



Evelyn Minor-Lawrence
Director

DEPARTMENT OF HUMAN RESOURCES

PUBLIC SERVICES BUILDING
2051 Kaen Road | Oregon City, OR 97045

December 17, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Deferred Compensation Plan Document Update

Purpose/Outcomes	Restate the Deferred Compensation plan documents to incorporate mandatory and optional provisions of the 2019 SECURE Act and 2020 CARES Act as applicable to Section 457(b) retirement plans and other changes in accordance with retirement industry best practice.
Dollar Amount and Fiscal Impact	\$7,000.00
Funding Source	Plan Participant Fees
Duration	Implementation 1/1/2021
Previous Board Action	Policy Session 12/1/2020
Strategic Plan Alignment	1. <i>How does this item align with your department's Strategic Business Plan goals?</i> Provide cost-effective, responsive and comprehensive benefit services to County departments, current and retired employees and their family members so they can better serve the residents of Clackamas County. 2. <i>How does this item align with the County's Performance Clackamas goals?</i> Build public trust through good government.
Contact Person	Kristi Durham, HR Benefits Manager 503-742-5470
Contract No.	N/A

BACKGROUND:

The passage of the 2019 SECURE Act and 2020 CARES Act included provisions pertaining to Section 457(b) retirement plans that required updates be made to the Clackamas County and the Housing Authority of Clackamas County's retirement plan documents to remain in compliance. Changes in retirement industry best practice were also included with the update to the plan documents.

RECOMMENDATION:

Staff recommends the Board approve the attached Deferred Compensation plan documents for the Clackamas County and the Housing Authority of Clackamas County's Section 457(b) retirement plans.

Respectfully submitted,

Kristi Durham, HR Benefits Manager

Clackamas County

Deferred Compensation Plan

**Amended and Restated
Effective January 1, 2021**

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ARTICLE 1 INTRODUCTION

The County of Clackamas, Oregon (“Employer”) hereby amends and restates this Deferred Compensation Plan (“Plan”), which was originally adopted in 1977. The provisions of this Plan, as amended and restated, shall be effective January 1, 2021, pursuant to Section 457 of the Internal Revenue Code of 1986, as amended (“Code”). The primary purpose of the Plan is to enable the Employer’s employees to enhance their retirement security by permitting them to enter into agreements with the Employer to defer compensation (both on a pre-tax and after-tax basis), receive Employer contributions (if any) and receive benefits at retirement, death, termination of employment, and for financial hardships due to unforeseeable emergencies.

Nothing contained in this Plan shall be deemed to constitute an employment contract or agreement for services between the Participant and the Employer, nor shall it be deemed to give a Participant any right to be retained in the employ of, or under contract to, the Employer. Nothing herein shall be construed to modify the terms of any employment contract or agreement for services between a Participant and the Employer.

ARTICLE 2 DEFINITIONS

- 2.1 3-Year Special Catch-up.** The Plan may allow you to defer, in the three years before reaching the plan’s Normal Retirement Age, the lesser of:
- (a) Twice the annual 457(b) limit, or
 - (b) The annual 457(b) limit, plus amounts allowed in prior years that you did not contribute.
- 2.2 Account.** The Account (and subaccounts) established for each Participant pursuant to Section 5.1, which shall also include any Account maintained or established for a Beneficiary.
- 2.3 Alternate Payee.** A Participant’s spouse, former spouse, child, or other dependent who acquires an interest in the Participant’s Account pursuant to a court decree of annulment or dissolution of marriage or of separation, or a court-approved settlement agreement incident to annulment or dissolution of marriage or of separation. Where the context so requires, reference to the “Participant” in this Plan shall be deemed to include an Alternate Payee.

- 2.4 Approved Institution.** Any organization that has been recommended by the Committee and approved by the Employer to provide services or Investment Product(s) to the Employer under the Plan.
- 2.5 Base Compensation.** The portion of Includible Compensation consisting of any regularly scheduled salary or hourly compensation, including vacation pay, sick pay, and such other amount as may be determined or utilized by the Committee, but excluding bonuses, overtime pay, longevity pay, bilingual pay, and other extra pay.
- 2.6 Beneficiary.** The person(s), trust(s) or estate(s) entitled to receive benefits under the Plan upon death of a Participant in accordance with a suitable designation of Beneficiary filed with the Employer (or its delegate) and subject to applicable law.
- 2.7 Code.** The Internal Revenue Code of 1986, as amended from time to time, and including all valid regulations adopted pursuant to the Code.
- 2.8 Committee.** The committee appointed by the Employer as provided in Article 11 below to administer the Plan and perform administrative functions for the Plan as specified by the Employer.
- 2.9 Compensation.** All cash compensation paid to an Employee for employment services rendered to the Employer including salary, wages, fees, commissions, bonuses and overtime pay that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under Code Sections 125, 132(f), 401(k), 403(b) or 457(b) (including an election under Article 3 to defer Compensation under this Plan).
- 2.10 Deferrals.** The amount of Base Compensation deferred by a Participant to the Plan, consisting of Elective Deferrals and, effective January 1, 2014, Roth 457(b) Contributions.
- 2.11 Designated Institution.** As designated by the Employer, any Approved Institution whose Investment Product is used for purposes of measuring the benefits due that Participant pursuant to the Plan.
- 2.12 Elective Deferral.** Deferrals of Base Compensation made by the Employer to the Plan on a voluntary pre-tax basis pursuant to a Participation Agreement entered into by a Participant.

- 2.13 Eligible Deferred Compensation Plan.** An Eligible Deferred Compensation Plan within the meaning of Code Section 457(b) and the regulations thereunder.
- 2.14 Eligible Designated Beneficiary.** A designated beneficiary who is, at the time of the Participant's death: (a) the surviving spouse of the Participant; (b) a child of the Participant, but only during the period that the child is under age 21; (c) a disabled individual within the meaning of Code section 72(m)(7); (d) a chronically ill individual within the meaning of Code section 7702B(c)(2), except that that there must be a certification that the period of inability to perform at least two activities of daily living due to a loss of functional capacity is for an indefinite period which is reasonably expected to be lengthy in nature; or (e) any individual not described in (a) through (d) who is not more than ten years younger than the Participant.
- 2.15 Eligible Employee.** An Employee who has been appointed to a budgeted, allocated position and who is regularly scheduled to work at least twenty (20) hours per week, or for at least eighteen and three-quarters (18.75) hours in a Job Share status, and is scheduled to be in a paid status for twelve (12) months per year.
- 2.16 Eligible Individual.** Any Eligible Employee, any elected official, and any individual performing services for the Employer pursuant to an Employment Agreement, who performs services for the Employer for which Compensation is paid and who meets the criteria set forth in Section 3.1.
- 2.17 Employee.** An individual who performs services for the Employer and is classified by the Employer as a common-law employee, without regard to whether the individual is subsequently determined to have been an employee of the Employer during such period for employment tax or other purposes.
- 2.18 Employer.** Clackamas County, a political subdivision of the state of Oregon.
- 2.19 Employment Agreement.** A written agreement between the Employer and an Employee pertaining to the Employee's performance of services for the Employer in exchange for remuneration.
- 2.20 Includible Compensation.** An Employee's actual wages as reported in box 1 of Form W-2 for the Employer, but increased (up to the dollar maximum) by any Compensation reduction election under Code section 125, 132(f), 402(g)(3) or 457(b). The amount of Includible Compensation is determined without regard to any community property laws.

Pursuant to Section 1.457-4(d)(1) of the Income Tax Regulations, Includible Compensation will include any payments made to a Participant who has had a Severance from Employment, provided that the Includible Compensation is paid by the later of 2½ months after the Participant's Severance from Employment or the end of the calendar year that contains the date of such Participant's Severance from Employment.

In addition, pursuant to Section 1.457-4(d)(1) of the Income Tax Regulations, Includible Compensation will include payments made to an individual who does not currently perform services for the Employer by reason of qualified military service (as defined in Code Section 414(u)(5)) to the extent those payments do not exceed the amount the individual would have received if the individual had continued to perform services for the Employer rather than enter qualified military service.

Includible Compensation will not include any Employee pick-up contributions described in Code Section 414(h)(2).

Includible Compensation shall be subject to the maximum limit that may apply under Code section 401(a)(17).

2.21 In-Plan Roth Rollover. A rollover contribution to the Plan that consists of a distribution from an Elective Deferral Account, a 457(b) Rollover Account or a non-457(b) Rollover Account under the Plan that the Participant rolls over to the Participant's In-Plan Roth 457(b) Rollover Account in the Plan, in accordance with Code Section 402A(c)(4).

2.22 Investment Product. Any product issued by or obtained from an Approved Institution for the purpose of investing amounts deferred or contributed under the Plan.

2.23 Normal Retirement Age.

(a) The Normal Retirement Age shall be 70½, unless the Participant makes an election under Section 2.23(b) below.

(b) The Participant may, at any time prior to Severance from Employment and prior to the use of the Catch-up Limitation provision described in Section 4.2, elect in writing in the form established or approved by the Employer a Normal Retirement Age that is not earlier than the earlier of age 65 or the earliest age at which the Participant has the right to retire and receive unreduced retirement benefits from the Employer's basic pension plan and not later than the date the Participant attains age 70½.

- 2.24 Participant.** Any Eligible Individual who fulfills the eligibility and enrollment requirements of Article 3, or has received Employer contributions, and who has not received a distribution of his or her entire benefit under the Plan.
- 2.25 Participation Agreement.** A written agreement between the Employer and a Participant in a form satisfactory to the Employer setting forth certain provisions and elections relating to the Plan, establishing the amount of Base Compensation to be deferred, specifying whether the elected Deferral is an Elective Deferral or, effective January 1, 2014, a Roth 457(b) Contribution, incorporating the terms and conditions of the Plan, and establishing the Participant's participation in the Plan. Enrollments and enrollment changes made through electronic means, such as the Employer's employee self-service portal, or a contracted third party administrator's web site shall be deemed to meet the definition of this section.
- 2.26 Payout Request.** A written agreement between the Employer and a Participant in a form satisfactory to the Employer setting forth the manner and method of paying benefits under the Plan.
- 2.27 Plan.** The Clackamas County Deferred Compensation Plan effective December 15, 1977, as amended. The effective date of this amended and restated Plan is January 1, 2021.
- 2.28 Plan Year.** The twelve (12) month period beginning January 1 and ending December 31.
- 2.29 Roth 457(b) Contributions.** Deferrals that are: (1) made by the Employer to the Plan pursuant to a Participation Agreement entered into by a Participant, which qualifies as a "designated Roth Contribution" within the meaning of Code section 402A; (2) irrevocably designated by the Participant at the time of the cash or deferred election as a Roth 457(b) Contribution that is being made in lieu of all or a portion of the Elective Deferrals the Participant is otherwise eligible to make under the Plan; and (3) treated by the Employer as includible in the Participant's income at the time the Participant would have received that amount in cash if the Participant had not made a "cash or deferred" election.
- 2.30 Severance from Employment.** The Participant ceases to be employed by the Employer that maintains the Plan. A Participant whose employment is interrupted by qualified military service under Code section 414(u) shall be deemed to be severed from employment until such time as the Participant is reemployed following the term of duty.

2.31 Underutilized Contributions. A Participant who was eligible to contribute to the plan but did not, or contributed less than the maximum for which they were eligible, shall be deemed to have an unused balance available for the 3-Year Special Catch-up described in Section 4.2.

ARTICLE 3 PARTICIPATION IN THE PLAN

3.1 Eligibility. Any Eligible Individual to whom Compensation is paid and who executes a Participation Agreement, or is deemed to have executed a Participation Agreement pursuant to the automatic enrollment provisions, is eligible to participate in the Plan.

3.2 Enrollment/Deferrals.

- (a) An Eligible Individual may become a Participant and agree to make Deferrals by entering into a Participation Agreement. Effective January 1, 2014, any such election to defer Base Compensation shall specify whether such Deferrals are to be Elective Deferrals or Roth 457(b) Contributions or a combination thereof; in the absence of any such specification, the Participant's Deferrals shall be deemed to be Elective Deferrals. The effective date of participation in the Plan shall be no sooner than the first day of the calendar month immediately following the latest of the date (i) an individual becomes an Eligible Individual; (ii) the execution and processing, or deemed processing pursuant to the automatic enrollment provisions under Section 3.5, of a Participation Agreement with respect to that individual; or (iii) the execution and processing of any required agreements with the Designated Institution(s) selected by the Participant for investment of the Participant's Account.
- (b) At the time of entering into or modifying the Participation Agreement hereunder to make Deferrals or at the time of reentry following a withdrawal under Article 7, a Participant must agree to defer a minimum amount of \$338 annually.
- (c) All Deferrals made under the Plan are fully vested and nonforfeitable at all times.
- (d) A Participant who elects to make Deferrals may modify the Participation Agreement to change the amount deferred only for a subsequent calendar month and only if the new Participation Agreement has been executed and processed prior to the first day of the month during which it is to be effective. The effective

date of the modified Participation Agreement shall be the later of: (i) the first day of the calendar month immediately following the execution and processing of the modified Participation Agreement; or (ii) the date specified in the Participation Agreement.

- (e) A Participant may suspend further Deferrals with respect to Base Compensation not yet earned by submitting a revised Participation Agreement. The revocation of a Deferral election will be effective on the first day of the calendar month immediately following the execution and processing of the written revocation of participation. Amounts previously deferred shall be paid only as provided in this Plan. Any Employer-provided contributions made under the Plan may not be revoked by the Participant.
- (f) A Participant who has revoked his or her Participation Agreement as set forth in Section 3.2(d), or who returns to perform services for the Employer after a Severance from Employment, may again become a Participant in the Plan and agree to make Deferrals of Base Compensation not yet earned by submitting a new Participation Agreement as provided in Section 3.2(a).
- (g) Participant Deferrals shall be transferred to the Plan within a period that is not longer than is reasonable for the proper administration of the Participant's Account. For this purpose, Deferrals shall be treated as contributed within a period that is not longer than is reasonable if the contribution is made to the Plan within 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant.

3.3 Employer Contributions.

- (a) Subject to the limitations set forth in Article 4, the Employer shall contribute to the Plan on behalf of active Participants the amounts set forth in Attachment A, except that if Attachment A conflicts with the express provisions of a written contract in effect between the Employer and the Participant (or the Participant's bargaining representative), such express provisions shall control.
- (b) Employer contributions shall be made to the Plan each payday for the pay period in which the services to which the contribution relates were performed.

Participants on whose behalf an Employer contribution is made to the Plan are not permitted to receive the Employer contribution as current Compensation.

