event may reimbursements be paid to someone who is not a Spouse or Dependent. If the Plan is subject to the provisions of Code Section 4980B, then those provisions and related regulations shall apply for purposes of the Health Flexible Spending Account.

# ARTICLE III CONTRIBUTIONS TO THE PLAN

## 3.1 SALARY REDIRECTION

Benefits under the Plan shall be financed by Salary Redirections sufficient to support Benefits that a Participant has elected hereunder and to pay the Participant's Premium Expenses. The salary administration program of the Employer shall be revised to allow each Participant to agree to reduce his pay during a Plan Year by an amount determined necessary to purchase the elected Benefit Options. The amount of such Salary Redirection shall be specified in the Salary Redirection Agreement and shall be applicable for a Plan Year. Notwithstanding the above, for new Participants, the Salary Redirection Agreement shall only be applicable from the first day of the pay period following the Employee's entry date up to and including the last day of the Plan Year. These contributions shall be converted to Cafeteria Plan Benefit Dollars and allocated to the funds or accounts established under the Plan pursuant to the Participants' elections made under Article IV.

Any Salary Redirection shall be determined prior to the beginning of a Plan Year (subject to initial elections pursuant to Section 5.1) and prior to the end of the Election Period and shall be irrevocable for such Plan Year. However, a Participant may revoke a Benefit election or a Salary Redirection Agreement after the Plan Year has commenced and make a new election with respect to the remainder of the Plan Year, if both the revocation and the new election are on account of and consistent with a change in status and such other permitted events as determined under Article V of the Plan and consistent with the rules and regulations of the Department of the Treasury. Salary Redirection amounts shall be contributed on a pro rata basis for each pay period during the Plan Year. All individual Salary Redirection Agreements are deemed to be part of this Plan and incorporated by reference hereunder.

## 3.2 APPLICATION OF CONTRIBUTIONS

As soon as reasonably practical after each payroll period, the Employer shall apply the Salary Redirection to provide the Benefits elected by the affected Participants. Any contribution made or withheld for the Health Flexible Spending Account or

Dependent Care Flexible Spending Account shall be credited to such fund or account. Amounts designated for the Participant's Premium Expense Account shall likewise be credited to such account for the purpose of paying Premium Expenses.

### 3.3 PERIODIC CONTRIBUTIONS

Notwithstanding the requirement provided above and in other Articles of this Plan that Salary Redirections be contributed to the Plan by the Employer on behalf of an Employee on a level and pro rata basis for each payroll period, the Employer and Administrator may implement a procedure in which Salary Redirections are contributed throughout the Plan Year on a periodic basis that is not pro rata for each payroll period. However, with regard to the Health Flexible Spending Account, the payment schedule for the required contributions may not be based on the rate or amount of reimbursements during the Plan Year.

## ARTICLE IV BENEFITS

### 4.1 BENEFIT OPTIONS

Each Participant may elect any one or more of the following optional Benefits:

- (1) Health Flexible Spending Account
- (2) Dependent Care Flexible Spending Account

In addition, each Participant shall have a sufficient portion of his Salary Redirections applied to the following Benefits unless the Participant elects not to receive such Benefits:

- (3) Premium Expense Account

### 4.2 HEALTH FLEXIBLE SPENDING ACCOUNT BENEFIT

Each Participant may elect to participate in the Health Flexible Spending Account option, in which case Article VI shall apply.

### 4.3 DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT BENEFIT

Each Participant may elect to participate in the Dependent Care Flexible Spending Account option, in which case Article VII shall apply.

### 4.4 PREMIUM EXPENSE ACCOUNT BENEFIT

(a) **Employer selects contracts.** The Employer may select health or other policies allowed under Code Section 125 or allow the purchase of additional health or other policies by and for Participants, which policies will provide uniform benefits for all Participants electing this Benefit. These policies can include any qualified Employer sponsored health, dental, vision, employee-only group term life (up to \$50,000 death benefit), disability, accident, cancer and intensive care insurance plans.

(b) **Contract incorporated by reference.** The rights and conditions with respect to the benefits payable from any additional Insurance Contract shall be determined therefrom, and such Insurance Contract shall be incorporated herein by reference.

### 4.5 NONDISCRIMINATION REQUIREMENTS

(a) **Intent to be nondiscriminatory.** It is the intent of this Plan to provide benefits to a classification of employees which the Secretary of the Treasury finds not to be discriminatory in favor of the group in whose favor discrimination may not occur under Code Section 125.

(b) **25% concentration test.** It is the intent of this Plan not to provide qualified benefits as defined under Code Section 125 to Key Employees in amounts that exceed 25% of the aggregate of such Benefits provided for all Eligible Employees under the Plan. For purposes of the preceding sentence, qualified benefits shall not include benefits which (without regard to this paragraph) are includible in gross income.

(c) **Adjustment to avoid test failure.** 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 Code Section 125, it may, but shall not be required to, reduce contributions or non-taxable Benefits in order to assure compliance with the Code and regulations. Any act taken by the Administrator shall be carried out in a uniform and nondiscriminatory manner. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and deposited into the benefit plan surplus.

**ARTICLE V  
PARTICIPANT ELECTIONS**

**5.1 INITIAL ELECTIONS**

An Employee who meets the eligibility requirements of Section 2.1 on the first day of, or during, a Plan Year may elect to participate in this Plan for all or the remainder of such Plan Year, provided he elects to do so on or before his effective date of participation pursuant to Section 2.2.

Notwithstanding the foregoing, an Employee who is eligible to participate in this Plan and who is covered by the Employer's insured benefits under this Plan shall automatically become a Participant to the extent of the Premiums for such insurance unless the Employee elects, during the Election Period, not to participate in the Plan.

**5.2 SUBSEQUENT ANNUAL ELECTIONS**

During the Election Period prior to each subsequent Plan Year, each Participant shall be given the opportunity to elect, on an election of benefits form to be provided by the Administrator, which spending account Benefit options he wishes to select. Any such election shall be effective for any Benefit expenses incurred during the Plan Year which follows the end of the Election Period. With regard to subsequent annual elections, the following options shall apply:

- (a) A Participant or Employee who failed to initially elect to participate may elect different or new Benefits under the Plan during the Election Period;
- (b) A Participant may terminate his participation in the Plan by notifying the Administrator in writing during the Election Period that he does not want to participate in the Plan for the next Plan Year;
- (c) An Employee who elects not to participate for the Plan Year following the Election Period will have to wait until the next Election Period before again electing to participate in the Plan, except as provided for in Section 5.4.

**5.3 FAILURE TO ELECT**

With regard to Benefits available under the Plan for which no Premium Expenses apply, any Participant who fails to complete a new benefit election form pursuant to Section 5.2 by the end of the applicable Election Period shall be deemed to have elected not to participate in the Plan for the upcoming Plan Year. No further Salary Redirections shall therefore be authorized or made for the subsequent Plan Year for such Benefits.

With regard to Benefits available under the Plan for which Premium Expenses apply, any Participant who fails to complete a new benefit election form pursuant to Section 5.2 by the end of the applicable Election Period shall be deemed to have made the same Benefit elections as are then in effect for the current Plan Year. The Participant shall also be deemed to have elected Salary Redirection in an amount necessary to purchase such Benefit options.

**5.4 CHANGE IN STATUS**

(a) **Change in status defined.** Any Participant may change a Benefit election after the Plan Year (to which such election relates) has commenced and make new elections with respect to the remainder of such Plan Year if, under the facts and circumstances, the changes are necessitated by and are consistent with a change in status which is acceptable under rules and regulations adopted by the Department of the Treasury, the provisions of which are incorporated by reference. Notwithstanding anything herein to the contrary, if the rules and regulations conflict, then such rules and regulations shall control.

