CITY OF NEWBERG
CITY RECORDER INDEX NO. 2034

CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN

2003 Restatement

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INTRODUCTION

The City of Newberg adopted a defined benefit pension plan in 1964 for its employees. Effective July 1, 1979, the plan was restated as two separate plans, the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN for police officers and firefighters. Effective July 1, 1982, both plans were restated. Both plans were later amended. Effective July 1, 2002, both plans were combined into one document as the 2002 Restatement. The 2002 Restatement has since been amended. This 2003 Restatement amends and restates the 2002 Restatement, as amended to date, effective July 1, 2002, unless otherwise stated.

Plan provisions implementing the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) are generally effective for limitation years beginning after December 31, 1982, or taxable years beginning after December 31, 1983. Plan provisions implementing the Deficit Reduction Act of 1984 are variously effective for (1) Plan Years beginning after December 31, 1986 (Plan provisions implementing IRC Section 401(a)(9)); (2) limitation years beginning after December 31, 1982, or taxable years beginning after December 31, 1983 (Plan provisions implementing technical corrections to TEFRA); (3) limitation years beginning after December 31, 1987 (Plan provisions delaying cost-of-living adjustments under IRC Section 415(d)); or (4) contributions paid or accrued after December 31, 1985, in tax years ending after December 31, 1985 (Plan provisions treating certain contributions to a medical account in a welfare benefit plan as contributions to a defined contribution plan for purposes of IRC Section 415). Plan provisions implementing the Retirement Equity Act of 1984 are generally effective January 1, 1985. Any Plan provision for which this Plan provides a specific effective date is subject to the specific effective date.

ARTICLE 1. DEFINITIONS

SECTION 1.01--THE PLAN AND PARTIES CONCERNED.

(a) "Plan" means the restated defined benefit retirement plan of the Employer as set forth herein and as amended from time to time.

(b) "Prior Plan" means the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN prior to the Effective Date.

(c) "Group Contract" means the group annuity contract or contracts which the Employer enters into with the Insurer for the purpose of payment of retirement income and other benefits in accordance with this Plan and for the purpose of investment of Contributions made under the Plan. All benefits payable under the Plan will be paid or provided for solely from the Group Contract, and the Employer assumes no liability or responsibility therefor.

(d) "Employer" means CITY OF NEWBERG, OREGON, and any successor by change of name or merger.

(e) "Insurer" means Principal Financial Group, Inc., or such other insurance company or companies as may, from time to time, be designated by the Employer.

(f) "Employee" means any natural person who is employed by the Employer. "Employee" excludes:

(1) Any person who would be treated as a leased employee of the Employer under IRC Section 414(n).

(2) An individual whose wages are paid by an agency or other business that provides individuals who perform services for the Employer and pays the individuals' wages.

(3) Persons not treated as an employee on the Employer's payroll records.

(g) Effective July 1, 2002, "Eligible Employee" means, except for purpose of Article 9., any full-time regular Employee employed in a position not eligible for membership in the Oregon Public Employees Retirement System under the Employer's agreements with the System and whose employment with the Employer is as follows:

(1) General Employee.

(2) Police Officer.

(3) Firefighter.

(4) City Attorney, effective July 1, 1992.

The City Attorney shall be eligible as a General Employee with five years employment with the Employer and shall be given credit for contributions as of July 1, 1988, through June 30, 1992. Pursuant to Resolution No. 92-1726, the City Attorney shall be classified with the Police Officer and Firefighter personnel instead of the General Employee classification, effective July 1, 1992.

(h) "Participant" means a person who is either an Active Participant or an Inactive Participant.

(i) "Active Participant" means an Eligible Employee who has become an Active Participant as provided in Section 2.01.

(j) "Inactive Participant" means a person who has become an Inactive Participant as provided in Section 2.02.

(k) "Beneficiary" means any person or persons designated by a Participant pursuant to Section 14.05 to receive any death benefit upon the death of the Participant.

(l) "Contingent Annuitant" means a natural person designated by the Participant to receive a lifetime benefit after the death of such Participant in accordance with the survivorship life annuity optional form of retirement benefit provided in Section 4.02.

SECTION 1.02--IMPORTANT DATES AND PERIODS.

(a) "Effective Date" means July 1, 1982.

(b) "Anniversary Date" means the Effective Date and the same day of each year thereafter.

(c) "Quarterly Date" means the effective date and every third Monthly Date thereafter.

(d) "Monthly Date" means the Effective Date and the same day of each month thereafter.

(e) "Eligibility Date" means, as to a Participant, the Eligibility Date as provided in Section 2.01.

(f) "Re-entry Date" means, for a Participant, the Re-entry Date as provided in Section 2.01.

(g) "Retirement Date" means, for a Participant, the date for commencement of monthly retirement benefit which will be his Early, Normal, or Late Retirement Date, whichever is applicable.

(h) "Normal Retirement Date" means, for a Participant, the first day of the month coinciding with (immediately following, if none coincides with) the date on which he attains age 60 (58 for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney).

(i) "Early Retirement Date" means the first day of the month selected by the Participant for beginning an early retirement benefit before his Normal Retirement Date which is on or after the later of the following:

(1) The date he ceases to be an Employee.

(2) The date he attains age 55 (50 for Police Officers, Firefighters, and the City Attorney).

(j) "Late Retirement Date" means, for a Participant who continues active work for the Employer after his Normal Retirement Date, the first day of the month selected by him for commencement of monthly retirement benefit which follows his Normal Retirement Date and is no later than the first day of the month coinciding with (immediately following, if none coincides with) the date of his Termination of Employment.

(k) "Service" means, as to an Employee, any service for which he is either (i) directly or indirectly compensated by the Employer or (ii) performing duties for the Employer. No interruption in Service (based on the regular work week for his job without overtime) will be deemed to have occurred during any approved periods of absence from the Employer by reason of

(1) temporary lay-off,

(2) leave of absence (not to exceed one year),

(3) a temporary absence on account of disability, illness, or injury, or

(4) pregnancy.

Any discretion of the Employer under the provisions of this definition will be exercised without discrimination in accordance with definitely established rules uniformly applicable to Participants whose approved periods of absence were occasioned by similar circumstances.

(l) "Years of Service" means, as to an Employee on any date of determination, unless indicated otherwise, the number of years (counting completed months as fractional parts of a year) of Service since his latest date of employment, but excluding any Service after the establishment of the Prior Plan during which he made no contributions, if contributions were required by him under said Prior Plan during any such period and he failed or refused to so contribute.

(m) "Plan Participation" means, as to a Participant, all periods of his employment with the Employer during which he has been an Active Participant.

(n) "Termination of Employment" means cessation of active work (resulting in an interruption in Service) with the Employer, other than by reason of retirement, death, or disability, due to

(1) voluntary or involuntary termination or separation of employment, or

(2) failure to return to work upon the expiration of any approved period of absence from the Employer, in which event cessation of active work shall be deemed to have occurred at the time such approved period of absence expired.

(o) "Plan Year" means a period commencing on an Anniversary Date and ending on the day immediately preceding the next Anniversary Date.

(p) "Compensation Year" means a one-year period ending on the June 30 immediately preceding a Participant's Eligibility Date and ending on the same month and day of each year thereafter on which he is an Active Participant.

SECTION 1.03--DEFINITIONS RELATING TO DETERMINATION OF BENEFITS.

(a) (1) This Section 1.03(a)(1) applies to Plan Years beginning before July 1, 1993.

"Average Compensation" means, for a Participant on any specified date, the monthly average of his total pay from the Employer for those three consecutive Compensation Years (all Compensation Years, if less than three) which give the highest average out of the 10 latest Compensation Years (all Compensation Years, if less than 10) occurring prior to such specified date.

Pay as used in this definition means the type of compensation subject to tax for Social Security benefits without regard to the dollar limitation on such compensation subject to FICA taxes.

However, for a Participant who was not employed by the Employer for at least one of the Compensation Years immediately preceding either his Eligibility Date or his Re-entry Date, his fixed rate of monthly pay from the

Employer on either such applicable date will be deemed to be his monthly average for such Compensation Year.

(2) This Section 1.03(a)(2) applies to Plan Years beginning on or after July 1, 1993.

(i) Average Compensation means 1/12th of the following (as such 1/12th is increased below):

(A) For an employee who has completed at least 10 Years of Service, the average of the person's Monthly Earnings for each month in a 36 consecutive month period during the last 120 months of employment preceding the date the benefit is being determined which produces the highest average of Monthly Earnings.

(B) For an employee who has completed at least three Years of Service, but less than 10 Years of Service, the average of the person's Monthly Earnings for each month in a 36 consecutive month period preceding the date the benefit is being determined which produced the highest average of Monthly Earnings.

(C) For an employee who has completed less than three Years of Service, the average of the person's Monthly Earnings for each month preceding the date of benefit is being determined.

"Monthly Earnings" means the base remuneration which the Employer pays to an Employee in a month before any payroll deduction for income taxes, social security, group insurance, deferred compensation, or any other purpose. The full amount of required employee contributions picked up, assumed, or paid by the Employer on behalf of its employees shall be considered Monthly Earnings under the provisions of this Plan.

(ii) The Average Compensation determined above shall be increased as follows:

(A) The Average Compensation determined above is divided by 173.33 to arrive at the average hourly rate of earnings.

(B) The number of unused sick leave hours is multiplied by the result in Section 1.03(a)(2)(ii)(A) above to arrive at the value of unused sick leave.

(C) One-half of the value of unused sick leave, divided by 36, shall be added to the Average Compensation determined above.

(b) "Vested Accrued Benefit" means the following percentage of a Participant's Accrued Benefit:

(1) prior to the date on which he has completed three years of Plan Participation, 0%, if employed prior to July 1, 1982, or prior to the date on which he has completed five years of Plan Participation, 0%, if employed after June 30, 1982.

(2) on or subsequent to the date in Section 1.03(b)(1) above, 100%.

In any event, the percentage shall be 100% on or subsequent to the earlier of (i) the date on which he attains age 50 (45 for Police Officers, Firefighters, and the City Attorney) while an Active Participant or (ii) the date on which he becomes Totally and Permanently Disabled while an Active Participant.

(c) "Contributions" means Employer Contributions, Required Participant Contributions, and Voluntary Contributions as set out in Article 3., unless the term as used refers to one of these only, in which event it means the one thus referred to.

(d) "Participant's Contribution Account" means, for a Participant as of any specified date, the aggregate value of the Required Participant Contributions (including any interest earnings thereon) made for or by him pursuant to the Prior Plan, under Section 3.02 of the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN, under Section 3.02 of the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN, or under Section 3.02 of this Plan, and which have not been previously paid or applied as to him. Such Participant's Contribution Account will be zero upon the earliest to occur of (1), (2), or (3) below:

(1) The date a death benefit is paid on account of his death pursuant to Section 7.01.

(2) The date a cash termination benefit is paid to him pursuant to Article 8.

(3) His Retirement Date.

A Participant's Contribution Account will be credited with interest at the rate of 7.5% (8% for periods beginning on or after July 1, 1990) compounded annually.

(e) "Normal Form" means a straight life annuity with five year certain period pursuant to Section 4.02(b).

(f) "Totally and Permanently Disabled" means, as to a Participant, that he is disabled, as a result of sickness or injury to the extent that he is prevented from engaging in any occupation for wage or profit and is entitled to a disability benefit under Title II of the Federal Social Security Act, as determined by the Employer and reported to the Insurer.

(g) "Voluntary Account" means the value of a Participant's Voluntary Contributions which have been made as provided in Article 10.

A Participant's Voluntary Account will be credited with interest at a rate of not less than the rate credited to his Participant's Contribution Account.

A Participant's Voluntary Account will be reduced by any distribution therefrom made under the Plan.

(h) "Voluntary Contributions" means Voluntary Contributions as set out in Section 10.01.

(i) "Actuarial Equivalent" means:

(1) Police Officers and Firefighters: 7.5% and 1971 GAM for pre-retirement; and 7.5% and UP-84 Unisex for post-retirement.

(2) For General Employees and the City Attorney:

(i) For Retirement Dates and other annuity starting dates before September 1, 2002: 7.5% and 1971 GAM for pre-retirement; and 7.5% and UP-84 Unisex for post-retirement.

(ii) For Retirement Dates and other annuity starting dates after August 31, 2002: 7.5% and the table prescribed in Revenue Ruling 2001-62. However, in no circumstance will the amount of a General Employee's or the City Attorney's benefit as of a Retirement Date or other annuity starting date be less than the amount determined using (A) the factors in Section 1.03(i)(2)(i) above, (B) the Participant's Accrued Benefit earned as of June 30, 2002, based on Average Compensation and Years of Service as of June 30, 2002, and (C) the amount of the Participant's Contribution Account as of June 30, 2002.

The cost of living adjustment provided in Article 6. shall not be considered in determining Actuarial Equivalent benefits.

SECTION 1.04--ADDITIONAL DEFINITIONS.

(a) "IRC" means the Internal Revenue Code of 1986, as amended.

(b) "ORS" means Oregon Revised Statutes, as amended.

SECTION 1.05--ACCRUED BENEFIT.

An Active Participant's monthly Accrued Benefit as of any specified date will be an amount equal to the product of a Participant's Average Compensation, times 1.67% (2% for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney), times his total Years of Service.

In no event will a Participant's Accrued Benefit be less than his Accrued Benefit on July 1, 1982.

ARTICLE 2. PARTICIPATION

SECTION 2.01--ACTIVE PARTICIPANT.

(a) An Eligible Employee will first become an Active Participant under the Plan on his employment commencement date or, if later, the date he becomes an Eligible Employee.

(b) A Participant who became an Inactive Participant pursuant to Section 2.02 will again become an Active Participant on the date on which he again becomes an Eligible Employee by reason of re-employment or otherwise. Such date is his Re- entry Date.

(c) A former Participant who ceased to be a Participant pursuant to Section 2.03 will again become an Active Participant on the date on which he again becomes an Eligible Employee by reason of re-employment or otherwise. Such date is his Re-entry Date.

SECTION 2.02--INACTIVE PARTICIPANT.

An Active Participant will become an Inactive Participant on the earliest of the following:

(a) The date following the date on which a monthly income is provided as to him under this Plan.

(b) The date he ceases to be an Eligible Employee by reason of Termination of Employment or otherwise, occurring one month or more prior to his Retirement Date.

(c) The date he ceases to be an Eligible Employee by reason of partial termination of the Plan pursuant to Article 11.

(d) The effective date of complete termination of the Plan pursuant to Article 11.

SECTION 2.03--CESSATION OF PARTICIPATION.

A Participant will cease to be a Participant on the earlier of the following:

(a) His death.

(b) The date he receives a single sum distribution which is in lieu of all other benefits under the Plan as to him.

SECTION 2.04–TRANSFERRED EMPLOYEES.

Despite any contrary provision of the Plan, the Plan shall be applied to transferred employees who are subject to ORS 236.605 to 236.640 as the Employer determines appropriate in the Employer's discretion to implement ORS 236.605 to 236.640.

ARTICLE 3. CONTRIBUTIONS

SECTION 3.01--EMPLOYER CONTRIBUTIONS.

The Employer will make contributions at such times and in such amounts as will be determined based upon periodic actuarial valuations and recommendations as to the amount or amounts required to fund retirement benefits and other benefits payable in accordance with this Plan.

Any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution, but only if the Employer makes timely written demand therefor. Such returned contributions will not include attributable earnings but will be reduced by attributable losses.

Dividends declared under the Group Contract or any forfeitures resulting from a Participant's Termination of Employment or death will be applied to reduce future Employer Contributions.

SECTION 3.02--REQUIRED PARTICIPANT CONTRIBUTIONS.

Monthly required contributions will be made under this Plan on behalf of each Active Participant. The amount of each such Required Participant Contribution will be equal to 6% of such Participant's monthly earnings.

For purposes of this Section 3.02, monthly earnings shall include all forms of compensation received by an Employee during such month, including bonuses and overtime. However, effective July 1, 2002, monthly earnings excludes, for General Employees and the City Attorney, overtime, longevity pay, and pager pay.

A Participant's Contribution Account is fully vested and nonforfeitable as to each Participant at all times.

Effective January 1, 1995, or as required by state law, the Employer shall not make the Required Participant Contributions for Employees.

SECTION 3.03--MANDATORY EMPLOYEE CONTRIBUTIONS.

Effective January 1, 1995, or as required by state law, the Employer shall pick-up and pay on behalf of all Active Participants a 6% mandatory contribution of monthly earnings as defined in Section 3.02. Such picked-up mandatory contributions shall be made pursuant to the provisions of IRC Section 414(h).

SECTION 3.04--INVESTMENT OF CONTRIBUTIONS.

All Contributions made under the Plan will be deposited with the Insurer and invested in accordance with the provisions of the Group Contract. To the extent not prohibited by State law, the Employer

may specify whether all or any portion of an Employer Contribution deposited under the Group Contract is to be invested in any of the separate accounts of the Insurer in which the Group Contract participates.

ARTICLE 4. RETIREMENT BENEFITS

SECTION 4.01--AMOUNT OF MONTHLY RETIREMENT BENEFIT.

The amount of monthly retirement benefit for an Active Participant on his Retirement Date in accordance with the provisions of Section 4.02 will be determined as follows.

(a) At Normal Retirement Date, the amount of monthly retirement benefit for an Active Participant on his Normal Retirement Date will be equal to his Vested Accrued Benefit as of such date.

(b) At Early Retirement Date, an Active Participant's retirement benefit on his Early Retirement Date will be equal to his Vested Accrued Benefit on such specified date, multiplied by the factor shown below corresponding to the number of years his Early Retirement Date is before his Normal Retirement Date.

Number of Years Early Retirement Date is Before Normal Retirement Date	Factor
1	.92
2	.84
3	.76
4	.68
5	.60

However, in lieu of the above table the following table applies to Police Officers and Firefighters and, effective July 1, 1992, the City Attorney:

Number of Years Early Retirement Date is Before Normal Retirement Date	Factor
1	1.0
2	1.0
3	1.0
4	.92
5	.84
6	.76
7	.68
8	.60

Provided, however, no reduction will apply to the Vested Accrued Benefit of an Active Participant who retires on his Early Retirement Date with 30 (25 for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney) Years of Service.

The above factors will be adjusted proportionately (based on linear interpolation) for fractional parts of a year (counting a partial month as a complete month).

(c) At Late Retirement Date, the amount of monthly retirement benefit for an Active Participant on his Late Retirement Date will be equal to his Vested Accrued Benefit as of his Late Retirement Date.

SECTION 4.02--OPTIONAL FORMS OF MONTHLY RETIREMENT BENEFIT.

The monthly retirement benefit for a Participant on his Retirement Date may be paid in accordance with any one of the optional methods of payment under the Group Contract, which will be limited to the following Actuarial Equivalent optional forms.

(a) Straight life annuity; for the lifetime of the Participant, without death benefits.

(b) Life annuity with certain period of five years or ten years; for the lifetime of the Participant and, if the death of the Participant occurs prior to the end of the certain period, the balance of the remaining certain period payments to his Beneficiary.

(c) Survivorship life annuity; for the lifetime of the Participant and, upon his death, 50% or 100% of such annuity for the lifetime of his named Contingent Annuitant.

(d) Life annuity with modified cash refund; for the lifetime of the Participant and upon his death, a single sum payment will be made to his Beneficiary of the excess, if any, of his initial death benefit over the monthly annuity payments made to the Participant. The Participant may change his Beneficiary at any time.

A Participant's initial death benefit is an amount equal to the sum of (1) his Participant's Contribution Account plus (2) his Voluntary Account, if any, both determined on his Retirement Date.

The amount of each payment to a Participant under any of the optional forms of benefit in Section 4.02(a), 4.02(b), 4.02(c), or 4.02(d) above (other than the Normal Form) will be the amount required for the optional form to be the Actuarial Equivalent of the Normal Form.

The Participant may elect in writing the method of payment of any one of the optional forms above within 90 days prior to his Retirement Date.

In no event will an "interest-only" optional form be available. The Participant will name any certain period or any survivorship percentage and Contingent Annuitant prior to his Retirement Date.

If no optional form has been elected by the Participant, payment will be made to him under the Normal Form.

SECTION 4.03--ADDITIONAL MONTHLY INCOME.

The monthly retirement benefit determined for a Participant under Section 4.01 may be increased, as determined in accordance with the following provisions:

(a) For a Participant hired prior to July 1, 1993, and also for Police Officers, Firefighters, and the City Attorney, that portion of a Participant's Contribution Account derived from Required Participant Contributions made on or after July 1, 1979, shall be applied as of the Participant's Retirement Date to provide him an amount of monthly retirement income in addition to that provided under Section 4.01(a), 4.01(b), or 4.01(c), whichever is applicable.

(b) A Participant described in Section 4.03(a) above may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement Date. Payment of his Participant's Contribution Account derived from Required Participant Contributions made on or after July 1, 1979, is in lieu of any additional monthly income that otherwise would be provided under this Section 4.03. Payment of his Participant's Contribution Account derived from Required Participant Contributions made prior to July 1, 1979, is in lieu of the Actuarially Equivalent Monthly Benefit of that portion of his Accrued Benefit (Section 1.05) attributable to such Required Participant Contributions.

(c) Effective on and after July 1, 1993, a Participant who is not described in Section 4.03(a) above may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement Date. Lump Sum payment of his Participant's Contribution Account will reduce his Accrued Benefit (Section 1.05) by the monthly benefit that is the Actuarial equivalent of the lump sum.

SECTION 4.04–MINIMUM DISTRIBUTION.

In no event will a Participant whose Accrued Benefit is 100% vested on the date of his Termination of Employment receive a distribution less than the Actuarial Equivalent of his Participant's Contribution Account on such date. A Participant's Accrued Benefit is 100% vested on the date of his Termination of Employment only if the Participant is an Active Participant on or subsequent to either the date in Section 1.03(b)(1) or the earlier of (a) the date on which he attains age 50 (45 for Police Officers, Firefighters, and the City Attorney) or (b) the date on which he becomes Totally and Permanently Disabled.

ARTICLE 5. DISABILITY PAYMENTS

SECTION 5.01--ELIGIBILITY.

An Active Participant will become eligible for monthly disability payments under this Article 5. in the event (i) he becomes Totally and Permanently Disabled while in the actual performance of his duties for the Employer or (ii) he becomes Totally and Permanently Disabled on or after the date he completes 10 or more Years of Service and while he is an Employee but before his Retirement Date (Normal Retirement Date, if earlier).

Such Participant will become an Inactive Participant as of the date he becomes Totally and Permanently Disabled.

For purposes of this Article 5. Termination of Employment is deemed not to have occurred as to such Participant because of his disability, until and unless his employment is otherwise terminated; provided, however, that any periods of absence due to his disability under this Article 5. will not be counted wherever in this Plan Service is a determining factor.

SECTION 5.02--AMOUNT OF PAYMENTS.

(a) This Section 5.02(a) is effective before July 1, 1990, for all Participants and is effective on and after July 1, 1990, for Participants other than Police Officers, Firefighters, and the City Attorney.

The amount of monthly disability payment for a Participant is equal to his Vested Accrued Benefit determined as of the first day of the month coinciding with (immediately following, if none coincides with) the date on which he is disabled.

In no event, however, will the amount of each disability payment for any Participant be less than $100.

(b) This Section 5.02(b) is effective on and after July 1, 1990, for Police Officers, Firefighters, and the City Attorney.

The amount of monthly disability payment for a Participant is equal to his Vested Accrued Benefit determined as of the first day of the month coinciding with or immediately following the date on which he is disabled, based on Average Compensation as of the date of disability and Years of Service as of the disability date or projected to age 55, if later. Benefits determined under Section 4.03 will be paid in addition to these amounts.

In no event, however, will the amount of each disability payment for any Participant be less than $100 nor greater than 75% of the Participant's Average Compensation.

SECTION 5.03--DURATION OF PAYMENTS.

Monthly disability payments will commence on the first day of the month coinciding with (immediately following, if none coincides with) the date such Participant becomes Totally and Permanently Disabled and will continue thereafter through the first day of the month preceding the earliest of the following dates:

(a) His Normal Retirement Date.

(b) The date of his death.

(c) The effective date of termination of Plan.

(d) The date he is no longer Totally and Permanently Disabled.

If such payments continue through the first day of the month preceding such Participant's Normal Retirement Date, monthly retirement benefits will be provided for him on his Normal Retirement Date in accordance with the provisions of Article 4. in like manner as for an Active Participant, with Accrued Benefit equal to the amount of monthly disability payment paid to him pursuant to Section 5.02. If, prior to such Participant's Normal Retirement Date, he recovers and returns to active work for the Employer within one month of the date he is no longer Totally and Permanently Disabled, such payments will stop and he will again become an Active Participant pursuant to Section 2.01. If, prior to such Participant's Normal Retirement Date, he recovers and does not return to active work for the Employer within one month of his recovery, such payments will stop and his Termination of Employment will be deemed to have occurred as of the date he became Totally and Permanently Disabled and his benefits will be redetermined pursuant to Article 8.

If the Participant dies while receiving monthly disability payments and he meets the requirements pursuant to Section 7.01(a), death benefits will be paid in accordance with the provisions of said Section 7.01(a).

ARTICLE 6. COST OF LIVING ADJUSTMENT

SECTION 6.01--IMPORTANT TERMS.

For the purpose of determining the cost of living adjustment of benefits, the following terms are defined here:

ADJUSTMENT DATE means each Anniversary Date on and after the Effective Date on which the Price Index has changed from the Price Index on the last preceding Anniversary Date as of which the monthly retirement benefit payments under this Plan were changed in accordance with this Article 6. (on the Effective Date if no prior changes have been made).

ADJUSTMENT FACTOR means, as of any Adjustment Date, the quotient of (a) divided by (b):

(a) The Price Index as of such Adjustment Date.

(b) The Price Index as of the last previous Adjustment Date.

In no event, however, will the Adjustment Factor exceed 1.02. Prior to July 1, 1982, the Adjustment Factor will not exceed 1.04.

ANNUITANT means either an Inactive Participant whose Retirement Date has occurred and who is entitled to monthly retirement benefit payments under this Plan or the Beneficiary or Contingent Annuitant of such Participant, if any, who is entitled to monthly retirement benefit payments under this Plan as the result of such Participant's death.

PRICE INDEX means, as of any Anniversary Date, the Consumer Price Index (Portland area-all items) as published by the Bureau of Labor Statistics of the United States Department of Labor in the City of Portland, Oregon, or a comparable index as determined by the Employer if such index ceases to be published.

SECTION 6.02--CHANGE IN MONTHLY RETIREMENT BENEFIT.

As of each Adjustment Date, the monthly retirement benefit payments payable to an Annuitant will be changed to the amount determined by multiplying such payments by the Adjustment Factor as of such Adjustment Date, subject to the following provisions:

(a) If such change results in an increase in the amount of monthly retirement benefit payments to an Annuitant, an amount of monthly retirement benefit will be provided for him under the Group Contract in the amount of such increase with payments consistent with the payments being made as to the monthly retirement annuity provided under the Group Contract on the Participant's Retirement Date.

(b) If such change results in a decrease in the amount of the monthly retirement benefit payments to an Annuitant, an amount or amounts of monthly retirement benefit previously provided for him under the Group Contract will be cancelled as of such Adjustment Date so that the total amount of monthly retirement benefit remaining will be only the reduced amount to which he is then entitled.

In no event will any decrease become effective which would reduce the monthly retirement benefit payments for an Annuitant to an amount which would be less than the amount he would have received had the provisions of this Article 6. not been in effect.

(c) On and after the effective date of termination of Plan pursuant to Article 11., no further changes in monthly retirement benefit payments will be made in accordance with this Article 6.

SECTION 6.03--MINIMUM ADJUSTMENT FOR RETIREMENTS AFTER JULY 1, 1990.

Effective on and after July 1, 1990, for Police Officers, Firefighters, and the City Attorney, monthly payments for such Participants retiring on or after July 1, 1990, will be increased annually to a level that is no less than that which would have been in effect had the initial monthly benefits been payable from the Oregon Public Employees Retirement System, determined without including any payments under ORS 238.375 to 238.387 or any other tax remedy payments.