- (c) Employer contributions are fully vested and nonforfeitable immediately upon payment to the Plan.
- (d) In the event that a Participant who is both making Deferrals under Section 3.2 and receiving an Employer contribution under Section 3.3 or an Employer matching contribution under Section 3.6 exceeds the limits set forth in Article 4, the amount in excess of the limit will be refunded to the Participant or forfeited as soon as administratively practicable. The refund to the Participant shall be made first from amounts contributed by the Participant as non-matched Deferrals under Section 3.2 in the amount necessary to comply with the limits set forth in Article 4. If the contributions made on behalf of the Participant still exceed the limits set forth in Article 4, then the matched Deferrals and associated Employer matching contribution under Section 3.6 will be reduced until the contributions to the Plan on behalf of the Participant comply with the limits set forth in Article 4. If the contributions made on behalf of the Participant still exceed the limits set forth in Article 4, then the Employer contribution will be reduced until the contributions to the Plan on behalf of the Participant comply with the limits set forth in Article 4.

3.4 Transfers from Eligible Deferred Compensation Plans. The Plan will accept incoming transfers of amounts previously deferred under another Eligible Deferred Compensation Plan if (1) the transferor plan provides for the transfer of such amounts, and (2) the Participant has a benefit immediately after the transfer at least equal to the amount under the Plan immediately before the transfer. The Employer may require such documentation from the transferor plan as it deems necessary to effectuate the transfer in accordance with Treasury Regulations Section 1.457-10(b) and to confirm that the transferor plan is an Eligible Deferred Compensation Plan within the meaning of Treasury Regulations Section 1.457-2(f). The amount so transferred will be credited to the appropriate sub-account under the Participant's Account and will be held, accounted for, administered and otherwise treated in the same manner as amounts held in the transferor plan, except that the transferred amounts will not be taken into consideration for purposes of Code Section 457 (b)(2) for the year of transfer.

3.5 Automatic Enrollment in the Plan.

- (a) If the County and a labor organization representing a unit of County employees agree in collective bargaining, new Eligible Employees of that unit will be deemed automatically to have executed a Participation Agreement with an effective date of the first of the month following two (2) full months of employment. Collectively bargained units that have agreed to automatic enrollment are listed in Attachment A.
- (b) An Eligible Employee will be provided the required advance notice of automatic enrollment pursuant to Code Section 414(w), including the amount of contributions that will be made, the employee's right to change the amount of contributions, the employee's right not to have automatic contributions made, a description of how the contributions will be invested, and when such contributions may be distributed. The notice shall be provided within a reasonable period before such time when the automatic provision will become first applicable to an Eligible Employee.
- (c) A Participant may opt out of automatic enrollment at any time by completing a Participation Agreement or by providing written notice of the election not to have any amount withheld from his or her Compensation.
- (d) A Participant may elect the return of automatic deferrals if the request is made in writing within 90 days from the date of the first deduction.
- (e) The amount deferred from an Eligible Employee's Base Compensation shall be the amount specified in the applicable collective bargaining agreement, provided that the requirements of Code Section 414(w) are satisfied, including the requirement that the percentage of pay deferred will be uniform for employees with the same years of employment.

3.6 Employer Matching Contributions.

- (a) Subject to the limitations set forth in Article 4, the Employer shall match Participant Deferrals up the percentage of Base Compensation listed for the particular employee group in Attachment A, and shall contribute such matching contributions to the Plan on behalf of each Participant.
- (b) Employer matching contributions shall be made to the Plan each payday for the pay period in which the services to which the contribution relates were performed. Participants on whose behalf an Employer matching contribution is made to the

Plan are not permitted to receive the Employer matching contribution as current Compensation.

- (c) Employer matching contributions are fully vested and nonforfeitable immediately upon payment to the Plan.

ARTICLE 4 LIMITATIONS ON AMOUNT DEFERRED

4.1 Annual Maximum. The maximum amount of Compensation that may be deferred under this Plan (the “Normal Limit”) for a Participant’s taxable year (except as provided in Sections 4.2 and 4.3) is the lesser of the applicable dollar amount within the meaning of Code Sections 457(b)(2)(A) and 457(e)(15)(A), as adjusted for the cost-of-living in accordance with Code Section 457(e)(15)(B), or 100% of the Participant’s Includible Compensation.

4.2 3-Year Special Catch-Up Limit. For each one or more of the Participant’s last three (3) taxable years ending prior to but not including the year of such Participant’s Normal Retirement Age, as elected by the Participant pursuant to or otherwise defined in Section 2.23, the limitation set forth in Section 4.1 shall be increased to the lesser of:

- (a) two (2) times the applicable dollar amount described in Section 4.1; or
- (b) The sum of:
 - (1) The aggregate Normal Limit set forth in Section 4.1 for the current taxable year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus
 - (2) The aggregate limit referred to in section 457(b)(2) of the Code for any prior taxable year or years since January 1, 1979 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Sections 4.2 and 4.3), less the aggregate contributions to Pre-2002 Coordination Plans for such prior taxable year or years.

For purposes of the preceding paragraph, “contributions to Pre-2002 Coordination Plans” means any employer contribution, salary reduction, or

elective contribution under any other eligible Code section 457(b) plan, or a salary reduction or elective contribution under any Code section 401(k) qualified cash or deferred arrangement, Code section 402(h)(1)(B) simplified employee pension (SARSEP), Code section 403(b) annuity contract, and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Code section 501(c)(18), including plans, arrangements, or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of the preceding paragraph to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code section 457(b)(2) for that year.

For purposes of this Section 4.2, a prior taxable year can be taken into account only if:

- (i) The Participant was eligible to participate in the Plan during any portion of any prior taxable year since January 1, 1979; and
- (ii) The Compensation deferred, if any, under the Plan during such prior taxable years was subject to a maximum deferral limitation as required by Code Section 457.

A Participant may elect to utilize the 3-Year Special Catch-Up Limitation with respect to only one (1) Normal Retirement Age (as defined in Section 2.23) in this Plan or any other Eligible Deferred Compensation Plan notwithstanding the fact that the Participant utilizes the 3-Year Special Catch-Up Limitation in less than all of the three (3) eligible years. This Section 4.2 shall not apply in any Plan Year in which Section 4.3 applies because the maximum deferral limit under Section 4.1, when combined with the limit under Section 4.3, is higher than the limit under this Section 4.2.

Acceptable proof of underutilized contributions for calculating a participant's 3-Year Special Catch-Up limit includes, but is not limited to, Forms W-2, payroll records, and recordkeeper documentation.

4.3 Age 50 Catch-Up Limit. A Participant who will have attained the age of 50 before the close of the Plan Year, and with respect to whom no other Deferrals may be made to the Plan for the Plan Year by reason of the limitation of Section 4.1, may enter into a

Participation Agreement to make Deferrals in addition to those permitted by Section 4.1 in an amount not to exceed the lesser of (1) the applicable dollar amount as defined in Code Section 414(v)(2)(B), as adjusted for the cost-of-living in accordance with Code Section 414(v)(2)(C), or (2) the excess (if any) of (i) the Participant's Includible Compensation for the year, over (ii) any other elective deferrals of the Participant for such year which are made without regard to this Section 4.3.

An additional contribution made pursuant to this Section 4.3 shall not, with respect to the year in which the contribution is made, be subject to any otherwise applicable limitation contained in Code Section 402(g), or be taken into account in applying such limitation to other contributions or benefits under the Plan or any other plan. This Section 4.3 shall not apply in any Plan Year in which Section 4.2 applies because the maximum deferral limit under Section 4.2 is higher than the maximum deferral limit under Section 4.1, when combined with the limit under this Section 4.3.

- 4.4 Another Eligible Deferred Compensation Plan.** If the Participant is or has been a participant in one or more other Eligible Deferred Compensation Plans, then this Plan and all such other plans shall be considered one plan for purposes of applying the foregoing limitations of this Article 4. For this purpose, the Employer shall take into account any other such Eligible Deferred Compensation Plan maintained by the Employer and shall also take into account any other such Eligible Deferred Compensation Plan for which the Employer receives from the Participant sufficient information concerning his or her participation in such other plan.
- 4.5 Cash Method of Accounting.** For purposes of applying the limitations in Sections 4.1, 4.2 and 4.3, Base Compensation deferred under the Plan for a pay period shall be treated as deferred as of the pay day for that pay period.

ARTICLE 5 ACCOUNTS

- 5.1 Participants' Accounts.** A separate bookkeeping Account shall be maintained for each Participant. Within each Account, one or more sub-accounts may be established including (1) an Elective Deferral Account, (2) a Roth 457(b) Contributions Account, (3) a 457(b) Rollover Account, (4) a non-457(b) Rollover Account, (5) a Roth 457(b) Rollover Account,

(6) a Roth non-457(b) Rollover Account, (7) a Rollover of In-Plan Roth non-457(b) Rollover Account, and/or (8) In-Plan Roth 457(b) Rollover Account.

- (a) Each Account shall be credited with the amount of the Participant's Base Compensation deferred under Section 3.2 and with any amount transferred to this Plan with respect to the Participant as provided in Sections 14.1 or 14.3.
- (b) Each Participant's Account shall be debited with the amount of any payment to the Participant under this Plan, with any amount transferred to a separate account for an Alternate Payee with respect to the Participant as needed, and with any amount of the Participant's Account transferred to another plan as provided in Section 14.2.
- (c) At such dates and frequency as are reasonably determined by the Employer, a Participant's Account also shall be credited with the amount of income and gain allocable to the Account and also shall be debited with the amount of loss, expenses, and charges allocable to the Account.
- (d) A written report of the status of each Participant's Account shall be furnished to the Participant at least annually.

5.2 Investments. A written report of the status of each Participant's Account shall be furnished to the Participant at least annually. Each Account shall be invested as directed by the Participant or Alternate Payee in such one or more Investment Products as are determined and approved by the Committee and allowed by Oregon law.

- (a) The amount of each Account shall be invested in such one or more of those approved Investment Products as are designated by the Participant or Alternate Payee in a manner approved by the Employer.
 - (1) A Participant's or Alternate Payee's investment designation shall apply to the amount of the Participant's or Alternate Payee's Account after the Participant's or Alternate Payee's death until the Beneficiary makes an investment designation in a manner approved by the Employer.
 - (2) A Participant's investment designation with respect to any portion of the amount of the Participant's Account transferred to an Alternate Payee's Account shall apply to the amount of the Alternate Payee's Account until the Alternate Payee makes an investment designation in a manner approved by the Employer.

- (b) Investment designations shall be implemented as soon as administratively feasible, subject to any restrictions imposed by the Designated Institution.
- (c) Neither the Employer nor the Committee shall be liable to any Participant, Beneficiary, Alternate Payee, or other person for any loss due to the Employer's determination and approval of Investment Products, due to the Employer's failure to monitor the performance of those approved Investment Products, or due to the investment performance of amounts invested in those approved Investment Products, unless committed in bad faith, intentionally, or with reckless indifference to the interest of the Participant, Beneficiary, Alternate Payee, or other person.

5.3 Expenses and Charges. The Committee shall determine the reasonable expenses of the Employer and the Committee that are associated with the deferral of Compensation under this Plan, investing the amount of Accounts, or administering this Plan, and also shall determine the expenses and charges associated with the Investment Products designated by the Participant, Beneficiary, or Alternate Payee. The Employer may charge such expenses and charges to and among Participants', Beneficiaries', and Alternate Payees' Accounts in such manner as the Employer determines equitable. However, general expenses of the Employer may not be charged to this Plan or to Accounts.

ARTICLE 6 BENEFITS

6.1 General Benefit Terms.

- (a) Benefit payments to a Participant or Beneficiary shall be made according to the manner and method of payment as elected in the Payout Request, which election may be changed by a Participant or a Beneficiary as appropriate and as allowed by the Plan at any time.
- (b) Subject to the restrictions on choice of benefit contained in paragraphs 6.1(c) and (d), 6.4 and 6.5, the options available for selection by the Participant or Beneficiary as the manner and method of payment are:
 - (1) Lump sum(s);
 - (2) Periodic payments for a designated period;
 - (3) Periodic payments for life;

- (4) Periodic payments for life with a guaranteed minimum number of payments;
- (5) Periodic payments for the life of the Participant with continuation of the payments or a percentage of the payments for the lifetime of the Participant's spouse;
- (6) Such other options as a Designated Institution may, in its sole discretion, offer to the Participant prior to the commencement of benefits.

Periodic payments may be monthly, quarterly, semiannually, or annually. For life annuity contracts, the amount of each payment may be fixed or may fluctuate with the performance of the Investment Products.

- (c) If participant's account balance is less than \$5,000, a distribution may be made in a lump sum to the participant within sixty-one (61) days after the close of the year in which the participant has separated from service.
- (d) In determining the amount of benefit payments, the minimum incidental death benefit rule of Code Section 401(a)(9)(G) must be satisfied. To the extent that the payment required under this rule is greater than the amount determined under 6.1(c), the greater amount must be paid.
- (e) All distributions under the Plan must comply with Code Section 401(a)(9). Benefit distributions under the Plan must commence by April 1 of the calendar year following the later of (1) the calendar year in which the Participant attains age 72, or (2) the calendar year in which the Participant incurs a Severance from Employment. If the Participant attained age 70½ before January 1, 2020, however, "age 72" in the prior sentence shall be replaced with "age 70½".

Any method or form of distribution selected by the Participant must be designed to pay the Participant the value of his or her benefits under the Plan over a period not to exceed the Participant's life or life expectancy or the joint lives or life expectancy of the Participant and the Participant's Eligible Designated Beneficiary. The life expectancy of a Participant and the joint life expectancy of a Participant and the Participant's Eligible Designated Beneficiary shall be determined in accordance with applicable law and regulations, provided that the life expectancy of a

Participant or the Participant's spouse (if the Eligible Designated Beneficiary) may from time to time be re-determined, but not more frequently than annually.

- (f) Notwithstanding anything in this section 6.1 to the contrary, distributions required under Code Section 401(a)(9) that would otherwise be made during the 2020 calendar year shall not be made, pursuant to Section 2203 of the Coronavirus Aid, Relief, and Economic Security ("CARES") Act of 2020, unless the affected Participant makes an affirmative distribution election for 2020. Periodic payments to Participants and lump-sum distributions requested by Participants that would satisfy the requirements for minimum distributions under Code Section 401(a)(9) shall still be made in 2020 unless the Participant requests suspension of the monthly withdrawals or elects to return the distribution to the Plan by August 31, 2020.

6.2 Benefits upon Retirement. Following the Participant's Severance from Employment on or after attainment of Normal Retirement Age, the custodian shall begin payments to the Participant in accordance with the Participant's elections made in the Payout Request; provided, however, that payments shall begin no later than April 1 of the calendar year following the later of (1) the calendar year in which the Participant attains age 72, or (2) the calendar year in which the Participant incurs a Severance from Employment. If the Participant attained age 70½ before January 1, 2020, however, "age 72" in the prior sentence shall be replaced with "age 70½".