Regardless of the consistency requirement, if the individual, the individual's Spouse, or Dependent becomes eligible for continuation coverage under the Employer's group health plan as provided in Code Section 4980B or any similar state law, then the individual may elect to increase payments under this Plan in order to pay for the continuation coverage. However, this does not apply for COBRA eligibility due to divorce, annulment or legal separation.

Any new election shall be effective at such time as the Administrator shall prescribe, but not earlier than the first pay period beginning after the election form is completed and returned to the Administrator. For the purposes of this subsection, a change in status shall only include the following events or other events permitted by Treasury regulations:

- (1) **Legal Marital Status:** events that change a Participant's legal marital status, including marriage, divorce, death of a Spouse, legal separation or annulment;
- (2) **Number of Dependents:** Events that change a Participant's number of Dependents, including birth, adoption, placement for adoption, or death of a Dependent;
- (3) **Employment Status:** Any of the following events that change the employment status of the Participant, Spouse, or Dependent: termination or commencement of employment, a strike or lockout, commencement or return from an unpaid leave of absence, or a change in worksite. In addition, if the eligibility conditions of this Plan or other employee benefit plan of the Employer of the Participant, Spouse, or Dependent depend on the employment status of that individual and there is a change in that individual's employment status with the consequence that the individual becomes (or ceases to be) eligible under the plan, then that change constitutes a change in employment under this subsection;

(4) **Dependent satisfies or ceases to satisfy the eligibility requirements:** An event that causes the Participant's Dependent to satisfy or cease to satisfy the requirements for coverage due to attainment of age, student status, or any similar circumstance; and

(5) **Residency:** A change in the place of residence of the Participant, Spouse or Dependent, that would lead to a change in status (such as a loss of HMO coverage).

For the Dependent Care Flexible Spending Account, a Dependent becoming or ceasing to be a "Qualifying Dependent" as defined under Code Section 21(b) shall also qualify as a change in status.

Notwithstanding anything in this Section to the contrary, the gain of eligibility or change in eligibility of a child, as allowed under Code Sections 105(b) and 106, and guidance thereunder, shall qualify as a change in status.

(b) **Special enrollment rights.** Notwithstanding subsection (a), the Participants may change an election for group health coverage during a Plan Year and make a new election that corresponds with the special enrollment rights provided in Code Section 9801(f), including those authorized under the provisions of the Children's Health Insurance Program Reauthorization Act of 2009 (SCHIP); provided that such Participant meets the sixty (60) day notice requirement imposed by Code Section 9801(f) (or such longer period as may be permitted by the Plan and communicated to Participants). Such change shall take place on a prospective basis, unless otherwise required by Code Section 9801(f) to be retroactive.

(c) **Qualified Medical Support Order.** Notwithstanding subsection (a), in the event of a judgment, decree, or order (including approval of a property settlement) ("order") resulting from a divorce, legal separation, annulment, or change in legal custody (including a qualified medical child support order defined in ERISA Section 609) which requires accident or health coverage for a Participant's child (including a foster child who is a Dependent of the Participant):

(1) The Plan may change an election to provide coverage for the child if the order requires coverage under the Participant's plan; or

(2) The Participant shall be permitted to change an election to cancel coverage for the child if the order requires the former Spouse to provide coverage for such child, under that individual's plan and such coverage is actually provided.

(d) **Medicare or Medicaid.** Notwithstanding subsection (a), a Participant may change elections to cancel accident or health coverage for the Participant or the Participant's Spouse or Dependent if the Participant or the Participant's Spouse or Dependent is enrolled in the accident or health coverage of the Employer and becomes entitled to coverage (i.e., enrolled) under Part A or Part B of the Title XVIII of the Social Security Act (Medicare) or Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under Section 1928 of the Social Security Act (the program for distribution of pediatric vaccines). If the Participant or the Participant's Spouse or Dependent who has been entitled to Medicaid or Medicare coverage loses eligibility, that individual may prospectively elect coverage under the Plan if a benefit package option under the Plan provides similar coverage.

(e) **Cost increase or decrease.** If the cost of a Benefit provided under the Plan increases or decreases during a Plan Year, then the Plan shall automatically increase or decrease, as the case may be, the Salary Redirections of all affected Participants for such Benefit. Alternately, if the cost of a benefit package option increases significantly, the Administrator shall permit the affected Participants to either make corresponding changes in their payments or revoke their elections and, in lieu thereof, receive on a prospective basis coverage under another benefit package option with similar coverage, or drop coverage prospectively if there is no benefit package option with similar coverage.

A cost increase or decrease refers to an increase or decrease in the amount of elective contributions under the Plan, whether resulting from an action taken by the Participants or an action taken by the Employer.

(f) **Loss of coverage.** If the coverage under a Benefit is significantly curtailed or ceases during a Plan Year, affected Participants may revoke their elections of such Benefit and, in lieu thereof, elect to receive on a prospective basis coverage under another plan with similar coverage, or drop coverage prospectively if no similar coverage is offered.

(g) **Addition of a new benefit.** If, during the period of coverage, a new benefit package option or other coverage option is added, an existing benefit package option is significantly improved, or an existing benefit package option or other coverage option is eliminated, then the affected Participants may elect the newly-added option, or elect another option if an option has been eliminated prospectively and make corresponding election changes with respect to other benefit package options providing similar coverage. In addition, those Eligible Employees who are not participating in the Plan may opt to become Participants and elect the new or newly improved benefit package option.

(h) **Loss of coverage under certain other plans.** A Participant may make a prospective election change to add group health coverage for the Participant, the Participant's Spouse or Dependent if such individual loses group health coverage sponsored by a governmental or educational institution, including a state children's health insurance program under the Social Security Act, the Indian Health Service or a health program offered by an Indian tribal government, a state health benefits risk pool, or a foreign government group health plan.

(i) **Change of coverage due to change under certain other plans.** A Participant may make a prospective election change that is on account of and corresponds with a change made under the plan of a Spouse's, former Spouse's

or Dependent's employer if (1) the cafeteria plan or other benefits plan of the Spouse's, former Spouse's or Dependent's employer permits its participants to make a change; or (2) the cafeteria plan permits Participants to make an election for a period of coverage that is different from the period of coverage under the cafeteria plan of a Spouse's, former Spouse's or Dependent's employer

(j) **Change in dependent care provider.** A Participant may make a prospective election change that is on account of and corresponds with a change by the Participant in the dependent care provider. The availability of dependent care services from a new childcare provider is similar to a new benefit package option becoming available. A cost change is allowable in the Dependent Care Flexible Spending Account only if the cost change is imposed by a dependent care provider who is not related to the Participant, as defined in Code Section 152(a)(1) through (8).

(k) **Health FSA cannot change due to insurance change.** A Participant shall not be permitted to change an election to the Health Flexible Spending Account as a result of a cost or coverage change under any health insurance benefits.

## ARTICLE VI HEALTH FLEXIBLE SPENDING ACCOUNT

### 6.1 ESTABLISHMENT OF PLAN

This Health Flexible Spending Account is intended to qualify as a medical reimbursement plan under Code Section 105 and shall be interpreted in a manner consistent with such Code Section and the Treasury regulations thereunder. Participants who elect to participate in this Health Flexible Spending Account may submit claims for the reimbursement of Medical Expenses. All amounts reimbursed shall be periodically paid from amounts allocated to the Health Flexible Spending Account. Periodic payments reimbursing Participants from the Health Flexible Spending Account shall in no event occur less frequently than monthly.