ARTICLE 7. DEATH BENEFITS

SECTION 7.01--DEATH BENEFIT BEFORE RETIREMENT.

(a) Death Benefit before Retirement Date (Normal Retirement Date, if earlier): If the death of a Participant occurs prior to his Retirement Date (Normal Retirement Date, if earlier), a single sum death benefit equal to the sum of (i) two (effective July 1, 1990, two and two-tenths (2.2)) times his Participant's Contribution Account as of the date of his death, and (ii) his Voluntary Account as of the date of his death will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section 4.02 for the benefit of such Beneficiary.

In no event, however, will such death benefit be less than the death benefit that would have been payable upon the death of such Participant under the Prior Plan on the day before the Effective Date.

(b) Deferred Retirement Death Benefit: If the death of an Active Participant occurs on or after his Normal Retirement Date and prior to his Retirement Date, and

(1) If the straight life annuity optional form under Section 4.02 is in effect for him on the date of his death, there are no death benefits payable under this Article 7.

(2) If the life annuity with certain period optional form under Section 4.02 is in effect for him on the date of his death, there will be provided for his Beneficiary, beginning on the Monthly Date following his death, a certain period benefit payable monthly for the certain period applicable under said option. The amount of the monthly payments to such Beneficiary will be equal to the amount that would have been payable monthly to such Participant had his Retirement Date occurred on the Monthly Date coinciding with (immediately preceding, if none coincides with) the date of his death.

(3) If the survivorship life annuity optional form under Section 4.02 is in effect for him on the date of his death, there will be provided for his designated Contingent Annuitant, beginning on the Monthly Date coinciding with (immediately following, if none coincides with) the date of his death, a retirement benefit payable monthly in like manner as if such Contingent Annuitant were a Participant with Retirement Date beginning on such Monthly Date if and so long as such Contingent Annuitant lives. The amount of such monthly retirement benefit will be equal to the amount that would have been payable to such Participant had his Retirement Date occurred on the Monthly Date coinciding with (immediately preceding, if none coincides

with) the date of his death, multiplied by the percentage in effect under such optional form.

(4) If the life annuity with modified cash refund optional form under Section 4.02 is in effect for him on the date of his death, there will be provided for his Beneficiary, a single sum payment equal to his Participant's Contribution Account.

(5) If none of the above optional forms is in effect for him on the date of his death, a single sum death benefit equal to the amount provided in Section 7.01(a) (determined as if Section 7.01(a) applied) will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section 4.02 for the benefit of such Beneficiary.

There are no death benefits under this Plan before retirement, except as may be provided under Article 10.

SECTION 7.02--DEATH BENEFIT AFTER RETIREMENT.

Any death benefit after retirement will be in accordance with the form of retirement benefit in effect on a Participant's Retirement Date and will be payable in accordance with the provisions under Article 4.

ARTICLE 8. TERMINATION OF BENEFITS

SECTION 8.01--TERMINATION BENEFITS.

An Employee who becomes an Inactive Participant one month or more prior to his Retirement Date shall be entitled to one of the following benefits:

(a) Deferred Payment. If an Inactive Participant so elects, he will receive a deferred monthly retirement benefit to commence on his Normal Retirement Date. The amount of such deferred monthly retirement benefit, in accordance with the Normal Form, shall be equal to the following:

(1) Effective on and after July 1, 1993, for an Inactive Participant hired on or after July 1, 1993, other than an Inactive Participant who was a Police Officer, Firefighter, or the City Attorney:

An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant. The amount may not exceed 100% of his Average Compensation, but in no event shall be less than the monthly benefit provided by the Actuarial Equivalent of his Participant's Contribution Account.

(2) For an Inactive Participant hired prior to July 1, 1993, and for an Inactive Participant who was a Police Officer, Firefighter, or the City Attorney, an amount equal to the sum of (i) and (ii) below:

(i) An amount equal to the amount of monthly retirement benefit which could be provided on his Normal Retirement Date by that portion of his Participant's Contribution Account made on or after July 1, 1979; and

(ii) An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant,

provided that the sum of (i) and (ii) do not exceed 100% of his Average Compensation, but in no event shall be less than the monthly benefit provided by the Actuarial Equivalent of his Participant's Contribution Account.

(b) An Inactive Participant may elect to have his deferred monthly retirement benefit commence on his Early Retirement Date. The amount of such deferred monthly retirement benefit shall be equal to the amount of deferred benefit determined in Section 8.01(a) above multiplied by the factor shown in Section 4.01(b) corresponding to the number of years his Early Retirement Date precedes his Normal Retirement Date.

Payment of the deferred monthly retirement benefit will be in the form of retirement benefit in effect on a Participant's Retirement Date as provided under Section 4.02.

(c) Immediate Payment. In lieu of any benefits otherwise available under this Article 8., a Participant may elect to receive his Participant's Contribution Account in a single sum payment.

If the Inactive Participant elects to receive his Participant's Contribution Account in a single sum payment, he shall receive his payment 90 days after the date he ceases to be an Employee and before his Retirement Date. Any such payment will be a voluntary cash-out, in lieu of a part of the deferred retirement benefit otherwise available to him on his Retirement Date. Payment of his Participant's Contribution Account cancels the part of his benefit determined under Section 8.01(a) above.

If, upon the date a Participant ceases to be an Employee, the present value of his deferred retirement benefit is less than $1,750, it will, unless otherwise directed by the Employer, be paid as an involuntary cash-out in a single sum in full settlement of all benefits otherwise payable to him. This value will be determined under the provisions of the Group Contract.

SECTION 8.02--REPAYMENT OF SINGLE SUM PAYMENT.

(a) A Participant

(1) who received a single sum payment under this Plan of less than the present value of his Accrued Benefit on the date of payment, and

(2) who again performs Service as an Eligible Employee

may make repayment to the Plan no longer than the earlier of

(3) the last day of the two-year period which begins on the date he again performs Service as an Eligible Employee, or

(4) the last day of the five-year period which begins on the date the single sum payment is made.

The amount which must be repaid is the full amount of the single sum payment he received with interest at the rate of 8% per annum compounded annually, on such payment compounded annually from the date the payment was made to the date he repaid the full amount. If repayment is made, the Participant's Accrued Benefit will not be reduced for the single sum payment.

(b) Beginning July 1, 2002, the Plan will accept a Participant's repayment in the form of the following rollovers, contributions, and transfers made after December 31, 2001, from the types of plans described below:

(1) A direct rollover of an eligible rollover distribution from, or a participant contribution of an eligible rollover distribution from:

(i) A qualified plan described in IRC Section 401(a) or 403(a);

(ii) An annuity contract described in IRC Section 403(b); or

(iii) An eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A),

but only if the Plan is an eligible retirement plan with respect to the direct rollover or participant contribution.

(2) A participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in IRC Section 408(a) or 408(b) that is eligible to be rolled over and would otherwise be includible in gross income.

(3) A direct trustee-to-trustee transfer authorized by IRC Section 457(e)(17) from an eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A).

The definitions in Section 13.03 apply for purposes of this Section 8.02(b).

ARTICLE 9. ADDITIONAL BENEFITS FOR PERS BENEFIT INCREASES

SECTION 9.01--PURPOSE.

This Article 9. implements the requirement that the Employer provide increases in benefits for certain Public Safety Employees that are equal to or the actuarial equivalent of certain increases in benefits under the Oregon Public Employees Retirement System granted in 1991 and 1995 to certain police officers and firefighters. That requirement and those increases are provided in ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

SECTION 9.02--INCREASE IN DISTRIBUTION.

Upon distribution of an Eligible Employee's Vested Accrued Benefit in a calendar year in which distributions under this Plan are not exempt from Oregon personal income taxation, the amount of the distribution shall be increased by the greater of the following amounts:

(a) The amount determined by multiplying the Eligible Payments of the Eligible Portion of the Employee's Vested Accrued Benefit by the following percentage:

If the Employee's Years of PSE Service at the Employee's last Severance of Employment are:	*The percentage is:*
Less than 10	0%
At least 10 but not 20	1%
At least 20 but not 25	$2^{1}/_{2}$%
25 or more	4%

(b) The amount determined by multiplying the Eligible Payments of the Eligible Portion of the Employee's Vested Accrued Benefit by the percentage determined under the following formula:

$$\left(\frac{1}{.91} - 1\right) \times \left(\frac{\text{the Employee's Years of PSE Service before October 1, 1991}}{\text{the Employee's Years of PSE Service}}\right)$$

The amount of such increase shall be allocated among the components of the Employee's Vested Accrued Benefit in proportion to the Actuarial Equivalent value of each. The increase allocated to each component shall be paid in the same form as the component is paid.

SECTION 9.03--ALTERNATE PAYEES.

Despite Section 9.02 above, (1) the amount by which the distribution to an alternate payee is to be increased shall not be determined or paid before the participant's Severance of Employment, (2) no increase shall be paid (even after the participant's Severance of Employment) with respect to a lump sum distribution (including a direct rollover) made to an alternate payee before the participant's

Severance of Employment, and (3) the amount of the increase in the distribution to the alternate payee with respect to distributions previously made shall be distributed in the following forms, without interest for delayed payment:

(a) In a lump sum distribution if the benefit is attributable to monthly payments previously made under an annuity.

(b) As a supplement to the annuity if the increase is attributable to monthly payments to be made in the future under a previously started annuity.

SECTION 9.04--DEFINITIONS; CHANGE IN TAX RATE.

For purposes of this Article 9.:

(a) An "Eligible Employee" is any Employee who before July 14, 1995, was a Public Safety Member and whose last Severance of Employment occurred or occurs while the Employee is a Public Safety Employee and either occurred before January 1, 1991, for a reason other than the Employee's death or occurred or occurs after December 31, 1990, for any reason.

(b) "Public Safety Member" means an Active Participant employed by the Employer as a firefighter or police officer as those terms are defined in ORS 237.610.

(c) "Public Safety Employee" means an Employee employed by the Employer as a firefighter or police officer as those terms are defined in ORS 237.610.

(d) "Accrued Benefit" means the participant's Accrued Benefit as defined in Section 1.05, but specifically excluding the cost of living adjustment provided in Article 6., the benefit provided in this Article 9., and the benefit attributable to the participant's Voluntary Account.

(e) "Vested Accrued Benefit" means the participant's Accrued Benefit as defined in Section 9.04(d) above multiplied by the percentage determined under Section 1.03(b) with respect to the participant's Accrued Benefit.

(f) "Eligible Payments" are all payments made after December 31, 1990, other than:

(1) Payments that would have been made before January 1, 1991, if the Employee had elected to start benefit payments on the Employee's first possible Retirement Date on or next after the Employee's Severance of Employment.

(2) Payments with respect to an Eligible Employee whose last Severance of Employment occurred before January 1, 1991, other than periodic payments made under an annuity.

(g) The "Eligible Portion" is the part of the Vested Accrued Benefit attributable to Plan Participation as a Public Safety Member.

(h) "Years of PSE Service" are Years of Service during which the Eligible Employee was a Public Safety Employee, which Years of Service shall be determined by counting only completed months of Service during which the Employee was at all times a Public Safety Employee.

(i) "Severance of Employment" means permanent termination of employment with the Employer for any cause.

(j) The decimal .91 in the formula in Section 9.02(b) above shall automatically be adjusted as provided in this Section 9.04(j) to reflect changes in the maximum Oregon personal income tax rate imposed upon individuals who are full-year residents of Oregon. An increase in such rate by x percentage points shall cause such decimal to be reduced by x 100ths, and a reduction in such rate by x percentage points shall cause such decimal to be increased by x 100ths. For example, following are the decimals that correspond to particular rates:

If the rate is:	*The decimal is:*
7%	.93
8%	.92
9%	.91
10%	.90
11%	.89

Any such change in the decimal shall be effective only for distributions made on or after the effective date of the change in such rate. No amount distributed to an Eligible Employee, Beneficiary, Contingent Annuitant, or alternate payee before the change is implemented may be recovered from any person or offset against any undistributed benefit of any person to account for any such change.

SECTION 9.05--PRIOR DISTRIBUTIONS.

The Employer shall as soon as administratively feasible cause to be distributed to Eligible Employees (and where applicable their Beneficiaries, Contingent Annuitants, and alternate payees) without interest any benefits provided in this Article 9. or Article 6. attributable to distributions previously made and shall appropriately adjust the cost of living adjustment provided in Article 6. for payments to be made in the future. Such benefits shall be distributed in the following forms:

(a) In a lump sum distribution if the benefit is attributable to:

(1) A lump sum distribution (including a direct rollover); or

(2) Monthly payments previously made under an annuity.

(b) As a supplement to the annuity if the benefit is attributable to monthly payments to be made in the future under a previously started annuity.

SECTION 9.06--LIMITATIONS.

The benefits provided in this Article 9.:

(a) Shall not be paid with respect to any portion of an Eligible Employee's Accrued Benefit that is transferred to the Oregon Public Employees Retirement System or the payment of which is assumed or made by the Oregon Public Employees Retirement System.

(b) May by amendment of this Plan be reduced, eliminated, or changed for all or some Employees with respect to service performed before or after the amendment:

(1) To the extent a court of competent jurisdiction or the Employer determines that the Employer is not required to implement one or more of the provisions of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569 that by their terms apply to the Employer.

(2) To the extent a court of competent jurisdiction or the Employer determines that any of the benefits, or the aggregate benefits, provided in this Article 9. are more than is required to implement the provisions of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

(3) As the Employer determines appropriate to respond to any law modifying any requirement of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

(4) As the Employer in the Employer's absolute discretion deems appropriate, even though none of the events described above in this Section 9.06(b), and no like event, has occurred.

Any such benefits that are reduced, eliminated, or changed after they have been distributed may not be recovered from any person or offset against any undistributed benefit of any person to account for any such reduction, elimination, or change.

SECTION 9.07--NO CONTRACT RIGHTS.

No Eligible Employee, Beneficiary, Contingent Annuitant, or alternate payee shall acquire a right, contractual or otherwise, to the increased benefits provided by this Article 9.

ARTICLE 10. VOLUNTARY CONTRIBUTIONS

SECTION 10.01--VOLUNTARY CONTRIBUTIONS.

An Active Participant may make Voluntary Contributions. These Contributions may be made during any period in which he is an Active Participant. Voluntary Contributions will be made in accordance with procedures set up by the Employer.

A Participant's Voluntary Contributions, including any voluntary contributions he has made under any other qualified plan of the Employer or predecessor of the Employer, may not, in the aggregate, exceed 10% of his aggregate earnings from the Employer and predecessor for the period of time that he has actively participated under this and such other plan or plans.

An Active Participant may begin to make Voluntary Contributions on any Quarterly Date.

An Active Participant may change the amount of future Voluntary Contributions on any Quarterly Date.

An Active Participant may stop making his Voluntary Contributions on any Quarterly Date. He may then resume making Voluntary Contributions on any Quarterly Date.

Before the date he ceases to be an Employee, a Participant may withdraw any part of his Voluntary Account resulting from his Voluntary Contributions in a single sum, but not more than the original amount of those Contributions. A withdrawal may occur only once in a Plan Year.

Stopping, changing, or withdrawing Voluntary Contributions will not affect a Participant's participation in the Plan. No portion of his Voluntary Account resulting from any other Contributions will be forfeited solely because of such withdrawal. An Active Participant's request to begin, change, stop, or withdraw his Voluntary Contributions will be in writing on a form furnished for that purpose. This form will include any necessary authorization for payroll deduction and will be delivered to the Employer before the date Contributions are to begin, change, stop, or be withdrawn.

No Voluntary Contributions will be made by a Participant after the second calendar month preceding his Retirement Date.

Voluntary Contributions will be credited to the Participant's Voluntary Account as they are made and will be forwarded to the Insurer at least quarterly.

Participants' Voluntary Accounts are fully vested and nonforfeitable.

SECTION 10.02--INVESTMENT OF VOLUNTARY CONTRIBUTIONS.

All Voluntary Contributions made by or on behalf of an Active Participant will be forwarded by the Employer to the Insurer to be deposited under the Group Contract and invested according to its provisions.

However, no Voluntary Contributions may be invested in any of the separate accounts of the Insurer in which the Group Contract participates.

SECTION 10.03--RETIREMENT BENEFITS.

On a Participant's Retirement Date, his Voluntary Account will be used to purchase additional benefits for him as provided in Section 4.03.

SECTION 10.04--DEATH BENEFITS.

If the death of the Participant occurs before his Retirement Date, a distribution of his Voluntary Account will be made to his Beneficiary as provided in this Article 10. A Participant's Voluntary Account will not be distributed to his Beneficiary under this Article 10. if a death benefit is paid under Section 7.01(a) or 7.01(b)(5) on account of the Participant's death.

SECTION 10.05--VESTED BENEFITS.

The Participant's Voluntary Account will be held for him until the earlier of his Retirement Date or death and will then be applied as provided in Section 10.03 or Section 10.04, unless he receives earlier distribution under this Section 10.05.

An Inactive Participant may elect to have his Voluntary Account distributed under one or more of the methods described in Section 4.02 before his Retirement Date or death. The distribution may be in the form of an immediate annuity only if the amount which would be applied to purchase the annuity under the Group Contract is $1,750 or more. Benefit payments may begin at the time after the Participant ceases to be an Employee but not later than his Normal Retirement Date.

Any election by a Participant to receive a distribution of all or part of his Voluntary Account must be made before he again becomes an Employee.

If, on the date he ceases to be an Employee, a Participant's Voluntary Account is less than $1,750, it will, unless otherwise directed by the Employer be paid to him in a single sum as an involuntary cash-out.

ARTICLE 11. TERMINATION OF PLAN

SECTION 11.01--TERMINATION OF PLAN.

The Employer expects to continue the Plan indefinitely but reserves the right to terminate the Plan in whole or in part at any time by giving written notice to all parties concerned.

SECTION 11.02--VESTING ON TERMINATION.

Upon termination or partial termination of the Plan or complete discontinuance of contributions under the Plan, the rights of all affected employees to benefits accrued to the date of such termination, to the extent then funded, shall become nonforfeitable.

SECTION 11.03--PROCEDURES UPON TERMINATION OF PLAN.

Upon termination of Plan, the following provisions shall apply:

(a) No further Employees shall become Participants and no further contributions shall be made.

(b) Each Participant's account shall be held under the Group Contract and applied as heretofore provided in this Plan upon such Participant's death, Termination of Employment, or Retirement Date.

In lieu of a portion of his deferred monthly retirement income under this Section 11.03(b), such Participant may elect to receive his Participant's Contribution Account in a single sum payment at any time on or subsequent to his Termination of Employment and prior to his Retirement Date.

(c) All disability payments will cease and the Plan assets, other than those arising from Section 11.03(b) held by the Insurer under the Group Contract as to those Participants whose Retirement Dates have not yet occurred shall be allocated and applied to the extent they are sufficient to purchase benefits for all Participants who had not reached their Retirement Dates prior to the effective date of termination of Plan, in accordance with the following classifications and order of precedence.

(1) First, to purchase immediate monthly retirement benefits for those Participants whose Normal Retirement Dates occurred on or prior to the effective date of termination of Plan, but who had not retired, and for those Participants who were receiving disability benefits pursuant to Article 5. on the effective date of termination of Plan.

(2) Second, to purchase deferred monthly retirement benefits for such Participants who have attained age 60 or older on the effective date of termination of Plan and who are not included in Section 11.03(c)(1) above.

(3) Third, to purchase deferred monthly retirement benefits for such Participants who have attained age 55 or older on the effective date of termination of Plan and who are not included in Section 11.03(c)(1) or 11.03(c)(2) above.

(4) Fourth, to purchase deferred monthly retirement benefits for all other Participants.

The monthly retirement benefit to be purchased for each such Participant shall be payable in accordance with the Normal Form beginning on his Normal Retirement Date (on the effective date of termination of Plan, if later) and the amount shall be equal to (i) his Accrued Benefit (or disability benefit, if applicable) on the effective date of termination of Plan; provided, however, that if the Plan assets are insufficient to purchase such monthly retirement benefits in full for any class, the monthly retirement benefits for all in such class shall be reduced, as determined by the Insurer, to such fraction as the amount available will provide.

In any event, that portion of the Plan assets attributable to each Participant's Voluntary Account, if any, will be applied on the effective date of termination of Plan to provide for him an amount of deferred monthly retirement income benefit before the allocation and application of assets determined according to the classification and order of precedence in Section 11.03(c).

No part of the assets of the Plan shall be paid or distributed to such Employer at any time except as provided in Section 3.01 (about returned contributions) and except that, after satisfaction of all liabilities under such Plan, any overpayments made by such Employer as a result of erroneous actuarial computations shall be repaid to such Employer.

ARTICLE 12. ADMINISTRATION OF PLAN

SECTION 12.01--ADMINISTRATION.

The Employer will have complete control of the administration of the Plan, subject to the provisions hereof, with all powers necessary to enable it properly to carry out its duties in that respect. Not in limitation, but in amplification of the foregoing, it will have the discretionary power to construe the Plan and to determine all questions that may arise hereunder, including all questions relating to the eligibility of Employees to participate in the Plan and the amount of benefit to which any Participant, Beneficiary, Contingent Annuitant, or alternate payee may become entitled hereunder. Its decision upon all matters within the scope of its authority will be final.

The Employer will establish rules and procedures to be followed by Participants, Beneficiaries, Contingent Annuitants, and alternate payees in filing applications for benefits, in furnishing and verifying proofs necessary to determine age, and in any other matters required to administer the Plan. It may delegate to any person or firm such recordkeeping and other duties necessary to assist the Employer with the administration of the Plan not otherwise set out in the Plan or the Group Contract, as specifically agreed to by such person or firm.

The Employer will receive all applications for benefits and will determine all facts necessary to establish the right of the applicant to benefits under the provisions of the Plan and the amount thereof as herein provided.

The Employer will be entitled to rely upon all tables, valuations, certificates, and reports furnished by the consultant or actuary appointed by the Employer and upon all opinions given by any counsel selected or approved by it.

SECTION 12.02--RECORDS.

All acts and determinations of the Employer will be duly recorded and all such records, together with such other documents as may be necessary for the administration of the Plan, will be preserved in its custody.

SECTION 12.03--DELEGATION OF AUTHORITY.

The administrative duties and responsibilities set forth in Section 12.01 may be delegated by the Employer to a retirement committee consisting of such persons as it selects. The Employer shall notify the Insurer in writing of the authority conferred upon the retirement committee and of the membership of the retirement committee and any changes therein as they occur from time to time. The Insurer shall be entitled to rely on the last such notification received, until written notification to the contrary has been received from the Employer. The members of the retirement committee shall be free from all liability, joint or several, for their acts, omissions, and conduct, and for the acts, omissions, and conduct of their duly constituted agents, in the administration of the Plan, and the Employer shall indemnify and save each of them harmless from effects and consequences of their

acts, omissions, and conduct in their official capacity, except to the extent that such effects and consequences shall result from their own willful misconduct or gross negligence.

Members of the retirement committee shall serve without compensation for services as such, but all expenses incurred by it shall be paid by the Employer or by the Plan, upon written authorization of the Employer provided to the Insurer. Such expenses shall include any expenses incident to the functioning of the retirement committee including, but not limited to, fees of accountants, counsel, and other specialists related directly to the administration and operation of the Plan. All other expenses of the Plan or the Group Contract, unless paid by the Employer, shall be paid by the Plan upon written authorization of the Employer provided to the Insurer.

The Employer will have the power to appoint or remove any person to manage (including the power to acquire and dispose of) any assets of the Plan. It may appoint or remove any person or persons to serve in more than one fiduciary capacity with respect to the Plan (including service both as trustee and administrator).

The Employer will have the power to appoint or remove the Insurer.

SECTION 12.04--INFORMATION AVAILABLE.

Any Participant or alternate payee or any Beneficiary or Contingent Annuitant receiving benefits under the Plan may examine copies of this Plan, the Group Contract, or any other instrument under which the Plan was established or is operated. The Employer will maintain all of the items listed in this Section 12.04 in its office, or in such place or places as it may designate from time to time, for examination during reasonable business hours. Upon written request of a Participant or alternate payee or Beneficiary or Contingent Annuitant receiving benefits under the Plan, the Employer will furnish him with a copy of any item listed in this Section 12.04. The Employer may make a reasonable charge to the requesting person for the copy so furnished.

SECTION 12.05--CLAIMS.

Upon the request of a participant or beneficiary (including an alternate payee), or by action of the Employer, the Employer shall provide claim forms to any participant or his beneficiary who becomes entitled to benefits under the Plan. Such claim form shall be completed and submitted to the Employer no later than 30 days after it is received by the participant or beneficiary. Upon receipt of the claim form, the Employer shall review the appropriateness of the claim and if the Employer determines that the claim should not be allowed, the Employer shall respond in writing within 30 days of the receipt of the claim to the participant or beneficiary. The response 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, need be supplied by the participant or beneficiary 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 30 days of receipt by the Employer, the claim shall be deemed denied.

Within 60 days after receipt of notice of denial of the claim or when the claim is deemed to have been denied, the participant or beneficiary (or representative) may respond to the denial by requesting, in writing, a review of the decision and a review of pertinent documents. If the participant or beneficiary (or representative) 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 60 days from the Employer's receipt of the request for review, respond to said request. In modification of the foregoing, if the Employer, in the Employer's sole discretion, determines that special circumstances warrant the holding of a hearing, it shall promptly be held and a decision shall be rendered within 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.

ARTICLE 13. REQUIRED PROVISIONS

SECTION 13.01--REQUIRED STARTING DATE.

(a) The entire interest of each participant in the Plan:

(1) Will be distributed to the participant no later than the Required Starting Date; or

(2) Will be distributed, starting not later than the Required Starting Date, in accordance with Treasury regulations, over the life of the participant or over the lives of the participant and a Designated Beneficiary (or over a period not extending beyond the life expectancy of the participant or the life expectancy of the participant and a Designated Beneficiary).

(b) If the distribution of the participant's interest has begun in accordance with Section 13.01(a)(2) above and the participant dies before the participant's entire interest has been distributed to the participant, the remaining portion of the participant's interest will be distributed at least as rapidly as under the method of distributions being made under Section 13.01(a)(2) above as of the date of the participant's death.

(c) If a participant dies before the distribution of the participant's interest has begun in accordance with Section 13.01(a)(2) above, the entire interest of the participant will be distributed within five years after the death of the participant. However, the five-year rule does not apply to any portion of the participant's interest payable to (or for the benefit of) a Designated Beneficiary; and not later than one year after the date of the participant's death or such later date as may be prescribed by Treasury regulations distributions (in accordance with Treasury regulations) of such portion will start over the life of the Designated Beneficiary (or over a period not extending beyond the life expectancy of the Designated Beneficiary).

(d) With respect to a Designated Beneficiary who is the participant's surviving spouse:

(1) The date on which the distributions are required to start for purposes of the exception to the five-year rule in Section 13.01(c) above will not be earlier than the date on which the participant would have attained age 70½; and

(2) If the surviving spouse dies before the distributions to the spouse start, Section 13.01(b) and 13.01(c) above will be applied as if the spouse were the participant.

(e) For purposes of this Section 13.01.:

(1) "Required Starting Date" means April 1 of the calendar year following the later of (a) the calendar year in which the participant attains age 70½ or (b) the calendar year in which the participant retires.

(2) "Designated Beneficiary" means any individual designated as a beneficiary by the participant.

(3) "Spouse" and "surviving spouse" include an alternate payee who is the participant's former spouse.

(4) In accordance with Treasury regulations, any amount paid to a child will be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse upon such child reaching majority (or other designated event permitted under Treasury regulations).

(5) Any distribution required under the incidental death benefit requirements of IRC Section 401(a) will be treated as a distribution required under this Section 13.01.

(f) Despite any contrary provision of the Plan, the Plan will apply the minimum distribution requirements of IRC Section 401(a)(9) in accordance with the following proposed, final, and temporary Treasury regulations:

(1) With respect to distributions made for calendar years beginning before January 1, 2001, the regulations under IRC Section 401(a)(9) that were proposed in 1987, including Proposed Treasury Regulation Section 1.401(a)(9)-2.

(2) With respect to distributions made for the calendar year beginning on January 1, 2001, the regulations under IRC Section 401(a)(9) that were proposed on January 17, 2001.