6.3 Benefits upon Severance from Employment. If Severance from Employment occurs prior to attainment of the Normal Retirement Age determined under Section 2.23, the custodian shall begin benefit payments as soon as administratively practicable following the Participant's Severance from Employment and his or her subsequent submission of a Payout Request; provided, however, that in lieu of requesting a distribution under this Section 6.3, a Participant instead may request a plan-to-plan transfer under Section 14.3 below. The custodian shall begin payments to the Participant in accordance with the Participant's elections made in the Payout Request; provided, however, that payments shall begin no later than April 1 of the calendar year following the later of (1) the calendar year in which the Participant attains age 72, or (2) the calendar year in which the Participant incurs a Severance from Employment. If the Participant attained age 70½

before January 1, 2020, however, “age 72” in the prior sentence shall be replaced with “age 70½”.

6.4 Elective Distributions. Regardless of whether he or she has experienced a Severance from Employment, a Participant may choose to receive a distribution from his or her 457(b) Rollover Account, Non-457(b) Rollover Account, Roth 457(b) Rollover Account, Rollover of In-Plan Roth non-457(b) Rollover Account and Roth non-457(b) Rollover Account at any time by submitting a Payout Request.

6.5 Payment of Benefits upon Participant’s Death.

- (a) Upon the death of a Participant, the deceased Participant’s Account will be distributed to the Beneficiary in accordance with the provisions of this section.
- (b) The designation of a Beneficiary will be made in a form satisfactory to the Employer. A Participant or Beneficiary may at any time revoke his or her designation of a Beneficiary or change his or her Beneficiary by filing written notice of such revocation or change. In the event no valid designation of Beneficiary exists at the time of the Participant’s or Beneficiary’s death, or the named beneficiary does not survive the Participant or Beneficiary, the death benefit will be payable in accordance with Section 8.2.
- (c) The Employer may require such proper proof of death and such evidence of the right of any person to receive payment of the value of an Account of a deceased Participant as it deems appropriate. The Employer’s determination of death and of the right of any person to receive payment will be conclusive and binding on all interested parties.
- (d) If minimum payments under Code Section 401(a)(9) have not begun upon the death of a Participant and if the Beneficiary is an Eligible Designated Beneficiary but not the Participant’s surviving spouse, death benefits payments under the Plan must, in accordance with the Eligible Designated Beneficiary’s election or, if an election is not made, in accordance with the relevant provisions in the Plan:
 - (1) Begin to be distributed to the Eligible Designated Beneficiary no later than December 31 of the calendar year immediately following the calendar year of the Participant’s death, payable over a period not to exceed the life expectancy of the Eligible Designated Beneficiary; or

- (2) Be distributed no later than December 31 of the calendar year containing the tenth anniversary of the Participant's death.

Notwithstanding the foregoing, if an Eligible Designated Beneficiary dies before the Eligible Designated Beneficiary's interest is entirely distributed, or if the Eligible Designated Beneficiary is a child of the Participant who reaches age 21 before the child's interest is entirely distributed, the remaining portion of such interest shall be distributed within ten years after the death or age of majority of the Eligible Designated Beneficiary, as applicable.

- (e) If the Beneficiary is the Participant's surviving spouse and minimum payments under Code Section 401(a)(9) have not begun upon the death of the Participant, minimum payments to the surviving spouse must begin by the later of:
 - (1) December 31 of the calendar year immediately following the calendar year in which the Participant dies; or
 - (2) December 31 of the year in which the Participant would have attained age 72.
- (f) Payments to the surviving spouse under Section 6.5(e) above must be made over a period not to exceed the surviving spouse's life expectancy. However, a surviving spouse may elect to receive the death benefit payments no later than December 31 of the calendar year containing the tenth anniversary of the Participant's death.
- (g) If minimum payments under Code Section 401(a)(9) have begun prior to the Participant's death, the remaining portion of the Account shall be distributed to an Eligible Designated Beneficiary at least as rapidly as under the method of distribution in effect prior to the death of the Participant.
- (h) If there is no designated Beneficiary as of the date of the Participant's death, or if the designated beneficiary is not an Eligible Designated Beneficiary, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death where there is no designated Beneficiary and by December 31 of the calendar year containing the tenth anniversary of the Participant's death where the designated Beneficiary is not an Eligible Designated Beneficiary.

- (i) Notwithstanding anything in this section 6.5 to the contrary, distributions required under Code Section 401(a)(9) that would otherwise be made during the 2020 calendar year shall not be made, pursuant to Section 2203 of the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act of 2020, unless the affected Beneficiary makes an affirmative distribution election for 2020. Regular monthly distributions to Beneficiaries and lump-sum distributions requested by Beneficiaries that would satisfy the requirements for minimum distributions under Code Section 401(a)(9) shall still be made in 2020 unless the Beneficiary requests suspension of the monthly withdrawals or elects to return the distribution to the Plan by August 31, 2020.

6.6 In-Service Distributions. While still employed by the Employer, a Participant may request, and upon approval of the Employer, receive an in-service distribution from the Participant’s Account, provided that:

- (a) The Participant’s Account balance is \$5,000 or less (or such amount as may be designated in Code Section 457(e)(9)); and
 - (1) The Participant has made no deferrals during the two-year period ending on the date of the distribution; and
 - (2) The Participant has not received any prior in-service distribution as described in this Section 6.6 (a); or
- (b) The Participant has been approved by a tax qualified governmental defined benefit plan (as defined in Code Section 414(d)) to purchase service credits with a direct transfer from this Plan, and such in service distribution does not exceed the total amount required to purchase such service credits; or
- (c) Effective for in-service distributions requested on or after January 1, 2020, the Participant has reached age 59½ or will reach age 59½ in the calendar year in which the request occurs.

6.7 Qualified Birth or Adoption Distributions.

- (a) A Qualified Birth or Adoption Distribution, or “QBAD,” is a distribution from the Participant’s Account on or after January 1, 2020 that meets the following requirements:

- (1) The distribution is made during the one-year period following the date on which a child of the Participant is born or on which legal adoption by the Participant of an Eligible Adoptee is finalized. An Eligible Adoptee is a child other than a child of the Participant's spouse who is either under age 18 or physically or mentally incapable of self-support, as described under Code Section 72(m)(7).
 - (2) The distribution is limited to \$5,000 for each Eligible Adoptee. This \$5,000 limit shall be aggregated among all eligible retirement plans and IRAs in which the Participant participates or of which the Participant is an owner. The Committee shall enforce this limit with respect to all eligible retirement plans sponsored by the Employer, but may reasonably rely on any self-certification from the Participant that the limit has not been reached when taking other plans into account.
 - (3) The QBAD may be repaid to the Plan if the repayment is made while the participant remains eligible to make rollover contributions to the Plan, in accordance with Section 14.1(f).
- (b) Eligible Participants shall be permitted to request and receive a QBAD, as provided in subsection (a). The Committee shall not withhold any portion of the QBAD, notwithstanding the treatment of the QBAD as a rollover contribution upon repayment. The Committee shall establish and implement any necessary administrative procedures for a QBAD, in accordance with Code Section 72(t)(2)(H).

6.8 CARES Act Distributions.

- (a) A CRD-Qualified Participant is a Participant who has self-certified that one of the following is true:
- (1) The Participant has been diagnosed with COVID-19 through a CDC-approved test;
 - (2) The Participant's spouse or dependent, as defined under Subsection 152 of the Code, has been diagnosed with COVID-19 through a CDC-approved test; or

- (3) The Participant has experienced adverse financial consequences as a result of:
 - (i) the Participant being quarantined, being furloughed or laid off by the County, having their County work hours reduced, remaining an employee of the County but being unable to work because of a lack of child care, experiencing a reduction in pay, or having a job offer rescinded or a start date delayed due to COVID-19;
 - (ii) the Participant's spouse or person who shares the Participant's principal residence being quarantined, being furloughed or laid off, having work hours reduced, being unable to work due to lack of childcare, experiencing a reduction in pay, or having a job offer rescinded or a start date for a job delayed due to COVID-19; or
 - (iii) closing or reducing hours of a business owned or operated by the Participant, the Participant's spouse, or a person who shares the Participant's principal residence.

- (b) Notwithstanding anything in this Article 6 to the contrary, a CRD-Qualified Participant shall be permitted to request and receive the following distributions from the Participant's Account:
 - (1) For the limited period beginning on April 20, 2020 and ending on August 17, 2020, a distribution not to exceed the lesser of the total balance in the Participant's Account and \$20,000.
 - (2) For the limited period beginning on August 18, 2020 and ending on December 30, 2020, a distribution not to exceed the lesser of the total balance in the Participant's Account and \$100,000; provided, however, that this \$100,000 limit shall be reduced by any distribution received under subsection (1) above.

The Committee shall establish and implement any necessary administrative procedures for any such distribution in order to comply with the requirements of Section 2202(a) of the CARES Act of 2020. To the extent the December 30, 2020 deadline for receiving distributions under this Section 6.7 is extended by act of law without modifying the other rules contained herein or the repayment rules

contained in Section 14.1(e), such extended deadline shall be implemented without requiring an amendment to the Plan.

ARTICLE 7 HARDSHIP WITHDRAWALS

- 7.1 Application for Withdrawal.** In the case of an Unforeseeable Emergency prior or subsequent to the commencement of benefit payments, a Participant who is not eligible for an in-service distribution at age 59½ under Section 6.6(c) may apply for a withdrawal of an amount reasonably necessary to satisfy the emergency need. If the Committee (or its delegate) reviews the application and determines that the applicable standards are satisfied, the withdrawal will be effective at the later of the date specified in the Participant's application or the date of approval by the Committee (or its delegate). The approved amount shall be payable in a lump sum within thirty (30) days of such effective date or in some other manner consistent with the emergency need as determined by the Committee (or its delegate). If the Participant's request is denied, a request for review of the determination may be made in writing to the Committee (or its delegate). If the review of the determination fails to confirm a claim of Unforeseeable Emergency, a written appeal may be made to the Committee (or its delegate). Unforeseeable Emergency withdrawals will be made in accordance with procedures established by the Designated Institution and/or Investment Product.
- 7.2 Unforeseeable Emergency.** For the purposes of this Plan, the term "Unforeseeable Emergency" means a severe financial hardship to the Participant resulting from a sudden and unexpected illness or accident of the Participant or his or her spouse, or of a dependent (as defined in Code Section 152(a)) of the Participant, or of a Primary Beneficiary of the Participant, loss of the Participant's property due to casualty, or other similar, extraordinary, and unforeseeable circumstances arising as a result of events beyond the control of the Participant. Withdrawals for foreseeable expenditures normally budgetable, such as a down payment on or purchase of a home, purchase of an automobile, or college expenses, will not be permitted. The Committee (or its delegate) shall not permit withdrawal for an Unforeseeable Emergency to the extent that such hardship is or may be relieved:
- (a) Through reimbursement or compensation by insurance or otherwise;

- (b) By liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or
- (c) By cessation of deferrals under the Plan.

For purposes of this Section 7.2, a "Primary Beneficiary" of a Participant is an individual who is named as a Beneficiary of the Participant under the Plan, and who has an unconditional right to all, or a portion of, the Participant's Account balance under the Plan upon the death of the Participant.

7.3 Limits on Withdrawals and Future Contributions. In no event shall the amount of a withdrawal for an Unforeseeable Emergency exceed the balance in the Participant's Account at the time of withdrawal. Notwithstanding any other provision of this Plan, if a Participant makes a withdrawal hereunder, the Participant's Account shall be appropriately reduced to reflect such withdrawal, and the remainder of any benefits shall be payable in accordance with otherwise applicable provisions of the Plan.

ARTICLE 8 BENEFICIARIES

8.1 Designation. A Participant shall have the right to designate a Beneficiary, and to amend or revoke such designation at any time by designating one or more Beneficiaries in a manner approved by the Employer. Such designation, amendment or revocation shall be effective upon receipt by the Employer. Notwithstanding the foregoing, a Participant who elects a joint and survivor annuity form of payment may not elect a non-spouse joint annuitant, and may not change his or her joint annuitant after payments commence. Further, if, at the time the designation of Beneficiary was made, the Participant named a current spouse as Beneficiary, but the Participant was not married to that same spouse at the time of the Participant's death, such designation shall be void, subject to the Participant later filing a new designation naming the former spouse as Beneficiary.

8.2 Failure to Designate a Beneficiary. If a Participant fails to elect a Beneficiary or no designated Beneficiary survives the Participant, and benefits are payable following death, such benefits will be payable in the following order of priority:

- (a) To the Participant's surviving spouse.

- (b) To the Participant's children in equal shares. If any of the Participant's children are deceased but have a surviving child or children, the deceased child's portion of the benefit will go to the deceased child's living children in equal shares.
- (c) To the Participant's surviving parents in equal shares.
- (d) To the Participant's siblings in equal shares. If any of the Participant's siblings are deceased but have a surviving child or children, the deceased sibling's portion of the benefit will go to the deceased sibling's living children in equal shares.
- (e) To the Participant's estate.

ARTICLE 9 LEAVE OF ABSENCE

- 9.1 Approved Leave of Absence.** A Participant on an approved leave of absence (whether paid or unpaid) may continue to participate in the Plan subject to all the terms and conditions of the Plan. Subject to a different instruction from the Participant, Base Compensation shall be deferred for such Participant if such Base Compensation (or a portion thereof) continues while the Participant is on an approved leave of absence.
- 9.2 Uniformed Services Leaves.** Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).

ARTICLE 10 ASSIGNMENT AND ALIENATION

- 10.1 Participant's Rights Not Assignable.** Neither the Participant nor any other person shall have any right to commute, sell, assign, pledge, transfer, or otherwise convey or encumber the right to receive any payments hereunder, which payments and rights thereto are expressly declared to be unassignable and nontransferable. Except as otherwise provided under Article 12, no unpaid benefits shall be subject to attachment, garnishment, or execution for the payment of any debts, judgments, alimony, or separate maintenance owed by the Participant or any other person or be transferable by operation of law in the event of bankruptcy or insolvency of the Participant or any other person.
- 10.2 No Loans Permitted.** Participant loans are not permitted under the Plan.

