

# Saint Mary's College of California Transportation Fringe Benefits Plan

## SECTION I. INTRODUCTION

Saint Mary's College of California has provided a Transportation Fringe Benefits Plan called the Flexi-Pass Program (the "Program") effective January 1, 2014, to provide a tax-free transportation benefit in lieu of otherwise taxable compensation. This Program is intended to allow eligible employees to exclude from gross income under the IRS code section 132 certain Eligible Transportation Expenses. This Program is intended to qualify as a "qualified transportation fringe" benefit under the IRS Code section 132(f) and its supporting regulations. Saint Mary's College of California will establish, pursuant to this document, the Saint Mary's College of California Transportation Fringe Benefits Plan.

## SECTION II. DEFINITIONS

**"Affiliated Employer"** means the Employer and any other corporation that is a member of a controlled group of corporations (as defined in Code Section 414(b), (c), (m), or (o)).

**"Commuter Highway Vehicle"** means any highway vehicle that satisfies the following conditions: (1) The vehicle must have a seating capacity of at least six adults, not including the driver, and (2) at least 80% of the mileage is used for the purpose of transporting Employees between their residence and place of employment during which the number of Employees transported occupy, on average, at least half of the seating capacity (not including the driver).

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

**"Compensation"** means the total cash remuneration received by the Participant from the Employer during a Plan Year prior to any salary redirections. Compensation shall include bonuses, commissions, and overtime.

**"Coverage Period"** means the monthly, or other specified period which a Salary Redirection Agreement is in effect.

**"Initial Effective Date"** means January 1, 2014.

**"Eligible Employee"** means any Employee who satisfies the requirements established in Article III.

**"Eligible Parking Expense"** means the parking expenses incurred by an Employee to (1) park at or near the place of employment, (2) at or near a place from which the Employee commutes to work by either a mass transit facility or a Commuter Highway Vehicle or carpool.

**"Eligible Transit Expense"** means the expenses incurred by an Employee to purchase a fare card, voucher, token, pass, or similar item on a mass transit facility or Commuter Highway Vehicle for the purpose of commuting between an Employee's residence and place of work.

**"Employee"** means any person who is employed by the Employer who meets the eligibility requirements, but excludes any person considered by the Employer to be leased, temporary, a contract worker, a partner, sole proprietor, or an independent contractor.

**“Employer”** means Saint Mary’s College of California and any Affiliated Employer which has adopted the provisions of this Program.

**“Flexi-Pass Program”** means an online commuter ordering platform.

**“Participant”** means any Eligible Employee who has elected to participate in the Program.

**“Plan”** means the Saint Mary’s College of California Transportation Fringe Benefits Plan as established by this document and any such amendments made thereto.

**“Qualified Transportation Expense”** means the expenses incurred by an Employee to purchase an Eligible Transit Expense or Eligible Parking Expense.

**“Salary Redirection Agreement”** means the actual agreement between the Employee and Employer authorizing the Employer to deduct amounts from the Employee’s wages to pay for Qualified Transportation Expenses.

### **SECTION III. ELIGIBILITY**

Employees are eligible to participate in the Program once they have satisfied the conditions for coverage under the group medical plan. Once the eligibility requirement has been satisfied, the Eligible Employee may access the Program.

If a Participant’s employment with the Employer should terminate for any reason, then the Employee must re-complete any applicable eligibility requirements before becoming eligible to participate in the Program.

There are certain Employees who are not eligible to participate in the Plan. Those employees included leased, temporary, contract workers, temporary employees, casual employees and employees working less than 25 hours a week. Individuals who are partners in a partnership, sole proprietors, or independent contractors are also not eligible to participate in the Program. In addition, under section 1372(a), more-than 2-percent shareholders of S corporations are treated as partners for fringe benefit purposes. Thus, an individual who is both a more-than 2-percent shareholder of an S corporation and a common law employee of that S corporation is not considered an employee for purposes of section 132(f) and, therefore, also not eligible to participate in the Program.

### **SECTION IV. BENEFITS AND ELECTIONS**

#### **The Program**

All Eligible Employees can access the Flexi-Pass Program through their online account with Flex-Plan. The Flexi-Pass Program is an online commuter benefits platform. The Flexi-Pass Program allows Eligible Employees to allocate pre-tax dollars from their paycheck to a benefits debit card for transit or parking. There are specific ordering deadlines and delivery timelines for this Program that can be located on their online account.

Once the card is loaded, Participants may use the card to purchase Eligible Transportation Expenses (smart cards, bus passes, monthly parking permits, etc.). If they already have a benefits debit card their elected transit and/or parking funds will be loaded to their current card. If they do not already have a card upon placing their first order, a new card will be issued to the Participant and should arrive within 7-10 business days. All subsequent orders will be loaded onto the same card. This benefit platform eliminates the need to send paper claims and wait for reimbursement.

It is important to note that if their benefits debit card is tied to multiple benefits i.e. the health care flexible spending arrangement (FSA) then the card may be suspended for failure to substantiate expenses under the FSA. Funds may be forfeited to the Employer due to failure to substantiate required claims.

### Pay Me Directly

The Employer permits direct payment for Eligible Parking Expenses when receipts are not provided in the ordinary course of business or the debit card is not accepted by the transit and/or parking vendor. Eligible Employees may simply sign on to their online account and elect this option.

### Limitations

**Eligible Parking Expense:** The reimbursement for Eligible Parking Expense shall not exceed the \$250.00 monthly limit as set forth in Code Section 132(f). The limitation may be adjusted for inflation and the Program will be amended at such time that the adjustment is made.