(3) With respect to distributions made for calendar years beginning on or after January 1, 2002, Treasury Regulation Sections 1.401(a)(9)-1 through 1.401(a)(9)-9, and also Treasury Regulation Section 1.401(a)(9)-6T for the period it applies.

(g) This Section 13.01.:

(1) Applies only to the extent this Section 13.01 requires a distribution to be made earlier than otherwise required under the Plan.

(2) Overrides any distribution options in the Plan inconsistent with IRC Section 401(a)(9).

(3) Applies to Plan Years beginning after December 31, 1986, or such later date provided in Public Law No. 98-369, Section 521(d)(5) (about collective bargaining agreements).

SECTION 13.02--ANNUAL COMPENSATION LIMIT.

Except for purposes of Sections 13.05, 13.06, and 13.07, the annual compensation taken into account for each participant in determining plan allocations and benefit accruals under the Plan for any Plan Year is limited to the annual compensation limit under IRC Section 401(a)(17)(A) ($150,000 for Plan Years beginning before January 1, 2002, and $200,000 for Plan Years beginning after December 31, 2001), as adjusted for increases in the cost of living in accordance with IRC Section 401(a)(17)(B). For Plan Years beginning before January 1, 1997, in determining the compensation of a participant the rules of IRC Section 414(q)(6) shall apply, except that in applying such rules the term "family" shall include only the spouse of the participant and any lineal descendants of the participant who have not attained age 19 before the close of the Plan Year. The requirements of IRC Section 401(a)(17) and the Treasury regulations thereunder are incorporated into the Plan by this reference. This Section 13.02 applies to Plan Years beginning after December 31, 1995.

SECTION 13.03--DIRECT ROLLOVERS.

Despite any contrary provision of the Plan that would otherwise limit a distributee's election under this Section 13.03, a distributee may elect, at the time and in the manner prescribed by the Employer, to have any portion of an eligible rollover distribution made after December 31, 1992, paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions shall apply to this Section 13.03 and Section 8.02(b).:

(a) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, but not including:

(1) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

(2) Any distribution to the extent such distribution is required under IRC Section 401(a)(9);

(3) For distributions made before January 1, 2002, the portion of any distribution that is not includable in gross income;

(4) For distributions made after December 31, 2001, any distribution that is made upon hardship of the employee; and

(5) Unless the Employer affirmatively elects to the contrary, any minimum amount permitted by IRC Section 401(a)(31) and Treasury regulations issued thereunder that is permitted to be excluded from the definition of eligible rollover distribution.

(b) Eligible retirement plan: An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution:

(1) An individual retirement account or annuity described in IRC Section 408(a) or 408(b);

(2) A qualified plan described in IRC Section 401(a) or 403(a);

(3) For distributions made after December 31, 2001, an annuity contract described in IRC Section 403(b); or

(4) For distributions made after December 31, 2001, an eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A) and that agrees to separately account for amounts transferred into such plan from the Plan.

However:

(5) In the case of an eligible rollover distribution to the surviving spouse in a distribution made before January 1, 2002, an eligible retirement plan is only an individual retirement account described in IRC Section 408(a) or individual retirement annuity described in IRC Section 408(b).

(6) In the case of a direct rollover of an amount that is not includable in gross income in a distribution made after December 31, 2001, an eligible retirement plan is only (a) a qualified defined contribution plan described in IRC Section 401(a) or 403(a) that agrees to separately account for amounts transferred in the direct rollover, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable, (b) an individual retirement plan described in IRC Section 408(a), or (c) an individual retirement annuity described in IRC Section 408(b).

(c) Distributee: A distributee includes a participant. In addition, the participant's surviving spouse and the participant's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

(d) Direct rollover: A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

Such distribution may begin less than 30 days after the required special tax notice is given to the distributee if (1) the Employer clearly informs the distributee that the distributee has a right to a period of at least 30 days after receiving the notice to consider the decision whether to elect a particular distribution option and (2) the distributee, after receiving the notice, affirmatively elects a distribution.

SECTION 13.04--BENEFITS FOR MILITARY SERVICE.

Effective for reemployments initiated on or after December 12, 1994, and despite any contrary provision of the Plan, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with IRC Section 414(u).

SECTION 13.05--LIMIT ON BENEFITS.

For limitation years beginning after December 31, 1983, and despite any contrary provision of the Plan a participant's annual benefit under the Plan during any limitation year may not exceed the limitations of IRC Section 415 as provided in this Section 13.05.

(a) A participant's annual benefit under the Plan during any limitation year may not exceed the dollar limitation under IRC Section 415(b)(1)(A) for the limitation year and, for limitation years beginning before January 1, 1995, also may not exceed 100% of the participant's average compensation (as defined in Section 13.09) for the participant's high three years.

(b) The dollar limitation and the compensation limitation in Section 13.05(a) above and in IRC Section 415(b)(1)(A) and (B) will be annually adjusted for increases in the cost of living in accordance with Treasury regulations, including for participants who have separated from service. Without limiting the foregoing:

(1) As of January 1 of each calendar year the dollar limitation will be automatically adjusted to the new dollar limitation determined by the Commissioner of Internal Revenue for that calendar year. The new dollar limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

(2) In the case of a participant who has separated from service, the participant's average compensation for the participant's high three years will be automatically adjusted by multiplying such average compensation by the cost of living adjustment factor prescribed by the Secretary of the Treasury under IRC Section 415(d) in such manner as the Secretary shall prescribe. Such adjusted average compensation will apply to limitation years ending within the calendar year of the date of adjustment.

(c) A participant's high three years will be determined based on calendar years.

(d) If a participant's annual benefit during a limitation year (payable in the normal form or in any optional form subject to adjustment under IRC Section 415(b)(2)(B)) would exceed the amount provided in Section 13.05(a) above, the participant's annual benefit during such limitation year will be reduced to the amount provided in Section 13.05(a).

(e) Except as provided in IRC Section 415(f)(3) (about multiemployer plans), which is effective for limitation years beginning after December 31, 2001, in the case of any participant in another defined benefit plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), (1) all such plans will be treated as one plan and (2) the annual benefit that may be provided to the participant under the Plan as provided in Section 13.05(a) above will be reduced by the amount of the aggregate of the annual benefits provided to the participant under such other plans.

(f) The limitations in this Section 13.05 will be applied according to the adjustments described in and the provisions of IRC Section 415 (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into the Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(b)(2)(B) (about benefits payable in other than the normal form), 415(b)(2)(C) and (D) (about benefits commencing before or after a stated age or stated ages), 415(b)(2)(F) (about plans maintained by governments), 415(b)(2)(G) and (H) (about police and firefighters), 415(b)(2)(I) (about disability and survivor benefits under governmental plans), 415(b)(4) (about total annual benefits not exceeding $10,000), 415(b)(5) (about employees with less than 10 years of participation or service), and 415(n) (about purchase of permissive service credit).

(g) The adjustments described in IRC Section 415(b)(2)(B), (C), and (D) will be made by ignoring mortality decrement to the extent a forfeiture does not occur upon death and as follows:

(1) The adjustment described in IRC Section 415(b)(2)(B) will be made using (i) the interest rate and applicable mortality table specified in Section 1.03(i) or (ii) 5% interest and the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v), whichever produces the greater annual benefit.

(2) The adjustments described in IRC Section 415(b)(2)(C) and (D) will be made using (i) the interest rate and applicable mortality table specified in Section 1.03(i) or (ii) 5% interest and the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v), whichever produces the lesser annual benefit.

For limitation years beginning before January 1, 2000, the above provisions of this Section 13.05(g) shall be applied by substituting "the applicable mortality table specified in Section 1.03(i)" for "the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v)" wherever such latter phrase appears. The mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v) is, for distributions with annuity starting dates before December 31, 2002, the table prescribed in Revenue Ruling 95-6 and, for distributions with annuity starting dates on or after December 31, 2002, the table prescribed in Revenue Ruling 2001-62.

(h) For purposes of the adjustment in IRC Section 415(b)(5):

(1) A year of participation is a Plan Year for which the participant is a participant;

(2) A year of service is a Plan Year for which the participant is employed by the Employer; and

(3) A participant who is permanently and totally disabled (as defined in IRC Section 22(e)(3)) for a Plan Year will be credited with a year of participation and a year of service for that year.

SECTION 13.06--LIMIT ON ANNUAL ADDITIONS.

(a) For limitation years beginning after December 31, 1983, and despite any contrary provision of the Plan, the annual additions to any participant's accounts under the Plan may not exceed the lesser of the dollar limitation in IRC Section 415(c)(1)(A) or 25% (100% for limitation years beginning after December 31, 2001) of the participant's compensation (as defined in Section 13.09). The dollar limit in this Section 13.06(a) will be adjusted as follows:

(1) For increases in the cost of living in accordance with IRC Section 415(d).

(2) For limitation years beginning after December 31, 1986, and before January 1, 1995, the dollar limit will be adjusted to, if greater, one-quarter of the dollar limitation in effect under IRC Section 415(b)(1)(A).

(b) In the case of any participant in another defined contribution plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), all such plans will be treated as one plan, and the maximum annual addition to the participant's accounts as provided above will be reduced by the aggregate of the amount of the annual additions to the participant's accounts under such other plans. For this purpose a defined contribution plan includes a welfare benefit fund (within the meaning of IRC Section 419(e)), an individual medical benefit account (within the meaning of IRC Section 415(l)(2)), and a simplified employee pension (within the meaning of IRC Section 408(k)).

(c) If as a result of a reasonable error in estimating a participant's compensation or such other reason as is permitted under Treasury Regulation Section 1.415-6(b)(6) a participant's annual addition would exceed the limitations in this Section 13.06, determined after applying Section 13.07, the participant's contributions to the participant's accounts together with any allocable earnings will be distributed to the participant as soon as administratively feasible to the extent required to eliminate such excess.

(d) The limitations in this Section 13.06 will be applied according to adjustments described in and the provisions of IRC Sections 415 and 419A(d) (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(c)(2) (defining "annual addition"), 415(d) (about COLAs), 415(l) (about individual medical benefit accounts), and 419A(d)(2) (about medical benefit accounts for key employees in a welfare benefit fund).

SECTION 13.07--COMBINED LIMIT ON BENEFITS AND ANNUAL ADDITIONS.

For limitation years beginning after December 31, 1983, and before January 1, 2000, and despite any contrary provision of the Plan:

(a) The sum of a participant's defined benefit plan fraction (within the meaning of IRC Section 415(e)) for the Plan and the participant's defined contribution plan fraction (within the meaning of IRC Section 415(e)) for the Plan for any year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under the Plan will be reduced to the extent necessary for such sum not to exceed 1.0.

(b) If a participant is a participant in another defined contribution or defined benefit plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), all defined benefit plans of the employer will be treated as one plan, and all defined contribution plans of the employer will be treated as one plan, and the sum of the participant's defined benefit plan fraction (within the meaning of IRC Section 415(e)) for such aggregate defined benefit plans and the participant's defined contribution plan fraction (within the meaning of IRC Section 415(e)) for such aggregate defined contribution plans for any year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under the Plan will be reduced to the extent necessary for such sum not to exceed 1.0. For this purpose a defined contribution plan includes a welfare benefit fund (within the meaning of IRC Section 419(e)), an individual medical benefit account (within the meaning of IRC Section 415(l)(2)), and a simplified employee pension (within the meaning of IRC Section 408(k)).

(c) The limitations in this Section 13.07 will be applied according to adjustments described in and the provisions of IRC Section 415 (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(e) (about limitation in the case of a defined benefit plan and a defined contribution plan for the same employee).

(l) At the election of the Employer, in applying the provisions of this Section 13.07 with respect to the defined contribution plan fraction the amount taken into account for the denominator for each participant for all Plan Years ending before January 1, 1983, shall be an equal to the product of (1) the amount of the denominator determined under Section 4.05(k) of the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN for Plan Years ending before January 1, 1982, multiplied by (2) the "transition fraction," which is a fraction (i) the numerator of which is the lesser of (A) $51,875 or (B) 1.4 multiplied by 25% of the participant's compensation for the Plan Year ending in 1981, and (ii) the denominator of which is the lesser of (A) $41,500 or (B) 25% of the participant's compensation for the Plan Year ending in 1981.

SECTION 13.08--LIMITATION YEAR.

The limitation year shall be the Plan Year.

SECTION 13.09--COMPENSATION FOR PURPOSES OF LIMITS.

For purposes of Sections 13.05, 13.06, and 13.07, "compensation" means wages within the meaning of IRC Section 3401(a) (for the purposes of income tax withholding at the source) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC Section 3401(a)(2)).

(a) For limitation years beginning after December 31, 1997, "compensation" includes any elective deferral (as defined in IRC Section 402(g)(3)) contributed by the employer and any amount contributed or deferred by the employer at the election of the participant and not includable in the gross income of the participant by reason of IRC Section 125 or 457.

(b) For limitation years beginning after December 31, 2000, "compensation" includes any amount contributed or deferred by the employer at the election of the participant and not includable in the gross income of the participant by reason of IRC Section 132(f)(4).

(c) Effective January 1, 2002, "compensation" includes any additional elective deferral under IRC Section 414(v) contributed by the employer.

(d) For purposes of Sections 13.05, 13.06, and 13.07, the amounts included in a participant's compensation under this Section 13.09 will be based on such amounts from the employer (within the meaning of IRC Section 414(b), (c), (m), and (o) [effective July 18, 1984], after applying IRC Section 415(h)).

SECTION 13.10--ANNUITY CONTRACTS.

Benefits may be paid by distributing an annuity contract purchased by the Employer for the Participant, alternate payee, or Beneficiary (the payee).

(a) Delivery of any such contract will be in full satisfaction of the rights under the Plan of the payee and the payee's Contingent Annuitant, Beneficiary, and estate, and upon the delivery thereof such persons will have no further interest under the Plan or in the Group Contract with respect to the benefits to be paid under the contract and must look solely to the insurer issuing the contract for the payment of such benefits.

(b) Any refund or credit under any such contract (on account of dividends, earnings, or other experience rating credits, or surrender or cancellation credits) in excess of the benefits under the Plan to be paid under the contract, and any proceeds from demutualization of the issuer of the contract or the issuer's successor, will be paid to the Plan for addition to the Group Contract.

(c) Any such contract must be nontransferable.

(d) The terms of the Plan control in the event of any conflict between the terms of the Plan and the terms of any such contract.

ARTICLE 14. GENERAL PROVISIONS

SECTION 14.01--AMENDMENT OF PLAN.

The Employer, acting through its City Council or City Manager, may amend this Plan at any time, including any remedial retroactive changes (within the specified period of time as may be determined by Treasury regulations or Internal Revenue Service guidance from time to time) to comply with the requirements of any law or regulation issued by any governmental agency to which the Employer is subject. However, the City Manager may amend this Plan only to clarify this Plan, facilitate the administration of this Plan, or make changes adapting this Plan to the requirements of law, changes in law, or the terms of a collective bargaining agreement, all as determined in the discretion of the City Manager.

SECTION 14.02--EXCLUSIVE BENEFIT.

Except as provided in Section 3.01 (about return of contributions) or Article 11. (about termination of the Plan), no asset of the Plan or Group Contract may be used for or diverted to any purpose other than for the exclusive benefit of participants or their beneficiaries and defraying reasonable expenses of administering the Plan and Group Contract; and no amendment or termination of the Plan, or merger or consolidation with, or transfer of assets or liabilities to, any other plan, shall operate to allow any asset of the Plan or Group Contract to be used for or diverted to any such prohibited purpose.

SECTION 14.03--PROVISIONS RELATING TO THE INSURER.

The Insurer is not a party to the Plan, nor will it be bound in any way by the provisions of the Plan, nor will it be required to look to the terms of this Plan, nor to determine whether the Employer has the authority to act in any particular manner or to make any contract or agreement.

SECTION 14.04--EMPLOYMENT STATUS.

Nothing contained in this Plan will be deemed to give any Employee the right to be retained in the employ of the Employer or to interfere with the rights of the Employer to discharge any Employee at any time.

Any final payment or distribution to any Participant or his legal representative or to any Beneficiaries, Contingent Annuitant, or alternate payee of such Participant in accordance with the provisions herein will be in full satisfaction of all claims against the Plan, the Insurer, and the Employer arising under or by virtue of the Plan.

SECTION 14.05--BENEFICIARY.

Each Participant may name a Beneficiary to receive any death benefit (other than any monthly income payable to a Contingent Annuitant) which may arise out of his participation in the Plan and

may change such Beneficiary from time to time without the consent of such Beneficiary. It will be the responsibility of the Participant to give written notice to the Insurer of the name of his Beneficiary on a form furnished for that purpose.

In modification of the above, the Employer may maintain records of Beneficiary designations as to Participants prior to their Retirement Dates, in which event the written designations made by Participants will be filed with the Employer and in the event of a Participant's death prior to his Retirement Date, the Employer will certify to the Insurer the Beneficiary designation on its records as to such Participant.

If, at the death of a Participant, there is no Beneficiary named or surviving, the death benefit, if any, under the Plan will be paid to the Participant's estate.

For purposes of determining a Participant's Beneficiary:

(a) A Beneficiary does not include an individual, even if designated by the Participant, who does not survive the Participant or who is treated under Oregon law as not surviving the Participant. For this purpose (1) the Participant and the individual will be treated as residing in Oregon and (2) Oregon law includes without limitation the Uniform Simultaneous Death Act (ORS 112.570 to ORS 112.590) or its successor and the Uniform Disclaimer of Property Interests Act, ORS 105.623 to 105.649, or its successor but does not include Oregon law regarding conflicts of laws.

(b) ORS 112.175 to 112.195, about adoption, or successor Oregon statutes, apply to determine relationships. ORS 112.105, about paternity, or successor Oregon statutes, and other comparable state laws apply without regard to any limitation therein regarding intestate succession. ORS 112.455 to 112.555, regarding certain deaths caused by an individual, or successor Oregon statutes, apply without regard to whether the death occurs or the individual or Participant resides in Oregon.

SECTION 14.06--SPENDTHRIFT CLAUSE.

Except as provided in Section 14.14 (about domestic relations orders), no benefit under the Plan or Group Contract may be voluntarily or involuntarily or revocably or irrevocably alienated, transferred, assigned (either at law or in equity), anticipated, mortgaged, or otherwise encumbered, or be subject to garnishment attachment, levy, seizure, execution, sequestration, or other legal or equitable process for the payment of debts, judgments, alimony, separate maintenance, or other amounts or claims, or be transferred by operation of law in the event of bankruptcy, insolvency, or otherwise.

SECTION 14.07--FACILITY OF PAYMENT.

If any person to whom a Plan benefit is payable is a minor or (as determined in the Employer's discretion) incompetent by reason of physical or mental disability, the Employer may direct the Insurer to make the payments becoming due to such person to another for such person's benefit without responsibility for the Employer or the Insurer to see to the application of such payments,

including without limitation to a custodian for the person, selected by the Employer or the Insurer without liability for the selection made, under the Oregon Uniform Transfers to Minors Act or under any other comparable state law. Any payment made pursuant to such power will as to such payment operate as a complete discharge of the Employer and the Insurer.

SECTION 14.08--CONSTRUCTION.

The Plan will be construed according to the laws of the State of Oregon and will be interpreted and administered consistent with the applicable requirements of the IRC for the Plan to be qualified under IRC Section 401(a). Any provision of the Plan that is based on a provision of the IRC, including one not necessary for the Plan to be qualified, will be interpreted and administered consistent with such provision of the IRC and the interpretive authorities thereunder.

The Plan includes provisions adopted in good faith to comply with the Economic Growth and Tax Relief Reconciliation Act of 2001. Such provisions shall be interpreted and administered consistent with Treasury regulations and Internal Revenue Service guidance regarding such Act, even where such regulations and guidance are inconsistent with the literal interpretation of such provisions.

In case any provision of this Plan will be held illegal or invalid for any reason, such determination will not affect the remaining provisions of this Plan, but the Plan will be construed and enforced as if said illegal or invalid provision had never been included.

SECTION 14.09--LEGAL ACTIONS.

To any action or proceeding involving the assets held with respect to the Plan or the administration thereof, the Plan and the Employer will be the necessary parties and no person employed by the Employer, Participant, former Participant or their Beneficiaries or any other person having or claiming to have an interest in the Plan will be entitled to any notice or process. Any final judgment which is appealed or appealable that may be entered in any such action or proceeding will be binding and conclusive on all persons having or claiming to have any interest in the Plan.

SECTION 14.10--MODIFICATION IN MODE OF PAYMENT.

If the present value of the initial monthly amount of retirement benefit payable to any Participant on his Retirement Date, to a Participant's Beneficiary or Contingent Annuitant due to such Participant's death, or to an alternate payee, is less than $1,750, such value may, at the discretion of the Employer, be paid in a single sum in full settlement of all benefits otherwise payable. Such value will be determined on the basis of the annuity purchase rates in the Group Contract.

SECTION 14.11--INTEREST.

Interest will not be paid on any amount of benefit paid after the date as of which it is to be paid under the Plan if the amount is paid as soon as administratively feasible after such date, taking into account any delay caused by the person entitled to the payment, any inability to locate such person, and any

uncertainty regarding the identity of such person or the amount to be paid. Where interest is payable, it will be paid at the rate specified in Section 1.03(i).

SECTION 14.12--PRONOUNS.

Masculine pronouns as used in this Plan will include both masculine and feminine gender unless the context indicates otherwise.

SECTION 14.13--CAPTIONS.

The captions are for convenience only and have no substantive effect.

SECTION 14.14--DISTRIBUTION OF BENEFITS TO ALTERNATE PAYEE.

Despite any contrary provision of the Plan except Section 13.01 (about required starting date), to the extent required by and subject to the restrictions of ORS 237.600, a participant's benefit will be paid, in whole or in part, to an alternate payee (and not to the participant or other beneficiary) 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. Payment to the alternate payee may be made before the participant's Termination of Employment with the Employer if provided or allowed by the decree, order, or agreement.

(a) The Plan will apply ORS 237.600 to decrees, orders, or agreements whenever entered or modified, including those entered or last modified before January 1, 1994.

(b) No benefit under the Plan will 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 satisfy the Employer:

(1) That the copy is a true copy of the Order.

(2) That the Order is, within the meaning of ORS 237.600, 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.

(3) Of the extent to which the terms of the Order expressly provide for payment of a benefit under the Plan to an alternate payee.

(4) Of any other fact or matter required for the Employer to:

(i) Determine the application of ORS 237.600 to the Order or the extent to which the Order applies to the Plan.

(ii) Comply with the Order or with ORS 237.600.

(iii) Administer the Plan under the terms of the Order.

(c) Neither Employer nor the Plan will charge or collect out of the benefits payable to the participant or the alternate payee any administrative expenses or related costs incurred by Employer or the Plan in obtaining data or making calculations necessary by reason of ORS 237.600.

(d) For periods beginning before a participant's Termination of Employment with the Employer, the amounts payable to the participant's alternate payee will be determined using the interest rate and mortality table specified in Section 1.03(i), not the factors specified in Section 4.01(b) or the provision in Section 4.01(b) for no reduction.

SECTION 14.15--MERGER.

This Plan is funded by Group Contracts issued by the Insurer to fund benefits for participants and their beneficiaries in the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and in the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN, which plans are restated in this Plan. Effective as of a date to be determined by the Employer's City Manager or Finance Director, the Employer, acting through the Employer's City Manager or Finance Director, shall cause the Insurer to modify or combine the Group Contracts so that all of the assets of the Group Contracts are available to pay benefits to all employees who are covered by this Plan and their beneficiaries. Until that date, the part of this Plan resulting from the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN may continue to be known by such name, and the part of this Plan resulting from the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN may continue to be known by such name.

DATED September 2, 2003.

CITY OF NEWBERG

By _____
City Manager

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: AUG 08 2003

CITY OF NEWBERG
C/O EVERETT MORELAND
HERSHNER HUNTER ANDREWS NEILL & SMI
180 EAST 11TH AVENUE
EUGENE, OR 97440

Employer Identification Number:
93-6002221
DLN:
602199088
Person to Contact:
VICKIE WALKER ID# 95053
Contact Telephone Number:
(877) 829-5500
Plan Name:
CITY OF NEWBERG POLICE
AND FIRE MEN RETIREMENT PLAN
Plan Number: 001

Dear Applicant:

We have made a favorable determination on the plan identified above based on the information you have supplied. Please keep this letter, the application forms submitted to request this letter and all correspondence with the Internal Revenue Service regarding your application for a determination letter in your permanent records. You must retain this information to preserve your reliance on this letter.

Continued qualification of the plan under its present form will depend on its effect in operation. See section 1.401-1(b)(3) of the Income Tax Regulations. We will review the status of the plan in operation periodically.

The enclosed Publication 794 explains the significance and the scope of this favorable determination letter based on the determination requests selected on your application forms. Publication 794 describes the information that must be retained to have reliance on this favorable determination letter. The publication also provide examples of the effect of a plan's operation on its qualified status and discusses the reporting requirements for qualified plans. Please read Publication 794.

This letter relates only to the status of your plan under the Internal Revenue Code. It is not a determination regarding the effect of other federal or local statutes.

This letter considers the changes in qualification requirements made by the Uruguay Round Agreements Act, Pub. L. 103-465, the Small Business Job Protection Act of 1996, Pub. L. 104-188, the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. 103-353, the Taxpayer Relief Act of 1997, Pub. L. 105-34, the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, and the Community Renewal Tax Relief Act of 2000, Pub. L. 106-554.

This letter may not be relied on with respect to whether the plan satisfies the requirements of section 401(a) of the Code, as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub L. 107-16.

CITY OF NEWBERG

The requirement for employee benefits plans to file summary plan descriptions (SPD) with the U.S. Department of Labor was eliminated effective August 5, 1997. For more details, call 1-800-998-7542 for a free copy of the SPD card.

The information on the enclosed addendum is an integral part of this determination. Please be sure to read and keep it with this letter.

We have sent a copy of this letter to your representative as indicated in the power of attorney.

If you have questions concerning this matter, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Paul T. Shultz

Paul T. Shultz
Director,
Employee Plans Rulings & Agreements

Enclosures:
Publication 794
Addendum

This determination is conditioned upon your adoption of the proposed restated plan as submitted with your or your representative's letter dated June 6, 2003. The proposed plan should be adopted on or before the date prescribed by the regulations under Code section 401(b).

This determination letter acknowledges receipt of your amendment(s) intended to satisfy the requirements of section 401(a) of the Code, as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16.

This determination letter also applies to the amendments adopted on June 23, 1983, May 6, 1991, April 4, 1994, August 7, 1995, December 16, 2002, and April 4, 2003.

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: AUG 0 8 2003

CITY OF NEWBERG
C/O EVERETT MORELAND
HERSHNER HUNTER ANDREWS NEILL & SMI
180 EAST 11TH AVENUE
EUGENE, OR 97440

Employer Identification Number:
93-6002221
DLN:
602199089
Person to Contact:
VICKIE WALKER ID# 95053
Contact Telephone Number:
(877) 829-5500
Plan Name:
CITY OF NEWBERG
GENERAL EMPLOYEES RETIREMENT PLAN
Plan Number: 002

Dear Applicant:

We have made a favorable determination on the plan identified above based on the information you have supplied. Please keep this letter, the application forms submitted to request this letter and all correspondence with the Internal Revenue Service regarding your application for a determination letter in your permanent records. You must retain this information to preserve your reliance on this letter.

Continued qualification of the plan under its present form will depend on its effect in operation. See section 1.401-1(b)(3) of the Income Tax Regulations. We will review the status of the plan in operation periodically.

The enclosed Publication 794 explains the significance and the scope of this favorable determination letter based on the determination requests selected on your application forms. Publication 794 describes the information that must be retained to have reliance on this favorable determination letter. The publication also provide examples of the effect of a plan's operation on its qualified status and discusses the reporting requirements for qualified plans. Please read Publication 794.

This letter relates only to the status of your plan under the Internal Revenue Code. It is not a determination regarding the effect of other federal or local statutes.