- 10.3 IRS Levy.** Notwithstanding Section 10.1, the Plan may pay from a Participant's or Beneficiary's Account the amount that the Committee finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

ARTICLE 11 ADMINISTRATION

- 11.1 Plan Administrator.** This Plan shall be administered by the Employer. The Employer may appoint a Committee of one or more individuals in the employment of the Employer for the purpose of discharging the administrative responsibilities of the Employer under the Plan. The Committee will represent the Employer in matters concerning the administration of this Plan; provided, however, that the final authority for all administrative and operational decisions relating to the Plan remains with the Employer.
- 11.2 Powers of the Committee.** The Committee shall have full power and authority to:
- (a) Present recommendations to the Employer for consideration in order to adopt rules and regulations for the administration of the Plan, provided they are not inconsistent with the provisions of this Plan or Code Section 457 and any Treasury regulations promulgated thereunder, and to interpret, alter, amend, or revoke any rules and regulations so adopted;
 - (b) To recommend to the Employer to enter into contracts with respect to this Plan and in accordance with the Employer's purchasing policy;
 - (c) To make discretionary decisions under this Plan, including decisions under Article 7 (Hardship Withdrawals) and under Section 11.5 (Claims Procedure); and
 - (d) To demand satisfactory proof of the occurrence of any event that is a condition precedent to the commencement of any payment or discharge of any obligation under the Plan.
- 11.3 Disqualification of Committee Members.** If otherwise eligible, a Committee member shall be eligible to participate in the Plan, but such person shall not be entitled to participate in discretionary decisions relating to such person's own participation in or benefits under the Plan.

11.4 Selection of Approved Institutions. The Committee shall screen and recommend to the Employer for approval any insurance company or other entity seeking to sell an Investment Product or otherwise operate as an Approved Institution under this Plan. The Employer may contract with an Approved Institution (a) to issue to the Employer an Investment Product as described in Article 5 of the Plan, or (b) to provide services under the Plan for the convenience of the Employer including, but not limited to, the enrollment of Eligible Individuals as Participants on behalf of the Employer; the maintenance of individual or other accounts and other records; the making of periodic reports; and the disbursement of benefits to Participants, Alternate Payees, and Beneficiaries.

11.5 Claims Procedure.

- (a) Upon the request of a Participant, Beneficiary, or Alternate Payee, the Employer shall provide claim forms to any Participant, Beneficiary, or Alternate Payee who is or may be entitled to benefits hereunder. Such claim form shall be completed and submitted to the Employer no later than thirty (30) days after it is received by said claimant. Upon receipt of the claim form, the Employer shall review the claim and, if the Employer determines that the claim should not be allowed, shall respond within thirty (30) days of receipt of the claim. Such response shall be in writing and shall include the specific reason or reasons for the denial, specific references to pertinent Plan provisions on which the denial is based, a description of whatever additional material or information, if any, must be supplied by the claimant to perfect the claim, and an explanation of the Plan's review procedure. If notice of the denial of a claim is not furnished within thirty (30) days of receipt by the Committee, the claim shall be deemed denied.
- (b) Within sixty (60) days after receipt of notice of denial of the claim or when the claim is deemed to have been denied, the claimant (or his or her representative) may respond to the denial by requesting, in writing, a review of the decision and a review of pertinent documents. If the claimant responds and seeks a review of the decision to deny benefits, issues and comments must be submitted in writing to the Employer. Such issues and comments shall specify the reasons that the decision of the Employer is claimed to be erroneous. The Employer shall review the contentions regarding the denial of the claim and shall, within sixty (60) days from the Employer's receipt of the request for review, respond to said request. If

the Employer, in its sole discretion, determines that special circumstances warrant the holding of a hearing, it shall promptly be held and a decision shall be rendered within one hundred twenty (120) days from the date the Plan received the request for review. Any decision on review shall be in writing and shall state the specific reasons for the decision, and shall make specific references to the Plan provisions on which the decision is based.

- (c) The Committee or an Approved Institution shall make all reasonable attempts to determine the identity and address of a Participant or Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt may include the mailing by certified mail of a notice to the last known address shown on the Employer's or Approved Institution's records.

If the Committee or the Approved Institution is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Plan shall continue to hold the benefits due such person until, in the Employer's sole discretion, the Plan is required to take other action under applicable law. Such action may include the forfeiture of the Participant's or Beneficiary's Accounts. Such forfeitures will be applied toward the payment of expenses of the Plan. If so forfeited, and if a person subsequently files a valid claim for such benefit, then such forfeited amount shall be restored to the Participant's or Beneficiary's Account (without interest) and thereupon distributed in accordance with the Plan. Such restored amounts shall be provided from the earnings of the Plan or from such other appropriate source.

ARTICLE 12 QUALIFIED DOMESTIC RELATIONS ORDERS

- 12.1 Payment to Alternate Payee.** To the extent required by and subject to the restrictions of ORS 243.507 or Code section 414(p), the amount of a Participant's Account shall be paid, in whole or in part, to an Alternate Payee if and to the extent expressly provided for in the terms of any court decree of annulment or dissolution of marriage or of separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of annulment or dissolution of marriage or of separation.

12.2 Required Information and Documentation. No benefit under this Plan may be paid to an Alternate Payee under the terms of a court decree or order or court-approved property settlement agreement (“Order”) until after the date the Employer receives a copy of the Order and such additional information and documentation as satisfies the Employer:

- (a) That the copy is a true copy of the Order.
- (b) That the Order is, within the meaning of ORS 243.507, a court decree of annulment or dissolution of marriage or of separation, or a court order or court-approved property settlement agreement incident to such a decree.
- (c) Of the extent to which the terms of the Order expressly provide for payment of a benefit under this Plan to an Alternate Payee.
- (d) Of any other fact or matter required for the Employer to:
 - (1) Determine the application of ORS 243.507 to the Order or the extent to which the Order applies to this Plan.
 - (2) Comply with the Order or with ORS 243.507.
 - (3) Administer this Plan under the terms of the Order.

12.3 Coordination with Other Provisions of This Plan. With respect to amounts payable to an Alternate Payee, the custodian shall begin benefit payments to the Alternate Payee as soon as administratively practicable after the requirements of Section 12.2 have been satisfied, in accordance with the Alternate Payee’s elections made in a Payout Request made in accordance with the distribution requirements provided in Article 6.

ARTICLE 13 AMENDMENT OR TERMINATION OF PLAN

13.1 Employer’s Authority. The Employer may terminate or amend the provisions of this Plan at any time; provided, however, that no termination or amendment shall affect the rights of a Participant, Alternate Payee, or a Beneficiary to the receipt of payment of benefits with respect to any Base Compensation deferred or Employer Contributions received before the time of the termination or amendment, as adjusted for investment experience of the Investment Product of the Designated Institution prior to or subsequent to the termination or amendment, except as may be permitted or required by law.

13.2 Procedure upon Termination of Plan. Upon termination of the Plan, the Participants in the Plan will be deemed to have withdrawn from the Plan as of the date of such termination. Participants will resume receipt of their full Compensation without any further deferrals pursuant to Section 3.2 of the Plan. The Employer shall not distribute Plan benefits at the time of such termination; rather, the custodian shall retain all Participant Accounts and shall pay or dispose of Participant Accounts only as otherwise provided in the Plan and according to the terms and conditions of the Plan.

ARTICLE 14 ROLLOVERS

14.1 Rollover Contributions. An Eligible Individual (whether or not he or she is a current Participant) may roll over amounts that are considered “eligible rollover distributions” within the meaning of Code Section 402(c)(4) from an “eligible retirement plan” within the meaning of Code Section 402(c)(8)(B).

- (a) Amounts (other than designated Roth contributions as defined in Code Section 402A) rolled over from another Eligible Deferred Compensation Plan will be allocated to the Participant’s 457(b) Rollover Account. Amounts (other than designated Roth contributions as defined in Code Section 402A) rolled over from an eligible retirement plan that is not a Code Section 457(b) plan will be allocated to the Participant’s non-457(b) Rollover Account.
- (b) Designated Roth contributions as defined in Code Section 402A rolled over from another Eligible Deferred Compensation Plan will be allocated to the Participant’s Roth 457(b) Rollover Account. Designated Roth contributions as defined in Code Section 402A rolled over from an eligible retirement plan that is not a Code Section 457(b) plan will be allocated to the Participant’s Roth non-457(b) Rollover Account.
- (c) Designated Roth contributions relating to in-plan rollovers under Code Section 402A(c)(4) rolled over from an eligible retirement plan that is not a Code Section 457(b) plan will be allocated to the Participant’s Rollover of In-Plan Roth non-457(b) Rollover Account.
- (d) Amounts attributable to In-Plan Rollovers will be allocated to an In-Plan Roth 457(b) Rollover Account. In-Plan Roth Rollover Contributions will be subject to the Plan rules related to Roth 457(b) Contributions.

- (e) A repayment to the Plan from a Participant who received a Coronavirus-Related Distribution (“CRD”) pursuant to the requirements of Subsection 2202(a) of the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act of 2020 shall be treated as an eligible rollover and allocated in accordance with the terms of this Section 14.1. Such Participant shall be permitted to repay any portion of a CRD to this Plan, provided that the repayment or repayments are made by no later than the end of the three-year period beginning on the date the CRD was received. The repayment to the Plan shall be treated as an indirect rollover, and the Committee may work with the Designated Institution to establish procedures for the acceptance of CRD rollovers.
- (f) A repayment to the Plan from a Participant who received a Qualified Birth or Adoption Distribution (“QBAD”) under Section 6.7 shall be treated as the direct transfer of an eligible rollover distribution, as defined in Code Section 402(c)(4), and shall be allocated in accordance with the terms of this Section 14.1. Such Participant shall be permitted to repay any portion of a QBAD, provided the Participant remains eligible to make rollover contributions to the Plan. The Committee may work with the Designated Institution to establish procedures for the acceptance of QBAD rollovers.

All rollovers into this Plan are subject to the approval of the Employer and the applicable Designated Institution(s). Rollovers received by the Plan shall not be applied against the deferral limitation described in Article 4, and shall be fully vested. If the Plan accepts an amount as a rollover contribution based on the reasonable conclusion of the Employer or its delegate that the contribution is a valid rollover contribution, but it is later determined that the rollover contribution did not satisfy the statutory or regulatory rollover rules, a distribution shall be made to the affected Participant in an amount equal to such invalid rollover contribution, plus any earnings attributable thereto.

14.2 Direct Rollovers of Plan Distributions. The Plan will make direct rollovers of Plan distributions at the request of the Participant, subject to the provisions of Article 6 and Article 12, to:

- (a) an Eligible Deferred Compensation Plan;
- (b) a qualified plan described in Code Section 401(a), 401(k) or 403(a);

- (c) an annuity contract described in Code Section 403(b);
- (d) an individual retirement account or annuity described in Code Section 408(a) or 408(b);
- (e) a Roth individual retirement account described under Code Section 408A.

Notwithstanding any provisions of the Plan to the contrary that would otherwise limit an election under this section, the surviving spouse of a Participant (or the Participant's former spouse who is an Alternate Payee under a Qualified Domestic Relations Order, as defined in Code section 414(p)) may elect, at the time and in the manner prescribed by the Plan, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan in a direct rollover.

Effective for Plan Years beginning on or after January 1, 2010, a non-spouse Beneficiary may elect to make a direct rollover to an inherited individual retirement account or annuity described in Code Section 408(a) or Section 408(b), or a Roth individual retirement account described in Code Section 408A(a), that is established on behalf of the Beneficiary. Such rollover shall be made in a manner consistent with Code Section 402(c)(11) and any other applicable guidance.

14.3 Plan to Plan Transfers. If a Participant incurs a Severance from Service and subsequently performs services for another employer described in Code Section 457(e)(1)(A) which maintains an Eligible Deferred Compensation Plan, the amounts deferred under the Plan shall, at the Participant's election, be transferred to such other Eligible Deferred Compensation Plan, provided:

- (a) The Eligible Deferred Compensation Plan to which the Participant's benefit is being transferred provides for the acceptance of such amounts; and
- (b) The Participant has a benefit amount immediately after the transfer which at least equals the benefit amount under this Plan immediately before the transfer.

Upon the transfer of amounts under this Section 14.3, the Plan's liability to pay benefits to the Participant or Beneficiary will be discharged to the extent of the amount so transferred on behalf of the Participant or Beneficiary. The Employer may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 14.3 or effectuate the transfer pursuant to Treasury Regulations Section 1.457-10(b). If

Roth 457(b) contributions are transferred, the receiving plan must permit designated Roth contributions as defined in Code Section 402A.

- 14.4 Transfer of Entire Plan.** Subject to this Section 14.4, the Employer may direct the transfer of all assets of the Plan to another Eligible Deferred Compensation Plan that is located in the State of Oregon, provided that the requirements of Code Section 457(b) and Treasury Regulations Section 1.457(b)-10(b)(3) are satisfied. If Roth 457(b) Contributions are transferred, the receiving plan must permit designated Roth contributions as defined in Code Section 402A.

ARTICLE 15 PLAN ASSETS

- 15.1 Funding Medium for Plan Assets.** All assets of the Plan, including all amounts deferred pursuant to Sections 3.2 and 3.3 (except those that have been transferred out pursuant to Section 14.2, 14.3 or 14.4), all amounts transferred to the Plan pursuant to Section 14.1, all property and rights purchased with Deferrals, Employer contributions and transferred amounts, and all income attributable to such amounts, property, or rights shall (until made available to a Participant, Alternate Payee, or Beneficiary pursuant to the distribution provisions of Article 6) be held in a trust, custodial account, or annuity contract described in Code Section 457(g) for the exclusive benefit of Participants and their Beneficiaries.
- 15.2 No Reversion.** Except as otherwise provided in the Plan or permitted by the Code, no part of the Plan assets shall be paid over or revert to the Employer or be used for any purpose other than for the exclusive benefit of Participants, Alternate Payees and their Beneficiaries, and for reasonable expenses of administration of the Plan.

ARTICLE 16 MISCELLANEOUS

- 16.1 Governing Law.** The Plan shall be construed under the laws of the state of Oregon, except to the extent superseded by federal law, including the Code.
- 16.2 Severability.** If any provision of this Plan shall be held illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining parts of this Plan, but this Plan shall be construed and enforced as if said illegal or invalid provision had never been included herein.

16.3 Mistaken Contributions. If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Committee, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Committee, to the Employer.

IN WITNESS WHEREOF, the Employer has caused this Plan to be signed and attested by its duly authorized officers on the _____ day of _____, 2020.