**Eligible Transit Expense:** The reimbursement for Eligible Transit Expense shall not exceed the \$130.00 monthly limit as set forth in Code Section 132(f). The limitation may be adjusted for inflation and the Program will be amended at such time that the adjustment is made.

Furthermore, a cash reimbursement may not be provided to an Employee for Eligible Transit Expense if a voucher (or similar item that may be used for a transit pass) is readily available to the Employer for distribution to the Employee. The voucher (or similar item) is considered readily available if (1) the Employer can obtain the voucher on terms no less favorable than those available to the Employee and (2) a significant administrative cost is not incurred by the Employer (excluding delivery charges under \$15 of such vouchers) in obtaining the voucher.

The administrative cost is deemed "significant" if the average administrative cost is more than 1% of the average monthly value of the vouchers for a mass transit system (i.e. train, bus, subway, ferry, etc.).

### Costs Exceeding IRS Pre-Tax Limits

The Employer may deduct any additional amounts post-tax to cover the costs of commuter products purchased in excess of the IRS limits.

### Modifications under the Flexi-Pass Program

Eligible Employees control their commuter benefits under the Flexi-Pass Program on a monthly basis.

### Flexi-Pass Product Correction Procedures

If an Eligible Employee fails to receive their benefits debit card or parking disbursement and it is returned to our distribution center by the United States Postal Service ("USPS"), Flex-Plan will attempt to contact the Participant or Employer to confirm the Participant's mailing address in order to resend.

If an Eligible Employee fails to receive their funds on their existing Benny Card, Flex-Plan will attempt to reload those funds.

## **Termination of Employment**

Eligibility to access the Flexi-Pass Program shall cease in the event of an Employee's termination from the Employer or loss of eligibility for any reason. Any balance on a Participant's benefits debit card at the time of termination will be forfeited to the Employer.

## **SECTION V. ADMINISTRATION**

### **Plan Administrator**

The Administrator of this Program, or hereto referred as the Program's Administrator, shall be Saint Mary's College of California which shall act in its administrative capacity to administer the Program in all of its details, subject, however, to the pertinent provisions of the Code. The Program Administrator may use its discretionary power and authority to:

- (a) To make and enforce any rules it deems necessary or proper for the administration of the Program.
- (b) To interpret the Program, the Administrator's interpretation with respect to benefits, duties, and entitlements, including but not limited to, eligibility, amounts of benefits, and all other matters pertaining to the Program's Administration, will be in good faith final and conclusive on all Participants claiming benefits under this Program.
- (c) To take any action it deems necessary to stay in compliance with the regulations as set forth in the Code.
- (d) To appoint such agents to assist in the administration of the Program.

## **SECTION VI. AMENDMENT AND TERMINATION**

### **Amendment**

Saint Mary's College of California may, at any time, amend any or all of the provisions of this Program in its sole discretion. Such amendments shall not modify, in any manner, the existing elections of a Participant in the Program unless the amendment is made to comply with local, state, or Federal laws, statutes, or regulations.

### **Termination**

The Employer has established the Program with the intent that it will be maintained for an indefinite amount of time. However, the Employer reserves the right to: (1) terminate or limit the Program as set forth in this document, in whole or in part, at any time. If such termination of the Program occurs, all Salary Redirections in effect will cease and no further deductions will be taken from the Participant's Compensation.

## **Rights to Assets**

Neither the establishment of the Program nor the payment of benefits under the Program shall be construed as giving any legal or equitable right to any Eligible Employee, former Eligible Employee or participating Employee against Saint Mary's College of California any Employer or their officers or employees except as expressly provided herein, and all rights under any Plan shall be satisfied, if at all, only out of the general assets of the Employer.

## **No Inducement, Contract or Guarantee of Employment**

Participation in this Program does not constitute any type of employment contract between the Employer and Employee nor give the Employee the right to continued employment. The Employer retains the right and sole discretion to hire or discharge an Employee as if the Program had not been adopted.

## **Adoption by Affiliate**

Affiliated Employers may, at the consent of the Program Administrator, adopt the Program by executing a copy of this Program. Upon doing so, the Eligible Employees of such affiliate will be entitled to the benefits designated herein.

## **Taxability**

Neither the Program Administrator nor Employer makes any guarantee that the benefits paid under this Program will be excludable from a Participant's Compensation for income tax purposes. It shall be the Employee's responsibility to determine if the benefits paid under this Program are excludable from Federal and state income taxes.

CERTIFICATE OF CORPORATE RESOLUTION

Saint Mary's College of California hereby certifies that the following resolutions were duly adopted on \_\_\_\_\_, and that such resolutions have not been modified or rescinded as of the date hereof:

RESOLVED, that the form of Transportation Fringe Benefits Plan effective \_\_\_\_\_, presented to this meeting is hereby approved and adopted and that the proper employees of Saint Mary's College of California are hereby authorized and directed to execute and deliver to the Administrator of the Program one or more counterparts of the Program.

RESOLVED, that the Administrator shall be instructed to take such actions that are deemed necessary and proper in order to implement the Program, and to set up adequate accounting and administrative procedures to provide benefits under the Program.

RESOLVED, that the proper employees of the Corporation shall act as soon as possible to notify the employees by delivering to each employee a copy of the summary description of the Program in the form of the Summary Plan Description presented to this meeting, which form is hereby approved.

Saint Mary's College of California further certifies that attached hereto as Exhibits A and B, respectively, are true copies of Saint Mary's College of California Transportation Fringe Benefit Plan Document and the Summary Plan Description approved and adopted in the foregoing resolutions.

\_\_\_\_\_  
Employer

Date: \_\_\_\_\_