### 6.2 DEFINITIONS

For the purposes of this Article and the Cafeteria Plan, the terms below have the following meaning:

(a) **"Health Flexible Spending Account"** means the account established for Participants pursuant to this Plan to which part of their Cafeteria Plan Benefit Dollars may be allocated and from which all allowable Medical Expenses incurred by a Participant, his or her Spouse and his or her Dependents may be reimbursed.

(b) **"Highly Compensated Participant"** means, for the purposes of this Article and determining discrimination under Code Section 105(h), a participant who is:

- (1) one of the 5 highest paid officers;
- (2) a shareholder who owns (or is considered to own applying the rules of Code Section 318) more than 10 percent in value of the stock of the Employer; or
- (3) among the highest paid 25 percent of all Employees (other than exclusions permitted by Code Section 105(h)(3)(B) for those individuals who are not Participants).

(c) **"Medical Expenses"** means any expense for medical care within the meaning of the term "medical care" as defined in Code Section 213(d) and the rulings and Treasury regulations thereunder, and not otherwise used by the Participant as a deduction in determining his tax liability under the Code. "Medical Expenses" can be incurred by the Participant, his or her Spouse and his or her Dependents. "Incurred" means, with regard to Medical Expenses, when the Participant is provided with the medical care that gives rise to the Medical Expenses, and not when the Participant is formally billed or charged for, or pays for the medical care.

A Participant may not be reimbursed for the cost of any medicine or drug that is not "prescribed" within the meaning of Code Section 106(f) or is not insulin.

A Participant may not be reimbursed for the cost of other health coverage such as premiums paid under plans maintained by the employer of the Participant's Spouse or individual policies maintained by the Participant or his Spouse or Dependent.

A Participant may not be reimbursed for "qualified long-term care services" as defined in Code Section 7702B(c).

(d) The definitions of Article I are hereby incorporated by reference to the extent necessary to interpret and apply the provisions of this Health Flexible Spending Account.

### 6.3 FORFEITURES

The amount in the Health Flexible Spending Account as of the end of any Plan Year (and after the processing of all claims for such Plan Year pursuant to Section 6.7 hereof, excluding any carryover) shall be forfeited and credited to the benefit plan surplus. In such event, the Participant shall have no further claim to such amount for any reason, subject to Section 8.2.

## 6.4 LIMITATION ON ALLOCATIONS

(a) Notwithstanding any provision contained in this Health Flexible Spending Account to the contrary, the maximum amount of salary reductions that may be allocated to the Health Flexible Spending Account by a Participant in or on account of any Plan Year is \$2,750, as adjusted for increases in the cost of living in accordance with Code Section 125(i)(2). The cost of living adjustment in effect for a calendar year applies to any Plan Year beginning with or within such calendar year. The dollar increase in effect on January 1 of any calendar year shall be effective for the Plan Year beginning with or within such calendar year. For any short Plan Year, the limit shall be an amount equal to the limit for the calendar year in which the Plan Year begins multiplied by the ratio obtained by dividing the number of full months in the short Plan Year by twelve (12).

(b) **Participation in Other Plans.** All employers that are treated as a single employer under Code Sections 414(b), (c), or (m), relating to controlled groups and affiliated service groups, are treated as a single employer for purposes of the statutory limit. If a Participant participates in multiple cafeteria plans offering health flexible spending accounts maintained by members of a controlled group or affiliated service group, the Participant's total Health Flexible Spending Account contributions under all of the cafeteria plans are limited to the statutory limit (as adjusted). However, a Participant employed by two or more employers that are not members of the same controlled group may elect up to the statutory limit (as adjusted) under each Employer's Health Flexible Spending Account.

(c) **Carryover.** A Participant in the Health Flexible Spending Account may roll over up to \$500 of unused amounts in the Health Flexible Spending Account remaining at the end of one Plan Year to the immediately following Plan Year. These amounts can be used during the following Plan Year for expenses incurred in that Plan Year. Amounts carried over do not affect the maximum amount of salary redirection contributions for the Plan Year to which they are carried over. Unused amounts are those remaining after expenses have been reimbursed during the runoff period. These amounts may not be cashed out or converted to any other taxable or nontaxable benefit. Amounts in excess of \$500 will be forfeited. The Plan is allowed, but not required, to treat claims as being paid first from the current year amounts, then from the carryover amounts.

## 6.5 NONDISCRIMINATION REQUIREMENTS

(a) **Intent to be nondiscriminatory.** It is the intent of this Health Flexible Spending Account not to discriminate in violation of the Code and the Treasury regulations thereunder.

(b) **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination under this Health Flexible Spending Account, it may, but shall not be required to, reject any elections or reduce contributions or Benefits in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited and credited to the benefit plan surplus.

## 6.6 COORDINATION WITH CAFETERIA PLAN

All Participants under the Cafeteria Plan are eligible to receive Benefits under this Health Flexible Spending Account. The enrollment under the Cafeteria Plan shall constitute enrollment under this Health Flexible Spending Account. In addition, other matters concerning contributions, elections and the like shall be governed by the general provisions of the Cafeteria Plan.

## 6.7 HEALTH FLEXIBLE SPENDING ACCOUNT CLAIMS

(a) **Expenses must be incurred during Plan Year.** All Medical Expenses incurred by a Participant, his or her Spouse and his or her Dependents during the Plan Year shall be reimbursed during the Plan Year subject to Section 2.5, even though the submission of such a claim occurs after his participation hereunder ceases; but provided that the Medical Expenses were incurred during the applicable Plan Year. Medical Expenses are treated as having been incurred when the Participant is provided with the medical care that gives rise to the Medical Expenses, not when the Participant is formally billed or charged for, or pays for the medical care.

(b) **Reimbursement available throughout Plan Year.** The Administrator shall direct the reimbursement to each eligible Participant for all allowable Medical Expenses, up to a maximum of the amount designated by the Participant for the Health Flexible Spending Account for the Plan Year. Reimbursements shall be made available to the Participant throughout the year without regard to the level of Cafeteria Plan Benefit Dollars which have been allocated to the fund at any given point in time. Furthermore, a Participant shall be entitled to reimbursements only for amounts in excess of any payments or other reimbursements under any health care plan covering the Participant and/or his Spouse or Dependents.

(c) **Payments.** Reimbursement payments under this Plan shall be made directly to the Participant. The application for payment or reimbursement shall be made to the Administrator or Plan Service Provider on an acceptable form within a reasonable time of incurring the debt or paying for the service. The application shall include a written statement from an independent third party stating that the Medical Expense has been incurred and the amount of such expense. Furthermore, the Participant shall provide a written statement that the Medical Expense has not been reimbursed or is not reimbursable under any other health plan coverage and, if reimbursed from the Health Flexible Spending Account, such amount will not be claimed as a tax deduction. The Administrator shall retain a file of all such applications.

(d) **Claims for reimbursement.** Claims for the reimbursement of Medical Expenses incurred in any Plan Year shall be paid as soon after a claim has been filed as is administratively practicable; provided however, that if a Participant fails to submit a claim within the number of days listed in the Adoption Information, those Medical Expense

claims shall not be considered for reimbursement by the Administrator. However, if a Participant terminates employment during the Plan Year, claims for the reimbursement of Medical Expenses must be submitted within the number of days listed in the Adoption Information after termination of employment.