Board of County Commissioners:

Chair

Recording Secretary

ATTACHMENT A

Pursuant to Section 3.3 of the Plan, the Employer shall make contributions to the Plan for the following employee groups and in the amounts set forth below, expressed as a percentage of the Eligible Employee's Base Compensation:

<u>Classification of Employees</u>	<u>Contribution Amount</u>
Peace Officers Association	Four percent (4%)
Federation of Parole and Probation Officers	One percent (1%)
Nonrepresented Group 1	Six and twenty-seven one hundredths percent (6.27%)

Pursuant to Section 3.5 of the Plan, the Employer shall automatically enroll new Eligible Employees from the following employee groups in the Deferral amounts set forth below, expressed as a percentage of the Eligible Employee's Base Compensation:

<u>Classification of Employees</u>	<u>Deferral Amount</u>
AFSCME - DTD	Five percent (5%)
AFSCME-WES	Five percent (5%)
Employees Association	Five percent (5%)
Housing Authority Employees Association	Five percent (5%)

Pursuant to Section 3.6 of the Plan, the Employer shall match Deferrals by Eligible Employees from the following employee groups, up to the amounts set forth below, expressed as a percentage of the Eligible Employee's Base Compensation:

<u>Classification of Employees</u>	<u>Matching Contribution Amount</u>
AFSCME – 911 Dispatch	Up to three percent (3%), effective March 1, 2017
C-COM Managers (portion of Nonrepresented Group 2)	Up to three percent (3%), effective August 1, 2017

Housing Authority of Clackamas County

Deferred Compensation Plan

**Amended and Restated
Effective January 1, 2021**

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ARTICLE 1 INTRODUCTION

The Housing Authority of the County of Clackamas, Oregon (“Employer”) hereby amends and restates this Deferred Compensation Plan (“Plan”), which was originally adopted in 1977. The provisions of this Plan, as amended and restated, shall be effective January 1, 2021, pursuant to Section 457 of the Internal Revenue Code of 1986, as amended (“Code”). The primary purpose of the Plan is to enable the Employer’s employees to enhance their retirement security by permitting them to enter into agreements with the Employer to defer compensation (both on a pre-tax and after-tax basis), receive Employer contributions (if any) and receive benefits at retirement, death, termination of employment, and for financial hardships due to unforeseeable emergencies.

Nothing contained in this Plan shall be deemed to constitute an employment contract or agreement for services between the Participant and the Employer, nor shall it be deemed to give a Participant any right to be retained in the employ of, or under contract to, the Employer. Nothing herein shall be construed to modify the terms of any employment contract or agreement for services between a Participant and the Employer.

ARTICLE 2 DEFINITIONS

2.1 3-Year Special Catch-up. The Plan may allow you to defer in the three years before reaching the plan’s Normal Retirement Age, the lesser of:

- (a) Twice the annual 457(b) limit, or
- (b) The annual 457(b) limit, plus amounts allowed in prior years that you did not contribute.

2.2 Account. The Account (and subaccounts) established for each Participant pursuant to Section 5.1, which shall also include any Account maintained or established for a Beneficiary.

2.3 Alternate Payee. A Participant’s spouse, former spouse, child, or other dependent who acquires an interest in the Participant’s Account pursuant to a court decree of annulment or dissolution of marriage or of separation, or a court-approved settlement agreement incident to annulment or dissolution of marriage or of separation. Where the context so requires, reference to the “Participant” in this Plan shall be deemed to include an Alternate Payee.

- 2.4 Approved Institution.** Any organization that has been recommended by the Committee and approved by the Employer to provide services or Investment Product(s) to the Employer under the Plan.
- 2.5 Base Compensation.** The portion of Includible Compensation consisting of any regularly scheduled salary or hourly compensation, including vacation pay, sick pay, and such other amount as may be determined or utilized by the Committee, but excluding bonuses, overtime pay, longevity pay, bilingual pay, and other extra pay.
- 2.6 Beneficiary.** The person(s), trust(s) or estate(s) entitled to receive benefits under the Plan upon death of a Participant in accordance with a suitable designation of Beneficiary filed with the Employer (or its delegate) and subject to applicable law.
- 2.7 Code.** The Internal Revenue Code of 1986, as amended from time to time, and including all valid regulations adopted pursuant to the Code.
- 2.8 Committee.** The committee appointed by the Employer as provided in Article 11 below to administer the Plan and perform administrative functions for the Plan as specified by the Employer.
- 2.9 Compensation.** All cash compensation paid to an Employee for employment services rendered to the Employer including salary, wages, fees, commissions, bonuses and overtime pay that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under Code Sections 125, 132(f), 401(k), 403(b) or 457(b) (including an election under Article 3 to defer Compensation under this Plan).
- 2.10 Deferrals.** The amount of Base Compensation deferred by a Participant to the Plan, consisting of Elective Deferrals and, effective January 1, 2014, Roth 457(b) Contributions.
- 2.11 Designated Institution.** As designated by the Employer, any Approved Institution whose Investment Product is used for purposes of measuring the benefits due that Participant pursuant to the Plan.
- 2.12 Elective Deferral.** Deferrals of Base Compensation made by the Employer to the Plan on a voluntary pre-tax basis pursuant to a Participation Agreement entered into by a Participant.

- 2.13 Eligible Deferred Compensation Plan.** An Eligible Deferred Compensation Plan within the meaning of Code Section 457(b) and the regulations thereunder.
- 2.14 Eligible Designated Beneficiary.** A designated beneficiary who is, at the time of the Participant's death: (a) the surviving spouse of the Participant; (b) a child of the Participant, but only during the period that the child is under age 21; (c) a disabled individual within the meaning of Code section 72(m)(7); (d) a chronically ill individual within the meaning of Code section 7702B(c)(2), except that that there must be a certification that the period of inability to perform at least two activities of daily living due to a loss of functional capacity is for an indefinite period which is reasonably expected to be lengthy in nature; or (e) any individual not described in (a) through (d) who is not more than ten years younger than the Participant.
- 2.15 Eligible Employee.** An Employee who has been appointed to a budgeted, allocated position and who is regularly scheduled to work at least twenty (20) hours per week, or for at least eighteen and three-quarters (18.75) hours in a Job Share status, and is scheduled to be in a paid status for twelve (12) months per year.
- 2.16 Eligible Individual.** Any Eligible Employee, any elected official, and any individual performing services for the Employer pursuant to an Employment Agreement, who performs services for the Employer for which Compensation is paid and who meets the criteria set forth in Section 3.1.
- 2.17 Employee.** An individual who performs services for the Employer and is classified by the Employer as a common-law employee, without regard to whether the individual is subsequently determined to have been an employee of the Employer during such period for employment tax or other purposes.
- 2.18 Employer.** The Housing Authority of Clackamas County, a political subdivision of the state of Oregon.
- 2.19 Employment Agreement.** A written agreement between the Employer and an Employee pertaining to the Employee's performance of services for the Employer in exchange for remuneration.
- 2.20 Includible Compensation.** An Employee's actual wages as reported in box 1 of Form W-2 for the Employer, but increased (up to the dollar maximum) by any Compensation

reduction election under Code section 125, 132(f), 402(g)(3) or 457(b). The amount of Includible Compensation is determined without regard to any community property laws.

Pursuant to Section 1.457-4(d)(1) of the Income Tax Regulations, Includible Compensation will include any payments made to a Participant who has had a Severance from Employment, provided that the Includible Compensation is paid by the later of 2½ months after the Participant's Severance from Employment or the end of the calendar year that contains the date of such Participant's Severance from Employment.

In addition, pursuant to Section 1.457-4(d)(1) of the Income Tax Regulations, Includible Compensation will include payments made to an individual who does not currently perform services for the Employer by reason of qualified military service (as defined in Code Section 414(u)(5)) to the extent those payments do not exceed the amount the individual would have received if the individual had continued to perform services for the Employer rather than enter qualified military service.

Includible Compensation will not include any Employee pick-up contributions described in Code Section 414(h)(2).

Includible Compensation shall be subject to the maximum limit that may apply under Code section 401(a)(17).

2.21 In-Plan Roth Rollover. A rollover contribution to the Plan that consists of a distribution from an Elective Deferral Account, a 457(b) Rollover Account or a non-457(b) Rollover Account under the Plan that the Participant rolls over to the Participant's In-Plan Roth 457(b) Rollover Account in the Plan, in accordance with Code Section 402A(c)(4).

2.22 Investment Product. Any product issued by or obtained from an Approved Institution for the purpose of investing amounts deferred or contributed under the Plan.

2.23 Normal Retirement Age.

(a) The Normal Retirement Age shall be 70½, unless the Participant makes an election under Section 2.23(b) below.

(b) The Participant may, at any time prior to Severance from Employment and prior to the use of the Catch-up Limitation provision described in Section 4.2, elect in writing in the form established or approved by the Employer a Normal Retirement Age that is not earlier than the earlier of age 65 or the earliest age at which the

Participant has the right to retire and receive unreduced retirement benefits from the Employer's basic pension plan and not later than the date the Participant attains age 70½.

- 2.24 Participant.** Any Eligible Individual who fulfills the eligibility and enrollment requirements of Article 3, or has received Employer contributions, and who has not received a distribution of his or her entire benefit under the Plan.
- 2.25 Participation Agreement.** A written agreement between the Employer and a Participant in a form satisfactory to the Employer setting forth certain provisions and elections relating to the Plan, establishing the amount of Base Compensation to be deferred, specifying whether the elected Deferral is an Elective Deferral or, effective January 1, 2014, a Roth 457(b) Contribution, incorporating the terms and conditions of the Plan, and establishing the Participant's participation in the Plan. Enrollments and enrollment changes made through electronic means, such as the Employer's employee self-service portal, or a contracted third party administrator's web site shall be deemed to meet the definition of this section.
- 2.26 Payout Request.** A written agreement between the Employer and a Participant in a form satisfactory to the Employer setting forth the manner and method of paying benefits under the Plan.
- 2.27 Plan.** The Housing Authority of Clackamas County Deferred Compensation Plan effective December 15, 1977, as amended. The effective date of this amended and restated Plan is January 1, 2021.
- 2.28 Plan Year.** The twelve (12) month period beginning January 1 and ending December 31.
- 2.29 Roth 457(b) Contributions.** Deferrals that are: (1) made by the Employer to the Plan pursuant to a Participation Agreement entered into by a Participant, which qualifies as a "designated Roth Contribution" within the meaning of Code section 402A; (2) irrevocably designated by the Participant at the time of the cash or deferred election as a Roth 457(b) Contribution that is being made in lieu of all or a portion of the Elective Deferrals the Participant is otherwise eligible to make under the Plan; and (3) treated by the Employer as includible in the Participant's income at the time the Participant would have received that amount in cash if the Participant had not made a "cash or deferred" election.

- 2.30 Severance from Employment.** The Participant ceases to be employed by the Employer that maintains the Plan. A Participant whose employment is interrupted by qualified military service under Code section 414(u) shall be deemed to be severed from employment until such time as the Participant is reemployed following the term of duty.
- 2.31 Underutilized Contributions.** A Participant who was eligible to contribute to the plan but did not, or contributed less than the maximum for which they were eligible, shall be deemed to have an unused balance available for the 3-Year Special Catch-up described in Section 4.2.

ARTICLE 3 PARTICIPATION IN THE PLAN

- 3.1 Eligibility.** Any Eligible Individual to whom Compensation is paid and who executes a Participation Agreement, or is deemed to have executed a Participation Agreement pursuant to the automatic enrollment provisions, is eligible to participate in the Plan.
- 3.2 Enrollment/Deferrals.**
- (a) An Eligible Individual may become a Participant and agree to make Deferrals by entering into a Participation Agreement. Effective January 1, 2014, any such election to defer Base Compensation shall specify whether such Deferrals are to be Elective Deferrals or Roth 457(b) Contributions or a combination thereof; in the absence of any such specification, the Participant's Deferrals shall be deemed to be Elective Deferrals. The effective date of participation in the Plan shall be no sooner than the first day of the calendar month immediately following the latest of the date (i) an individual becomes an Eligible Individual; (ii) the execution and processing, or deemed processing pursuant to the automatic enrollment provisions under Section 3.5, of a Participation Agreement with respect to that individual; or (iii) the execution and processing of any required agreements with the Designated Institution(s) selected by the Participant for investment of the Participant's Account.
 - (b) At the time of entering into or modifying the Participation Agreement hereunder to make Deferrals or at the time of reentry following a withdrawal under Article 7, a Participant must agree to defer a minimum amount of \$338 annually.

- (c) All Deferrals made under the Plan are fully vested and nonforfeitable at all times.
- (d) A Participant who elects to make Deferrals may modify the Participation Agreement to change the amount deferred only for a subsequent calendar month and only if the new Participation Agreement has been executed and processed prior to the first day of the month during which it is to be effective. The effective date of the modified Participation Agreement shall be the later of: (i) the first day of the calendar month immediately following the execution and processing of the modified Participation Agreement; or (ii) the date specified in the Participation Agreement.
- (e) A Participant may suspend further Deferrals with respect to Base Compensation not yet earned by submitting a revised Participation Agreement. The revocation of a Deferral election will be effective on the first day of the calendar month immediately following the execution and processing of the written revocation of participation. Amounts previously deferred shall be paid only as provided in this Plan. Any Employer-provided contributions made under the Plan may not be revoked by the Participant.
- (f) A Participant who has revoked his or her Participation Agreement as set forth in Section 3.2(d), or who returns to perform services for the Employer after a Severance from Employment, may again become a Participant in the Plan and agree to make Deferrals of Base Compensation not yet earned by submitting a new Participation Agreement as provided in Section 3.2(a).
- (g) Participant Deferrals shall be transferred to the Plan within a period that is not longer than is reasonable for the proper administration of the Participant's Account. For this purpose, Deferrals shall be treated as contributed within a period that is not longer than is reasonable if the contribution is made to the Plan within 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant.

3.3 Employer Contributions.

- (a) Subject to the limitations set forth in Article 4, the Employer shall contribute to the Plan on behalf of active Participants the amounts set forth in Attachment A, except that if Attachment A conflicts with the express provisions of a written contract in

effect between the Employer and the Participant (or the Participant's bargaining representative), such express provisions shall control.

- (b) Employer contributions shall be made to the Plan each payday for the pay period in which the services to which the contribution relates were performed. Participants on whose behalf an Employer contribution is made to the Plan are not permitted to receive the Employer contribution as current Compensation.
- (c) Employer contributions are fully vested and nonforfeitable immediately upon payment to the Plan.
- (d) In the event that a Participant who is both making Deferrals under Section 3.2 and receiving an Employer contribution under Section 3.3 or an Employer matching contribution under Section 3.6 exceeds the limits set forth in Article 4, the amount in excess of the limit will be refunded to the Participant or forfeited as soon as administratively practicable. The refund to the Participant shall be made first from amounts contributed by the Participant as non-matched Deferrals under Section 3.2 in the amount necessary to comply with the limits set forth in Article 4. If the contributions made on behalf of the Participant still exceed the limits set forth in Article 4, then the matched Deferrals and associated Employer matching contribution under Section 3.6 will be reduced until the contributions to the Plan on behalf of the Participant comply with the limits set forth in Article 4. If the contributions made on behalf of the Participant still exceed the limits set forth in Article 4, then the Employer contribution will be reduced until the contributions to the Plan on behalf of the Participant comply with the limits set forth in Article 4.