This letter considers the changes in qualification requirements made by the Uruguay Round Agreements Act, Pub. L. 103-465, the Small Business Job Protection Act of 1996, Pub. L. 104-188, the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. 103-353, the Taxpayer Relief Act of 1997, Pub. L. 105-34, the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, and the Community Renewal Tax Relief Act of 2000, Pub. L. 106-554.

This letter may not be relied on with respect to whether the plan satisfies the requirements of section 401(a) of the Code, as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub L. 107-16.

CITY OF NEWBERG

The requirement for employee benefits plans to file summary plan descriptions (SPD) with the U.S. Department of Labor was eliminated effective August 5, 1997. For more details, call 1-800-998-7542 for a free copy of the SPD card.

The information on the enclosed addendum is an integral part of this determination. Please be sure to read and keep it with this letter.

We have sent a copy of this letter to your representative as indicated in the power of attorney.

If you have questions concerning this matter, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Paul T. Shultz

Paul T. Shultz
Director,
Employee Plans Rulings & Agreements

Enclosures:
Publication 794
Addendum

CITY OF NEWBERG

This determination is conditioned upon your adoption of the proposed restated plan as submitted with your or your representative's letter dated June 6, 2003. The proposed plan should be adopted on or before the date prescribed by the regulations under Code section 401(b).

This determination letter acknowledges receipt of your amendment(s) intended to satisfy the requirements of section 401(a) of the Code, as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16.

This determination letter is also applicable to the amendments adopted on January 27, 1989, May 6, 1991, April 4, 1994, August 7, 1995, December 16, 2002 and April 7, 2003.

RESOLUTION NO. 2003-2463

A RESOLUTION ADOPTING THE CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN, 2003 RESTATEMENT.

RECITALS:

1. Resolution No. 2002-2374 authorized combining the City of Newberg's General Employee Retirement Plan and Policemen and Firemen Retirement Plan in to one single plan, effective July 1, 2002.

2. The Restated Plan was submitted to the Internal Revenue Service to determine its compliance with Federal law.

3. The IRS requires the City to adopt the Plan statement with various effective dates to comply with the requirements of TEFRA, DEFRA and REA. This is a condition of receiving positive notice of the IRS's positive determination on August 8, 2003.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City of Newberg adopts the 2003 Restatement of the City of Newberg Employees Retirement Plan, attached as Exhibit 1.

➢ **EFFECTIVE DATE** of this resolution is the day after the adoption date which is: September 3, 2003.

ADOPTED by the City Council of the City of Newberg, Oregon, this 2nd day of September, 2003.

James H. Bennett, City Recorder

ATTEST by the Council President this 5th day of September, 2003.

Bob Larson, Council President

LEGISLATIVE HISTORY

By and through _____ Committee at __/__/2002 meeting. Or, _X_ None.
(committee name) *(date)* *(check if applicable)*

CITY OF NEWBERG
CITY RECORDER INDEX NO. 2034

PLAN OF MERGER AND NAME CHANGE

MERGING THE CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN INTO THE CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN

AND CHANGING THE NAME OF THE SURVIVING PLAN TO THE CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN

1. Effective at 12:01 a.m. on November 3, 2003, the CITY OF NEWBERG, OREGON merges the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN (IRS plan number 001) into the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN (IRS plan number 002), which shall be the surviving plan, and changes the name of the surviving plan (IRS plan number 002) to the CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN.

2. Effective upon the merger and without further action:

a. All assets (including without limitation any group annuity contract issued by PRINCIPAL FINANCIAL GROUP, INC.) held by or for the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN are assigned to and vested in the CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN without reversion or impairment.

b. All obligations of the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN are obligations of the CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN.

c. All claims against the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN shall continue as claims against the CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN.

d. The separate existence of the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN shall cease.

3. Effective upon and after the merger and without further action all the following assets are available to pay benefits to all participants who are covered by the CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN and their beneficiaries:

a. All assets of the Group Contract (as defined in the 2003 Restatement of the CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN);

b. All other assets held immediately before the merger by or for the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN or the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN; and

c. All assets held upon or after the merger by or for CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN.

4. The CITY OF NEWBERG, OREGON shall execute such additional documents and take such further actions as it deems appropriate to evidence the events of the merger effected in 2. and 3. above, including without limitation causing the Insurer (as defined in the 2003 Restatement) to modify or combine the group annuity contracts comprised in the Group Contract such that effective upon and after the merger all assets of the Group Contract are available to pay benefits to all participants who are covered by the CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN and their beneficiaries.

DATED this September 22, 2003.

CITY OF NEWBERG

By Katherine L. Tri, Finance Director

Form **5310-A**
(Rev. May 2003)

Department of the Treasury
Internal Revenue Service

Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business

Under sections 6058(b) and 414(r) of the Internal Revenue Code.
See Who Must File instructions before filing this form.

OMB No. 1545-0202

For IRS Use Only

Reason for filing (see specific instructions for code to enter): 2

Part I All filers must complete lines 1 and 2.

1a Name of plan sponsor (employer if single-employer plan)
City of Newberg

1b Employer identification number
93-6002221

Number, street, and room or suite no. (If a P.O. box, see instructions.)
401 E. Third Street

1c Employer's tax year ends—Enter (MM) or N/A
06

City: **City of Newberg** State: **Oregon** ZIP code: **97132**

1d Telephone number
(503) 537-1216

2 Person to contact if more information is needed. (See instructions.) (If Power of Attorney is attached, check box and do not complete this line.) ▶ ☐

1e Fax number
(503) 538-5393

Name
Everett Moreland

Number, street, and room or suite no. (If a P.O. box, see instructions.)
180 East 11th Avenue

Telephone number
(541) 686-8511

City: **Eugene** State: **Oregon** ZIP code: **97401**

Fax number
(541) 344-2025

Part II Complete lines 3 through 5 if this is a notice of a plan merger or consolidation, spinoff, or transfer of plan assets or liabilities to another plan.

3a Name of plan (plan name may not exceed 66 characters):
City of Newberg Policemen and Firemen Retirement Plan

b Enter 3-digit plan number **001**

4a Is this a defined benefit plan? Yes ☑ No ☐
If "Yes," attach an actuarial statement of valuation showing compliance with the requirements of section 401(a)(12) and the regulations under section 414(l).

b If this is a defined contribution plan, enter the appropriate code (see instructions) **AND** attach an actuarial statement of valuation showing compliance with the requirements of sections 401(a)(12) and 414(l) ☐

5 Other plan(s) involved in the transaction (see instructions)

a Enter the total number of plans involved in the transaction other than the plan listed on line 3a: **1**

Complete the following information for the other plan. If more than one other plan, see instructions for the required attachment(s).

b If more than one other plan is involved in the transaction, enter the number of this statement (1 of 3, etc.):

c Plan name: **City of Newberg General Employees Retirement Plan**

d Name of employer: **City of Newberg**

e Employer identification number: **93-6002221** f Plan number (3 digits): **002**

g Date of merger or consolidation, spinoff, or transfer of plan assets or liabilities (MMDDYYYY): **11 / 03 / 2003**

h Type of plan (see instructions for code to enter): **1** If "8," specify ▶

Part III Complete lines 6 through 11 if you are filing a notice of qualified separate lines of business (QSLOB).

6a Has the employer previously filed a notice of QSLOB? Yes ☐ No ☐
If "Yes," complete lines 6b and 6c.
If "No," skip lines 6b and 6c.

b Enter the first day of the first testing year for which such notice applied (MMDDYYYY) ▶ / /

c Enter the filing date (MMDDYYYY) ▶ / /

d Enter the filing location code (see instructions) ▶ ☐

7 First testing year for which this notice applies (MMDDYYYY) ▶ / /

Under penalties of perjury, I declare that I have examined this notice, including accompanying statements, and to the best of my knowledge and belief it is true, correct, and complete.

Signature ▶ Katherine Tre Title ▶ **Finance Director** Date ▶ 9/22/2003

Part III **Complete lines 6 through 11 if you are filing a notice of qualified separate lines of business (QSLOB)** *(Continued).*

8 Are you filing this form to give notice that you are revoking a previously filed notice and that you are no longer testing on a QSLOB basis? . . . . . Yes ☐ No ☐

If "Yes," complete line 9 and skip lines 10 and 11.

If "No," complete lines 9, 10, and 11.

9 Check the box(es) for the appropriate code section(s) for which the employer is testing on a QSLOB basis (or for which the employer tested, if the answer to line 8 is "Yes").

☐ Section 410(b) ☐ Section 401(a)(26) ☐ Section 129(d)(8)

10 On an attached list, identify each QSLOB operated by the employer. See the line 10 instructions for more details.

11 Enter the following information relating to each plan maintained by the employer. If more than 1 plan, attach a schedule for each plan showing the information requested on lines 11a through 11e. See instructions.

a Name of plan:

.....

b Date (MMDDYYYY) of determination letter, if any . . . . . ▶ ...../...../.....

c If the plan is a master or prototype or volume submitter plan, enter:

(1) the date (MMDDYYYY) of the letter . . . . . ▶ ...../...../.....

(2) the serial number or Advisory letter number. . . . . ▶ .....

d Enter the appropriate code number that indicates the location of the pending letter request, if applicable (see instructions) . . . . . ▶ ☐

e List each QSLOB that has employees benefiting under the plan: .....

.....

.....

City of Newberg Policemen and Firemen Retirement Plan
Employer's EIN 93-6002221
Form 5310-A
Statement

Line 4a

Both plans involved in this merger are governmental plans as defined in Code Section 414(d) and so are not subject to the requirements of Code Section 401(a)(12) or 414(*l*).

Form **5310-A**
(Rev. May 2003)

Department of the Treasury
Internal Revenue Service

Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business

Under sections 6058(b) and 414(r) of the Internal Revenue Code.
See Who Must File instructions before filing this form.

OMB No. 1545-0202

For IRS Use Only

Reason for filing (see specific instructions for code to enter): 2

Part I All filers must complete lines 1 and 2.

1a Name of plan sponsor (employer if single-employer plan)
City of Newberg

1b Employer identification number
93-6002221

Number, street, and room or suite no. (If a P.O. box, see instructions.)
401 E. Third Street

1c Employer's tax year ends—Enter (MM) or N/A
06

City: **City of Newberg** State: **Oregon** ZIP code: **97132**

1d Telephone number
(503) 537-1216

2 Person to contact if more information is needed. (See instructions.) (If Power of Attorney is attached, check box and do not complete this line.) ▶ ☐

1e Fax number
(503) 538-5393

Name
Everett R. Moreland

Number, street, and room or suite no. (If a P.O. box, see instructions.)
180 East 11th Avenue

Telephone number
(541) 686-8511

City: **Eugene** State: **Oregon** ZIP code: **97401**

Fax number
(541) 344-2025

Part II Complete lines 3 through 5 if this is a notice of a plan merger or consolidation, spinoff, or transfer of plan assets or liabilities to another plan.

3a Name of plan (plan name may not exceed 66 characters):
City of Newberg General Employees Retirement Plan

b Enter 3-digit plan number **002**

4a Is this a defined benefit plan? Yes ☑ No ☐
If "Yes," attach an actuarial statement of valuation showing compliance with the requirements of section 401(a)(12) and the regulations under section 414(l).

b If this is a defined contribution plan, enter the appropriate code (see instructions) **AND** attach an actuarial statement of valuation showing compliance with the requirements of sections 401(a)(12) and 414(l) ☐

5 Other plan(s) involved in the transaction (see instructions)

a Enter the total number of plans involved in the transaction other than the plan listed on line 3a: **1**

Complete the following information for the other plan. If more than one other plan, see instructions for the required attachment(s).

b If more than one other plan is involved in the transaction, enter the number of this statement (1 of 3, etc.):

c Plan name: **City of Newberg Policemen and Firemen Retirement Plan**

d Name of employer: **City of Newberg**

e Employer identification number: **93-6002221** f Plan number (3 digits): **001**

g Date of merger or consolidation, spinoff, or transfer of plan assets or liabilities (MMDDYYYY): **11 / 03 / 2003**

h Type of plan (see instructions for code to enter): 1 If "8," specify ▶

Part III Complete lines 6 through 11 if you are filing a notice of qualified separate lines of business (QSLOB).

6a Has the employer previously filed a notice of QSLOB? Yes ☐ No ☐
If "Yes," complete lines 6b and 6c.
If "No," skip lines 6b and 6c.

b Enter the first day of the first testing year for which such notice applied (MMDDYYYY) ▶ / /

c Enter the filing date (MMDDYYYY) ▶ / /

d Enter the filing location code (see instructions) ▶ ☐

7 First testing year for which this notice applies (MMDDYYYY) ▶ / /

Under penalties of perjury, I declare that I have examined this notice, including accompanying statements, and to the best of my knowledge and belief it is true, correct, and complete.

Signature ▶ Title ▶ **Finance Director** Date ▶ 9/22/2003

Part III **Complete lines 6 through 11 if you are filing a notice of qualified separate lines of business (QSLOB)** *(Continued).*

8 Are you filing this form to give notice that you are revoking a previously filed notice and that you are no longer testing on a QSLOB basis? . . . . . Yes ☐ No ☐

If "Yes," complete line 9 and skip lines 10 and 11.

If "No," complete lines 9, 10, and 11.

9 Check the box(es) for the appropriate code section(s) for which the employer is testing on a QSLOB basis (or for which the employer tested, if the answer to line 8 is "Yes").

☐ Section 410(b) ☐ Section 401(a)(26) ☐ Section 129(d)(8)

10 On an attached list, identify each QSLOB operated by the employer. See the line 10 instructions for more details.

11 Enter the following information relating to each plan maintained by the employer. If more than 1 plan, attach a schedule for each plan showing the information requested on lines 11a through 11e. See instructions.

a Name of plan:

.....

b Date (MMDDYYYY) of determination letter, if any . . . . . ▶ ...../...../.....

c If the plan is a master or prototype or volume submitter plan, enter:

(1) the date (MMDDYYYY) of the letter . . . . . ▶ ...../...../.....

(2) the serial number or Advisory letter number. . . . . ▶ .....

d Enter the appropriate code number that indicates the location of the pending letter request, if applicable (see instructions) . . . . . ▶ ☐

e List each QSLOB that has employees benefiting under the plan: .....

.....

.....

City of Newberg General Employees Retirement Plan
Employer's EIN 93-6002221
Form 5310-A
Statement

Line 4a

Both plans involved in this merger are governmental plans as defined in Code Section 414(d) and so are not subject to the requirements of Code Section 401(a)(12) or 414(*l*).

CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN

8/8/03 IRS DETERMINATION LETTERS AND COMPLIANCE STATEMENTS

TABS 1-32

CITY OF NEWBERG
CITY RECORDER INDEX NO. 2034

HERSHNER, HUNTER, ANDREWS, NEILL & SMITH, LLP
LAW OFFICES

180 East 11th Avenue
P.O. Box 1475
Eugene, Oregon 97440
Telecopy (541) 344-2025
Telephone (541) 686-8511

EVERETT MORELAND
Direct (541) 302-5248
emoreland@hershnerhunter.com

August 15, 2003

Ms. Katherine L. Tri
Finance Director
City of Newberg
P.O. Box 970
Newberg, Oregon 97132

RE: City of Newberg Employees Retirement Plan
Our File No. 21867.20101

Dear Kathy:

Accompanying this letter are two notebooks of documents relating to the August 8, 2003, IRS determination letters and compliance statements for the City of Newberg Employees Retirement Plan. To preserve the City's reliance on these determination letters, the IRS requires the City to maintain the contents of these notebooks in the City's permanent records.

Please call me if you have any questions.

Very truly yours,

Everett Moreland

EVERETT R. MORELAND

ERM:em

Enclosures

CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN
8/8/03 IRS DETERMINATION LETTERS AND COMPLIANCE STATEMENTS

6/30/02 submission to the IRS

1. Letter

   General Employees Retirement Plan--submission for determination letter

2. Letter
3. Form 5300 and attachment
4. Form 8717
5. Form 2848
6. 3/14/83 IRS determination letter
7. Statement of Amendments
8. Amendment No. 2
9. Amendment No. 3
10. Amendment No. 4
11. Amendment No. 5
12. 11/15/93 Contract
13. Resolution No. 94-1834 (No. 6)
14. 7/1/94 Contract
15. Amendment No. 8
16. 2002 Restatement
17. Redline showing the changes made to the Plan in the 2002 Restatement

General Employees Retirement Plan--submission for compliance statement

18. Letter (copies of the Form 5300 and attachment, Form 2848, most recent determination letter, and 2002 Restatement enclosed with this letter are at tabs 3, 5, 6, and 16, respectively)

19. Appendix C

20. Perjury Statement

21. Memorandum

Policemen and Firemen Retirement Plan--submission for determination letter

22. Letter (a copy of the 2002 Restatement enclosed with this letter is at tab16)

23. Form 5300 and attachment

24. Form 8717

25. Form 2848

26. 3/14/83 IRS determination letter

27. Statement of Amendments

28. Amendment No. 2

29. Amendment No. 3

30. Resolution No. 94-1834 (No. 4)

31. 11/2/94 Contract

32. Amendment No. 5

33. Redline showing the changes made to the Plan in the 2002 Restatement

Policemen and Firemen Retirement Plan--submission for compliance statement

34. Letter (copies of the Form 5300 and attachment, Form 2848, most recent determination letter, and 2002 Restatement enclosed with this letter are at tabs 23, 25, 26, and 16, respectively)

35. Appendix C

36. Perjury Statement

37. Memorandum

5/9/03 IRS documents

38. IRS fax sheet, letters, and enclosures

6/6/03 submission to IRS

39. Letter

40. Proposed 2003 Restatement

41. Redline document

42. First Amendment to 2002 Restatement

43. Second Amendment to 2002 Restatement

44. Amendment No. 3 to Policemen and Firemen Retirement Plan

45. Amendment No. 2 to General Employees Retirement Plan

46. Resolution No. 2002-2374

6/25/03 IRS documents

47. Fax sheet, letters, and enclosures

7/1/03 submission to IRS

48. Letter

7/8/03 IRS documents

49. Letters and enclosures

8/8/03 IRS documents

50. Letter and compliance statement for General Employees Retirement Plan

51. Determination letter for General Employees Retirement Plan and Publication 794

52. Letter and compliance statement for Policemen and Firemen Retirement Plan

53. Determination letter for Policemen and Firemen Retirement Plan and Publication 794

HERSHNER, HUNTER, ANDREWS, NEILL & SMITH, LLP
LAW OFFICES

180 East 11th Avenue
P.O. Box 1475
Eugene, Oregon 97440
Telecopy (541) 344-2025
Telephone (541) 686-8511

EMMA C. THOMPSON
ethompson@hershnerhunter.com

June 30, 2002

Employee Plans VCP
Internal Revenue Service
2 Cupania Circle
Monterey Park, CA 91755-7431

RE: Application for Determination for Qualification of the
City of Newberg General Employees Retirement Plan
Our File No. 21867-20201

Please find enclosed four separate submissions with regard to City of Newberg General Employees Retirement Plan:

1. City of Newberg General Employees Retirement Plan VCP submission and the required accompanying documents.

2. City of Newberg Police and Fire Men Retirement Plan VCP submission and the required accompanying documents.

3. City of Newberg General Employees Retirement Plan Application for Determination Letter and the required accompanying documents.

4. City of Newberg Police and Fire Men Retirement Plan Application for Determination Letter and the required accompanying documents.

Sincerely,

EMMA C. THOMPSON

ECT:pk
Enclosures
cc: City of Newberg (without enclosures)

FILE COPY

HERSHNER, HUNTER, ANDREWS, NEILL & SMITH, LLP
LAW OFFICES

180 East 11th Avenue
P.O. Box 1475
Eugene, Oregon 97440
Telecopy (541) 344-2025
Telephone (541) 686-8511

EMMA C. THOMPSON
ethompson@hershnerhunter.com

June 30, 2002

Employee Plans VCP
Internal Revenue Service
2 Cupania Circle
Monterey Park, CA 91755-7431

RE: Application for Determination for Qualification of the
City of Newberg General Employees Retirement Plan
Our File No. 21867-20201

Enclosed in support of this application for determination letter for the above referenced plan are the following:

1. A copy of the above plan. The plan document enclosed, as explained in its introduction, updates both this plan and the City of Newberg Police and Fire Men Retirement Plan. An Application for Determination for the City of Newberg Police and Fire Men Retirement Plan is also being submitted at this time.

2. A completed IRS Form 5300.

3. An Attachment to IRS Form 5300 containing required supplemental information.

4. A IRS Form 8717. Our client's check in the amount of $1400 is attached to the IRS Form 8717 for the City of Newberg Police and Fire Men Retirement Plan being submitted in conjunction with this submission.

5. A certified true copy of IRS Form 2848, Power of Attorney.

6. A copy of the most recent favorable determination letter.

FILE COPY

7. A copy of the plan amendments since the most recent favorable determination letter.

8. A Statement of the Amendments to the Plan.

A Schedule Q is not being filed for this Plan.

Additional Rulings Requested.

1. The Plan Sponsor requests a ruling that the Plan, in Section 13.01(f), has been properly amended for the proposed and final regulations under IRC § 401(a)(9).

2. The Plan Sponsor requests a ruling that the Plan, in Section 13.05(g), has been properly amended to incorporate reference to the mortality tables found in Revenue Ruling 2001-62.

Sincerely,

EMMA C. THOMPSON

ECT:pk

Enclosures

cc: City of Newberg (without enclosures)

Form **5300**
(Rev. September 2001)
Department of the Treasury
Internal Revenue Service

Application for Determination for Employee Benefit Plan

(including collectively bargained plans formerly filed on Form 5303)
(Under sections 401(a) and 501(a) of the Internal Revenue Code)

OMB No. 1545-0197

For IRS Use Only **FILE COPY**

See the **Procedural Requirements Checklist** on page 5 before submitting this application.

1a Name of plan sponsor (employer if single-employer plan)
City of Newberg

1b Employer identification number
93-6002221

Number, street, and room or suite no. (If a P.O. box, see instructions.)
401 E. Third Street

1c Employer's tax year ends — Enter (MM)
06

City | State | ZIP code
Newberg OR 97132

1d Telephone number
(503) 537-1216

2a Person to contact if more information is needed. (See instructions.) (If **Form 2848,** Power of Attorney and Declaration of Representative, or other written designation is attached, check box and do not complete the rest of this line.) ▶ [X]

1e Fax number
(503) 538-5393

Name

Number, street, and room or suite no. (If a P.O. box, see instructions.)

2b Telephone number

City | State | ZIP code

2c Fax number

3a Determination requested for (enter applicable number(s) in the box and fill in required information). (See instructions.)

[ ] Enter 1 for Initial Qualification — Date plan signed ▶ _____

[2] Enter 2 for a request after initial qualification — Is complete plan attached? (See instructions.) ▶ Yes [X] No [ ]
Date amendment signed ▶ June 24, 2002 Date amendment effective ▶ July 1, 2002

[ ] Enter 3 for Affiliated Service Group status (section 414(m)) — Date effective ▶ _____

[ ] Enter 4 for Leased Employee status

[ ] Enter 5 for Partial termination — Date effective ▶ _____

[ ] Enter 6 for Termination of collectively bargained multiemployer or multiple-employer plan covered by PBGC insurance — Date of Termination ▶ _____

b Has the plan received a determination letter? Yes [X] No [ ]
Date of letter ▶ March 14, 1983
If "Yes," submit a copy of the latest letter and subsequent amendments.
Number of amendments ▶ Several
If "No," submit all prior plan(s) and/or adoption agreement(s). (See instructions.)

c Have interested parties been given the required notification of this application? (See instructions.) Yes [X] No [ ]

d Does the plan have a cash or deferred arrangement (section 401(k))? Yes [ ] No [X]

e Does the plan have matching contributions (section 401(m))? Yes [ ] No [X]

f Does the plan have after-tax employee voluntary contributions (section 401(m))? Yes [X] No [ ]

g Does this plan benefit noncollectively bargained employees or are more than 2% of the employees who are covered under a collective bargaining agreement for professional employees? Yes [X] No [ ]
See Regulations section 1.410(b)-9.

h Does the plan provide for disparity in contributions or benefits that is intended to meet the permitted disparity requirements of section 401(l)? Yes [ ] No [X]

4a Name of plan (Plan name may not exceed 66 characters, including spaces.):
City of Newberg General Employees Retirement Plan

002 **b** Enter 3-digit plan number
06/30 **c** Enter date plan year ends (MMDD)
07/01/1964 **d** Enter plan's **original** effective date (MMDDYYYY)
72 **e** Enter number of participants (See instructions.)

Under penalties of perjury, I declare that I have examined this application, including accompanying statements and schedules, and to the best of my knowledge and belief, it is true, correct, and complete.

Print Name ▶ KATHERINE L. TRI Title ▶ Finance Director

Signature ▶ Katherine L. Tri Date ▶ 6/24/2002

For Paperwork Reduction Act Notice, see separate instructions. Form **5300** (Rev. 9-2001)

ISA
STF FED5405F.1

5 Indicate type of plan by entering the number from the list below.

[4]

1 — profit-sharing and/or 401(k)
2 — money purchase
3 — target benefit
4 — defined benefit but not cash balance
5 — cash balance
6 — leveraged ESOP
7 — non-leveraged ESOP
8 — stock bonus
9 — safe harbor 401(k)

		Yes	No
6a	Is the employer a member of an affiliated service group?		X
b	Is the employer a member of a controlled group of corporations or a group of trades or businesses under common control?		X
	If **a** and/or **b** above is "Yes," complete required statement (see instructions).		
7a	Is this a governmental plan?	X	
	If "Yes," is the plan a state level plan?		X
b	Is this a nonelecting church plan?		X
c	Is this a collectively bargained plan? (See Regulations section 1.410(b)-9.)	X	
d	Is this a section 412(i) plan?		X
e	Is this a multiple-employer plan? Enter number of participating employers ▶ _____		X
f	Is this a multiemployer plan as described in section 414(f)?		X
8a	Do you maintain any other qualified plan(s) under section 401(a)?	X	
	If "Yes," attach required statement (see instructions).		
	If "No," skip to line 8d.		
b	Do you maintain another plan of the same type (i.e., both this plan and the other plan are defined contribution plans or both are defined benefit plans) that covers non-key employees who are also covered under this plan?		X
	If yes, when the plan is top-heavy, do the non-key employees covered under both plans receive the required top-heavy minimum contribution or benefit under:		
	(1) This plan?		
	(2) The other plan?		
c	If this is a defined contribution plan, do you maintain a defined benefit plan (or if this is a defined benefit plan, do you maintain a defined contribution plan) that covers non-key employees who are also covered under this plan?		X
	If yes, when the plan is top-heavy, do non-key employees covered under both plans receive:		
	(1) the top-heavy minimum benefit under the defined benefit plan?		
	(2) at least a 5% minimum contribution under the defined contribution plan?		
	(3) the minimum benefit offset by benefits provided by the defined contribution plan?		
	(4) benefits under both plans that, using a comparability analysis, are at least equal to the minimum benefit? (See instructions.)		
d	Does the plan prevent the possibility that the section 415 limitations will be exceeded for any employee who is (or was) a participant in this plan and any other plan of the employer?	X	

General Eligibility Requirements (Complete all lines.)

9a Check all that apply:
- (1) ☐ All employees
- (2) ☐ Hourly rate employees
- (3) ☐ Salaried employees
- (4) ☒ Other (Specify) See Attachment to IRS Form 5300

b Minimum years of service required to participate _____ If no minimum, check ▶ ☒

c Minimum age required to participate (Specify) If no minimum, check ▶ ☒

Vesting (Check one box to indicate the regular (non-top heavy) vesting provisions of the plan.)

10a ☐ Full and immediate
b ☐ Full vesting after 2 years of service
c ☐ Full vesting after 3 years of service
d ☐ Full vesting after 5 years of service
e ☐ 2 to 6 year graded vesting
f ☐ 3 to 7 year graded vesting
g ☐ Other

Benefits and Requirements for Benefits

a For defined benefit plans — Method for determining accrued benefit ▶ See Attachment to IRS Form 5300.

(1) Benefit formula at normal retirement age is 1.67% of Average Compensation times Years of Service.

(2) Benefit formula at early retirement age is normal retirement benefit multiplied by percentage reduction depending on number of years that retirement precedes normal retirement age. There is no reduction if participant has 30 of more years of service.