## 6.8 DEBIT AND CREDIT CARDS

Participants may, subject to a procedure established by the Administrator and applied in a uniform nondiscriminatory manner, use debit and/or credit (stored value) cards ("cards") provided by the Administrator and the Plan for payment of Medical Expenses, subject to the following terms:

- (a) **Card only for medical expenses.** Each Participant issued a card shall certify that such card shall only be used for Medical Expenses. The Participant shall also certify that any Medical Expense paid with the card has not already been reimbursed by any other plan covering health benefits and that the Participant will not seek reimbursement from any other plan covering health benefits.
- (b) **Card issuance.** Such card shall be issued upon the Participant's Effective Date of Participation and reissued periodically provided the Participant remains a Participant in the Health Flexible Spending Account. Such card shall be automatically cancelled upon the Participant's death or termination of employment, or if such Participant has a change in status that results in the Participant's withdrawal from the Health Flexible Spending Account.
- (c) **Maximum dollar amount available.** The dollar amount of coverage available on the card shall be the amount elected by the Participant for the Plan Year. The maximum dollar amount of coverage available shall be the maximum amount for the Plan Year as set forth in Section 6.4.
- (d) **Only available for use with certain service providers.** The cards shall only be accepted by such merchants and service providers as have been approved by the Administrator following IRS guidelines.
- (e) **Card use.** The cards shall only be used for Medical Expense purchases at these providers, including, but not limited to, the following:
  - (1) Co-payments for doctor and other medical care;
  - (2) Purchase of drugs prescribed by a health care provider, including, if permitted by the Administrator, over-the-counter medications as allowed under IRS regulations;
  - (3) Purchase of medical items such as eyeglasses, syringes, crutches, etc.
- (f) **Substantiation.** Such purchases by the cards shall be subject to substantiation by the Administrator, usually by submission of a receipt from a service provider describing the service, the date and the amount. The Administrator shall also follow the requirements set forth in Revenue Ruling 2003-43 and Notice 2006-69. All charges shall be conditional pending confirmation and substantiation.
- (g) **Correction methods.** If such purchase is later determined by the Administrator to not qualify as a Medical Expense, the Administrator, in its discretion, shall use one of the following correction methods to make the Plan whole. Until the amount is repaid, the Administrator shall take further action to ensure that further violations of the terms of the card do not occur, up to and including denial of access to the card.
  - (1) Repayment of the improper amount by the Participant;
  - (2) Withholding the improper payment from the Participant's wages or other compensation to the extent consistent with applicable federal or state law;
  - (3) Claims substitution or offset of future claims until the amount is repaid; and
  - (4) if subsections (1) through (3) fail to recover the amount, consistent with the Employer's business practices, the Employer may treat the amount as any other business indebtedness.

## ARTICLE VII DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT

### 7.1 ESTABLISHMENT OF ACCOUNT

This Dependent Care Flexible Spending Account is intended to qualify as a program under Code Section 129 and shall be interpreted in a manner consistent with such Code Section. Participants who elect to participate in this program may submit claims for the reimbursement of Employment-Related Dependent Care Expenses. All amounts reimbursed shall be paid from amounts allocated to the Participant's Dependent Care Flexible Spending Account.

### 7.2 DEFINITIONS

For the purposes of this Article and the Cafeteria Plan the terms below shall have the following meaning:

(a) **"Dependent Care Flexible Spending Account"** means the account established for a Participant pursuant to this Article to which part of his Cafeteria Plan Benefit Dollars may be allocated and from which Employment-Related Dependent Care Expenses of the Participant may be reimbursed for the care of the Qualifying Dependents of Participants.

(b) **"Earned Income"** means earned income as defined under Code Section 32(c)(2), but excluding such amounts paid or incurred by the Employer for dependent care assistance to the Participant.

(c) **"Employment-Related Dependent Care Expenses"** means the amounts paid for expenses of a Participant for those services which if paid by the Participant would be considered employment related expenses under Code Section 21(b)(2). Generally, they shall include expenses for household services and for the care of a Qualifying Dependent, to the extent that such expenses are incurred to enable the Participant to be gainfully employed for any period for which there are one or more Qualifying Dependents with respect to such Participant. Employment-Related Dependent Care Expenses are treated as having been incurred when the Participant's Qualifying Dependents are provided with the dependent care that gives rise to the Employment-Related Dependent Care Expenses, not when the Participant is formally billed or charged for, or pays for the dependent care. The determination of whether an amount qualifies as an Employment-Related Dependent Care Expense shall be made subject to the following rules:

(1) If such amounts are paid for expenses incurred outside the Participant's household, they shall constitute Employment-Related Dependent Care Expenses only if incurred for a Qualifying Dependent as defined in Section 7.2(d)(1) (or deemed to be, as described in Section 7.2(d)(1) pursuant to Section 7.2(d)(3)), or for a Qualifying Dependent as defined in Section 7.2(d)(2) (or deemed to be, as described in Section 7.2(d)(2) pursuant to Section 7.2(d)(3)) who regularly spends at least 8 hours per day in the Participant's household;

(2) If the expense is incurred outside the Participant's home at a facility that provides care for a fee, payment, or grant for more than 6 individuals who do not regularly reside at the facility, the facility must comply with all applicable state and local laws and regulations, including licensing requirements, if any; and

(3) Employment-Related Dependent Care Expenses of a Participant shall not include amounts paid or incurred to a child of such Participant who is under the age of 19 or to an individual who is a Dependent of such Participant or such Participant's Spouse.

(d) **"Qualifying Dependent"** means, for Dependent Care Flexible Spending Account purposes,

(1) a Participant's Dependent (as defined in Code Section 152(a)(1)) who has not attained age 13;

(2) a Dependent or the Spouse of a Participant who is physically or mentally incapable of caring for himself or herself and has the same principal place of abode as the Participant for more than one-half of such taxable year; or

(3) a child that is deemed to be a Qualifying Dependent described in paragraph (1) or (2) above, whichever is appropriate, pursuant to Code Section 21(e)(5).

(e) The definitions of Article I are hereby incorporated by reference to the extent necessary to interpret and apply the provisions of this Dependent Care Flexible Spending Account.

### 7.3 DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS

The Administrator shall establish a Dependent Care Flexible Spending Account for each Participant who elects to apply Cafeteria Plan Benefit Dollars to Dependent Care Flexible Spending Account benefits.

### 7.4 INCREASES IN DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS

A Participant's Dependent Care Flexible Spending Account shall be increased each pay period by the portion of Cafeteria Plan Benefit Dollars that he has elected to apply toward his Dependent Care Flexible Spending Account pursuant to elections made under Article V hereof.

### 7.5 DECREASES IN DEPENDENT CARE FLEXIBLE SPENDING ACCOUNTS

A Participant's Dependent Care Flexible Spending Account shall be reduced by the amount of any Employment-Related Dependent Care Expense reimbursements paid or incurred on behalf of a Participant pursuant to Section 7.12 hereof.

### 7.6 ALLOWABLE DEPENDENT CARE REIMBURSEMENT

Subject to limitations contained in Section 7.9 of this Program, and to the extent of the amount contained in the Participant's Dependent Care Flexible Spending Account, a Participant who incurs Employment-Related Dependent Care Expenses shall be entitled to receive from the Employer full reimbursement for the entire amount of such expenses incurred during the Plan Year or portion thereof during which he is a Participant.

## 7.7 ANNUAL STATEMENT OF BENEFITS

On or before January 31st of each calendar year, the Employer shall furnish to each Employee who was a Participant and received benefits under Section 7.6 during the prior calendar year, a statement of all such benefits paid to or on behalf of such Participant during the prior calendar year. This statement is set forth on the Participant's Form W-2.