3.4 Transfers from Eligible Deferred Compensation Plans. The Plan will accept incoming transfers of amounts previously deferred under another Eligible Deferred Compensation Plan if (1) the transferor plan provides for the transfer of such amounts, and (2) the Participant has a benefit immediately after the transfer at least equal to the amount under the Plan immediately before the transfer. The Employer may require such documentation from the transferor plan as it deems necessary to effectuate the transfer in accordance with Treasury Regulations Section 1.457-10(b) and to confirm that the transferor plan is an Eligible Deferred Compensation Plan within the meaning of Treasury Regulations Section 1.457-2(f). The amount so transferred will be credited to the appropriate sub-account under the Participant's Account and will be held, accounted for, administered and

otherwise treated in the same manner as amounts held in the transferor plan, except that the transferred amounts will not be taken into consideration for purposes of Code Section 457 (b)(2) for the year of transfer.

3.5 Automatic Enrollment in the Plan.

- (a) If the County and a labor organization representing a unit of County employees agree in collective bargaining, new Eligible Employees of that unit will be deemed automatically to have executed a Participation Agreement with an effective date of the first of the month following two (2) full months of employment. Collectively bargained units that have agreed to automatic enrollment are listed in Attachment A.
- (b) An Eligible Employee will be provided the required advance notice of automatic enrollment pursuant to Code Section 414(w), including the amount of contributions that will be made, the employee's right to change the amount of contributions, the employee's right not to have automatic contributions made, a description of how the contributions will be invested, and when such contributions may be distributed. The notice shall be provided within a reasonable period before such time when the automatic provision will become first applicable to an Eligible Employee.
- (c) A Participant may opt out of automatic enrollment at any time by completing a Participation Agreement or by providing written notice of the election not to have any amount withheld from his or her Compensation.
- (d) A Participant may elect the return of automatic deferrals if the request is made in writing within 90 days from the date of the first deduction.
- (e) The amount deferred from an Eligible Employee's Base Compensation shall be the amount specified in the applicable collective bargaining agreement, provided that the requirements of Code Section 414(w) are satisfied, including the requirement that the percentage of pay deferred will be uniform for employees with the same years of employment.

3.6 Employer Matching Contributions.

- (a) Subject to the limitations set forth in Article 4, the Employer shall match Participant Deferrals up the percentage of Base Compensation listed for the particular employee group in Attachment A, and shall contribute such matching contributions to the Plan on behalf of each Participant.
- (b) Employer matching contributions shall be made to the Plan each payday for the pay period in which the services to which the contribution relates were performed. Participants on whose behalf an Employer matching contribution is made to the Plan are not permitted to receive the Employer matching contribution as current Compensation.
- (c) Employer matching contributions are fully vested and nonforfeitable immediately upon payment to the Plan.

ARTICLE 4 LIMITATIONS ON AMOUNT DEFERRED

4.1 Annual Maximum. The maximum amount of Compensation that may be deferred under this Plan (the "Normal Limit") for a Participant's taxable year (except as provided in Sections 4.2 and 4.3) is the lesser of the applicable dollar amount within the meaning of Code Sections 457(b)(2)(A) and 457(e)(15)(A), as adjusted for the cost-of-living in accordance with Code Section 457(e)(15)(B), or 100% of the Participant's Includible Compensation.

4.2 3-Year Special Catch-Up Limit. For each one or more of the Participant's last three (3) taxable years ending prior to but not including the year of such Participant's Normal Retirement Age, as elected by the Participant pursuant to or otherwise defined in Section 2.23, the limitation set forth in Section 4.1 shall be increased to the lesser of:

- (a) two (2) times the applicable dollar amount described in Section 4.1; or
- (b) The sum of:
 - (1) The aggregate Normal Limit set forth in Section 4.1 for the current taxable year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus the

aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus

- (2) The aggregate limit referred to in section 457(b)(2) of the Code for any prior taxable year or years since January 1, 1979 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Sections 4.2 and 4.3), less the aggregate contributions to Pre-2002 Coordination Plans for such prior taxable year or years.

For purposes of the preceding paragraph, “contributions to Pre-2002 Coordination Plans” means any employer contribution, salary reduction, or elective contribution under any other eligible Code section 457(b) plan, or a salary reduction or elective contribution under any Code section 401(k) qualified cash or deferred arrangement, Code section 402(h)(1)(B) simplified employee pension (SARSEP), Code section 403(b) annuity contract, and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Code section 501(c)(18), including plans, arrangements, or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of the preceding paragraph to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code section 457(b)(2) for that year.

For purposes of this Section 4.2, a prior taxable year can be taken into account only if:

- (i) The Participant was eligible to participate in the Plan during any portion of any prior taxable year since January 1, 1979; and
- (ii) The Compensation deferred, if any, under the Plan during such prior taxable years was subject to a maximum deferral limitation as required by Code Section 457.

A Participant may elect to utilize the 3-Year Special Catch-Up Limitation with respect to only one (1) Normal Retirement Age (as defined in Section 2.23) in this Plan or any other Eligible Deferred Compensation Plan notwithstanding the fact that the Participant utilizes the 3-Year Special Catch-Up Limitation in less than all of the three (3) eligible years. This

Section 4.2 shall not apply in any Plan Year in which Section 4.3 applies because the maximum deferral limit under Section 4.1, when combined with the limit under Section 4.3, is higher than the limit under this Section 4.2.

Acceptable proof of underutilized contributions for calculating a participant's 3-Year Special Catch-Up limit includes, but is not limited to, Forms W-2, payroll records, and recordkeeper documentation.

4.3 Age 50 Catch-Up Limit. A Participant who will have attained the age of 50 before the close of the Plan Year, and with respect to whom no other Deferrals may be made to the Plan for the Plan Year by reason of the limitation of Section 4.1, may enter into a Participation Agreement to make Deferrals in addition to those permitted by Section 4.1 in an amount not to exceed the lesser of (1) the applicable dollar amount as defined in Code Section 414(v)(2)(B), as adjusted for the cost-of-living in accordance with Code Section 414(v)(2)(C), or (2) the excess (if any) of (i) the Participant's Includible Compensation for the year, over (ii) any other elective deferrals of the Participant for such year which are made without regard to this Section 4.3.

An additional contribution made pursuant to this Section 4.3 shall not, with respect to the year in which the contribution is made, be subject to any otherwise applicable limitation contained in Code Section 402(g), or be taken into account in applying such limitation to other contributions or benefits under the Plan or any other plan. This Section 4.3 shall not apply in any Plan Year in which Section 4.2 applies because the maximum deferral limit under Section 4.2 is higher than the maximum deferral limit under Section 4.1, when combined with the limit under this Section 4.3.

4.4 Another Eligible Deferred Compensation Plan. If the Participant is or has been a participant in one or more other Eligible Deferred Compensation Plans, then this Plan and all such other plans shall be considered one plan for purposes of applying the foregoing limitations of this Article 4. For this purpose, the Employer shall take into account any other such Eligible Deferred Compensation Plan maintained by the Employer and shall also take into account any other such Eligible Deferred Compensation Plan for which the Employer receives from the Participant sufficient information concerning his or her participation in such other plan.

- 4.5 Cash Method of Accounting.** For purposes of applying the limitations in Sections 4.1, 4.2 and 4.3, Base Compensation deferred under the Plan for a pay period shall be treated as deferred as of the pay day for that pay period.

ARTICLE 5 ACCOUNTS

- 5.1 Participants' Accounts.** A separate bookkeeping Account shall be maintained for each Participant. Within each Account, one or more sub-accounts may be established including (1) an Elective Deferral Account, (2) a Roth 457(b) Contributions Account, (3) a 457(b) Rollover Account, (4) a non-457(b) Rollover Account, (5) a Roth 457(b) Rollover Account, (6) a Roth non-457(b) Rollover Account, (7) a Rollover of In-Plan Roth non-457(b) Rollover Account, and/or (8) In-Plan Roth 457(b) Rollover Account.
- (a) Each Account shall be credited with the amount of the Participant's Base Compensation deferred under Section 3.2 and with any amount transferred to this Plan with respect to the Participant as provided in Sections 14.1 or 14.3.
 - (b) Each Participant's Account shall be debited with the amount of any payment to the Participant under this Plan, with any amount transferred to a separate account for an Alternate Payee with respect to the Participant as needed, and with any amount of the Participant's Account transferred to another plan as provided in Section 14.2.
 - (c) At such dates and frequency as are reasonably determined by the Employer, a Participant's Account also shall be credited with the amount of income and gain allocable to the Account and also shall be debited with the amount of loss, expenses, and charges allocable to the Account.
 - (d) A written report of the status of each Participant's Account shall be furnished to the Participant at least annually.
- 5.2 Investments.** A written report of the status of each Participant's Account shall be furnished to the Participant at least annually. Each Account shall be invested as directed by the Participant or Alternate Payee in such one or more Investment Products as are determined and approved by the Committee and allowed by Oregon law.

- (a) The amount of each Account shall be invested in such one or more of those approved Investment Products as are designated by the Participant or Alternate Payee in a manner approved by the Employer.
 - (1) A Participant's or Alternate Payee's investment designation shall apply to the amount of the Participant's or Alternate Payee's Account after the Participant's or Alternate Payee's death until the Beneficiary makes an investment designation in a manner approved by the Employer.
 - (2) A Participant's investment designation with respect to any portion of the amount of the Participant's Account transferred to an Alternate Payee's Account shall apply to the amount of the Alternate Payee's Account until the Alternate Payee makes an investment designation in a manner approved by the Employer.
- (b) Investment designations shall be implemented as soon as administratively feasible, subject to any restrictions imposed by the Designated Institution.
- (c) Neither the Employer nor the Committee shall be liable to any Participant, Beneficiary, Alternate Payee, or other person for any loss due to the Employer's determination and approval of Investment Products, due to the Employer's failure to monitor the performance of those approved Investment Products, or due to the investment performance of amounts invested in those approved Investment Products, unless committed in bad faith, intentionally, or with reckless indifference to the interest of the Participant, Beneficiary, Alternate Payee, or other person.

5.3 Expenses and Charges. The Committee shall determine the reasonable expenses of the Employer and the Committee that are associated with the deferral of Compensation under this Plan, investing the amount of Accounts, or administering this Plan, and also shall determine the expenses and charges associated with the Investment Products designated by the Participant, Beneficiary, or Alternate Payee. The Employer may charge such expenses and charges to and among Participants', Beneficiaries', and Alternate Payees' Accounts in such manner as the Employer determines equitable. However, general expenses of the Employer may not be charged to this Plan or to Accounts.

ARTICLE 6 BENEFITS

6.1 General Benefit Terms.

- (a) Benefit payments to a Participant or Beneficiary shall be made according to the manner and method of payment as elected in the Payout Request, which election may be changed by a Participant or a Beneficiary as appropriate and as allowed by the Plan at any time.
- (b) Subject to the restrictions on choice of benefit contained in paragraphs 6.1(c) and (d), 6.4 and 6.5, the options available for selection by the Participant or Beneficiary as the manner and method of payment are:
 - (1) Lump sum(s);
 - (2) Periodic payments for a designated period;
 - (3) Periodic payments for life;
 - (4) Periodic payments for life with a guaranteed minimum number of payments;
 - (5) Periodic payments for the life of the Participant with continuation of the payments or a percentage of the payments for the lifetime of the Participant's spouse;
 - (6) Such other options as a Designated Institution may, in its sole discretion, offer to the Participant prior to the commencement of benefits.

Periodic payments may be monthly, quarterly, semiannually, or annually. For life annuity contracts, the amount of each payment may be fixed or may fluctuate with the performance of the Investment Products.

- (c) If participant's account balance is less than \$5,000, a distribution may be made in a lump sum to the participant within sixty-one (61) days after the close of the year in which the participant has separated from service.
- (d) In determining the amount of benefit payments, the minimum incidental death benefit rule of Code Section 401(a)(9)(G) must be satisfied. To the extent that the

payment required under this rule is greater than the amount determined under 6.1(c), the greater amount must be paid.

- (e) All distributions under the Plan must comply with Code Section 401(a)(9). Benefit distributions under the Plan must commence by April 1 of the calendar year following the later of (1) the calendar year in which the Participant attains age 72, or (2) the calendar year in which the Participant incurs a Severance from Employment. If the Participant attained age 70½ before January 1, 2020, however, “age 72” in the prior sentence shall be replaced with “age 70½”

Any method or form of distribution selected by the Participant must be designed to pay the Participant the value of his or her benefits under the Plan over a period not to exceed the Participant’s life or life expectancy or the joint lives or life expectancy of the Participant and the Participant’s Eligible Designated Beneficiary. The life expectancy of a Participant and the joint life expectancy of a Participant and the Participant’s Eligible Designated Beneficiary shall be determined in accordance with applicable law and regulations, provided that the life expectancy of a Participant or the Participant’s spouse (if the Eligible Designated Beneficiary) may from time to time be re-determined, but not more frequently than annually.

- (f) Notwithstanding anything in this section 6.1 to the contrary, distributions required under Code Section 401(a)(9) that would otherwise be made during the 2020 calendar year shall not be made, pursuant to Section 2203 of the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act of 2020, unless the affected Participant makes an affirmative distribution election for 2020. Periodic payments to Participants and lump-sum distributions requested by Participants that would satisfy the requirements for minimum distributions under Code Section 401(a)(9) shall still be made in 2020 unless the Participant requests suspension of the monthly withdrawals or elects to return the distribution to the Plan by August 31, 2020.

6.2 Benefits upon Retirement. Following the Participant’s Severance from Employment on or after attainment of Normal Retirement Age, the custodian shall begin payments to the Participant in accordance with the Participant’s elections made in the Payout Request; provided, however, that payments shall begin no later than April 1 of the calendar year following the later of (1) the calendar year in which the Participant attains age 72, or (2)

the calendar year in which the Participant incurs a Severance from Employment. If the Participant attained age 70½ before January 1, 2020, however, “age 72” in the prior sentence shall be replaced with “age 70½”.

6.3 Benefits upon Severance from Employment. If Severance from Employment occurs prior to attainment of the Normal Retirement Age determined under Section 2.22, the custodian shall begin benefit payments as soon as administratively practicable following the Participant’s Severance from Employment and his or her subsequent submission of a Payout Request; provided, however, that in lieu of requesting a distribution under this Section 6.3, a Participant instead may request a plan-to-plan transfer under Section 14.3 below. The custodian shall begin payments to the Participant in accordance with the Participant’s elections made in the Payout Request; provided, however, that payments shall begin no later than April 1 of the calendar year following the later of (1) the calendar year in which the Participant attains age 70½, or (2) the calendar year in which the Participant incurs a Severance from Employment.