(3) Normal form of retirement benefit is single life annuity with five years certain.

b For defined contribution plans — Employer contributions:

(1) Profit-sharing or stock bonus plan contributions are determined under:
☐ A definite formula ☐ A discretionary formula ☐ Both

(2) Matching contributions are determined under:
☐ A definite formula ☐ A discretionary formula ☐ Both

(3) Money purchase plan — Enter rate of contribution

(4) Target benefit plan — state target benefit formula

Miscellaneous

	N/A	Yes	No
12a Does any amendment to the plan reduce or eliminate any section 411(d)(6) protected benefit, including an amendment adopted after September 6, 2000, to eliminate a joint and survivor annuity form of benefit? (See instructions.)	X		
b Are trust earnings and losses allocated on the basis of account balances in a defined contribution plan? If "No," attach a statement explaining how they are allocated.	X		
c Is this plan or trust currently under examination or is any issue related to this plan or trust currently pending before:			
• The Internal Revenue Service			X
• The Department of Labor			X
• The Pension Benefit Guaranty Corporation, or			X
• Any court?			X
If "Yes," attach a statement explaining the issues involved, the contact person's name (IRS Agent, DOL Investigator, etc.) and their telephone number. Do not answer "Yes" if the plan has been submitted under the Voluntary Compliance Program of the Employee Plans Compliance Resolution System (EPCRS).			

Optional determination request regarding the ratio percentage test. A determination regarding the average benefit test may be requested by attaching Schedule Q (Form 5300).

		Yes	No
13	Is this a request for a determination regarding the ratio percentage test of Regs. section 1.410(b)-2(b)(2) or a request for a determination regarding one of the special requirements of Regs. section 1.410(b)-2(b)(5), (6), or (7)?		X
	If "Yes," complete only lines 13a through 13n for a ratio percentage test determination, or complete only line 13o for a determination regarding one of the special requirements.		
	If "No," skip to line 14.		
a	Is this plan disaggregated into two or more separate plans that are not 401(k), 401(m), or profit sharing plans? If "Yes," see the instructions and attach separate schedules for each disaggregated portion		
b	Does the employer receive services from any leased employees as defined in section 414(n)?		
c	Coverage date (MMDDYYYY). See instructions for inserting date		
d	Total number of employees (include self-employed individuals) (employer-wide)		
e	Statutory and regulatory exclusions under this plan (do not count an employee more than once):		
	(1) Number of employees excluded because of minimum age or years of service required		
	(2) Number of employees excluded because of inclusion in a collective bargaining unit		
	(3) Number of employees excluded because they terminated employment with less than 501 hours of service and were not employed on last day of plan year		
	(4) Number of employees excluded because employed by other qualified separate lines of business (QSLOBs)		
	(5) Number of employees excluded because they were nonresident aliens with no earned income from sources within the United States		
f	Total statutory and regulatory exclusions (add lines 13e(1) through 13e(5))		
g	Nonexcludable employees (subtract line 13f from line 13d)		
h	Number of nonexcludable employees on line 13g who are highly compensated employees (HCEs)		
i	Number of nonexcludable HCEs on line 13h benefiting under the plan		
j	Number of nonexcludable employees who are nonhighly compensated employees (NHCEs) (subtract line 13h from line 13g)		
k	Number of nonexcludable NHCEs on line 13j benefiting under the plan		
l	Ratio percentage (See instructions.)		
m	Enter the ratio percentage for the following, if applicable:		
	(1) Section 401(k) part of the plan		
	(2) Section 401(m) part of the plan		

		Yes	No
n	Are the results on line 13l or 13m based on the aggregated coverage of more than one plan? If "Yes," attach a statement showing the names, plan numbers, EINs, and benefit/allocation formulas of the other plans. **All aggregated plans should be filed concurrently.**		

o If the plan satisfied coverage using one of the special requirements of Regulations section 1.410(b)-2(b)(5), (6), or (7), enter the letter from the list below that identifies the special requirement:

☐ A — 1.410(b)-2(b)(5) — No NHCEs employed
B — 1.410(b)-2(b)(6) — No HCEs benefit
C — 1.410(b)-2(b)(7) — Collectively bargained only

Optional determination request regarding the nondiscrimination design-based safe harbors of section 401(a)(4).

Section 401(k) and/or section 401(m) plans that do not contain a provision for discretionary contributions should not complete this line.

		Yes	No
14	Is this a request for a determination regarding a design-based safe harbor under section 401(a)(4)? If "Yes," complete the following:		X
	Design-based nondiscrimination safe harbors:		
a	Does the plan provide for disparity in contributions or benefits that is intended to meet the permitted disparity requirements of section 401(l)?		
	If "Yes," answer line 14b. Otherwise, skip to line 14c.		
b	Do the provisions of the plan ensure that the overall permitted disparity limits will not be exceeded?		

c Enter the letter ("A" - "G") from the list below that identifies the safe harbor intended to be satisfied ▶

A — 1.401(a)(4)-2(b)(2) defined contribution (DC) plan with uniform allocation formula
B — 1.401(a)(4)-3(b)(3) unit credit defined benefit (DB) plan
C — 1.401(a)(4)-3(b)(4)(i)(C)(1) unit credit DB fractional rule plan
D — 1.401(a)(4)-3(b)(4)(i)(C)(2) flat benefit DB plan
E — 1.401(a)(4)-3(b)(5) insurance account
F — 1.401(a)(4)-8(b)(3) target benefit plan
G — 1.401(a)(4)-8(c)(3)(iii)(b) cash balance plan

d List the plan section(s) that satisfy the safe harbor (including, if applicable, the permitted disparity requirements) here:

Procedural Requirements Checklist

**********Form 5300**********

Use this list to ensure that your submitted package is complete. Failure to supply the appropriate information may result in a delay in the processing of the application.

- ☐ 1 Is **Form 8717,** User Fee for Employee Plan Determination Letter Request, attached to your submission?
- ☐ 2 Is the appropriate user fee for your submission attached to Form 8717?
- ☐ 3 If appropriate, is **Form 2848,** Power of Attorney and Declaration of Representative, or a privately designated authorization attached? (For more information, see the **Disclosure Request by Taxpayer** in the instructions.)
- ☐ 4 Is a copy of your plan's latest determination letter, if any, attached?
- ☐ 5 Is the Employer Identification Number (EIN) of the **plan sponsor/employer** (NOT the trust's EIN) entered on line 1b?
- ☐ 6 Does line 4d list the plan's original effective date?
- ☐ 7 Is the application signed and dated?
- ☐ 8 Have interested parties been given the required notification of this application? (See the instructions for line 3c.)
- ☐ 9 If you are requesting a determination as an **Affiliated Service Group,** have you included the information requested in the instructions?

  NOTE: You can request a ruling from the IRS as to whether or not you are an **Affiliated Service Group** by listing your request on line 3 of Form 5300.
- ☐ 10 If you answered "Yes" to line(s) 6a and/or line 6b, have you included the information requested in the instructions?
- ☐ 11 **For Multiple Employer Plans:** Have you included the required information as specified in the instructions under **Specific Plans — Additional Requirements?**
- ☐ 12 **For Partial Termination Requests:** If requesting a determination for the plan and one or more employers maintaining the plan, have you included the required information as specified in the instructions under **Types of Determination Letters, Partial Termination?**
- ☐ 13 If you answered "Yes" to line 8a, have you included the requested information?
- ☐ 14 If you are requesting additional determinations, is page 4 completed and/or Schedule Q attached?
- ☐ 15 If filing Schedule Q, are all appropriate demonstrations attached? (See Instructions for Schedule Q)

  ☐ Demo 1 ☐ Demo 5 ☐ Demo 8 ☐ Demo 11
  ☐ Demo 3 ☐ Demo 6 ☐ Demo 9
  ☐ Demo 4 ☐ Demo 7 ☐ Demo 10
- ☐ 16 Have you included a copy of the plan, trust, and all amendments since your last determination letter?
- ☐ 17 **For Employee Stock Ownership Plans (ESOP):** Have you attached **Form 5309,** Application for Determination of Employee Stock Ownership Plan, to your submission?
- ☐ 18 **For PBGC Terminations:** Have you included the required information as specified in the instructions under **Types of Determination Letters?**

ATTACHMENT TO IRS FORM 5300
EIN: 93-6002221
PLAN NAME: CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN
PLAN NUMBER: 002

Line 8.a. Other Qualified Plans Maintained under IRC §401(a).

Name of Plan	Type of Plan	Plan Number	Whether another application is simultaneously being submitted with this application
City of Newberg Police and Fire Men Retirement Plan	Defined Benefit	001	Yes

Line 9.a. General Eligibility Requirements.

Any full-time regular Employee of the Employer is eligible to participate in the plan provided the Employee is employed in a position not eligible for membership in the Oregon Public Employees Retirement System under the Employer's agreements with the System and whose employment with the Employer is as a General Employee.

Line 11.a. Method of Determining Accrued Benefit.

The participant's accrued benefit is the product of a Participant's Average Compensation, times 1.67% (2%, effective July 1, 1992, the City Attorney), times his total Years of Service.

FILE COPY

Form **8717**
(Rev. February 2002)
Department of the Treasury
Internal Revenue Service

User Fee for Employee Plan Determination Letter Request

▶ Attach to determination letter application.

For IRS Use Only
OMB No. 1545-1772
Control number
Amount paid
User fee screener

1 Name of plan sponsor (employer if single-employer plan)
City of Newberg

2 Sponsor's employer identification number
93-6002221

3 Plan name
City of Newberg General Employees Retirement Plan

4 Plan number
002

Caution: *If you qualify for the exemption from user fees for small business employers, complete only the certification below (see the instructions on page 2 for details). For all other applications, leave the certification blank and check the appropriate box in column A or B of line 5.*

Certification

I certify that the application for a determination letter on the qualified status of City of Newberg General Employees Retirement Plan (name of the plan) meets the conditions for exemption from user fees described in section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

Signature ▶ [signature] Title ▶ Finance Director Date ▶ 6/24/2002

Form Submitted	Fee Schedule A	Fee Schedule B
5a Form 5300:	with Demo 5 and/or Demo 6: ☐ $1,250	no Demo 5 and no Demo 6 ☒ $700
b Form 5307:	with Demo 5 and/or Demo 6: ☐ $1,000	no Demo 5 and no Demo 6 ☐ $125
c Form 5310:	with Demo 5 and/or Demo 6: ☐ $375	no Demo 5 and no Demo 6 ☐ $225
d Form 6406:	Not applicable	☐ $125
e Multiple employer plans (**Form 5300**):	with Demo 5 and/or Demo 6:	no Demo 5 and no Demo 6
(1) 2 to 10 Forms 5300 submitted	☐ (1) $ 1,250	☐ (1) $ 700
(2) 11 to 99 Forms 5300 submitted	☐ (2) $ 2,000	☐ (2) $ 1,400
(3) 100 to 499 Forms 5300 submitted	☐ (3) $ 3,500	☐ (3) $ 2,800
(4) Over 499 Forms 5300 submitted	☐ (4) $ 6,500	☐ (4) $ 5,600
f Multiple employer plans (**Form 5310**):	with Demo 5 and/or Demo 6:	no Demo 5 and no Demo 6
(1) 2 to 10 employers maintaining the plan	☐ (1) $ 375	☐ (1) $ 225
(2) 11 to 99 employers maintaining the plan	☐ (2) $ 600	☐ (2) $ 450
(3) 100 to 499 employers maintaining the plan	☐ (3) $ 1,000	☐ (3) $ 900
(4) Over 499 employers maintaining the plan	☐ (4) $ 2,000	☐ (4) $ 1,800
g Volume submitter:		
(1) Specimen plan		☐ (1) $ 1,500
(2) Lead specimen plan (see Rev. Proc. 2000-20)		☐ (2) $ 3,000
(3) Specimen plan identical to lead specimen plan (see Rev. Proc. 2000-20)		☐ (3) $ 100
h Group trust		☐ $ 750

Attach Check or Money Order Here

FILE COPY

Form **2848**
(Rev. January 2002)
Department of the Treasury
Internal Revenue Service

Power of Attorney and Declaration of Representative

▶ See the separate instructions.

OMB No. 1545-0150

For IRS Use Only
Received by:
Name
Telephone
Function
Date / /

Part I **Power of Attorney** (Type or print.)

1 Taxpayer information. Taxpayer(s) must sign and date this form on page 2, line 9.

Taxpayer name(s) and address	Social security number(s)	Employer identification number
City of Newberg 401 E. Third Street Newberg OR 97132		93-6002221
	Daytime telephone number (503) 537-1216	Plan number (if applicable) 002

hereby appoint(s) the following representative(s) as attorney(s)-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address	CAF No. / Telephone No. / Fax No. / Check if new
Everett Moreland P.O. Box 1475 Eugene, OR 97401	CAF No. 3205-14754R Telephone No. (541) 686-8511 Fax No. (541) 344-2025 Check if new: Address ☐ Telephone No. ☐
Jeff Kirtner P.O. Box 1475 Eugene, OR 97401	CAF No. none Telephone No. (541) 686-8511 Fax No. (541) 344-2025 Check if new: Address ☐ Telephone No. ☐
Emma Thompson P.O. Box 1475 Eugene, OR 97401	CAF No. none Telephone No. (541) 686-8511 Fax No. (541) 344-2025 Check if new: Address ☐ Telephone No. ☐

to represent the taxpayer(s) before the Internal Revenue Service for the following tax matters:

3 Tax matters

Type of Tax (Income, Employment, Excise, etc.) or Civil Penalty (See the instructions for line 3.)	Tax Form Number (1040, 941, 720, etc.)	Year(s) or Period(s)
Application for Determination on	5300	
Plan Qualification		
VCP Submission	n/a	

4 Specific use not recorded on Centralized Authorization File (CAF). If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for **Line 4. Specific uses not recorded on CAF.** . . . . . ▶ ☐

5 Acts authorized. The representatives are authorized to receive and inspect confidential tax information and to perform any and all acts that I (we) can perform with respect to the tax matters described on line 3, for example, the authority to sign any agreements, consents, or other documents. The authority does not include the power to receive refund checks (see line 6 below), the power to substitute another representative, the authority to execute a request for a tax return, or a consent to disclose tax information unless specifically added below, or the power to sign certain returns. See the instructions for **Line 5. Acts authorized.**

List any specific additions or deletions to the acts otherwise authorized in this power of attorney: _____

Note: *In general, an unenrolled preparer of tax returns cannot sign any document for a taxpayer. See Revenue Procedure 81-38, printed as Pub. 470, for more information.*

Note: *The tax matters partner of a partnership is not permitted to authorize representatives to perform certain acts. See the separate instructions for more information.*

Receipt of refund checks. If you want to authorize a representative named on line 2 to receive, **BUT NOT TO ENDORSE OR CASH,** refund checks, initial here _____ and list the name of that representative below.

Name of representative to receive refund check(s) ▶

7 **Notices and communications.** Original notices and other written communications will be sent to you and a copy to the first representative listed on line 2 unless you check one or more of the boxes below.

a If you want the first representative listed on line 2 to receive the original, and yourself a copy, of such notices or communications, check this box . . . . . ▶ [X]

b If you also want the second representative listed to receive a copy of such notices and communications, check this box. . . ▶ [ ]

c If you do not want any notices or communications sent to your representative(s), check this box . . . . . ▶ [ ]

8 **Retention/revocation of prior power(s) of attorney.** The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same tax matters and years or periods covered by this document. If you **do not** want to revoke a prior power of attorney, check here . . . . . ▶ [ ]

YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.

9 **Signature of taxpayer(s).** If a tax matter concerns a joint return, **both** husband and wife must sign if joint representation is requested, otherwise, see the instructions. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the authority to execute this form on behalf of the taxpayer.

▶ **IF NOT SIGNED AND DATED, THIS POWER OF ATTORNEY WILL BE RETURNED.**

Signature	Date	Title (if applicable)
Katherine L. Tri	6/24/2002	Finance Director
KATHERINE L. TRI (Print Name)		
Elaina Canutt	6/24/02	Assistant Finance Director
Elaina Canutt (Print Name)		

Part II Declaration of Representative

Caution: *Students with a special order to represent taxpayers in Qualified Low Income Taxpayer Clinics or the Student Tax Clinic Program, see the separate instructions for Part II.*

Under penalties of perjury, I declare that:

- I am not currently under suspension or disbarment from practice before the Internal Revenue Service;
- I am aware of regulations contained in Treasury Department Circular No. 230 (31 CFR, Part 10), as amended, concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others;
- I am authorized to represent the taxpayer(s) identified in Part I for the tax matter(s) specified there; and
- I am one of the following:
  - **a** Attorney — a member in good standing of the bar of the highest court of the jurisdiction shown below.
  - **b** Certified Public Accountant — duly qualified to practice as a certified public accountant in the jurisdiction shown below.
  - **c** Enrolled Agent — enrolled as an agent under the requirements of Treasury Department Circular No. 230.
  - **d** Officer — a bona fide officer of the taxpayer's organization.
  - **e** Full-Time Employee — a full-time employee of the taxpayer.
  - **f** Family Member — a member of the taxpayer's immediate family (i.e., spouse, parent, child, brother, or sister).
  - **g** Enrolled Actuary — enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Service is limited by section 10.3(d)(1) of Treasury Department Circular No. 230).
  - **h** Unenrolled Return Preparer — an unenrolled return preparer under section 10.7(c)(1)(viii) of Treasury Department Circular No. 230.

▶ **IF THIS DECLARATION OF REPRESENTATIVE IS NOT SIGNED AND DATED, THE POWER OF ATTORNEY WILL BE RETURNED.**

Designation — Insert above letter (a-h)	Jurisdiction (state) or Enrollment Card No.	Signature	Date
a	Oregon	Ernest Morland	6/28/02
a	Oregon	Tony D. Kirk	
a	Oregon	E Thompson	6/28/02

Department of the Treasury
Internal Revenue Service

P.O. BOX 21224
SEATTLE, WA 93174

In reply refer to: 91710026
MAR. 14, 1983 LTR 835C 9029
93-6002221

MAR 83 10: 22

CITY OF NEWBURG OREGON
414 EAST FIRST STREET
NEWBURG, OR 97132

District Office Code and
Case Serial Number: 93301806EP
Name of Plan: City Of Newburg General Employees
Retirement Plan
Application Form: 5300
Date Amended: Dec 06 1982
Employer Identification Number: 93-6002221
Plan Number: 002
File Number: 930004215

Dear Applicant:

Based on the information supplied, we have made a favorable determination on your application identified above. Please keep this letter in your permanent records.

Continued qualification of the plan will depend on its effect in operation under its present form. (See section 1.401-1(b)(3) of the Income Tax Regulations.) The status of the plan in operation will be reviewed periodically.

The enclosed document describes some events that could occur after you receive this letter that would automatically nullify it without specific notice from us. The document also explains how operation of the plan may affect a favorable determination letter, and contains information about filing requirements.

This letter relates only to the status of your plan under the Internal Revenue Code. It is not a determination regarding the effect of other Federal or local statutes.

This determination is subject to your adoption of the proposed amendments submitted in your or your representative's letter dated Feb 24 1983. The proposed amendments should be adopted on or before the date prescribed by the regulations under Code section 401(b).

This determination does not express an opinion on any provisions of the Tax Equity and Fiscal Responsibility Act of 1982, except for amended Code sec 415.

We have sent a copy of this letter to your representative as indicated in the power of attorney.

Department of the Treasury
Internal Revenue Service

91710026

MAR. 14, 1983 LTR 835C 9029
93-6002221

CITY OF NEWBURG OREGON
414 EAST FIRST STREET
NEWBURG, OR 97132

If you have any questions, please contact Earl Parker at (206)442-5124.

Sincerely yours,

Michael J Quinn

District Director

Enclosure(s):

Publication 794
LMSA 645

STATEMENT OF AMENDMENTS TO
CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN

This statement summarizes amendments to the above Plan after the version of the Plan last approved by the IRS.

The IRS has approved the Restated 7/1/82 plan and Amendment No. 1 thereto.

Later amendments to the Plan, which are summarized below, consist of:

Amendment No. 2
Amendment No. 3
Amendment No. 4
Amendment No. 5
11/15/93 Contract
Resolution No. 94-1834 (No. 6)
7/1/94 Contract
Amendment No. 8
2002 Restatement

Amendment No. 2

Added 9.11 to allow immediate distribution to an alternate payee.

Amendment No. 3

Amended the last sentence of 1.03(d) to change the crediting rate to Participants' Contributions Accounts from 7.5% to 8%.

Amended 5.01(a) to increase the death benefit based on the Participant's Contribution Account from 2 times to 2.2 times the amount of that account.

Amendment No. 4

Amended 1.01(f) to increase the City Attorney's benefit accrual rate for periods after June 30, 1992.

Amendment No. 5

Added 4.03(c) to change, for Participants hired after June 30, 1993, the amount by which the Participant's retirement income is reduced if the Participant cashes out the Participant's Contribution Account.

FILE COPY

Amended 6.01(a) to change, for Participants hired after June 30, 1993, who terminate employment one month or more before their Retirement Date, the amount of the Participant's retirement income at the Normal Retirement Date if the Participant does not cash out the Participant's Contribution Account.

11/15/93 Contract

Provided that department heads, middle managers, and technical employees (engineers) would participate in the Oregon Public Employees Retirement System in lieu of participating in the Plan.

Resolution No. 94-1834 (No. 6)

Amended 1.03(a) to change the definition of average compensation (used in the benefit formula) and to include one-half of unused sick leave in average compensation.

7/1/94 Contract

Provided that ambulance service employees would participate in the Oregon Public Employees Retirement System in lieu of participating in the Plan.

Amendment No. 8

Amended 3.02 and added 3.02a to require Participants to fund (as pick-up contributions) the required 6% contributions to Participants' Contribution Accounts.

2002 Restatement

Attached to this Statement is a redline document showing the differences between (1) the 2002 Restatement and (2) the Plan as amended through Amendment No. 8 (stating on the cover page: "REDLINE SHOWING THE CHANGES MADE TO THE PLAN IN THE 2002 RESTATEMENT"). The principal changes made in the 2002 Restatement are summarized below. Please note that the 2002 Restatement combines the Plan in the same document with the City of Newberg Policemen and Firemen Retirement Plan. The City of Newberg has applied for a separate determination letter for the Policemen and Firemen Retirement Plan. The following discussion notes changes shown in the redline that result merely from combining the two plans into one document.

Plan Section or Article in 2002 Restatement	*Change*
1.01(c)	Amended to state that all benefits will be paid from the Group Contract funding the Plan.

Plan Section or Article in 2002 Restatement	*Change*
1.01(f)(1), (2), and (3)	Added to exclude leased employees, individuals whose wages are not paid by the City, and persons not treated as employees on the City's payroll records.
1.01(g)	Amended to limit participation to full-time regular employees not eligible to participate in the Oregon Public Employees Retirement System.
Old 1.01(*l*)	The definition of Actuarial Equivalent was moved to 1.03(i).
1.02(h) and (i)(2)	These additions result from combining the two Retirement Plans.
Old 1.02(k)(5)	Amended to delete the reference to military service. The 2002 Restatement deals with military service in 13.04.
Old 1.02(m)	Amended to delete the definition of Credited Service because that term was not used in the Plan before the 2002 Restatement and is not used in the 2002 Restatement.
Old 1.02(p)	Amended to delete the reference to military service. The 2002 Restatement deals with military service in 13.04.
1.03(b)	The addition at the end results from combining the two Retirement Plans.
1.03(i)(2)(ii)	This addition results from (1) moving the definition of Actuarial Equivalent from old 1.01(*l*), (2) updating the mortality table for General Employees and the City Attorney, (3) combining the two Retirement Plans, and (3) stating that actuarial equivalency is to be determined by not considering the COLA provided in Article 6.
1.05	The addition at the end results from combining the two Retirement Plans.
2.01(a)	These additions are clarifications.
2.04	This deals with employees who transfer to or from the City as part of the transfer of functions from one governmental unit to another.
3.01	The exclusive benefit language was moved to 14.02 and more fully stated. The new material deals with returning contributions made because of a mistake of fact.

Plan Section or Article in 2002 Restatement	*Change*
3.02	The definition of monthly earnings was changed to exclude, for General Employees and the City Attorney, overtime, longevity pay, and pager pay.
4.01(b)	The additions result from combining the two Retirement Plans.
4.02	The second paragraph was changed to base actuarial equivalency on the factors in 1.03(i) rather than on the annuity purchase rates under the Group Contract. The deleted paragraph near the end is now covered by the required distribution rules stated in 13.01.
4.03	These changes result from combining the two Retirement Plans and from clarifications.
4.05	This 415 limit is now stated in 13.05-13.09.
5.01	"[F]or the Employer" and "and while he is an Employee" were added to clarify that the Plan's disability benefit is not payable to a former employee who becomes disabled after terminating employment.
5.02	These additions result from combining the two Retirement Plans.
6.01	A reference to a comparable COLA index was added, in case the COLA index described in 6.01 ceases to be published.
6.03	This addition results from combining the two Retirement Plans.
7.01(a)	These changes result from a clarification and from combining the two Retirement Plans.
7.01(b)	The deletion of "Late" clarifies that the death benefit provided in 7.01(b) does not apply after retirement benefits begin.
7.01(b)(5)	This addition is a clarification.
8.01(a)	These additions result from combining the two Retirement Plans.
8.02(b)	This addition allows Participants to make tax-free rollovers and transfers to the Plan to make the repayment allowed by 8.02(a).
9.	This addition results from combining the two Retirement Plans.
10.04	This addition is a clarification.

Plan Section or Article in 2002 Restatement	*Change*
11.02 and 11.03	The requirement of vesting on plan termination was deleted from 11.03(b) and restated in 11.02.
11.03	The deleted sentence at the end of the first paragraph after 11.03(c)(4) (using excess funds to increase benefits) was deleted as inconsistent with the last paragraph (paying excess funds to the City).
Old VIIA	This deleted limitation on benefits for highly paid employees no longer applies to governmental plans.
12.03	The addition at the end of the second paragraph authorizes paying plan expenses with plan assets.
Old 9.01	The first paragraph was deleted as outdated. The first sentence of the second deleted paragraph is now dealt with in 14.01. The second sentence is deleted because it states a requirement of tax law that does not apply to governmental plans. The part of the third sentence before the semicolon is deleted because it is inconsistent with the last sentence of 11.03 (paying excess funds to the City). The part of the third sentence before the period that is required by tax law is now stated in 14.02. The part of the third sentence after the semicolon is deleted because it states a requirement of tax law that does not apply to governmental plans.
12.05	This states a claims procedure.
13.	The required distribution rules are stated in 13.01; the annual compensation limit in 13.02; the direct rollover rules in 13.03; the rules for military leave in 13.04; the 415 limits in 13.05-13.09; and the rules for distributed annuity contracts in 13.10.
14.01	This authorizes amendment of the Plan and is a restatement of part of old 9.01.
14.02	This restates the exclusive benefit requirement that was formerly stated in 3.01.
14.05	The third paragraph was amended to pay death benefits to the Participant's estate where no Beneficiary is named or survives. The addition at the end refers to Oregon statutory rules for determining whether a Beneficiary survives the Participant.

Plan Section or Article in 2002 Restatement	*Change*
14.06	These changes restate the Plan's anti-assignment provision.
14.07	These changes restate the Plan's facility of payment provision.
14.08	The first paragraph restates the Plan's provision about applying Oregon and federal law. The second paragraph is an EGTRRA amendment.
14.11	This deals with interest on late benefit payments.
14.14	This deals with domestic relations orders under Oregon Revised Statutes 237.600.
14.15	This provides for merging the assets of the City's two Retirement Plans.

CITY OF NEWBERG

GENERAL EMPLOYEES RETIREMENT PLAN

Amendment No. 2

WHEREAS, the City of Newberg (hereinafter referred to as the "Employer") heretofore adopted the City of Newberg General Employees Retirement Plan (hereinafter referred to as the "Plan") effective July 1, 1964; and

WHEREAS, the Plan was amended and restated in its entirety effective July 1, 1982; and

WHEREAS, the Employer desires to amend the Plan;

NOW, THEREFORE, effective July 1, 1988, the Employer, in accordance with the provisions of the Plan pertaining to amendments thereof, hereby amend the Plan as follows:

I.