## 7.8 FORFEITURES

The amount in a Participant's Dependent Care Flexible Spending Account as of the end of any Plan Year (and after the processing of all claims for such Plan Year pursuant to Section 7.12 hereof) shall be forfeited and credited to the benefit plan surplus. In such event, the Participant shall have no further claim to such amount for any reason.

## 7.9 LIMITATION ON PAYMENTS

(a) **Code limits.** Notwithstanding any provision contained in this Article to the contrary, amounts paid from a Participant's Dependent Care Flexible Spending Account in or on account of any taxable year of the Participant shall not exceed the lesser of the Earned Income limitation described in Code Section 129(b) or \$5,000 (\$2,500 if a separate tax return is filed by a Participant who is married as determined under the rules of paragraphs (3) and (4) of Code Section 21(e)).

## 7.10 NONDISCRIMINATION REQUIREMENTS

(a) **Intent to be nondiscriminatory.** It is the intent of this Dependent Care Flexible Spending Account that contributions or benefits not discriminate in favor of the group of employees in whose favor discrimination may not occur under Code Section 129(d).

(b) **25% test for shareholders.** It is the intent of this Dependent Care Flexible Spending Account that not more than 25 percent of the amounts paid by the Employer for dependent care assistance during the Plan Year will be provided for the class of individuals who are shareholders or owners (or their Spouses or Dependents), each of whom (on any day of the Plan Year) owns more than 5 percent of the stock or of the capital or profits interest in the Employer.

(c) **Adjustment to avoid test failure.** If the Administrator deems it necessary to avoid discrimination or possible taxation to a group of employees in whose favor discrimination may not occur in violation of Code Section 129 it may, but shall not be required to, reject any elections or reduce contributions or non-taxable benefits in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner. Contributions which are not utilized to provide Benefits to any Participant by virtue of any administrative act under this paragraph shall be forfeited.

## 7.11 COORDINATION WITH CAFETERIA PLAN

All Participants under the Cafeteria Plan are eligible to receive Benefits under this Dependent Care Flexible Spending Account. The enrollment and termination of participation under the Cafeteria Plan shall constitute enrollment and termination of participation under this Dependent Care Flexible Spending Account. In addition, other matters concerning contributions, elections and the like shall be governed by the general provisions of the Cafeteria Plan.

## 7.12 DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT CLAIMS

The Administrator shall direct the payment of all such Dependent Care claims to the Participant upon the presentation to the Administrator of documentation of such expenses in a form satisfactory to the Administrator. In its discretion in administering the Plan, the Administrator may utilize forms and require documentation of costs as may be necessary to verify the claims submitted. At a minimum, the form shall include a statement from an independent third party as proof that the expense has been incurred during the Plan Year and the amount of such expense. In addition, the Administrator may require that each Participant who desires to receive reimbursement under this Program for Employment-Related Dependent Care Expenses submit a statement which may contain some or all of the following information:

- (a) The Dependent or Dependents for whom the services were performed;
- (b) The nature of the services performed for the Participant, the cost of which he wishes reimbursement;
- (c) The relationship, if any, of the person performing the services to the Participant;
- (d) If the services are being performed by a child of the Participant, the age of the child;
- (e) A statement as to where the services were performed;
- (f) If any of the services were performed outside the home, a statement as to whether the Dependent for whom such services were performed spends at least 8 hours a day in the Participant's household;
- (g) If the services were being performed in a day care center, a statement:
  - (1) that the day care center complies with all applicable laws and regulations of the state of residence,

- (2) that the day care center provides care for more than 6 individuals (other than individuals residing at the center), and
- (3) of the amount of fee paid to the provider.
- (h) If the Participant is married, a statement containing the following:
  - (1) the Spouse's salary or wages if he or she is employed, or
  - (2) if the Participant's Spouse is not employed, that
    - (i) he or she is incapacitated, or
    - (ii) he or she is a full-time student attending an educational institution and the months during the year which he or she attended such institution.

(i) **Claims for reimbursement.** If a Participant fails to submit a claim within the number of days listed in the Adoption Information, those claims shall not be considered for reimbursement by the Administrator. However, if a Participant terminates employment during the Plan Year, claims for reimbursement must be submitted within the number of days listed in the Adoption Information after termination of employment.

### 7.13 DEBIT AND CREDIT CARDS

Participants may, subject to a procedure established by the Administrator and applied in a uniform nondiscriminatory manner, use debit and/or credit (stored value) cards ("cards") provided by the Administrator and the Plan for payment of Employment-Related Dependent Care Expenses, subject to the following terms:

(a) **Card only for dependent care expenses.** Each Participant issued a card shall certify that such card shall only be used for Employment-Related Dependent Care Expenses. The Participant shall also certify that any Employment-Related Dependent Care Expense paid with the card has not already been reimbursed by any other plan covering dependent care benefits and that the Participant will not seek reimbursement from any other plan covering dependent care benefits.

(b) **Card issuance.** Such card shall be issued upon the Participant's Effective Date of Participation and reissued periodically provided the Participant remains a Participant in the Dependent Care Flexible Spending Account. Such card shall be automatically cancelled upon the Participant's death or termination of employment, or if such Participant has a change in status that results in the Participant's withdrawal from the Dependent Care Flexible Spending Account.

(c) **Only available for use with certain service providers.** The cards shall only be accepted by such service providers as have been approved by the Administrator. The cards shall only be used for Employment-Related Dependent Care Expenses from these providers.

(d) **Substantiation.** Such purchases by the cards shall be subject to substantiation by the Administrator, usually by submission of a receipt from a service provider describing the service, the date and the amount. The Administrator shall also follow the requirements set forth in Revenue Ruling 2003-43 and Notice 2006-69. All charges shall be conditional pending confirmation and substantiation.

(e) **Correction methods.** If such purchase is later determined by the Administrator to not qualify as an Employment-Related Dependent Care Expense, the Administrator, in its discretion, shall use one of the following correction methods to make the Plan whole. Until the amount is repaid, the Administrator shall take further action to ensure that further violations of the terms of the card do not occur, up to and including denial of access to the card.

- (1) Repayment of the improper amount by the Participant;
- (2) Withholding the improper payment from the Participant's wages or other compensation to the extent consistent with applicable federal or state law;
- (3) Claims substitution or offset of future claims until the amount is repaid; and
- (4) If subsections (1) through (3) fail to recover the amount, consistent with the Employer's business practices, the Employer may treat the amount as any other business indebtedness.

## ARTICLE VIII BENEFITS AND RIGHTS

### 8.1 CLAIM FOR BENEFITS

(a) **Insurance claims.** Any claim for Benefits underwritten by Insurance Contract(s) shall be made to the Insurer. If the Insurer denies any claim, the Participant or beneficiary shall follow the Insurer's claims review procedure.

(b) **Dependent Care Flexible Spending Account claims.** Any claim for Dependent Care Flexible Spending Account Benefits shall be made to the Administrator. For the Dependent Care Flexible Spending Account, if a Participant fails to submit a claim within the number of days listed in the Adoption Information, those claims shall not be considered for reimbursement by the Administrator. However, if a Participant terminates employment during the Plan Year, claims for reimbursement must be submitted within the number of days listed in the Adoption Information after termination of employment. If the Administrator denies a claim, the Administrator may provide notice to the Participant or beneficiary, in writing, within 90 days after the claim is filed unless special circumstances require an extension of time for processing the claim. The notice of a denial of a claim shall be written in a manner calculated to be understood by the claimant and shall set forth:

- (1) specific references to the pertinent Plan provisions on which the denial is based;
- (2) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation as to why such information is necessary; and
- (3) an explanation of the Plan's claim procedure.