6.4 Elective Distributions. Regardless of whether he or she has experienced a Severance from Employment, a Participant may choose to receive a distribution from his or her 457(b) Rollover Account, Non-457(b) Rollover Account, Roth 457(b) Rollover Account, Rollover of In-Plan Roth non-457(b) Rollover Account and Roth non-457(b) Rollover Account at any time by submitting a Payout Request.

6.5 Payment of Benefits upon Participant’s Death.

- (a) Upon the death of a Participant, the deceased Participant’s Account will be distributed to the Beneficiary in accordance with the provisions of this section.
- (b) The designation of a Beneficiary will be made in a form satisfactory to the Employer. A Participant or Beneficiary may at any time revoke his or her designation of a Beneficiary or change his or her Beneficiary by filing written notice of such revocation or change. In the event no valid designation of Beneficiary exists at the time of the Participant’s or Beneficiary’s death, or the named beneficiary does not survive the Participant or Beneficiary, the death benefit will be payable in accordance with Section 8.2.
- (c) The Employer may require such proper proof of death and such evidence of the right of any person to receive payment of the value of an Account of a deceased Participant as it deems appropriate. The Employer’s determination of death and

of the right of any person to receive payment will be conclusive and binding on all interested parties.

- (d) If minimum payments under Code Section 401(a)(9) have not begun upon the death of a Participant and if the Beneficiary is an Eligible Designated Beneficiary but not the Participant's surviving spouse, death benefits payments under the Plan must, in accordance with the Eligible Designated Beneficiary's election or, if an election is not made, in accordance with the relevant provisions in the Plan:
 - (1) Begin to be distributed to the Eligible Designated Beneficiary no later than December 31 of the calendar year immediately following the calendar year of the Participant's death, payable over a period not to exceed the life expectancy of the Eligible Designated Beneficiary; or
 - (2) Be distributed no later than December 31 of the calendar year containing the tenth anniversary of the Participant's death.

Notwithstanding the foregoing, if an Eligible Designated Beneficiary dies before the Eligible Designated Beneficiary's interest is entirely distributed, or if the Eligible Designated Beneficiary is a child of the Participant who reaches age 21 before the child's interest is entirely distributed, the remaining portion of such interest shall be distributed within ten years after the death or age of majority of the Eligible Designated Beneficiary, as applicable.

- (e) If the Beneficiary is the Participant's surviving spouse and minimum payments under Code Section 401(a)(9) have not begun upon the death of the Participant, minimum payments to the surviving spouse must begin by the later of:
 - (1) December 31 of the calendar year immediately following the calendar year in which the Participant dies; or
 - (2) December 31 of the year in which the Participant would have attained age 72.
- (f) Payments to the surviving spouse under Section 6.5(e) above must be made over a period not to exceed the surviving spouse's life expectancy. However, a surviving spouse may elect to receive the death benefit payments no later than December 31 of the calendar year containing the tenth anniversary of the Participant's death.

- (g) If minimum payments under Code Section 401(a)(9) have begun prior to the Participant's death, the remaining portion of the Account shall be distributed to an Eligible Designated Beneficiary at least as rapidly as under the method of distribution in effect prior to the death of the Participant.
- (h) If there is no designated Beneficiary as of the date of the Participant's death, or if the designated beneficiary is not an Eligible Designated Beneficiary, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death where there is no designated Beneficiary and by December 31 of the calendar year containing the tenth anniversary of the Participant's death where the designated Beneficiary is not an Eligible Designated Beneficiary.
- (i) Notwithstanding anything in this section 6.5 to the contrary, distributions required under Code Section 401(a)(9) that would otherwise be made during the 2020 calendar year shall not be made, pursuant to Section 2203 of the Coronavirus Aid, Relief, and Economic Security ("CARES") Act of 2020, unless the affected Beneficiary makes an affirmative distribution election for 2020. Regular monthly distributions to Beneficiaries and lump-sum distributions requested by Beneficiaries that would satisfy the requirements for minimum distributions under Code Section 401(a)(9) shall still be made in 2020 unless the Beneficiary requests suspension of the monthly withdrawals or elects to return the distribution to the Plan by August 31, 2020.

6.6 In-Service Distributions. While still employed by the Employer, a Participant may request, and upon approval of the Employer, receive an in-service distribution from the Participant's Account, provided that:

- (a) The Participant's Account balance is \$5,000 or less (or such amount as may be designated in Code Section 457(e)(9)); and
 - (1) The Participant has made no deferrals during the two-year period ending on the date of the distribution; and
 - (2) The Participant has not received any prior in-service distribution as described in this Section 6.6 (a); or

- (b) The Participant has been approved by a tax qualified governmental defined benefit plan (as defined in Code Section 414(d)) to purchase service credits with a direct transfer from this Plan, and such in service distribution does not exceed the total amount required to purchase such service credits; or
- (c) Effective for in-service distributions requested on or after January 1, 2020, the Participant has reached age 59½ or will reach age 59½ in the calendar year in which the request occurs.

6.7 Qualified Birth or Adoption Distributions.

- (a) A Qualified Birth or Adoption Distribution, or “QBAD,” is a distribution from the Participant’s Account on or after January 1, 2020 that meets the following requirements:
 - (1) The distribution is made during the one-year period following the date on which a child of the Participant is born or on which legal adoption by the Participant of an Eligible Adoptee is finalized. An Eligible Adoptee is a child other than a child of the Participant’s spouse who is either under age 18 or physically or mentally incapable of self-support, as described under Code Section 72(m)(7).
 - (2) The distribution is limited to \$5,000 for each Eligible Adoptee. This \$5,000 limit shall be aggregated among all eligible retirement plans and IRAs in which the Participant participates or of which the Participant is an owner. The Committee shall enforce this limit with respect to all eligible retirement plans sponsored by the Employer, but may reasonably rely on any self-certification from the Participant that the limit has not been reached when taking other plans into account.
 - (3) The QBAD may be repaid to the Plan if the repayment is made while the participant remains eligible to make rollover contributions to the Plan, in accordance with Section 14.1(f).
- (b) Eligible Participants shall be permitted to request and receive a QBAD, as provided in subsection (a). The Committee shall not withhold any portion of the QBAD, notwithstanding the treatment of the QBAD as a rollover contribution upon repayment. The Committee shall establish and implement any necessary

administrative procedures for a QBAD, in accordance with Code Section 72(t)(2)(H).

6.8 CARES Act Distributions.

- (a) A CRD-Qualified Participant is a Participant who has self-certified that one of the following is true:
- (1) The Participant has been diagnosed with COVID-19 through a CDC-approved test;
 - (2) The Participant's spouse or dependent, as defined under Subsection 152 of the Code, has been diagnosed with COVID-19 through a CDC-approved test; or
 - (3) The Participant has experienced adverse financial consequences as a result of:
 - (i) the Participant being quarantined, being furloughed or laid off by the County, having their County work hours reduced, remaining an employee of the County but being unable to work because of a lack of child care, experiencing a reduction in pay, or having a job offer rescinded or a start date delayed due to COVID-19;
 - (ii) the Participant's spouse or person who shares the Participant's principal residence being quarantined, being furloughed or laid off, having work hours reduced, being unable to work due to lack of childcare, experiencing a reduction in pay, or having a job offer rescinded or a start date for a job delayed due to COVID-19; or
 - (iii) closing or reducing hours of a business owned or operated by the Participant, the Participant's spouse, or a person who shares the Participant's principal residence.
- (b) Notwithstanding anything in this Article 6 to the contrary, a CRD-Qualified Participant shall be permitted to request and receive the following distributions from the Participant's Account:

- (1) For the limited period beginning on April 20, 2020 and ending on August 17, 2020, a distribution not to exceed the lesser of the total balance in the Participant's Account and \$20,000.
- (2) For the limited period beginning on August 18, 2020 and ending on December 30, 2020, a distribution not to exceed the lesser of the total balance in the Participant's Account and \$100,000; provided, however, that this \$100,000 limit shall be reduced by any distribution received under subsection (1) above.

The Committee shall establish and implement any necessary administrative procedures for any such distribution in order to comply with the requirements of Section 2202(a) of the CARES Act of 2020. To the extent the December 30, 2020 deadline for receiving distributions under this Section 6.7 is extended by act of law without modifying the other rules contained herein or the repayment rules contained in Section 14.1(e), such extended deadline shall be implemented without requiring an amendment to the Plan.

ARTICLE 7 HARDSHIP WITHDRAWALS

7.1 Application for Withdrawal. In the case of an Unforeseeable Emergency prior or subsequent to the commencement of benefit payments, a Participant who is not eligible for an in-service distribution at age 59½ under Section 6.6(c) may apply for a withdrawal of an amount reasonably necessary to satisfy the emergency need. If the Committee (or its delegate) reviews the application and determines that the applicable standards are satisfied, the withdrawal will be effective at the later of the date specified in the Participant's application or the date of approval by the Committee (or its delegate). The approved amount shall be payable in a lump sum within thirty (30) days of such effective date or in some other manner consistent with the emergency need as determined by the Committee (or its delegate). If the Participant's request is denied, a request for review of the determination may be made in writing to the Committee (or its delegate). If the review of the determination fails to confirm a claim of Unforeseeable Emergency, a written appeal may be made to the Committee (or its delegate). Unforeseeable Emergency withdrawals

will be made in accordance with procedures established by the Designated Institution and/or Investment Product.

7.2 Unforeseeable Emergency. For the purposes of this Plan, the term “Unforeseeable Emergency” means a severe financial hardship to the Participant resulting from a sudden and unexpected illness or accident of the Participant or his or her spouse, or of a dependent (as defined in Code Section 152(a)) of the Participant, or of a Primary Beneficiary of the Participant, loss of the Participant’s property due to casualty, or other similar, extraordinary, and unforeseeable circumstances arising as a result of events beyond the control of the Participant. Withdrawals for foreseeable expenditures normally budgetable, such as a down payment on or purchase of a home, purchase of an automobile, or college expenses, will not be permitted. The Committee (or its delegate) shall not permit withdrawal for an Unforeseeable Emergency to the extent that such hardship is or may be relieved:

- (a) Through reimbursement or compensation by insurance or otherwise;
- (b) By liquidation of the Participant’s assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or
- (c) By cessation of deferrals under the Plan.

For purposes of this Section 7.2, a “Primary Beneficiary” of a Participant is an individual who is named as a Beneficiary of the Participant under the Plan, and who has an unconditional right to all, or a portion of, the Participant’s Account balance under the Plan upon the death of the Participant.

7.3 Limits on Withdrawals and Future Contributions. In no event shall the amount of a withdrawal for an Unforeseeable Emergency exceed the balance in the Participant’s Account at the time of withdrawal. Notwithstanding any other provision of this Plan, if a Participant makes a withdrawal hereunder, the Participant’s Account shall be appropriately reduced to reflect such withdrawal, and the remainder of any benefits shall be payable in accordance with otherwise applicable provisions of the Plan.

ARTICLE 8 BENEFICIARIES

- 8.1 Designation.** A Participant shall have the right to designate a Beneficiary, and to amend or revoke such designation at any time by designating one or more Beneficiaries in a manner approved by the Employer. Such designation, amendment or revocation shall be effective upon receipt by the Employer. Notwithstanding the foregoing, a Participant who elects a joint and survivor annuity form of payment may not elect a non-spouse joint annuitant, and may not change his or her joint annuitant after payments commence. Further, if, at the time the designation of Beneficiary was made, the Participant named a current spouse as Beneficiary, but the Participant was not married to that same spouse at the time of the Participant's death, such designation shall be void, subject to the Participant later filing a new designation naming the former spouse as Beneficiary.
- 8.2 Failure to Designate a Beneficiary.** If a Participant fails to elect a Beneficiary or no designated Beneficiary survives the Participant, and benefits are payable following death, such benefits will be payable in the following order of priority:
- (a) To the Participant's surviving spouse.
 - (b) To the Participant's children in equal shares. If any of the Participant's children are deceased but have a surviving child or children, the deceased child's portion of the benefit will go to the deceased child's living children in equal shares.
 - (c) To the Participant's surviving parents in equal shares.
 - (d) To the Participant's siblings in equal shares. If any of the Participant's siblings are deceased but have a surviving child or children, the deceased sibling's portion of the benefit will go to the deceased sibling's living children in equal shares.
 - (e) To the Participant's estate.

ARTICLE 9 LEAVE OF ABSENCE

- 9.1 Approved Leave of Absence.** A Participant on an approved leave of absence (whether paid or unpaid) may continue to participate in the Plan subject to all the terms and conditions of the Plan. Subject to a different instruction from the Participant, Base

Compensation shall be deferred for such Participant if such Base Compensation (or a portion thereof) continues while the Participant is on an approved leave of absence.

- 9.2 Uniformed Services Leaves.** Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).

ARTICLE 10 ASSIGNMENT AND ALIENATION

- 10.1 Participant's Rights Not Assignable.** Neither the Participant nor any other person shall have any right to commute, sell, assign, pledge, transfer, or otherwise convey or encumber the right to receive any payments hereunder, which payments and rights thereto are expressly declared to be unassignable and nontransferable. Except as otherwise provided under Article 12, no unpaid benefits shall be subject to attachment, garnishment, or execution for the payment of any debts, judgments, alimony, or separate maintenance owed by the Participant or any other person or be transferable by operation of law in the event of bankruptcy or insolvency of the Participant or any other person.
- 10.2 No Loans Permitted.** Participant loans are not permitted under the Plan.
- 10.3 IRS Levy.** Notwithstanding Section 10.1, the Plan may pay from a Participant's or Beneficiary's Account the amount that the Committee finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

ARTICLE 11 ADMINISTRATION

- 11.1 Plan Administrator.** This Plan shall be administered by the Employer. The Employer may appoint a Committee of one or more individuals in the employment of the Employer for the purpose of discharging the administrative responsibilities of the Employer under the Plan. The Committee will represent the Employer in matters concerning the administration of this Plan; provided, however, that the final authority for all administrative and operational decisions relating to the Plan remains with the Employer.

11.2 Powers of the Committee. The Committee shall have full power and authority to:

- (a) Present recommendations to the Employer for consideration in order to adopt rules and regulations for the administration of the Plan, provided they are not inconsistent with the provisions of this Plan or Code Section 457 and any Treasury regulations promulgated thereunder, and to interpret, alter, amend, or revoke any rules and regulations so adopted;
- (b) To recommend to the Employer to enter into contracts with respect to this Plan and in accordance with the Employer's purchasing policy;
- (c) To make discretionary decisions under this Plan, including decisions under Article 7 (Hardship Withdrawals) and under Section 11.5 (Claims Procedure); and
- (d) To demand satisfactory proof of the occurrence of any event that is a condition precedent to the commencement of any payment or discharge of any obligation under the Plan.