Section 9.11 shall be added to the Plan and shall read as follows:

9.11 Distribution of Benefits to Former Spouse

Notwithstanding any other provision contained in this Plan, the Administrator shall make an immediate distribution of a Participant's Required Participant Contributions to a former spouse of the Participant if the Administrator receives a Domestic Relations Order ordering that such payment shall be made. The distribution shall be limited to the lesser of the amount necessary to satisfy the Domestic Relations Order or the amount which is in the Participant's Contribution Account on the date the Order is issued. The distribution to the former spouse shall be in the form of a single sum payment, the value of which shall be determined under the provisions of the Group Contract, consistent with the provisions of Section 6.01(c) of the Plan.

II.

In all other respects, the City of Newberg General Employees Retirement Plan shall remain unchanged.

this Plan resulting from the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN may continue to be known by such name.

DATED June 26, 2002.

CITY OF NEWBERG

By _____
City Manager

CITY OF NEWBERG
GENERAL EMPLOYEES
RETIREMENT PLAN

Amendment No. #3

WHEREAS, the City of Newberg (the "Employer") restated the Plan effective July 1, 1982, to consolidate previous amendments to its Plan and to make additional changes to the Plan so as to improve its general benefits; and

WHEREAS, the Employer desires to modify the Plan in such a manner as to improve the annual interest credit and provide greater death benefits.

NOW THEREFORE, effective July 1, 1990, in accordance with the provisions of the Plan pertaining to amendments thereof, the City of Newberg hereby amends the Plan as follows:

The last sentence of Section 1.03(d) is changed to read as follows:

> A Participant's Contribution Account will be credited with interest at the rate of 8% compounded annually.

Section 5.01(a) shall be changed to read as follows:

> Death Benefit before Retirement Date (Normal Retirement Date, if earlier): If the death of a Participant occurs prior to his Retirement Date (Normal Retirement Date, if earlier), a single sum death benefit equal to the sum of (i) two and two-tenths (2.2) times his Participant's Contribution Account as of the date of his death, and (ii) his Voluntary Account as of the date of his death will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section 4.03 for the benefit of such Beneficiary.
>
> In no event, however, will such death benefit be less than the death benefit that would have been payable upon the death of such Participant under the Prior Plan on the day before the Effective Date.

IN WITNESS WHEREOF, this Employer has caused this Plan to be executed by its duly appointed officers this 6th day of May, 1991.

CITY OF NEWBERG

By Dave R Cole

City Manager
Title

new08a34

CITY OF NEWBERG
GENERAL EMPLOYEES RETIREMENT PLAN

AMENDMENT NO. 54

In order to clarify current practice and to provide for implementation of Resolution No. 92-1726, the Plan is amended as follows:

1. Article I, Section 1.01(f) is rewritten to read:

(f) "ELIGIBLE EMPLOYEE" means any Employee whose employment with the Employer is as follows:

(1) Policemen and Firemen.

(2) City Attorney, effective July 1, 1992.

The City Attorney shall be eligible as a General Employee with five years employment with the City and shall be given credit for contributions as of July 1, 1988 through June 30, 1992. Pursuant to Resolution No. 92-1726, the City Attorney shall be classified with the Police and Fire personnel instead of the general administrative employees classification, effective July 1, 1992.

Executed on this ___ day of November, 1992.

CITY OF NEWBERG

By_____
Duane R. Cole
City Manager
By Authority of Resolution No. 92-1726
Passed by the Newberg City Council on
September 8, 1992

State of Oregon)
:ss
County of Yamhill)

Signed and attested before me on the __ day of November, 1992.

_____
Notary Public for Oregon

CITY OF NEWBERG
GENERAL EMPLOYEES
RETIREMENT PLAN

Amendment No. 5

WHEREAS, the CITY OF NEWBERG (the "Employer") restated the Plan effective July 1, 1982, to consolidate previous amendments to its Plan and to make additional changes to the Plan general benefits; and

WHEREAS, the Employer desires to modify the Plan in such a manner as to provide benefits more in line with Oregon PERS.

NOW THEREFORE, effective July 1, 1993 for employees hired after June 30, 1993, in accordance with the provisions of the Plan pertaining to amendments thereof, the CITY OF NEWBERG hereby amends the Plan as follows:

Article IV, Section 4.03(a) on Page 12 is amended to read as follows:

(a) For a Participant hired prior to July 1, 1993, that portion of a Participant's Contribution Account derived from Required Participant Contributions made on or after July 1, 1979 shall be applied as of the Participant's Retirement Date to provide him an amount of monthly retirement income in addition to that provided under Section 4.01(a), (b), or (c), whichever is applicable.

(b) A Participant hired prior to July 1, 1993 may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement Date. Payment of his Participant's Contribution Account derived from Required Participant Contributions made on or after July 1, 1979 is in lieu of any Additional Monthly Income that otherwise would be provided under this Section 4.03. Payment of his Participant's Contribution Account derived from Required Participant Contributions made prior to July 1, 1979 is in lieu of the Actuarially Equivalent Monthly Benefit of that portion of his Accrued Benefit (Section 1.04) attributable to such Required Participant Contributions.

(c) A Participant hired on or after July 1, 1993 may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement Date. Lump Sum payment of his Participant's Contribution Account will reduce his Accrued Benefit (Section 1.04) by the monthly benefit that is actuarially equivalent to the lump sum.

Article VI, Section 6.01(a) on Page 19 are amended to read as follows:

(a) Deferred Payment. If an Inactive Participant so elects, he will receive a deferred monthly retirement benefit to commence on his Normal Retirement Date. The amount of such deferred monthly retirement benefit, in accordance with the Normal Form, shall be equal to the following:

(1) For an Inactive Participant hired on or after July 1, 1993;

An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant. The amount may not exceed 100% of his Average Monthly Compensation, but in no event shall be less than the monthly benefit provided by the actuarial equivalent of his Participant's Contribution Account.

(2) For an Inactive Participant hired prior to July 1, 1993 an amount equal to the sum of (i) and (ii) below;

(i) An amount equal to the amount of monthly retirement benefit which could be provided on his Normal Retirement Date by that portion of his Participant's Contribution Account made on or before July 1, 1979, and

(ii) An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant provided that the sum of (i) and (ii) do not exceed 100% of his Average Monthly Compensation, but in no event shall be less than the monthly benefit provided by the actuarial equivalent of his Participant's Contribution Account.

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed by its duly appointed officers this _____ day of _____, 1993.

CITY OF NEWBERG, OREGON

By: _____

_____
Title

THIS CONTRACT is made between the PUBLIC EMPLOYES RETIREMENT BOARD (hereinafter referred to as the BOARD) on behalf of the PUBLIC EMPLOYES RETIREMENT SYSTEM (hereinafter referred to as PERS) and the CITY OF NEWBERG (hereinafter referred to as the CITY) for the purpose of integrating the City of Newberg Retirement Plan (hereinafter referred to as the City's PLAN), as maintained on behalf of the City's management and non-represented employes (hereinafter referred to as the EMPLOYES), into PERS pursuant to the provisions of ORS 237.031, and in lieu of a contract of integration under ORS 237.051.

This contract is effective June 21, 1993, but shall have no effect until:

(1) No less than two thirds of the current management employes who participate in the City's Plan have duly approved said integration pursuant to ORS 237.051.

(2) The contract has been approved by the City and by the Board.

THEREFORE, the parties agree that:

(1) Definitions for purposes of this contract:

(a) Eligible employe means any person employed by the City in a position that the City classifies as a department head; as a middle manager or in a technical position and who was an active participant in the City's Plan as of June 20, 1993.

(b) Current service is the number of years of membership as used for purposes of retirement allowance calculation in ORS 237.147. Current service, as used in this contract, will also be used to determine employee eligibility for benefits under ORS 237.011, 237.109, 237.111, 237.121, 237.171 and 237.248.

(2) Effective June 21, 1993, the City will begin participation in PERS for all eligible City employes. All City management employes shall be considered eligible for purposes of this contract if the employe participated in the previous plan as of June 20, 1993.

(3) Effective June 21, 1993, the City will begin participation in PERS for all City management employes who did not participate in the previous plan as of June 20, 1993, if the employe qualifies for PERS membership under ORS 237.011 as of June 21, 1993. If the employe has not qualified for PERS membership under ORS 237.011 as of June 21, 1993, PERS membership shall begin the first day of the calendar month that immediately follows such qualification.

(4) For eligible City employes who participated in the previous plan as of the effective date of this contract, "current service" under PERS shall include all years and months of service beginning from the date of enrollment in the City of Newberg Retirement Plan.

(5) Nothing in this contract nor any action taken under this contract shall reduce or impair the benefits which former employes of the City, who left City employment as management or as non-represented employes, and who are currently receiving benefits from the previous plan, would have received had the integration not been effected.

(6) Former employes receiving retirement benefits from the City of Newberg Retirement Plan shall continue to receive benefits from the previous plan.

Any benefits due to former employes from the City of Newberg Retirement Plan as of June 20, 1993 shall remain the liability of the previous plan.

(7) The PERS Board has caused a financial and actuarial investigation of this integration to be made, the cost of which has been borne by the City or by the previous plan. Such investigation determined the present actuarial value of projected benefits and of accrued benefits for former employes who have terminated with a vested interest, current assets, and any unfunded liability of the previous plan.

(8) The City will furnish PERS with payroll and personnel information to establish salary history, years of service, member account balances and other such information deemed to be necessary by the Board to integrate the previous plan into PERS, within 60 days after the date on which this contract is signed.

(9) The City agrees that it is solely responsible to inform all City management and non-represented employes participating in the previous plan of the transfer.

The City agrees that management and non-represented employes who are currently participating in the previous plan shall be notified of the proposed integration.

(10) The City will transfer cash assets from the previously established plan to its' account in PERS not later than December 31, 1993. The members' Accounts will be first credited from any transferred assets received by PERS. Account values to be credited as of June 20, 1993 are made a part of this contract in the Appendix A. The assets remaining after member accounts are fully credited will constitute the employer account. The City will transfer approximately $ 327,000 of assets (including interest income, at the rate credited by the System in its' most recent annual interest posting, pro-rated for the number of months by which the asset transfer antedates the effective date of this contract) in one or more payments.

(12) The initial employer contribution rate pursuant to ORS 237.081 will be 12.00 percent of the employes' total gross salary as defined in ORS 237.003 and 237.075. The City's employer contribution rate does reflect the transfer of assets as prescribed above. Assets to be transferred are approximately $ 327,000 as of June 20, 1993, based on the report certified by the prior plan administrator. In addition, the City will initially pick-up, pay or assume the employes' contributions of 6 percent of total gross salary as defined in ORS 237.003.

(13) The City agrees to eventually contract to provide Public Employes Retirement System membership to all of the employees of the City of Newberg who have not become members as of the effective date of this contract. The only exception to this extension of PERS coverage will be for those employes who have made an irrevocable election not to participate in PERS under Section (14) of this contract.

(14) Notwithstanding Section (2) of this contract, eligible employes who participated in the previous plan as of June 20, 1993, may irrevocably elect not to become PERS members, and to remain participants in the previous plan.

The election must be made in writing to the City, in the form prescribed by the City, within 60 days after the date on which this contract is signed. An eligible employe who fails to make an election will be considered to have elected to become a member of PERS.

(15) If an eligible employe irrevocably elects not to become a member of PERS under Section (14) of this contract, no benefit shall be paid from PERS for any period of employment with the City of Newberg as either a management or as a non-represented employe.

For the City of Newberg this 15th day of November 1993.

By _____
City Manager

For Oregon Public Employes Retirement System this 8th day of December, 1993.

By _____
Director, OREGON PUBLIC EMPLOYES RETIREMENT SYSTEM

By _____
Chairman, OREGON PUBLIC EMPLOYES RETIREMENT BOARD

Approved as to form: _____
Assistant Attorney General

\contract\CONTMERS.DOT

RESOLUTION NO. 94-1834

A RESOLUTION AMENDING THE GENERAL EMPLOYEES RETIREMENT PLAN AND POLICE AND FIREMEN'S RETIREMENT PLAN AND CREDITING UNUSED SICK LEAVE FOR PERS EMPLOYEES

WHEREAS, the City of Newberg restated its retirement plans effective July 1, 1982; and

WHEREAS, the City of Newberg's personnel rules have stated that one half of unused sick leave shall be credited to a retiring employee's retirement benefit; and

Personnel Rules 9.3(E)

WHEREAS, the City's retirement plans are so stated that an employee may retire on June 30 of any given year versus any day in a year; and

WHEREAS, Oregon PERS requires a separate statement regarding crediting unused sick leave;

NOW THEREFORE BE IT RESOLVED by the Council of the City of Newberg as follows:

Section 1. Article I, Section 1.03 (a) is amended to read as follows:

"(a) Average compensation means 1/12th of the following:

(1) For an employee who has completed at least 10 years of service, the average of the person's monthly earnings for each month in a thirty-six (36) consecutive month period during the last 120 months of employment preceding the date the benefit is being determined which produces the highest average of monthly earnings.

(2) For an employee who has completed at least three years of service, but less than 10 years of service, the average of the person's monthly earnings for each month in a thirty-six (36) consecutive month period preceding the date the benefit is being determined which produced the highest average of monthly earnings.

(3) For an employee who has completed less than three years of service, the average of the person's monthly earnings for each month preceding the date of benefit is being determined.

"Monthly earnings" means the base remuneration which the City pays to an employee in a month before any payroll deduction for income taxes, social security, group insurance, deferred compensation or any other purpose. The full amount of required employee contributions pick-up, assumed or paid by the City on behalf of its employees shall be considered monthly earnings under the provisions of this plan."

Section 2. Article I, Section 1.03(a) is amended to add:

"(i) The average compensation in 1.03 (a) above is divided by 173.33 to arrive at the average hourly rate of earnings.

(ii) The number of unused sick leave hours is multiplied by the result in (i) above, to arrive at the value of unused sick leave.

(iii) One-half of the value of unused sick leave, divided by 36, shall be added to the average compensation in 1.03(a) above."

Section 3. In accordance with the City's personnel rules, the City hereby elects to add one half of unused sick leave to the value of the average compensation to those employees in the Oregon Public Employees Retirement Plan.

Amendment 6 - G.E
1 - P/F

Section 4. The above provisions are to become effective for the 1993-94 plan year.

ADOPTED by the City Council of the City of Newberg, Oregon, this 4th day of April, 1994.

Duane R. Cole, City Recorder

THIS APPLICATION is made by the CITY OF NEWBERG, OREGON (hereinafter referred to as the "City") to the PUBLIC EMPLOYES RETIREMENT SYSTEM (hereinafter referred to as "PERS"), for the purpose of establishing PERS membership for those employes whos duties of employment have been assumed or acquired by the City from the Newberg City Hospital effective July 1, 1994.

The coverage applied for shall be effective July 1, 1994; but no PERS coverage shall be effective until this application is accepted by the Board.

THEREFORE, the parties agree that:

(1) An "eligible employe" means any employe classified by the City as an ambulance service employe.

A list of eligible employes as of July 1, 1994 is attached to this Application as "Appendix A".

(2) Effective July 1, 1994, the City will begin participation in PERS for all eligible employes.

(3) Eligible employes shall become PERS members upon completion of the period of service with the City that is required by ORS 237.011. The required period of service shall be considered to begin effective July 1, 1994.

If, however, an eligible employe's duties of employment with the City were assumed from the Newberg City Hospital, the eligible employe shall become a PERS member on July 1, 1994.

(4) The City of Newberg shall contribute to PERS for eligible employes beginning July 1, 1994.

(5) The City agrees to eventually contract to provide Public Employes Retirement System membership to all of the employees of City of Newberg who have not become PERS members as of the effective date of this contract.

For the City of Newberg this 1 day of July, 1994.

By Dana Pro Tem
Mayor, CITY OF NEWBERG

For Oregon Public Employes Retirement System this 8 day of August, 1994.

By
Director, OREGON PUBLIC EMPLOYES RETIREMENT SYSTEM

By
Chairman, OREGON PUBLIC EMPLOYES RETIREMENT BOARD

Approved as to form:
Assistant Attorney General

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PERS

CITY OF NEWBERG
GENERAL EMPLOYEES
RETIREMENT PLAN

AMENDMENT NO. 8

WHEREAS, the CITY OF NEWBERG (the "Employer") restated the Plan effective July 1, 1982, to consolidate previous amendments to its Plan, to make additional changes to the Plan as to improve its general benefits and to make changes so as to comply with State of Oregon law; and

WHEREAS, the Employer desires to modify the Plan in such a manner as to apply IRS Code Section 414(h)(2) to pick-up mandatory employee contributions. Employees will not have the option of receiving the salary payment, and paying the employee contribution directly, and employees' reported salary on the W-2 form for purposes will be reduced by the amount of the employees' contributions.

NOW THEREFORE, effective on or after January 1, 1995, and in accordance with the provisions of the Plan pertaining to amendments thereof, the City of Newberg hereby amends the Plan as follows:

A new paragraph shall be added at the end of Section 3.02, the Required Participant Contributions Section on page 9 to read as follows:

> Effective January 1, 1995, or as required by state law, the employer shall not make the required participant contributions for employees.

A new subsection 3.02a, Mandatory Employee Contributions, shall be added following Section 3.02 to read as follows:

> Effective January 1, 1995, or as required by state law, the employer shall pick-up and pay on behalf of all employees a six percent (6%) mandatory contribution of Monthly Earnings. Such picked-up mandatory contributions shall be made pursuant to the provisions of the Internal Revenue Code, Section 414(h).

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed by its duly appointed officers this _____ day of _____, 1995.

CITY OF NEWBERG, OREGON

By: _____
Title

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CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN

2002 Restatement

CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN

2002 Restatement

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INTRODUCTION

The City of Newberg adopted a defined benefit pension plan in 1964 for its employees. Effective July 1, 1979, the plan was restated as two separate plans, the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN for police officers and firefighters. Effective July 1, 1982, both plans were restated. Both plans have since been amended. It is the City's desire to combine the assets of both plans as provided herein and to update both plans for law changes after 1981 by amending and restating both plans in this Plan effective July 1, 2002, unless otherwise stated.

ARTICLE 1. DEFINITIONS

SECTION 1.01--THE PLAN AND PARTIES CONCERNED.

(a) "Plan" means the restated defined benefit retirement plan of the Employer as set forth herein and as amended from time to time.

(b) "Prior Plan" means the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN prior to the Effective Date.

(c) "Group Contract" means the group annuity contract or contracts which the Employer enters into with the Insurer for the purpose of payment of retirement income and other benefits in accordance with this Plan and for the purpose of investment of Contributions made under the Plan. All benefits payable under the Plan will be paid or provided for solely from the Group Contract, and the Employer assumes no liability or responsibility therefor.

(d) "Employer" means CITY OF NEWBERG, OREGON, and any successor by change of name or merger.

(e) "Insurer" means Principal Financial Group, Inc., or such other insurance company or companies as may, from time to time, be designated by the Employer.

(f) "Employee" means any natural person who is employed by the Employer. "Employee" excludes:

(1) Any person who would be treated as a leased employee of the Employer under IRC Section 414(n).

(2) An individual whose wages are paid by an agency or other business that provides individuals who perform services for the Employer and pays the individuals' wages.

(3) Persons not treated as an employee on the Employer's payroll records.

(g) Effective July 1, 2002, "Eligible Employee" means, except for purpose of Article 9., any full-time regular Employee employed in a position not eligible for membership in the Oregon Public Employees Retirement System under the Employer's agreements with the System and whose employment with the Employer is as follows:

(1) General Employee.

(2) Police Officer.

(3) Firefighter.

(4) City Attorney, effective July 1, 1992.

The City Attorney shall be eligible as a General Employee with five years employment with the Employer and shall be given credit for contributions as of July 1, 1988, through June 30, 1992. Pursuant to Resolution No. 92-1726, the City Attorney shall be classified with the Police Officer and Firefighter personnel instead of the General Employee classification, effective July 1, 1992.

(h) "Participant" means a person who is either an Active Participant or an Inactive Participant.

(i) "Active Participant" means an Eligible Employee who has become an Active Participant as provided in Section 2.01.

(j) "Inactive Participant" means a person who has become an Inactive Participant as provided in Section 2.02.

(k) "Beneficiary" means any person or persons designated by a Participant pursuant to Section 14.05 to receive any death benefit upon the death of the Participant.

(l) "Contingent Annuitant" means a natural person designated by the Participant to receive a lifetime benefit after the death of such Participant in accordance with the survivorship life annuity optional form of retirement benefit provided in Section 4.02.

SECTION 1.02--IMPORTANT DATES AND PERIODS.

(a) "Effective Date" means July 1, 1982.

(b) "Anniversary Date" means the Effective Date and the same day of each year thereafter.

(c) "Quarterly Date" means the effective date and every third Monthly Date thereafter.

(d) "Monthly Date" means the Effective Date and the same day of each month thereafter.

(e) "Eligibility Date" means, as to a Participant, the Eligibility Date as provided in Section 2.01.

(f) "Re-entry Date" means, for a Participant, the Re-entry Date as provided in Section 2.01.

(g) "Retirement Date" means, for a Participant, the date for commencement of monthly retirement benefit which will be his Early, Normal, or Late Retirement Date, whichever is applicable.

(h) "Normal Retirement Date" means, for a Participant, the first day of the month coinciding with (immediately following, if none coincides with) the date on which he attains age 60 (58 for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney).

(i) "Early Retirement Date" means the first day of the month selected by the Participant for beginning an early retirement benefit before his Normal Retirement Date which is on or after the later of the following:

(1) The date he ceases to be an Employee.

(2) The date he attains age 55 (50 for Police Officers, Firefighters, and the City Attorney).

(j) "Late Retirement Date" means, for a Participant who continues active work for the Employer after his Normal Retirement Date, the first day of the month selected by him for commencement of monthly retirement benefit which follows his Normal Retirement Date and is no later than the first day of the month coinciding with (immediately following, if none coincides with) the date of his Termination of Employment.

(k) "Service" means, as to an Employee, any service for which he is either (i) directly or indirectly compensated by the Employer or (ii) performing duties for the Employer. No interruption in Service (based on the regular work week for his job without overtime) will be deemed to have occurred during any approved periods of absence from the Employer by reason of

(1) temporary lay-off,

(2) leave of absence (not to exceed one year),

(3) a temporary absence on account of disability, illness, or injury, or

(4) pregnancy.

Any discretion of the Employer under the provisions of this definition will be exercised without discrimination in accordance with definitely established rules

uniformly applicable to Participants whose approved periods of absence were occasioned by similar circumstances.

(l) "Years of Service" means, as to an Employee on any date of determination, unless indicated otherwise, the number of years (counting completed months as fractional parts of a year) of Service since his latest date of employment, but excluding any Service after the establishment of the Prior Plan during which he made no contributions, if contributions were required by him under said Prior Plan during any such period and he failed or refused to so contribute.

(m) "Plan Participation" means, as to a Participant, all periods of his employment with the Employer during which he has been an Active Participant.

(n) "Termination of Employment" means cessation of active work (resulting in an interruption in Service) with the Employer, other than by reason of retirement, death, or disability, due to

(1) voluntary or involuntary termination or separation of employment, or

(2) failure to return to work upon the expiration of any approved period of absence from the Employer, in which event cessation of active work shall be deemed to have occurred at the time such approved period of absence expired.

(o) "Plan Year" means a period commencing on an Anniversary Date and ending on the day immediately preceding the next Anniversary Date.

(p) "Compensation Year" means a one-year period ending on the June 30 immediately preceding a Participant's Eligibility Date and ending on the same month and day of each year thereafter on which he is an Active Participant.

SECTION 1.03--DEFINITIONS RELATING TO DETERMINATION OF BENEFITS.

(a) (1) This Section 1.03(a)(1) applies to Plan Years beginning before July 1, 1993.

"Average Compensation" means, for a Participant on any specified date, the monthly average of his total pay from the Employer for those three consecutive Compensation Years (all Compensation Years, if less than three) which give the highest average out of the 10 latest Compensation Years (all Compensation Years, if less than 10) occurring prior to such specified date.

Pay as used in this definition means the type of compensation subject to tax for Social Security benefits without regard to the dollar limitation on such compensation subject to FICA taxes.

However, for a Participant who was not employed by the Employer for at least one of the Compensation Years immediately preceding either his Eligibility Date or his Re-entry Date, his fixed rate of monthly pay from the Employer on either such applicable date will be deemed to be his monthly average for such Compensation Year.

(2) This Section 1.03(a)(2) applies to Plan Years beginning on or after July 1, 1993.

(i) Average Compensation means 1/12th of the following (as such 1/12th is increased below):

(A) For an employee who has completed at least 10 Years of Service, the average of the person's Monthly Earnings for each month in a 36 consecutive month period during the last 120 months of employment preceding the date the benefit is being determined which produces the highest average of Monthly Earnings.

(B) For an employee who has completed at least three Years of Service, but less than 10 Years of Service, the average of the person's Monthly Earnings for each month in a 36 consecutive month period preceding the date the benefit is being determined which produced the highest average of Monthly Earnings.

(C) For an employee who has completed less than three Years of Service, the average of the person's Monthly Earnings for each month preceding the date of benefit is being determined.

"Monthly Earnings" means the base remuneration which the Employer pays to an Employee in a month before any payroll deduction for income taxes, social security, group insurance, deferred compensation, or any other purpose. The full amount of required employee contributions picked up, assumed, or paid by the Employer on behalf of its employees shall be considered Monthly Earnings under the provisions of this Plan.

(ii) The Average Compensation determined above shall be increased as follows:

(A) The Average Compensation determined above is divided by 173.33 to arrive at the average hourly rate of earnings.

(B) The number of unused sick leave hours is multiplied by the result in Section 1.03(a)(2)(ii)(A) above to arrive at the value of unused sick leave.

(C) One-half of the value of unused sick leave, divided by 36, shall be added to the Average Compensation determined above.

(b) "Vesting Percentage" means, for a Participant

(1) prior to the date on which he has completed three years of Plan Participation, 0%, if employed prior to July 1, 1982, or prior to the date on which he has completed five years of Plan Participation, 0%, if employed after June 30, 1982.

(2) on or subsequent to the date in Section 1.03(b)(1) above, 100%.

In any event, a Participant's Vesting Percentage shall be 100% on or subsequent to the earlier of (i) the date on which he attains age 50 (45 for Police Officers, Firefighters, and the City Attorney) or (ii) the date on which he becomes Totally and Permanently Disabled.

(c) "Contributions" means Employer Contributions, Required Participant Contributions, and Voluntary Contributions as set out in Article 3., unless the term as used refers to one of these only, in which event it means the one thus referred to.

(d) "Participant's Contribution Account" means, for a Participant as of any specified date, the aggregate value of the Required Participant Contributions (including any interest earnings thereon) made for or by him pursuant to the Prior Plan, under Section 3.02 of the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN, under Section 3.02 of the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN, or under Section 3.02 of this Plan, and which have not been previously paid or applied as to him. Such Participant's Contribution Account will be zero upon the earliest to occur of (1), (2), or (3) below:

(1) The date a death benefit is paid on account of his death pursuant to Section 7.01.

(2) The date a cash termination benefit is paid to him pursuant to Article 8.

(3) His Retirement Date.

A Participant's Contribution Account will be credited with interest at the rate of 7.5% (8% for periods beginning on or after July 1, 1990) compounded annually.

(e) "Normal Form" means a straight life annuity with five year certain period pursuant to Section 4.02(b).

(f) "Totally and Permanently Disabled" means, as to a Participant, that he is disabled, as a result of sickness or injury to the extent that he is prevented from engaging in any occupation for wage or profit and is entitled to a disability benefit under Title II of the Federal Social Security Act, as determined by the Employer and reported to the Insurer.

(g) "Voluntary Account" means the value of a Participant's Voluntary Contributions which have been made as provided in Article 10.

A Participant's Voluntary Account will be credited with interest at a rate of not less than the rate credited to his Participant's Contribution Account.

A Participant's Voluntary Account will be reduced by any distribution therefrom made under the Plan.

(h) "Voluntary Contributions" means Voluntary Contributions as set out in Section 10.01.