(c) **Appeal.** Within 60 days after receipt of the above material, the claimant shall have a reasonable opportunity to appeal the claim denial to the Administrator for a full and fair review. The claimant or his duly authorized representative may:

- (1) request a review upon written notice to the Administrator;
- (2) review pertinent documents; and
- (3) submit issues and comments in writing.

(d) **Review of appeal.** A decision on the review by the Administrator will be made not later than 60 days after receipt of a request for review, unless special circumstances require an extension of time for processing (such as the need to hold a hearing), in which event a decision should be rendered as soon as possible, but in no event later than 120 days after such receipt. The decision of the Administrator shall be written and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, with specific references to the pertinent Plan provisions on which the decision is based.

(e) **Health FSA claims.** If a Participant fails to submit a claim under the Health Flexible Spending Account within the number of days listed in the Adoption Information, those claims shall not be considered for reimbursement by the Administrator. However, if a Participant terminates employment during the Plan Year, claims for the reimbursement must be submitted within the number of days listed in the Adoption Information after termination of employment. Once a claim is submitted, the following timetable for claims and rules below apply:

Notification of whether claim is accepted or denied	30 days
Extension due to matters beyond the control of the Plan	15 days
Insufficient information on the claim:	
Notification of	15 days
Response by Participant	45 days
Review of claim denial	60 days

The Plan Administrator will provide written or electronic notification of any claim denial. The notice will state:

- (1) The specific reason or reasons for the denial.
- (2) Reference to the specific Plan provisions on which the denial was based.
- (3) A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary.
- (4) A description of the Plan's review procedures and the time limits applicable to such procedures. This will include a statement of the right to bring a civil action under Section 502 of ERISA following a denial on review.
- (5) A statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claim.
- (6) If the denial was based on an internal rule, guideline, protocol, or other similar criterion, the specific rule, guideline, protocol, or criterion will be provided free of charge. If this is not practical, a statement will be included

that such a rule, guideline, protocol, or criterion was relied upon in making the denial and a copy will be provided free of charge to the claimant upon request.

When the Participant receives a denial, the Participant shall have 60 days following receipt of the notification in which to appeal the decision. The Participant may submit written comments, documents, records, and other information relating to the claim. If the Participant requests, the Participant shall be provided, free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claim.

The period of time within which a denial on review is required to be made will begin at the time an appeal is filed in accordance with the procedures of the Plan. This timing is without regard to whether all the necessary information accompanies the filing.

A document, record, or other information shall be considered relevant to a claim if it:

- (1) was relied upon in making the claim determination;
- (2) was submitted, considered, or generated in the course of making the claim determination, without regard to whether it was relied upon in making the claim determination;
- (3) demonstrated compliance with the administrative processes and safeguards designed to ensure and to verify that claim determinations are made in accordance with Plan documents and Plan provisions have been applied consistently with respect to all claimants; or
- (4) constituted a statement of policy or guidance with respect to the Plan concerning the denied claim.

The review will take into account all comments, documents, records, and other information submitted by the claimant relating to the claim, without regard to whether such information was submitted or considered in the initial claim determination. The review will not afford deference to the initial denial and will be conducted by a fiduciary of the Plan who is neither the individual who made the adverse determination nor a subordinate of that individual.

(f) **Forfeitures.** Any balance remaining in the Participant's Health Flexible Spending Account (excluding any carryover) or Dependent Care Flexible Spending Account as of the end of the time for claims reimbursement for each Plan Year shall be forfeited and deposited in the benefit plan surplus of the Employer pursuant to Section 6.3 or Section 7.8, whichever is applicable, unless the Participant had made a claim for such Plan Year, in writing, which has been denied or is pending; in which event the amount of the claim shall be held in his account until the claim appeal procedures set forth above have been satisfied or the claim is paid. If any such claim is denied on appeal, the amount held beyond the end of the Plan Year shall be forfeited and credited to the benefit plan surplus.

## **8.2 APPLICATION OF BENEFIT PLAN SURPLUS**

Any forfeited amounts credited to the benefit plan surplus by virtue of the failure of a Participant to incur a qualified expense or seek reimbursement in a timely manner may, but need not be, separately accounted for after the close of the Plan Year (or after such further time specified herein for the filing of claims) in which such forfeitures arose. In no event shall such amounts be carried over to reimburse a Participant for expenses incurred during a subsequent Plan Year for the same or any other Benefit available under the Plan (excepting any carryover); nor shall amounts forfeited by a particular Participant be made available to such Participant in any other form or manner, except as permitted by Treasury regulations. Amounts in the benefit plan surplus shall be used to defray any administrative costs and experience losses or used to provide additional benefits under the Plan.

## **8.3 NAMED FIDUCIARY**

The Administrator shall be the named fiduciary pursuant to ERISA Section 402 and shall be responsible for the management and control of the operation and administration of the Plan.

## **8.4 GENERAL FIDUCIARY RESPONSIBILITIES**

The Administrator and any other fiduciary under ERISA shall discharge their duties with respect to this Plan solely in the interest of the Participants and their beneficiaries and

- (a) for the exclusive purpose of providing Benefits to Participants and their beneficiaries and defraying reasonable expenses of administering the Plan;
- (b) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and
- (c) in accordance with the documents and instruments governing the Plan insofar as such documents and instruments are consistent with ERISA.

## 8.5 NONASSIGNABILITY OF RIGHTS

The right of any Participant to receive any reimbursement under the Plan shall not be alienable by the Participant by assignment or any other method, and shall not be subject to the rights of creditors, and any attempt to cause such right to be so subjected shall not be recognized, except to such extent as may be required by law.

## ARTICLE IX ADMINISTRATION

### 9.1 PLAN ADMINISTRATION

The Employer shall be the Administrator, unless the Employer elects otherwise. The Employer may appoint any person, including, but not limited to, the Employees of the Employer, to perform the duties of the Administrator. Any person so appointed shall signify acceptance by filing acceptance in writing (or such other form as acceptable to both parties) with the Employer. Upon the resignation or removal of any individual performing the duties of the Administrator, the Employer may designate a successor.

If the Employer elects, the Employer shall appoint one or more Administrators. Any person, including, but not limited to, the Employees of the Employer, shall be eligible to serve as an Administrator. Any person so appointed shall signify acceptance by filing acceptance in writing (or such other form as acceptable to both parties) with the Employer. An Administrator may resign by delivering a resignation in writing (or such other form as acceptable to both parties) to the Employer or be removed by the Employer by delivery of notice of removal (in writing or such other form as acceptable to both parties), to take effect at a date specified therein, or upon delivery to the Administrator if no date is specified. The Employer shall be empowered to appoint and remove the Administrator from time to time as it deems necessary for the proper administration of the Plan to ensure that the Plan is being operated for the exclusive benefit of the Employees entitled to participate in the Plan in accordance with the terms of the Act, the Plan and the Code.