11.3 Disqualification of Committee Members. If otherwise eligible, a Committee member shall be eligible to participate in the Plan, but such person shall not be entitled to participate in discretionary decisions relating to such person's own participation in or benefits under the Plan.

11.4 Selection of Approved Institutions. The Committee shall screen and recommend to the Employer for approval any insurance company or other entity seeking to sell an Investment Product or otherwise operate as an Approved Institution under this Plan. The Employer may contract with an Approved Institution (a) to issue to the Employer an Investment Product as described in Article 5 of the Plan, or (b) to provide services under the Plan for the convenience of the Employer including, but not limited to, the enrollment of Eligible Individuals as Participants on behalf of the Employer; the maintenance of individual or other accounts and other records; the making of periodic reports; and the disbursement of benefits to Participants, Alternate Payees, and Beneficiaries.

11.5 Claims Procedure.

- (a) Upon the request of a Participant, Beneficiary, or Alternate Payee, the Employer shall provide claim forms to any Participant, Beneficiary, or Alternate Payee who is or may be entitled to benefits hereunder. Such claim form shall be completed and submitted to the Employer no later than thirty (30) days after it is received by

said claimant. Upon receipt of the claim form, the Employer shall review the claim and, if the Employer determines that the claim should not be allowed, shall respond within thirty (30) days of receipt of the claim. Such response shall be in writing and shall include the specific reason or reasons for the denial, specific references to pertinent Plan provisions on which the denial is based, a description of whatever additional material or information, if any, must be supplied by the claimant to perfect the claim, and an explanation of the Plan's review procedure. If notice of the denial of a claim is not furnished within thirty (30) days of receipt by the Committee, the claim shall be deemed denied.

(b) Within sixty (60) days after receipt of notice of denial of the claim or when the claim is deemed to have been denied, the claimant (or his or her representative) may respond to the denial by requesting, in writing, a review of the decision and a review of pertinent documents. If the claimant responds and seeks a review of the decision to deny benefits, issues and comments must be submitted in writing to the Employer. Such issues and comments shall specify the reasons that the decision of the Employer is claimed to be erroneous. The Employer shall review the contentions regarding the denial of the claim and shall, within sixty (60) days from the Employer's receipt of the request for review, respond to said request. If the Employer, in its sole discretion, determines that special circumstances warrant the holding of a hearing, it shall promptly be held and a decision shall be rendered within one hundred twenty (120) days from the date the Plan received the request for review. Any decision on review shall be in writing and shall state the specific reasons for the decision, and shall make specific references to the Plan provisions on which the decision is based.

(c) The Committee or an Approved Institution shall make all reasonable attempts to determine the identity and address of a Participant or Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt may include the mailing by certified mail of a notice to the last known address shown on the Employer's or Approved Institution's records.

If the Committee or the Approved Institution is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Plan shall continue to hold the benefits due such person until, in the Employer's sole discretion, the Plan is required to take other action under applicable law. Such

action may include the forfeiture of the Participant's or Beneficiary's Accounts. Such forfeitures will be applied toward the payment of expenses of the Plan. If so forfeited, and if a person subsequently files a valid claim for such benefit, then such forfeited amount shall be restored to the Participant's or Beneficiary's Account (without interest) and thereupon distributed in accordance with the Plan. Such restored amounts shall be provided from the earnings of the Plan or from such other appropriate source.

ARTICLE 12 QUALIFIED DOMESTIC RELATIONS ORDERS

- 12.1 Payment to Alternate Payee.** To the extent required by and subject to the restrictions of ORS 243.507 or Code section 414(p), the amount of a Participant's Account shall be paid, in whole or in part, to an Alternate Payee if and to the extent expressly provided for in the terms of any court decree of annulment or dissolution of marriage or of separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of annulment or dissolution of marriage or of separation.
- 12.2 Required Information and Documentation.** No benefit under this Plan may be paid to an Alternate Payee under the terms of a court decree or order or court-approved property settlement agreement ("Order") until after the date the Employer receives a copy of the Order and such additional information and documentation as satisfies the Employer:
- (a) That the copy is a true copy of the Order.
 - (b) That the Order is, within the meaning of ORS 243.507, a court decree of annulment or dissolution of marriage or of separation, or a court order or court-approved property settlement agreement incident to such a decree.
 - (c) Of the extent to which the terms of the Order expressly provide for payment of a benefit under this Plan to an Alternate Payee.
 - (d) Of any other fact or matter required for the Employer to:
 - (1) Determine the application of ORS 243.507 to the Order or the extent to which the Order applies to this Plan.
 - (2) Comply with the Order or with ORS 243.507.
 - (3) Administer this Plan under the terms of the Order.

- 12.3 Coordination with Other Provisions of This Plan.** With respect to amounts payable to an Alternate Payee, the custodian shall begin benefit payments to the Alternate Payee as soon as administratively practicable after the requirements of Section 12.2 have been satisfied, in accordance with the Alternate Payee's elections made in a Payout Request made in accordance with the distribution requirements provided in Article 6.

ARTICLE 13 AMENDMENT OR TERMINATION OF PLAN

- 13.1 Employer's Authority.** The Employer may terminate or amend the provisions of this Plan at any time; provided, however, that no termination or amendment shall affect the rights of a Participant, Alternate Payee, or a Beneficiary to the receipt of payment of benefits with respect to any Base Compensation deferred or Employer Contributions received before the time of the termination or amendment, as adjusted for investment experience of the Investment Product of the Designated Institution prior to or subsequent to the termination or amendment, except as may be permitted or required by law.
- 13.2 Procedure upon Termination of Plan.** Upon termination of the Plan, the Participants in the Plan will be deemed to have withdrawn from the Plan as of the date of such termination. Participants will resume receipt of their full Compensation without any further deferrals pursuant to Section 3.2 of the Plan. The Employer shall not distribute Plan benefits at the time of such termination; rather, the custodian shall retain all Participant Accounts and shall pay or dispose of Participant Accounts only as otherwise provided in the Plan and according to the terms and conditions of the Plan.

ARTICLE 14 ROLLOVERS

- 14.1 Rollover Contributions.** An Eligible Individual (whether or not he or she is a current Participant) may roll over amounts that are considered "eligible rollover distributions" within the meaning of Code Section 402(c)(4) from an "eligible retirement plan" within the meaning of Code Section 402(c)(8)(B).
- (a) Amounts (other than designated Roth contributions as defined in Code Section 402A) rolled over from another Eligible Deferred Compensation Plan will be allocated to the Participant's 457(b) Rollover Account. Amounts (other than

designated Roth contributions as defined in Code Section 402A) rolled over from an eligible retirement plan that is not a Code Section 457(b) plan will be allocated to the Participant's non-457(b) Rollover Account.

- (b) Designated Roth contributions as defined in Code Section 402A rolled over from another Eligible Deferred Compensation Plan will be allocated to the Participant's Roth 457(b) Rollover Account. Designated Roth contributions as defined in Code Section 402A rolled over from an eligible retirement plan that is not a Code Section 457(b) plan will be allocated to the Participant's Roth non-457(b) Rollover Account.
- (c) Designated Roth contributions relating to in-plan rollovers under Code Section 402A(c)(4) rolled over from an eligible retirement plan that is not a Code Section 457(b) plan will be allocated to the Participant's Rollover of In-Plan Roth non-457(b) Rollover Account.
- (d) Amounts attributable to In-Plan Rollovers will be allocated to an In-Plan Roth 457(b) Rollover Account. In-Plan Roth Rollover Contributions will be subject to the Plan rules related to Roth 457(b) Contributions.
- (e) A repayment to the Plan from a Participant who received a Coronavirus-Related Distribution ("CRD") pursuant to the requirements of Subsection 2202(a) of the Coronavirus Aid, Relief, and Economic Security ("CARES") Act of 2020 shall be treated as an eligible rollover and allocated in accordance with the terms of this Section 14.1. Such Participant shall be permitted to repay any portion of a CRD to this Plan, provided that the repayment or repayments are made by no later than the end of the three-year period beginning on the date the CRD was received. The repayment to the Plan shall be treated as an indirect rollover, and the Committee may work with the Designated Institution to establish procedures for the acceptance of CRD rollovers.
- (f) A repayment to the Plan from a Participant who received a Qualified Birth or Adoption Distribution ("QBAD") under Section 6.7 shall be treated as the direct transfer of an eligible rollover distribution, as defined in Code Section 402(c)(4), and shall be allocated in accordance with the terms of this Section 14.1. Such Participant shall be permitted to repay any portion of a QBAD, provided the Participant remains eligible to make rollover contributions to the Plan. The

Committee may work with the Designated Institution to establish procedures for the acceptance of QBAD rollovers.

All rollovers into this Plan are subject to the approval of the Employer and the applicable Designated Institution(s). Rollovers received by the Plan shall not be applied against the deferral limitation described in Article 4, and shall be fully vested. If the Plan accepts an amount as a rollover contribution based on the reasonable conclusion of the Employer or its delegate that the contribution is a valid rollover contribution, but it is later determined that the rollover contribution did not satisfy the statutory or regulatory rollover rules, a distribution shall be made to the affected Participant in an amount equal to such invalid rollover contribution, plus any earnings attributable thereto.

14.2 Direct Rollovers of Plan Distributions. The Plan will make direct rollovers of Plan distributions at the request of the Participant, subject to the provisions of Article 6 and Article 12, to:

- (a) an Eligible Deferred Compensation Plan;
- (b) a qualified plan described in Code Section 401(a), 401(k) or 403(a);
- (c) an annuity contract described in Code Section 403(b);
- (d) an individual retirement account or annuity described in Code Section 408(a) or 408(b);
- (e) a Roth individual retirement account described under Code Section 408A.

Notwithstanding any provisions of the Plan to the contrary that would otherwise limit an election under this section, the surviving spouse of a Participant (or the Participant's former spouse who is an Alternate Payee under a Qualified Domestic Relations Order, as defined in Code section 414(p)) may elect, at the time and in the manner prescribed by the Plan, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan in a direct rollover.

Effective for Plan Years beginning on or after January 1, 2010, a non-spouse Beneficiary may elect to make a direct rollover to an inherited individual retirement account or annuity described in Code Section 408(a) or Section 408(b), or a Roth individual retirement account described in Code Section 408A(a), that is established on behalf of the

Beneficiary. Such rollover shall be made in a manner consistent with Code Section 402(c)(11) and any other applicable guidance.

14.3 Plan to Plan Transfers. If a Participant incurs a Severance from Service and subsequently performs services for another employer described in Code Section 457(e)(1)(A) which maintains an Eligible Deferred Compensation Plan, the amounts deferred under the Plan shall, at the Participant's election, be transferred to such other Eligible Deferred Compensation Plan, provided:

- (a) The Eligible Deferred Compensation Plan to which the Participant's benefit is being transferred provides for the acceptance of such amounts; and
- (b) The Participant has a benefit amount immediately after the transfer which at least equals the benefit amount under this Plan immediately before the transfer.

Upon the transfer of amounts under this Section 14.3, the Plan's liability to pay benefits to the Participant or Beneficiary will be discharged to the extent of the amount so transferred on behalf of the Participant or Beneficiary. The Employer may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 14.3 or effectuate the transfer pursuant to Treasury Regulations Section 1.457-10(b). If Roth 457(b) contributions are transferred, the receiving plan must permit designated Roth contributions as defined in Code Section 402A.

14.4 Transfer of Entire Plan. Subject to this Section 14.4, the Employer may direct the transfer of all assets of the Plan to another Eligible Deferred Compensation Plan that is located in the State of Oregon, provided that the requirements of Code Section 457(b) and Treasury Regulations Section 1.457(b)-10(b)(3) are satisfied. If Roth 457(b) Contributions are transferred, the receiving plan must permit designated Roth contributions as defined in Code Section 402A.

ARTICLE 15 PLAN ASSETS

15.1 Funding Medium for Plan Assets. All assets of the Plan, including all amounts deferred pursuant to Sections 3.2 and 3.3 (except those that have been transferred out pursuant to Section 14.2, 14.3 or 14.4), all amounts transferred to the Plan pursuant to Section 14.1, all property and rights purchased with Deferrals, Employer contributions and transferred

amounts, and all income attributable to such amounts, property, or rights shall (until made available to a Participant, Alternate Payee, or Beneficiary pursuant to the distribution provisions of Article 6) be held in a trust, custodial account, or annuity contract described in Code Section 457(g) for the exclusive benefit of Participants and their Beneficiaries.

- 15.2 No Reversion.** Except as otherwise provided in the Plan or permitted by the Code, no part of the Plan assets shall be paid over or revert to the Employer or be used for any purpose other than for the exclusive benefit of Participants, Alternate Payees and their Beneficiaries, and for reasonable expenses of administration of the Plan.

ARTICLE 16 MISCELLANEOUS

- 16.1 Governing Law.** The Plan shall be construed under the laws of the state of Oregon, except to the extent superseded by federal law, including the Code.
- 16.2 Severability.** If any provision of this Plan shall be held illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining parts of this Plan, but this Plan shall be construed and enforced as if said illegal or invalid provision had never been included herein.
- 16.3 Mistaken Contributions.** If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Committee, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Committee, to the Employer.

IN WITNESS WHEREOF, the Employer has caused this Plan to be signed and attested by its duly authorized officers on the _____ day of _____, 2020.

Board of County Commissioners:

Chair

Recording Secretary

ATTACHMENT A

Pursuant to Section 3.3 of the Plan, the Employer shall make contributions to the Plan for the following employee groups and in the amounts set forth below, expressed as a percentage of the Eligible Employee's Base Compensation:

<u>Classification of Employees</u>	<u>Contribution Amount</u>
Peace Officers Association	Four percent (4%)
Federation of Parole and Probation Officers	One percent (1%)
Nonrepresented Group 1	Six and twenty-seven one hundredths percent (6.27%)

Pursuant to Section 3.5 of the Plan, the Employer shall automatically enroll new Eligible Employees from the following employee groups in the Deferral amounts set forth below, expressed as a percentage of the Eligible Employee's Base Compensation:

<u>Classification of Employees</u>	<u>Deferral Amount</u>
AFSCME - DTD	Five percent (5%)
AFSCME-WES	Five percent (5%)
Employees Association	Five percent (5%)
Housing Authority Employees Association	Five percent (5%)

Pursuant to Section 3.6 of the Plan, the Employer shall match Deferrals by Eligible Employees from the following employee groups, up to the amounts set forth below, expressed as a percentage of the Eligible Employee's Base Compensation:

<u>Classification of Employees</u>	<u>Matching Contribution Amount</u>
AFSCME – 911 Dispatch	Up to three percent (3%), effective March 1, 2017
C-COM Managers (portion of Nonrepresented Group 2)	Up to three percent (3%), effective August 1, 2017