(i) "Actuarial Equivalent" means:

(1) Police Officers and Firefighters: 7.5% and 1971 GAM for pre-retirement; and 7.5% and UP-84 Unisex for post-retirement.

(2) For General Employees and the City Attorney:

(i) For Retirement Dates and other annuity starting dates before September 1, 2002: 7.5% and 1971 GAM for pre-retirement; and 7.5% and UP-84 Unisex for post-retirement.

(ii) For Retirement Dates and other annuity starting dates after August 31, 2002: 7.5% and the table prescribed in Revenue Ruling 2001-

62. However, in no circumstance will the amount of a General Employee's or the City Attorney's benefit as of a Retirement Date or other annuity starting date be less than the amount determined using (A) the factors in Section 1.03(i)(2)(i) above, (B) the Participant's Accrued Benefit earned as of June 30, 2002, based on Average Compensation and Years of Service as of June 30, 2002, and (C) the amount of the Participant's Contribution Account as of June 30, 2002.

The cost of living adjustment provided in Article 6. shall not be considered in determining Actuarial Equivalent benefits.

SECTION 1.04--ADDITIONAL DEFINITIONS.

(a) "IRC" means the Internal Revenue Code of 1986, as amended.

(b) "ORS" means Oregon Revised Statutes, as amended.

SECTION 1.05--ACCRUED BENEFIT.

An Active Participant's monthly Accrued Benefit as of any specified date will be an amount equal to the product of a Participant's Average Compensation, times 1.67% (2% for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney), times his total Years of Service.

In no event will a Participant's Accrued Benefit be less than his Accrued Benefit on July 1, 1982.

ARTICLE 2. PARTICIPATION

SECTION 2.01--ACTIVE PARTICIPANT.

(a) An Eligible Employee may first become an Active Participant under the Plan on his employment commencement date or, if later, the date he becomes an Eligible Employee.

(b) A Participant who became an Inactive Participant pursuant to Section 2.02 may again become an Active Participant on the date on which he again becomes an Eligible Employee by reason of re-employment or otherwise. Such date is his Re-entry Date.

(c) A former Participant who ceased to be a Participant pursuant to Section 2.03 may again become an Active Participant on the date on which he again becomes an Eligible Employee by reason of re-employment or otherwise. Such date is his Re-entry Date.

SECTION 2.02--INACTIVE PARTICIPANT.

An Active Participant will become an Inactive Participant on the earliest of the following:

(a) The date following the date on which a monthly income is provided as to him under this Plan.

(b) The date he ceases to be an Eligible Employee by reason of Termination of Employment or otherwise, occurring one month or more prior to his Retirement Date.

(c) The date he ceases to be an Eligible Employee by reason of partial termination of the Plan pursuant to Article 11.

(d) The effective date of complete termination of the Plan pursuant to Article 11.

SECTION 2.03--CESSATION OF PARTICIPATION.

A Participant will cease to be a Participant on the earlier of the following:

(a) His death.

(b) The date he receives a single sum distribution which is in lieu of all other benefits under the Plan as to him.

SECTION 2.04–TRANSFERRED EMPLOYEES.

Despite any contrary provision of the Plan, the Plan shall be applied to transferred employees who are subject to ORS 236.605 to 236.640 as the Employer determines appropriate in the Employer's discretion to implement ORS 236.605 to 236.640.

ARTICLE 3. CONTRIBUTIONS

SECTION 3.01--EMPLOYER CONTRIBUTIONS.

The Employer will make contributions at such times and in such amounts as will be determined based upon periodic actuarial valuations and recommendations as to the amount or amounts required to fund retirement benefits and other benefits payable in accordance with this Plan.

Any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution, but only if the Employer makes timely written demand therefor. Such returned contributions will not include attributable earnings but will be reduced by attributable losses.

Dividends declared under the Group Contract or any forfeitures resulting from a Participant's Termination of Employment or death will be applied to reduce future Employer Contributions.

SECTION 3.02--REQUIRED PARTICIPANT CONTRIBUTIONS.

Monthly required contributions will be made under this Plan on behalf of each Active Participant. The amount of each such Required Participant Contribution will be equal to 6% of such Participant's monthly earnings.

For purposes of this Section 3.02, monthly earnings shall include all forms of compensation received by an Employee during such month, including bonuses and overtime. However, effective July 1, 2002, monthly earnings excludes, for General Employees and the City Attorney, overtime, longevity pay, and pager pay.

Required Participant Contributions are fully vested and nonforfeitable as to each Participant at all times.

Effective January 1, 1995, or as required by state law, the Employer shall not make the Required Participant Contributions for Employees.

SECTION 3.03--MANDATORY EMPLOYEE CONTRIBUTIONS.

Effective January 1, 1995, or as required by state law, the Employer shall pick-up and pay on behalf of all Active Participants a 6% mandatory contribution of monthly earnings as defined in Section 3.02. Such picked-up mandatory contributions shall be made pursuant to the provisions of IRC Section 414(h).

SECTION 3.04--INVESTMENT OF CONTRIBUTIONS.

All Contributions made under the Plan will be deposited with the Insurer and invested in accordance with the provisions of the Group Contract. To the extent not prohibited by State law, the Employer may specify whether all or any portion of an Employer Contribution deposited under the Group Contract is to be invested in any of the separate accounts of the Insurer in which the Group Contract participates.

ARTICLE 4. RETIREMENT BENEFITS

SECTION 4.01--AMOUNT OF MONTHLY RETIREMENT BENEFIT.

The amount of monthly retirement benefit for an Active Participant on his Retirement Date in accordance with the provisions of Section 4.02 will be determined as follows.

(a) At Normal Retirement Date, the amount of monthly retirement benefit for an Active Participant on his Normal Retirement Date will be equal to his Accrued Benefit as of such date.

(b) At Early Retirement Date, an Active Participant's retirement benefit on his Early Retirement Date will be equal to his Accrued Benefit on such specified date, multiplied by the factor shown below corresponding to the number of years his Early Retirement Date is before his Normal Retirement Date.

Number of Years Early Retirement Date is Before Normal Retirement Date	Factor
1	.92
2	.84
3	.76
4	.68
5	.60

However, in lieu of the above table the following table applies to Police Officers and Firefighters and, effective July 1, 1992, the City Attorney:

Number of Years Early Retirement Date is Before Normal Retirement Date	Factor
1	1.0
2	1.0
3	1.0
4	.92
5	.84
6	.76
7	.68
8	.60

Provided, however, no reduction will apply to the Accrued Benefit of an Active Participant who retires on his Early Retirement Date with 30 (25 for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney) Years of Service.

The above factors will be adjusted proportionately for fractional parts of a year (counting a partial month as a complete month).

(c) At Late Retirement Date, the amount of monthly retirement benefit for an Active Participant on his Late Retirement Date will be equal to his Accrued Benefit as of his Late Retirement Date.

SECTION 4.02--OPTIONAL FORMS OF MONTHLY RETIREMENT BENEFIT.

The monthly retirement benefit for a Participant on his Retirement Date may be paid in accordance with any one of the optional methods of payment under the Group Contract, which will be limited to the following Actuarial Equivalent optional forms.

(a) Straight life annuity; for the lifetime of the Participant, without death benefits.

(b) Life annuity with certain period; for the lifetime of the Participant and, if the death of the Participant occurs prior to the end of the certain period, the balance of the remaining certain period payments to his Beneficiary.

(c) Survivorship life annuity; for the lifetime of the Participant and, upon his death, a percentage of such annuity for the lifetime of his named Contingent Annuitant.

(d) Life annuity with modified cash refund; for the lifetime of the Participant and upon his death, a single sum payment will be made to his Beneficiary of the excess, if any, of his initial death benefit over the monthly annuity payments made to the Participant. The Participant may change his Beneficiary at any time.

A Participant's initial death benefit is an amount equal to the sum of (1) his Participant's Contribution Account plus (2) his Voluntary Account, if any, both determined on his Retirement Date.

The amount of each payment to a Participant under any of the optional forms of benefit in Section 4.02(a), 4.02(b), 4.02(c), or 4.02(d) above (other than the Normal Form) will be the amount required for the optional form to be the Actuarial Equivalent of the Normal Form.

The Participant may elect in writing the method of payment of any one of the optional forms above within 90 days prior to his Retirement Date.

In no event will an "interest-only" optional form be available. The Participant will name any certain period or any survivorship percentage and Contingent Annuitant prior to his Retirement Date.

If no optional form has been elected by the Participant, payment will be made to him under the Normal Form.

SECTION 4.03--ADDITIONAL MONTHLY INCOME.

The monthly retirement benefit determined for a Participant under Section 4.01 may be increased, as determined in accordance with the following provisions:

(a) For a Participant hired prior to July 1, 1993, and also for Police Officers, Firefighters, and the City Attorney, that portion of a Participant's Contribution Account derived from Required Participant Contributions made on or after July 1, 1979, shall be applied as of the Participant's Retirement Date to provide him an amount of monthly retirement income in addition to that provided under Section 4.01(a), 4.01(b), or 4.01(c), whichever is applicable.

(b) A Participant described in Section 4.03(a) above may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement Date. Payment of his Participant's Contribution Account derived from Required Participant Contributions made on or after July 1, 1979, is in lieu of any additional monthly income that otherwise would be provided under this Section 4.03. Payment of his Participant's Contribution Account derived from Required Participant Contributions made prior to July 1, 1979, is in lieu of the Actuarially Equivalent Monthly Benefit of that portion of his Accrued Benefit (Section 1.05) attributable to such Required Participant Contributions.

(c) Effective on and after July 1, 1993, a Participant who is not described in Section 4.03(a) above may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement Date. Lump Sum payment of his Participant's Contribution Account will reduce his Accrued Benefit (Section 1.05) by the monthly benefit that is the Actuarial equivalent of the lump sum.

SECTION 4.04–MINIMUM DISTRIBUTION.

In no event will a Participant who is vested on the date of his Termination of Employment receive a distribution less than the Actuarial Equivalent of his Participant's Contribution Account on such date.

ARTICLE 5. DISABILITY PAYMENTS

SECTION 5.01--ELIGIBILITY.

An Active Participant will become eligible for monthly disability payments under this Article 5. in the event (i) he becomes Totally and Permanently Disabled while in the actual performance of his duties for the Employer or (ii) he becomes Totally and Permanently Disabled on or after the date he completes 10 or more Years of Service and while he is an Employee but before his Retirement Date (Normal Retirement Date, if earlier).

Such Participant will become an Inactive Participant as of the date he becomes Totally and Permanently Disabled.

For purposes of this Article 5. Termination of Employment is deemed not to have occurred as to such Participant because of his disability, until and unless his employment is otherwise terminated; provided, however, that any periods of absence due to his disability under this Article 5. will not be counted wherever in this Plan Service is a determining factor.

SECTION 5.02--AMOUNT OF PAYMENTS.

(a) This Section 5.02(a) is effective before July 1, 1990, for all Participants and is effective on and after July 1, 1990, for Participants other than Police Officers, Firefighters, and the City Attorney.

The amount of monthly disability payment for a Participant is equal to his Accrued Benefit determined as of the first day of the month coinciding with (immediately following, if none coincides with) the date on which he is disabled.

In no event, however, will the amount of each disability payment for any Participant be less than $100.

(b) This Section 5.02(b) is effective on and after July 1, 1990, for Police Officers, Firefighters, and the City Attorney.

The amount of monthly disability payment for a Participant is equal to his Accrued Benefit determined as of the first day of the month coinciding with or immediately following the date on which he is disabled, based on Average Compensation as of the date of disability and Years of Service as of the disability date or projected to age 55, if later. Benefits determined under Section 4.03 will be paid in addition to these amounts.

In no event, however, will the amount of each disability payment for any Participant be less than $100 nor greater than 75% of the Participant's Average Compensation.

SECTION 5.03--DURATION OF PAYMENTS.

Monthly disability payments will commence on the first day of the month coinciding with (immediately following, if none coincides with) the date such Participant becomes Totally and Permanently Disabled and will continue thereafter through the first day of the month preceding the earliest of the following dates:

(a) His Normal Retirement Date.

(b) The date of his death.

(c) The effective date of termination of Plan.

(d) The date he is no longer Totally and Permanently Disabled.

If such payments continue through the first day of the month preceding such Participant's Normal Retirement Date, monthly retirement benefits will be provided for him on his Normal Retirement Date in accordance with the provisions of Article 4. in like manner as for an Active Participant, with Accrued Benefit equal to the amount of monthly disability payment paid to him pursuant to Section 5.02. If, prior to such Participant's Normal Retirement Date, he recovers and returns to active work for the Employer within one month of the date he is no longer Totally and Permanently Disabled, such payments will stop and he will again become an Active Participant pursuant to Section 2.01. If, prior to such Participant's Normal Retirement Date, he recovers and does not return to active work for the Employer within one month of his recovery, such payments will stop and his Termination of Employment will be deemed to have occurred as of the date he became Totally and Permanently Disabled and his benefits will be redetermined pursuant to Article 8.

If the Participant dies while receiving monthly disability payments and he meets the requirements pursuant to Section 7.01(a), death benefits will be paid in accordance with the provisions of said Section 7.01(a).

ARTICLE 6. COST OF LIVING ADJUSTMENT

SECTION 6.01--IMPORTANT TERMS.

For the purpose of determining the cost of living adjustment of benefits, the following terms are defined here:

ADJUSTMENT DATE means each Anniversary Date on and after the Effective Date on which the Price Index has changed from the Price Index on the last preceding Anniversary Date as of which the monthly retirement benefit payments under this Plan were changed in accordance with this Article 6. (on the Effective Date if no prior changes have been made).

ADJUSTMENT FACTOR means, as of any Adjustment Date, the quotient of (a) divided by (b):

(a) The Price Index as of such Adjustment Date.

(b) The Price Index as of the last previous Adjustment Date.

In no event, however, will the Adjustment Factor exceed 1.02. Prior to July 1, 1982, the Adjustment Factor will not exceed 1.04.

ANNUITANT means either an Inactive Participant whose Retirement Date has occurred and who is entitled to monthly retirement benefit payments under this Plan, an alternate payee, or the Beneficiary or Contingent Annuitant of such Participant, if any, who is entitled to monthly retirement benefit payments under this Plan as the result of such Participant's death.

PRICE INDEX means, as of any Anniversary Date, the Consumer Price Index (Portland area-all items) as published by the Bureau of Labor Statistics of the United States Department of Labor in the City of Portland, Oregon, or a comparable index as determined by the Employer if such index ceases to be published.

SECTION 6.02--CHANGE IN MONTHLY RETIREMENT BENEFIT.

As of each Adjustment Date, the monthly retirement benefit payments payable to an Annuitant will be changed to the amount determined by multiplying such payments by the Adjustment Factor as of such Adjustment Date, subject to the following provisions:

(a) If such change results in an increase in the amount of monthly retirement benefit payments to an Annuitant, an amount of monthly retirement benefit will be provided for him under the Group Contract in the amount of such increase with

payments consistent with the payments being made as to the monthly retirement annuity provided under the Group Contract on the Participant's Retirement Date.

(b) If such change results in a decrease in the amount of the monthly retirement benefit payments to an Annuitant, an amount or amounts of monthly retirement benefit previously provided for him under the Group Contract will be cancelled as of such Adjustment Date so that the total amount of monthly retirement benefit remaining will be only the reduced amount to which he is then entitled.

In no event will any decrease become effective which would reduce the monthly retirement benefit payments for an Annuitant to an amount which would be less than the amount he would have received had the provisions of this Article 6. not been in effect.

(c) On and after the effective date of termination of Plan pursuant to Article 11., no further changes in monthly retirement benefit payments will be made in accordance with this Article 6.

SECTION 6.03--MINIMUM ADJUSTMENT FOR RETIREMENTS AFTER JULY 1, 1990.

Effective on and after July 1, 1990, for Police Officers, Firefighters, and the City Attorney, monthly payments for such Participants retiring on or after July 1, 1990, will be increased annually to a level that is no less than that which would have been in effect had the initial monthly benefits been payable from the Oregon Public Employees Retirement System, determined without including any payments under ORS 238.375 to 238.387 or any other tax remedy payments.

ARTICLE 7. DEATH BENEFITS

SECTION 7.01--DEATH BENEFIT BEFORE RETIREMENT.

(a) Death Benefit before Retirement Date (Normal Retirement Date, if earlier): If the death of a Participant occurs prior to his Retirement Date (Normal Retirement Date, if earlier), a single sum death benefit equal to the sum of (i) two times his Participant's Contribution Account as of the date of his death, and (ii) his Voluntary Account as of the date of his death will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section 4.02 for the benefit of such Beneficiary.

Effective July 1, 1990, for Participants other than Police Officers, Firefighters, and the City Attorney, "two and two-tenths (2.2) times" shall replace "two times" where "two times" appears in the above paragraph.

In no event, however, will such death benefit be less than the death benefit that would have been payable upon the death of such Participant under the Prior Plan on the day before the Effective Date.

(b) Deferred Retirement Death Benefit: If the death of an Active Participant occurs on or after his Normal Retirement Date and prior to his Retirement Date, and

(1) If the straight life annuity optional form under Section 4.02 is in effect for him on the date of his death, there are no death benefits payable under this Article 7.

(2) If the life annuity with certain period optional form under Section 4.02 is in effect for him on the date of his death, there will be provided for his Beneficiary, beginning on the Monthly Date following his death, a certain period benefit payable monthly for the certain period applicable under said option. The amount of the monthly payments to such Beneficiary will be equal to the amount that would have been payable monthly to such Participant had his Retirement Date occurred on the Monthly Date coinciding with (immediately preceding, if none coincides with) the date of his death.

(3) If the survivorship life annuity optional form under Section 4.02 is in effect for him on the date of his death, there will be provided for his designated Contingent Annuitant, beginning on the Monthly Date coinciding with (immediately following, if none coincides with) the date of his death, a retirement benefit payable monthly in like manner as if such Contingent Annuitant were a Participant with Retirement Date beginning on such

Monthly Date if and so long as such Contingent Annuitant lives. The amount of such monthly retirement benefit will be equal to the amount that would have been payable to such Participant had his Retirement Date occurred on the Monthly Date coinciding with (immediately preceding, if none coincides with) the date of his death, multiplied by the percentage in effect under such optional form.

(4) If the life annuity with modified cash refund optional form under Section 4.02 is in effect for him on the date of his death, there will be provided for his Beneficiary, a single sum payment equal to his Participant's Contribution Account.

(5) If none of the above optional forms is in effect for him on the date of his death, a single sum death benefit equal to the amount provided in Section 7.01(a) (determined as if Section 7.01(a) applied) will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section 4.02 for the benefit of such Beneficiary.

There are no death benefits under this Plan before retirement, except as may be provided under Article 10.

SECTION 7.02--DEATH BENEFIT AFTER RETIREMENT.

Any death benefit after retirement will be in accordance with the form of retirement benefit in effect on a Participant's Retirement Date and will be payable in accordance with the provisions under Article 4.

ARTICLE 8. TERMINATION OF BENEFITS

SECTION 8.01--TERMINATION BENEFITS.

An Employee who becomes an Inactive Participant one month or more prior to his Retirement Date shall be entitled to one of the following benefits:

(a) Deferred Payment. If an Inactive Participant so elects, he will receive a deferred monthly retirement benefit to commence on his Normal Retirement Date. The amount of such deferred monthly retirement benefit, in accordance with the Normal Form, shall be equal to the following:

(1) Effective on and after July 1, 1993, for an Inactive Participant hired on or after July 1, 1993, other than an Inactive Participant who was a Police Officer, Firefighter, or the City Attorney:

An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant. The amount may not exceed 100% of his Average Compensation, but in no event shall be less than the monthly benefit provided by the Actuarial Equivalent of his Participant's Contribution Account.

(2) For an Inactive Participant hired prior to July 1, 1993, and for an Inactive Participant who was a Police Officer, Firefighter, or the City Attorney, an amount equal to the sum of (i) and (ii) below:

(i) An amount equal to the amount of monthly retirement benefit which could be provided on his Normal Retirement Date by that portion of his Participant's Contribution Account made on or after July 1, 1979; and

(ii) An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant,

provided that the sum of (i) and (ii) do not exceed 100% of his Average Compensation, but in no event shall be less than the monthly benefit provided by the Actuarial Equivalent of his Participant's Contribution Account.

(b) An Inactive Participant may elect to have his deferred monthly retirement benefit commence on his Early Retirement Date. The amount of such deferred monthly retirement benefit shall be equal to the amount of deferred benefit determined in Section 8.01(a) above multiplied by the factor shown in Section 4.01(b)

corresponding to the number of years his Early Retirement Date precedes his Normal Retirement Date.

Payment of the deferred monthly retirement benefit will be in the form of retirement benefit in effect on a Participant's Retirement Date as provided under Section 4.02.

(c) Immediate Payment. In lieu of any benefits otherwise available under this Article 8., a Participant may elect to receive his Participant's Contribution Account in a single sum payment.

If the Inactive Participant elects to receive his Participant's Contribution Account in a single sum payment, he shall receive his payment 90 days after the date he ceases to be an Employee and before his Retirement Date. Any such payment will be a voluntary cash-out, in lieu of a part of the deferred retirement benefit otherwise available to him on his Retirement Date. Payment of his Participant's Contribution Account cancels the part of his benefit determined under Section 8.01(a) above.

If, upon the date a Participant ceases to be an Employee, the present value of his deferred retirement benefit is less than $1,750, it will, unless otherwise directed by the Employer, be paid as an involuntary cash-out in a single sum in full settlement of all benefits otherwise payable to him. This value will be determined under the provisions of the Group Contract.

SECTION 8.02--REPAYMENT OF SINGLE SUM PAYMENT.

(a) A Participant

(1) who received a single sum payment under this Plan of less than the present value of his Accrued Benefit on the date of payment, and

(2) who again performs Service as an Eligible Employee

may make repayment to the Plan no longer than the earlier of

(3) the last day of the two-year period which begins on the date he again performs Service as an Eligible Employee, or

(4) the last day of the five-year period which begins on the date the single sum payment is made.

The amount which must be repaid is the full amount of the single sum payment he received with interest at the rate of 8% per annum compounded annually, on such

payment compounded annually from the date the payment was made to the date he repaid the full amount. If repayment is made, the Participant's Accrued Benefit will not be reduced for the single sum payment.

(b) Beginning July 1, 2002, the Plan will accept a Participant's repayment in the form of the following rollovers, contributions, and transfers made after December 31, 2001, from the types of plans described below:

(1) A direct rollover of an eligible rollover distribution from, or a participant contribution of an eligible rollover distribution from:

(i) A qualified plan described in IRC Section 401(a) or 403(a);

(ii) An annuity contract described in IRC Section 403(b); or

(iii) An eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A),

but only if the Plan is an eligible retirement plan with respect to the direct rollover or participant contribution.

(2) A participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in IRC Section 408(a) or 408(b) that is eligible to be rolled over and would otherwise be includible in gross income.

(3) A direct trustee-to-trustee transfer authorized by IRC Section 457(e)(17) from an eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A).

The definitions in Section 13.03 apply for purposes of this Section 8.02(b).

ARTICLE 9. ADDITIONAL BENEFITS FOR PERS BENEFIT INCREASES

SECTION 9.01--PURPOSE.

This Article 9. implements the requirement that the Employer provide increases in benefits for certain Public Safety Employees that are equal to or the actuarial equivalent of certain increases in benefits under the Oregon Public Employees Retirement System granted in 1991 and 1995 to certain police officers and firefighters. That requirement and those increases are provided in ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

SECTION 9.02--INCREASE IN DISTRIBUTION.

Upon distribution of an Eligible Employee's Accrued Benefit in a calendar year in which distributions under this Plan are not exempt from Oregon personal income taxation, the amount of the distribution shall be increased by the greater of the following amounts:

(a) The amount determined by multiplying the Eligible Payments of the Eligible Portion of the Employee's Accrued Benefit by the following percentage:

If the Employee's Years of PSE Service at the Employee's last Severance of Employment are:	*The percentage is:*
Less than 10	0%
At least 10 but not 20	1%
At least 20 but not 25	$2^1/_2$%
25 or more	4%

(b) The amount determined by multiplying the Eligible Payments of the Eligible Portion of the Employee's Accrued Benefit by the percentage determined under the following formula:

$$\left(\frac{1}{.91} - 1\right)\left(\frac{\text{the Employee's Years of PSE Service before October 1, 1991}}{\text{the Employee's Years of PSE Service}}\right)$$

The amount of such increase shall be allocated among the components of the Employee's Accrued Benefit in proportion to the Actuarial Equivalent value of each. The increase allocated to each component shall be paid in the same form as the component is paid.

SECTION 9.03--ALTERNATE PAYEES.

Despite Section 9.02 above, (1) the amount by which the distribution to an alternate payee is to be increased shall not be determined or paid before the participant's Severance of Employment, (2) no increase shall be paid (even after the participant's Severance of Employment) with respect

to a lump sum distribution (including a direct rollover) made to an alternate payee before the participant's Severance of Employment, and (3) the amount of the increase in the distribution to the alternate payee with respect to distributions previously made shall be distributed in the following forms, without interest for delayed payment:

(a) In a lump sum distribution if the benefit is attributable to monthly payments previously made under an annuity.

(b) As a supplement to the annuity if the increase is attributable to monthly payments to be made in the future under a previously started annuity.

SECTION 9.04--DEFINITIONS; CHANGE IN TAX RATE.

For purposes of this Article 9.:

(a) An "Eligible Employee" is any Employee who before July 14, 1995, was a Public Safety Member and whose last Severance of Employment occurred or occurs while the Employee is a Public Safety Employee and either occurred before January 1, 1991, for a reason other than the Employee's death or occurred or occurs after December 31, 1990, for any reason.

(b) "Public Safety Member" means an Active Participant employed by the Employer as a firefighter or police officer as those terms are defined in ORS 237.610.

(c) "Public Safety Employee" means an Employee employed by the Employer as a firefighter or police officer as those terms are defined in ORS 237.610.

(d) "Accrued Benefit" means the participant's Accrued Benefit as defined in Section 1.05, but specifically excluding the cost of living adjustment provided in Article 6., the benefit provided in this Article 9., and the benefit attributable to the participant's Voluntary Account.

(e) "Eligible Payments" are all payments made after December 31, 1990, other than:

(1) Payments that would have been made before January 1, 1991, but for the Employee's election to defer distribution, as determined in the discretion of the Employer.

(2) Payments with respect to an Eligible Employee whose last Severance of Employment occurred before January 1, 1991, other than periodic payments made under an annuity. Whether a payment is periodic shall be determined in the discretion of the Employer.

(f) The "Eligible Portion" is the part of the Accrued Benefit attributable to Plan Participation as a Public Safety Member.

(g) "Years of PSE Service" are Years of Service during which the Eligible Employee was a Public Safety Employee, which Years of Service shall be determined by counting only completed months of Service during which the Employee was at all times a Public Safety Employee.

(h) "Severance of Employment" means permanent termination of employment with the Employer for any cause.

(i) The decimal .91 in the formula in Section 9.02(b) above shall automatically be adjusted as provided in this Section 9.04(i) to reflect changes in the maximum Oregon personal income tax rate imposed upon individuals who are full-year residents of Oregon. An increase in such rate by x percentage points shall cause such decimal to be reduced by x 100ths, and a reduction in such rate by x percentage points shall cause such decimal to be increased by x 100ths. For example, following are the decimals that correspond to particular rates:

If the rate is:	*The decimal is:*
7%	.93
8%	.92
9%	.91
10%	.90
11%	.89

Any such change in the decimal shall be effective only for distributions made on or after the effective date of the change in such rate. No amount distributed to an Eligible Employee, Beneficiary, Contingent Annuitant, or alternate payee before the change is implemented may be recovered from any person or offset against any undistributed benefit of any person to account for any such change.

SECTION 9.05--PRIOR DISTRIBUTIONS.

The Employer shall as soon as administratively feasible cause to be distributed to Eligible Employees (and where applicable their Beneficiaries, Contingent Annuitants, and alternate payees) without interest any benefits provided in this Article 9. or Article 6. attributable to distributions previously made and shall appropriately adjust the cost of living adjustment provided in Article 6. for payments to be made in the future. Such benefits shall be distributed in the following forms:

(a) In a lump sum distribution if the benefit is attributable to:

(1) A lump sum distribution (including a direct rollover); or

(2) Monthly payments previously made under an annuity.