The operation of the Plan shall be under the supervision of the Administrator. It shall be a principal duty of the Administrator to see that the Plan is carried out in accordance with its terms, and for the exclusive benefit of Employees entitled to participate in the Plan. The Administrator shall have full power and discretion to administer the Plan in all of its details and determine all questions arising in connection with the administration, interpretation, and application of the Plan. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan. The Administrator shall have all powers necessary or appropriate to accomplish the Administrator's duties under the Plan. The Administrator shall be charged with the duties of the general administration of the Plan as set forth under the Plan, including, but not limited to, in addition to all other powers provided by this Plan:

- (a) To make and enforce such procedures, rules and regulations as the Administrator deems necessary or proper for the efficient administration of the Plan;
- (b) To interpret the provisions of the Plan, the Administrator's interpretations thereof in good faith to be final and conclusive on all persons claiming benefits by operation of the Plan;
- (c) To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan and to receive benefits provided by operation of the Plan;
- (d) To reject elections or to limit contributions or Benefits for certain highly compensated participants if it deems such to be desirable in order to avoid discrimination under the Plan in violation of applicable provisions of the Code;
- (e) To provide Employees with a reasonable notification of their benefits available by operation of the Plan and to assist any Participant regarding the Participant's rights, benefits or elections under the Plan;
- (f) To keep and maintain the Plan documents and all other records pertaining to and necessary for the administration of the Plan;
- (g) To review and settle all claims against the Plan, to approve reimbursement requests, and to authorize the payment of benefits if the Administrator determines such shall be paid if the Administrator decides in its discretion that the applicant is entitled to them. This authority specifically permits the Administrator to settle disputed claims for benefits and any other disputed claims made against the Plan;
- (h) To establish and communicate procedures to determine whether a medical child support order is qualified under ERISA Section 609; and
- (i) To appoint such agents, counsel, accountants, consultants, and other persons or entities as may be required to assist in administering the Plan.

Any procedure, discretionary act, interpretation or construction taken by the Administrator shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to comply with the terms of Code Section 125 and the Treasury regulations thereunder.

### 9.2 EXAMINATION OF RECORDS

The Administrator shall make available to each Participant, Eligible Employee and any other Employee of the Employer such records as pertain to their interest under the Plan for examination at reasonable times during normal business hours.

### **9.3 PAYMENT OF EXPENSES**

Any reasonable administrative expenses shall be paid by the Employer unless the Employer determines that administrative costs shall be borne by the Participants under the Plan or by any Trust Fund which may be established hereunder. The Administrator may impose reasonable conditions for payments, provided that such conditions shall not discriminate in favor of highly compensated employees.

### **9.4 INSURANCE CONTROL CLAUSE**

In the event of a conflict between the terms of this Plan and the terms of an Insurance Contract of an independent third party Insurer whose product is then being used in conjunction with this Plan, the terms of the Insurance Contract shall control as to those Participants receiving coverage under such Insurance Contract. For this purpose, the Insurance Contract shall control in defining the persons eligible for insurance, the dates of their eligibility, the conditions which must be satisfied to become insured, if any, the benefits Participants are entitled to and the circumstances under which insurance terminates.

### **9.5 INDEMNIFICATION OF ADMINISTRATOR**

The Employer agrees to indemnify and to defend to the fullest extent permitted by law any Employee serving as the Administrator or as a member of a committee designated as Administrator (including any Employee or former Employee who previously served as Administrator or as a member of such committee) against all liabilities, damages, costs and expenses (including attorney's 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 in good faith.

## **ARTICLE X AMENDMENT OR TERMINATION OF PLAN**

### **10.1 AMENDMENT**

The Employer, at any time or from time to time, may amend any or all of the provisions of the Plan without the consent of any Employee or Participant. No amendment shall have the effect of modifying any benefit election of any Participant in effect at the time of such amendment, unless such amendment is made to comply with Federal, state or local laws, statutes or regulations.

### **10.2 TERMINATION**

The Employer reserves the right to terminate this Plan, in whole or in part, at any time. In the event the Plan is terminated, no further contributions shall be made. Benefits under any Insurance Contract shall be paid in accordance with the terms of the Insurance Contract.

No further additions shall be made to the Health Flexible Spending Account or Dependent Care Flexible Spending Account, but all payments from such fund shall continue to be made according to the elections in effect until 90 days after the termination date of the Plan. Any amounts remaining in any such fund or account as of the end of such period shall be forfeited and deposited in the benefit plan surplus after the expiration of the filing period.

## **ARTICLE XI MISCELLANEOUS**

### **11.1 PLAN INTERPRETATION**

All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner. This Plan shall be read in its entirety and not severed except as provided in Section 11.12.

### **11.2 GENDER, NUMBER AND TENSE**

Wherever any words are used herein in one gender, they shall be construed as though they were also used in all genders in all cases where they would so apply; whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply; and whenever any words are used herein in the past or present tense, they shall be construed as though they were also used in the other form in all cases where they would so apply.

### **11.3 WRITTEN DOCUMENT**

This Plan, in conjunction with any separate written document which may be required by law, is intended to satisfy the written Plan requirement of Code Section 125 and any Treasury regulations thereunder relating to cafeteria plans.

### **11.4 EXCLUSIVE BENEFIT**

This Plan shall be maintained for the exclusive benefit of the Employees who participate in the Plan.

## **11.5 PARTICIPANT'S RIGHTS**

This Plan shall not be deemed to constitute an employment contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him as a Participant of this Plan.

## **11.6 ACTION BY THE EMPLOYER**

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

## **11.7 EMPLOYER'S PROTECTIVE CLAUSES**

(a) **Insurance purchase.** Upon the failure of either the Participant or the Employer to obtain the insurance contemplated by this Plan (whether as a result of negligence, gross neglect or otherwise), the Participant's Benefits shall be limited to the insurance premium(s), if any, that remained unpaid for the period in question and the actual insurance proceeds, if any, received by the Employer or the Participant as a result of the Participant's claim.

(b) **Validity of insurance contract.** The Employer shall not be responsible for the validity of any Insurance Contract issued hereunder or for the failure on the part of the Insurer to make payments provided for under any Insurance Contract. Once insurance is applied for or obtained, the Employer shall not be liable for any loss which may result from the failure to pay Premiums to the extent Premium notices are not received by the Employer.

## **11.8 NO GUARANTEE OF TAX CONSEQUENCES**

Neither the Administrator nor the Employer makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant under the Plan will be excludable from the Participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant. It shall be the obligation of each Participant to determine whether each payment under the Plan is excludable from the Participant's gross income for federal and state income tax purposes, and to notify the Employer if the Participant has reason to believe that any such payment is not so excludable. Notwithstanding the foregoing, the rights of Participants under this Plan shall be legally enforceable.

## **11.9 INDEMNIFICATION OF EMPLOYER BY PARTICIPANTS**

If any Participant receives one or more payments or reimbursements under the Plan that are not for a permitted Benefit, such Participant shall indemnify and reimburse the Employer for any liability it may incur for failure to withhold federal or state income tax or Social Security tax from such payments or reimbursements. However, such indemnification and reimbursement shall not exceed the amount of additional federal and state income tax (plus any penalties) that the Participant would have owed if the payments or reimbursements had been made to the Participant as regular cash compensation, plus the Participant's share of any Social Security tax that would have been paid on such compensation, less any such additional income and Social Security tax actually paid by the Participant.

## **11.10 FUNDING**

Unless otherwise required by law, contributions to the Plan need not be placed in trust or dedicated to a specific Benefit, but may instead be considered general assets of the Employer. Furthermore, and unless otherwise required by law, nothing herein shall be construed to require the Employer or the Administrator to maintain any fund or segregate any amount for the benefit of any Participant, and no Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account or asset of the Employer from which any payment under the Plan may be made.

## **11.11 GOVERNING LAW**

This Plan is governed by the Code and the Treasury regulations issued thereunder (as they might be amended from time to time). In no event shall the Employer guarantee the favorable tax treatment sought by this Plan. To the extent not preempted by Federal law, the provisions of this Plan shall be construed, enforced and administered according to the laws of the State of Arizona.

## **11.12 SEVERABILITY**

If any provision of the Plan is held invalid or unenforceable, its invalidity or unenforceability shall not affect any other provisions of the Plan, and the Plan shall be construed and enforced as if such provision had not been included herein.

## **11.13 CAPTIONS**

The captions contained herein are inserted only as a matter of convenience and for reference, and in no way define, limit, enlarge or describe the scope or intent of the Plan, nor in any way shall affect the Plan or the construction of any provision thereof.

## **11.14 CONTINUATION OF COVERAGE (COBRA)**

Notwithstanding anything in the Plan to the contrary, in the event any benefit under this Plan subject to the continuation coverage requirement of Code Section 4980B becomes unavailable, each Participant will be entitled to continuation coverage as

prescribed in Code Section 4980B, and related regulations. This Section shall only apply if the Employer employs at least twenty (20) employees on more than 50% of its typical business days in the previous calendar year.

#### **11.15 FAMILY AND MEDICAL LEAVE ACT (FMLA)**

Notwithstanding anything in the Plan to the contrary, in the event any benefit under this Plan becomes subject to the requirements of the Family and Medical Leave Act and regulations thereunder, this Plan shall be operated in accordance with Regulation 1.125-3.

#### **11.16 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

Notwithstanding anything in this Plan to the contrary, this Plan shall be operated in accordance with HIPAA and regulations thereunder.

#### **11.17 UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USERRA)**

Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with the Uniformed Services Employment And Reemployment Rights Act (USERRA) and the regulations thereunder.

#### **11.18 COMPLIANCE WITH HIPAA PRIVACY STANDARDS**

(a) **Application.** If any benefits under this Cafeteria Plan are subject to the Standards for Privacy of Individually Identifiable Health Information (45 CFR Part 164, the "Privacy Standards"), then this Section shall apply.

(b) **Disclosure of PHI.** The Plan shall not disclose Protected Health Information to any member of the Employer's workforce unless each of the conditions set out in this Section are met. "Protected Health Information" shall have the same definition as set forth in the Privacy Standards but generally shall mean individually identifiable information about the past, present or future physical or mental health or condition of an individual, including genetic information and information about treatment or payment for treatment.

(c) **PHI disclosed for administrative purposes.** Protected Health Information disclosed to members of the Employer's workforce shall be used or disclosed by them only for purposes of Plan administrative functions. The Plan's administrative functions shall include all Plan payment functions and health care operations. The terms "payment" and "health care operations" shall have the same definitions as set out in the Privacy Standards, but the term "payment" generally shall mean activities taken to determine or fulfill Plan responsibilities with respect to eligibility, coverage, provision of benefits, or reimbursement for health care. Protected Health Information that consists of genetic information will not be used or disclosed for underwriting purposes.

(d) **PHI disclosed to certain workforce members.** The Plan shall disclose Protected Health Information only to members of the Employer's workforce who are designated and authorized to receive such Protected Health Information, and only to the extent and in the minimum amount necessary for that person to perform his or her duties with respect to the Plan. "Members of the Employer's workforce" shall refer to all employees and other persons under the control of the Employer. The Employer shall keep an updated list of those authorized to receive Protected Health Information.

(1) An authorized member of the Employer's workforce who receives Protected Health Information shall use or disclose the Protected Health Information only to the extent necessary to perform his or her duties with respect to the Plan.

(2) In the event that any member of the Employer's workforce uses or discloses Protected Health Information other than as permitted by this Section and the Privacy Standards, the incident shall be reported to the Plan's privacy official. The privacy official shall take appropriate action, including:

(i) investigation of the incident to determine whether the breach occurred inadvertently, through negligence or deliberately; whether there is a pattern of breaches; and the degree of harm caused by the breach;

(ii) appropriate sanctions against the persons causing the breach which, depending upon the nature of the breach, may include oral or written reprimand, additional training, or termination of employment;

(iii) mitigation of any harm caused by the breach, to the extent practicable; and

(iv) documentation of the incident and all actions taken to resolve the issue and mitigate any damages.

(e) **Certification.** The Employer must provide certification to the Plan that it agrees to:

(1) Not use or further disclose the information other than as permitted or required by the Plan documents or as required by law;

- (2) Ensure that any agent or subcontractor, to whom it provides Protected Health Information received from the Plan, agrees to the same restrictions and conditions that apply to the Employer with respect to such information;
- (3) Not use or disclose Protected Health Information for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Employer;
- (4) Report to the Plan any use or disclosure of the Protected Health Information of which it becomes aware that is inconsistent with the uses or disclosures permitted by this Section, or required by law;
- (5) Make available Protected Health Information to individual Plan members in accordance with Section 164.524 of the Privacy Standards;
- (6) Make available Protected Health Information for amendment by individual Plan members and incorporate any amendments to Protected Health Information in accordance with Section 164.526 of the Privacy Standards;
- (7) Make available the Protected Health Information required to provide an accounting of disclosures to individual Plan members in accordance with Section 164.528 of the Privacy Standards;
- (8) Make its internal practices, books and records relating to the use and disclosure of Protected Health Information received from the Plan available to the Department of Health and Human Services for purposes of determining compliance by the Plan with the Privacy Standards;
- (9) If feasible, return or destroy all Protected Health Information received from the Plan 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; and
- (10) Ensure the adequate separation between the Plan and members of the Employer's workforce, as required by Section 164.504(f)(2)(iii) of the Privacy Standards and set out in (d) above.

#### **11.19 COMPLIANCE WITH HIPAA ELECTRONIC SECURITY STANDARDS**

Under the Security Standards for the Protection of Electronic Protected Health Information (45 CFR Part 164.300 et. seq., the "Security Standards"):

- (a) **Implementation.** The Employer agrees to implement reasonable and appropriate administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of Electronic Protected Health Information that the Employer creates, maintains or transmits on behalf of the Plan. "Electronic Protected Health Information" shall have the same definition as set out in the Security Standards, but generally shall mean Protected Health Information that is transmitted by or maintained in electronic media.
- (b) **Agents or subcontractors shall meet security standards.** The Employer shall ensure that any agent or subcontractor to whom it provides Electronic Protected Health Information shall agree, in writing, to implement reasonable and appropriate security measures to protect the Electronic Protected Health Information.
- (c) **Employer shall ensure security standards.** The Employer shall ensure that reasonable and appropriate security measures are implemented to comply with the conditions and requirements set forth in Section 11.18.

#### **11.20 MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT**

Notwithstanding anything in the Plan to the contrary, the Plan will comply with the Mental Health Parity and Addiction Equity Act and ERISA Section 712.

#### **11.21 GENETIC INFORMATION NONDISCRIMINATION ACT (GINA)**

Notwithstanding anything in the Plan to the contrary, the Plan will comply with the Genetic Information Nondiscrimination Act.

#### **11.22 WOMEN'S HEALTH AND CANCER RIGHTS ACT**

Notwithstanding anything in the Plan to the contrary, the Plan will comply with the Women's Health and Cancer Rights Act of 1998.

#### **11.23 NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT**

Notwithstanding anything in the Plan to the contrary, the Plan will comply with the Newborns' and Mothers' Health Protection Act.

IN WITNESS WHEREOF, this Plan document is hereby executed this \_\_\_\_\_ day of \_\_\_\_\_.

Carefree Water Company

By \_\_\_\_\_  
**Greg Crossman**  
**General Manager**

Attest:

By \_\_\_\_\_  
**Kandace French Contreras**  
**Secretary/Treasurer**