(b) As a supplement to the annuity if the benefit is attributable to monthly payments to be made in the future under a previously started annuity.

SECTION 9.06--LIMITATIONS.

The benefits provided in this Article 9.:

(a) Shall not be paid with respect to any portion of an Eligible Employee's Accrued Benefit that is transferred to the Oregon Public Employees Retirement System or the payment of which is assumed or made by the Oregon Public Employees Retirement System.

(b) May by amendment of this Plan be reduced, eliminated, or changed for all or some Employees with respect to service performed before or after the amendment:

(1) To the extent a court of competent jurisdiction or the Employer determines that the Employer is not required to implement one or more of the provisions of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569 that by their terms apply to the Employer.

(2) To the extent a court of competent jurisdiction or the Employer determines that any of the benefits, or the aggregate benefits, provided in this Article 9. are more than is required to implement the provisions of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

(3) As the Employer determines appropriate to respond to any law modifying any requirement of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

(4) As the Employer in the Employer's absolute discretion deems appropriate, even though none of the events described above in this Section 9.06(b), and no like event, has occurred.

Any such benefits that are reduced, eliminated, or changed after they have been distributed may not be recovered from any person or offset against any undistributed benefit of any person to account for any such reduction, elimination, or change.

SECTION 9.07--NO CONTRACT RIGHTS.

No Eligible Employee, Beneficiary, Contingent Annuitant, or alternate payee shall acquire a right, contractual or otherwise, to the increased benefits provided by this Article 9.

ARTICLE 10. VOLUNTARY CONTRIBUTIONS

SECTION 10.01--VOLUNTARY CONTRIBUTIONS.

An Active Participant may make Voluntary Contributions. These Contributions may be made during any period in which he is an Active Participant. Voluntary Contributions will be made in accordance with procedures set up by the Employer.

A Participant's Voluntary Contributions, including any voluntary contributions he has made under any other qualified plan of the Employer or predecessor of the Employer, may not, in the aggregate, exceed 10% of his aggregate earnings from the Employer and predecessor for the period of time that he has actively participated under this and such other plan or plans.

An Active Participant may begin to make Voluntary Contributions on any Quarterly Date.

An Active Participant may change the amount of future Voluntary Contributions on any Quarterly Date.

An Active Participant may stop making his Voluntary Contributions on any Quarterly Date. He may then resume making Voluntary Contributions on any Quarterly Date.

Before the date he ceases to be an Employee, a Participant may withdraw any part of his Voluntary Account resulting from his Voluntary Contributions in a single sum, but not more than the original amount of those Contributions. A withdrawal may occur only once in a Plan Year.

Stopping, changing, or withdrawing Voluntary Contributions will not affect a Participant's participation in the Plan. No portion of his Voluntary Account resulting from any other Contributions will be forfeited solely because of such withdrawal. An Active Participant's request to begin, change, stop, or withdraw his Voluntary Contributions will be in writing on a form furnished for that purpose. This form will include any necessary authorization for payroll deduction and will be delivered to the Employer before the date Contributions are to begin, change, stop, or be withdrawn.

No Voluntary Contributions will be made by a Participant after the second calendar month preceding his Retirement Date.

Voluntary Contributions will be credited to the Participant's Voluntary Account as they are made and will be forwarded to the Insurer at least quarterly.

Voluntary Contributions are fully vested and nonforfeitable.

SECTION 10.02--INVESTMENT OF VOLUNTARY CONTRIBUTIONS.

All Voluntary Contributions made by or on behalf of an Active Participant will be forwarded by the Employer to the Insurer to be deposited under the Group Contract and invested according to its provisions.

However, no Voluntary Contributions may be invested in any of the separate accounts of the Insurer in which the Group Contract participates.

SECTION 10.03--RETIREMENT BENEFITS.

On a Participant's Retirement Date, his Voluntary Account will be used to purchase additional benefits for him as provided in Section 4.03.

SECTION 10.04--DEATH BENEFITS.

If the death of the Participant occurs before his Retirement Date, a distribution of his Voluntary Account will be made to his Beneficiary as provided in this Article 10. A Participant's Voluntary Account will not be distributed to his Beneficiary under this Article 10. if a death benefit is paid under Section 7.01(a) or 7.01(b)(5) on account of the Participant's death.

SECTION 10.05--VESTED BENEFITS.

The Participant's Voluntary Account will be held for him until the earlier of his Retirement Date or death and will then be applied as provided in Section 10.03 or Section 10.04, unless he receives earlier distribution under this Section 10.05.

An Inactive Participant may elect to have his Voluntary Account distributed under one or more of the methods described in Section 4.02 before his Retirement Date or death. The distribution may be in the form of an immediate annuity only if the amount which would be applied to purchase the annuity under the Group Contract is $1,750 or more. Benefit payments may begin at the time after the Participant ceases to be an Employee but not later than his Normal Retirement Date.

Any election by a Participant to receive a distribution of all or part of his Voluntary Account must be made before he again becomes an Employee.

If, on the date he ceases to be an Employee, a Participant's Voluntary Account is less than $1,750, it will, unless otherwise directed by the Employer be paid to him in a single sum as an involuntary cash-out.

ARTICLE 11. TERMINATION OF PLAN

SECTION 11.01--TERMINATION OF PLAN.

The Employer expects to continue the Plan indefinitely but reserves the right to terminate the Plan in whole or in part at any time by giving written notice to all parties concerned.

SECTION 11.02--VESTING ON TERMINATION.

Upon termination or partial termination of the Plan or complete discontinuance of contributions under the Plan, the rights of all affected employees to benefits accrued to the date of such termination, to the extent then funded, shall become nonforfeitable.

SECTION 11.03--PROCEDURES UPON TERMINATION OF PLAN.

Upon termination of Plan, the following provisions shall apply:

(a) No further Employees shall become Participants and no further contributions shall be made.

(b) Each Participant's account shall be held under the Group Contract and applied as heretofore provided in this Plan upon such Participant's death, Termination of Employment, or Retirement Date.

In lieu of a portion of his deferred monthly retirement income under this Section 11.03(b), such Participant may elect to receive his Participant's Contribution Account in a single sum payment at any time on or subsequent to his Termination of Employment and prior to his Retirement Date.

(c) All disability payments will cease and the Plan assets, other than those arising from Section 11.03(b) held by the Insurer under the Group Contract as to those Participants whose Retirement Dates have not yet occurred shall be allocated and applied to the extent they are sufficient to purchase benefits for all Participants who had not reached their Retirement Dates prior to the effective date of termination of Plan, in accordance with the following classifications and order of precedence.

(1) First, to purchase immediate monthly retirement benefits for those Participants whose Normal Retirement Dates occurred on or prior to the effective date of termination of Plan, but who had not retired, and for those Participants who were receiving disability benefits pursuant to Article 5. on the effective date of termination of Plan.

(2) Second, to purchase deferred monthly retirement benefits for such Participants who have attained age 60 or older on the effective date of termination of Plan and who are not included in Section 11.03(c)(1) above.

(3) Third, to purchase deferred monthly retirement benefits for such Participants who have attained age 55 or older on the effective date of termination of Plan and who are not included in Section 11.03(c)(1) or 11.03(c)(2) above.

(4) Fourth, to purchase deferred monthly retirement benefits for all other Participants.

The monthly retirement benefit to be purchased for each such Participant shall be payable in accordance with the Normal Form beginning on his Normal Retirement Date (on the effective date of termination of Plan, if later) and the amount shall be equal to (i) his Accrued Benefit (or disability benefit, if applicable) on the effective date of termination of Plan; provided, however, that if the Plan assets are insufficient to purchase such monthly retirement benefits in full for any class, the monthly retirement benefits for all in such class shall be reduced, as determined by the Insurer, to such fraction as the amount available will provide.

In any event, that portion of the Plan assets attributable to each Participant's Voluntary Account, if any, will be applied on the effective date of termination of Plan to provide for him an amount of deferred monthly retirement income benefit before the allocation and application of assets determined according to the classification and order of precedence in Section 11.03(c).

No part of the assets of the Plan shall be paid or distributed to such Employer at any time except as provided in Section 3.01 (about returned contributions) and except that, after satisfaction of all liabilities under such Plan, any overpayments made by such Employer as a result of erroneous actuarial computations shall be repaid to such Employer.

ARTICLE 12. ADMINISTRATION OF PLAN

SECTION 12.01--ADMINISTRATION.

The Employer will have complete control of the administration of the Plan, subject to the provisions hereof, with all powers necessary to enable it properly to carry out its duties in that respect. Not in limitation, but in amplification of the foregoing, it will have the discretionary power to construe the Plan and to determine all questions that may arise hereunder, including all questions relating to the eligibility of Employees to participate in the Plan and the amount of benefit to which any Participant, Beneficiary, Contingent Annuitant, or alternate payee may become entitled hereunder. Its decision upon all matters within the scope of its authority will be final.

The Employer will establish rules and procedures to be followed by Participants, Beneficiaries, Contingent Annuitants, and alternate payees in filing applications for benefits, in furnishing and verifying proofs necessary to determine age, and in any other matters required to administer the Plan. It may delegate to any person or firm such recordkeeping and other duties necessary to assist the Employer with the administration of the Plan not otherwise set out in the Plan or the Group Contract, as specifically agreed to by such person or firm.

The Employer will receive all applications for benefits and will determine all facts necessary to establish the right of the applicant to benefits under the provisions of the Plan and the amount thereof as herein provided.

The Employer will be entitled to rely upon all tables, valuations, certificates, and reports furnished by the consultant or actuary appointed by the Employer and upon all opinions given by any counsel selected or approved by it.

SECTION 12.02--RECORDS.

All acts and determinations of the Employer will be duly recorded and all such records, together with such other documents as may be necessary for the administration of the Plan, will be preserved in its custody.

SECTION 12.03--DELEGATION OF AUTHORITY.

The administrative duties and responsibilities set forth in Section 12.01 may be delegated by the Employer to a retirement committee consisting of such persons as it selects. The Employer shall notify the Insurer in writing of the authority conferred upon the retirement committee and of the membership of the retirement committee and any changes therein as they occur from time to time. The Insurer shall be entitled to rely on the last such notification received, until written notification to the contrary has been received from the Employer. The members of the retirement committee shall be free from all liability, joint or several, for their acts, omissions, and conduct, and for the

acts, omissions, and conduct of their duly constituted agents, in the administration of the Plan, and the Employer shall indemnify and save each of them harmless from effects and consequences of their acts, omissions, and conduct in their official capacity, except to the extent that such effects and consequences shall result from their own willful misconduct or gross negligence.

Members of the retirement committee shall serve without compensation for services as such, but all expenses incurred by it shall be paid by the Employer or by the Plan, upon written authorization of the Employer provided to the Insurer. Such expenses shall include any expenses incident to the functioning of the retirement committee including, but not limited to, fees of accountants, counsel, and other specialists related directly to the administration and operation of the Plan. All other expenses of the Plan or the Group Contract, unless paid by the Employer, shall be paid by the Plan upon written authorization of the Employer provided to the Insurer.

The Employer will have the power to appoint or remove any person to manage (including the power to acquire and dispose of) any assets of the Plan. It may appoint or remove any person or persons to serve in more than one fiduciary capacity with respect to the Plan (including service both as trustee and administrator).

The Employer will have the power to appoint or remove the Insurer.

SECTION 12.04--INFORMATION AVAILABLE.

Any Participant or alternate payee or any Beneficiary or Contingent Annuitant receiving benefits under the Plan may examine copies of this Plan, the Group Contract, or any other instrument under which the Plan was established or is operated. The Employer will maintain all of the items listed in this Section 12.04 in its office, or in such place or places as it may designate from time to time, for examination during reasonable business hours. Upon written request of a Participant or alternate payee or Beneficiary or Contingent Annuitant receiving benefits under the Plan, the Employer will furnish him with a copy of any item listed in this Section 12.04. The Employer may make a reasonable charge to the requesting person for the copy so furnished.

SECTION 12.05--CLAIMS.

Upon the request of a participant or beneficiary (including an alternate payee), or by action of the Employer, the Employer shall provide claim forms to any participant or his beneficiary who becomes entitled to benefits under the Plan. Such claim form shall be completed and submitted to the Employer no later than 30 days after it is received by the participant or beneficiary. Upon receipt of the claim form, the Employer shall review the appropriateness of the claim and if the Employer determines that the claim should not be allowed, the Employer shall respond in writing within 30 days of the receipt of the claim to the participant or beneficiary. The response 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, need be supplied by the participant or beneficiary 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 30 days of receipt by the Employer, the claim shall be deemed denied.

Within 60 days after receipt of notice of denial of the claim or when the claim is deemed to have been denied, the participant or beneficiary (or representative) may respond to the denial by requesting, in writing, a review of the decision and a review of pertinent documents. If the participant or beneficiary (or representative) 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 60 days from the Employer's receipt of the request for review, respond to said request. In modification of the foregoing, if the Employer, in the Employer's sole discretion, determines that special circumstances warrant the holding of a hearing, it shall promptly be held and a decision shall be rendered within 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.

ARTICLE 13. REQUIRED PROVISIONS

SECTION 13.01--REQUIRED STARTING DATE.

(a) The entire interest of each participant in the Plan:

(1) Will be distributed to the participant no later than the Required Starting Date; or

(2) Will be distributed, starting not later than the Required Starting Date, in accordance with Treasury regulations, over the life of the participant or over the lives of the participant and a Designated Beneficiary (or over a period not extending beyond the life expectancy of the participant or the life expectancy of the participant and a Designated Beneficiary).

(b) If the distribution of the participant's interest has begun in accordance with Section 13.01(a)(2) above and the participant dies before the participant's entire interest has been distributed to the participant, the remaining portion of the participant's interest will be distributed at least as rapidly as under the method of distributions being made under Section 13.01(a)(2) above as of the date of the participant's death.

(c) If a participant dies before the distribution of the participant's interest has begun in accordance with Section 13.01(a)(2) above, the entire interest of the participant will be distributed within five years after the death of the participant. However, the five-year rule does not apply to any portion of the participant's interest payable to (or for the benefit of) a Designated Beneficiary; and not later than one year after the date of the participant's death or such later date as may be prescribed by Treasury regulations distributions (in accordance with Treasury regulations) of such portion will start over the life of the Designated Beneficiary (or over a period not extending beyond the life expectancy of the Designated Beneficiary).

(d) With respect to a Designated Beneficiary who is the participant's surviving spouse:

(1) The date on which the distributions are required to start for purposes of the exception to the five-year rule in Section 13.01(c) above will not be earlier than the date on which the participant would have attained age 70½; and

(2) If the surviving spouse dies before the distributions to the spouse start, Section 13.01(b) and 13.01(c) above will be applied as if the spouse were the participant.

(e) For purposes of this Section 13.01.:

(1) "Required Starting Date" means April 1 of the calendar year following the later of (a) the calendar year in which the participant attains age 70½ or (b) the calendar year in which the participant retires.

(2) "Designated Beneficiary" means any individual designated as a beneficiary by the participant.

(3) "Spouse" and "surviving spouse" include an alternate payee who is the participant's former spouse.

(4) In accordance with Treasury regulations, any amount paid to a child will be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse upon such child reaching majority (or other designated event permitted under Treasury regulations).

(5) Any distribution required under the incidental death benefit requirements of IRC Section 401(a) will be treated as a distribution required under this Section 13.01.

(f) Despite any contrary provision of the Plan, the Plan will apply the minimum distribution requirements of IRC Section 401(a)(9) in accordance with the following proposed, final, and temporary Treasury regulations:

(1) With respect to distributions made for calendar years beginning before January 1, 2001, the regulations under IRC Section 401(a)(9) that were proposed in 1987, including Proposed Treasury Regulation Section 1.401(a)(9)-2.

(2) With respect to distributions made for the calendar year beginning on January 1, 2001, the regulations under IRC Section 401(a)(9) that were proposed on January 17, 2001.

(3) With respect to distributions made for calendar years beginning on or after January 1, 2002, Treasury Regulation Sections 1.401(a)(9)-1 through 1.401(a)(9)-9, and also Treasury Regulation Section 1.401(a)(9)-6T for the period it applies.

(g) This Section 13.01.:

(1) Applies only to the extent this Section 13.01 requires a distribution to be made earlier than otherwise required under the Plan.

(2) Overrides any distribution options in the Plan inconsistent with IRC Section 401(a)(9).

(3) Applies to Plan Years beginning after December 31, 1986, or such later date provided in Public Law No. 98-369, Section 521(d)(5) (about collective bargaining agreements).

SECTION 13.02--ANNUAL COMPENSATION LIMIT.

Except for purposes of Sections 13.05, 13.06, and 13.07, the annual compensation taken into account for each participant in determining plan allocations and benefit accruals under the Plan for any Plan Year is limited to the annual compensation limit under IRC Section 401(a)(17)(A) ($150,000 for Plan Years beginning before January 1, 2002, and $200,000 for Plan Years beginning after December 31, 2001), as adjusted for increases in the cost of living in accordance with IRC Section 401(a)(17)(B). For Plan Years beginning before January 1, 1997, in determining the compensation of a participant the rules of IRC Section 414(q)(6) shall apply, except that in applying such rules the term "family" shall include only the spouse of the participant and any lineal descendants of the participant who have not attained age 19 before the close of the Plan Year. The requirements of IRC Section 401(a)(17) and the Treasury regulations thereunder are incorporated into the Plan by this reference. This Section 13.02 applies to Plan Years beginning after December 31, 1995.

SECTION 13.03--DIRECT ROLLOVERS.

Despite any contrary provision of the Plan that would otherwise limit a distributee's election under this Section 13.03, a distributee may elect, at the time and in the manner prescribed by the Employer, to have any portion of an eligible rollover distribution made after December 31, 1992, paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions shall apply to this Section 13.03 and Section 8.02(b).:

(a) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, but not including:

(1) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

(2) Any distribution to the extent such distribution is required under IRC Section 401(a)(9);

(3) For distributions made before January 1, 2002, the portion of any distribution that is not includable in gross income;

(4) For distributions made after December 31, 2001, any distribution that is made upon hardship of the employee; and

(5) Unless the Employer affirmatively elects to the contrary, any minimum amount permitted by IRC Section 401(a)(31) and Treasury regulations issued thereunder that is permitted to be excluded from the definition of eligible rollover distribution.

(b) Eligible retirement plan: An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution:

(1) An individual retirement account or annuity described in IRC Section 408(a) or 408(b);

(2) A qualified plan described in IRC Section 401(a) or 403(a);

(3) For distributions made after December 31, 2001, an annuity contract described in IRC Section 403(b); or

(4) For distributions made after December 31, 2001, an eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A) and that agrees to separately account for amounts transferred into such plan from the Plan.

However:

(5) In the case of an eligible rollover distribution to the surviving spouse in a distribution made before January 1, 2002, an eligible retirement plan is only an individual retirement account described in IRC Section 408(a) or individual retirement annuity described in IRC Section 408(b).

(6) In the case of a direct rollover of an amount that is not includable in gross income in a distribution made after December 31, 2001, an eligible retirement plan is only (a) a qualified defined contribution plan described in IRC Section 401(a) or 403(a) that agrees to separately account for amounts transferred in the direct rollover, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable, (b) an individual retirement plan described in IRC Section 408(a), or (c) an individual retirement annuity described in IRC Section 408(b).

(c) Distributee: A distributee includes a participant. In addition, the participant's surviving spouse and the participant's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

(d) Direct rollover: A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

Such distribution may begin less than 30 days after the required special tax notice is given to the distributee if (1) the Employer clearly informs the distributee that the distributee has a right to a period of at least 30 days after receiving the notice to consider the decision whether to elect a particular distribution option and (2) the distributee, after receiving the notice, affirmatively elects a distribution.

SECTION 13.04--BENEFITS FOR MILITARY SERVICE.

Effective for reemployments initiated on or after December 12, 1994, and despite any contrary provision of the Plan, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with IRC Section 414(u).

SECTION 13.05--LIMIT ON BENEFITS.

For limitation years beginning after December 31, 1983, and despite any contrary provision of the Plan a participant's annual benefit under the Plan during any limitation year may not exceed the limitations of IRC Section 415 as provided in this Section 13.05.

(a) A participant's annual benefit under the Plan during any limitation year may not exceed the dollar limitation under IRC Section 415(b)(1)(A) for the limitation year and, for limitation years beginning before January 1, 1995, also may not exceed 100% of the participant's average compensation (as defined in Section 13.09) for the participant's high three years.

(b) The dollar limitation and the compensation limitation in Section 13.05(a) above and in IRC Section 415(b)(1)(A) and (B) will be annually adjusted for increases in the cost of living in accordance with Treasury regulations, including for participants who have separated from service. Without limiting the foregoing:

(1) As of January 1 of each calendar year the dollar limitation will be automatically adjusted to the new dollar limitation determined by the Commissioner of Internal Revenue for that calendar year. The new dollar limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

(2) In the case of a participant who has separated from service, the participant's average compensation for the participant's high three years will be automatically adjusted by multiplying such average compensation by the cost of living adjustment factor prescribed by the Secretary of the Treasury under IRC Section 415(d) in such manner as the Secretary shall prescribe. Such adjusted average compensation will apply to limitation years ending within the calendar year of the date of adjustment.

(c) A participant's high three years will be determined based on calendar years.

(d) If a participant's annual benefit during a limitation year (payable in the normal form or in any optional form subject to adjustment under IRC Section 415(b)(2)(B)) would exceed the amount provided in Section 13.05(a) above, the participant's annual benefit during such limitation year will be reduced to the amount provided in Section 13.05(a).

(e) Except as provided in IRC Section 415(f)(3) (about multiemployer plans), which is effective for limitation years beginning after December 31, 2001, in the case of any participant in another defined benefit plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), (1) all such plans will be treated as one plan and (2) the annual benefit that may be provided to the participant under the Plan as provided in Section 13.05(a) above will be reduced by the amount of the aggregate of the annual benefits provided to the participant under such other plans.

(f) The limitations in this Section 13.05 will be applied according to the adjustments described in and the provisions of IRC Section 415 (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into the Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(b)(2)(B) (about benefits payable in other than the normal form), 415(b)(2)(C) and (D) (about benefits commencing before or after a stated age or stated ages), 415(b)(2)(F) (about plans maintained by governments), 415(b)(2)(G) and (H) (about police and firefighters), 415(b)(2)(I) (about disability and survivor benefits under governmental plans), 415(b)(4) (about total annual benefits not exceeding $10,000), 415(b)(5) (about employees with less than 10 years of participation or service), and 415(n) (about purchase of permissive service credit).

(g) The adjustments described in IRC Section 415(b)(2)(B), (C), and (D) will be made by ignoring mortality decrement to the extent a forfeiture does not occur upon death and as follows:

(1) The adjustment described in IRC Section 415(b)(2)(B) will be made using (i) the interest rate and applicable mortality table specified in Section 1.03(i) or (ii) 5% interest and the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v), whichever produces the greater annual benefit.

(2) The adjustments described in IRC Section 415(b)(2)(C) and (D) will be made using (i) the interest rate and applicable mortality table specified in Section 1.03(i) or (ii) 5% interest and the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v), whichever produces the lesser annual benefit.

For limitation years beginning before January 1, 2000, the above provisions of this Section 13.05(g) shall be applied by substituting "the applicable mortality table specified in Section 1.03(i)" for "the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v)" wherever such latter phrase appears. The mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v) is, for distributions with annuity starting dates before January 1, 2002, the table prescribed in Revenue Ruling 95-6 and, for distributions with annuity starting dates on or after December 31, 2002, the table prescribed in Revenue Ruling 2001-62.

(h) For purposes of the adjustment in IRC Section 415(b)(5):

(1) A year of participation is a Plan Year for which the participant is a participant;

(2) A year of service is a Plan Year for which the participant is employed by the Employer; and

(3) A participant who is permanently and totally disabled (as defined in IRC Section 22(e)(3)) for a Plan Year will be credited with a year of participation and a year of service for that year.

SECTION 13.06--LIMIT ON ANNUAL ADDITIONS.

(a) For limitation years beginning after December 31, 1983, and despite any contrary provision of the Plan, the annual additions to any participant's accounts under the Plan may not exceed the lesser of the dollar limitation in IRC Section 415(c)(1)(A) or 25% (100% for limitation years beginning after December 31, 2001) of the participant's compensation (as defined in Section 13.09). The dollar limit in this Section 13.06(a) will be adjusted as follows:

(1) For increases in the cost of living in accordance with IRC Section 415(d).

(2) For limitation years beginning after December 31, 1986, and before January 1, 1995, the dollar limit will be adjusted to, if greater, one-quarter of the dollar limitation in effect under IRC Section 415(b)(1)(A).

(b) In the case of any participant in another defined contribution plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), all such plans will be treated as one plan, and the maximum annual addition to the participant's accounts as provided above will be reduced by the aggregate of the amount of the annual additions to the participant's accounts under such other plans. For this purpose a defined contribution plan includes a welfare benefit fund (within the meaning of IRC Section 419(e)), an individual medical benefit account (within the meaning of IRC Section 415(l)(2)), and a simplified employee pension (within the meaning of IRC Section 408(k)).

(c) If as a result of a reasonable error in estimating a participant's compensation or such other reason as is permitted under Treasury Regulation Section 1.415-6(b)(6) a participant's annual addition would exceed the limitations in this Section 13.06, determined after applying Section 13.07, the participant's contributions to the participant's accounts together with any allocable earnings will be distributed to the participant as soon as administratively feasible to the extent required to eliminate such excess.

(d) The limitations in this Section 13.06 will be applied according to adjustments described in and the provisions of IRC Sections 415 and 419A(d) (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(c)(2) (defining "annual addition"), 415(d) (about COLAs), 415(l) (about individual medical benefit accounts), and 419A(d)(2) (about medical benefit accounts for key employees in a welfare benefit fund).

SECTION 13.07--COMBINED LIMIT ON BENEFITS AND ANNUAL ADDITIONS.

For limitation years beginning after December 31, 1983, and before January 1, 2000, and despite any contrary provision of the Plan:

(a) The sum of a participant's defined benefit plan fraction (within the meaning of IRC Section 415(e)) for the Plan and the participant's defined contribution plan fraction (within the meaning of IRC Section 415(e)) for the Plan for any year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under the Plan will be reduced to the extent necessary for such sum not to exceed 1.0.

(b) If a participant is a participant in another defined contribution or defined benefit plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), all defined benefit plans of the employer will be treated as one plan, and all defined contribution plans of the employer will be treated as one plan, and the sum of the participant's defined benefit plan fraction (within the meaning of IRC Section 415(e)) for such aggregate defined benefit plans and the participant's defined contribution plan fraction (within the meaning of IRC Section 415(e)) for such aggregate defined contribution plans for any year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under the Plan will be reduced to the extent necessary for such sum not to exceed 1.0. For this purpose a defined contribution plan includes a welfare benefit fund (within the meaning of IRC Section 419(e)), an individual medical benefit account (within the meaning of IRC Section 415(l)(2)), and a simplified employee pension (within the meaning of IRC Section 408(k)).

(c) The limitations in this Section 13.07 will be applied according to adjustments described in and the provisions of IRC Section 415 (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(e) (about limitation in the case of a defined benefit plan and a defined contribution plan for the same employee).

(l) At the election of the Employer, in applying the provisions of this Section 13.07 with respect to the defined contribution plan fraction the amount taken into account for the denominator for each participant for all Plan Years ending before January 1, 1983, shall be an equal to the product of (1) the amount of the denominator determined under Section 4.05(k) of the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN for Plan Years ending before January 1, 1982, multiplied by (2) the "transition fraction," which is a fraction (i) the numerator of which is the lesser of (A) $51,875 or (B) 1.4 multiplied by 25% of the participant's compensation for the Plan Year ending in 1981, and (ii) the denominator of which is the lesser of (A) $41,500 or (B) 25% of the participant's compensation for the Plan Year ending in 1981.

SECTION 13.08--LIMITATION YEAR.

The limitation year shall be the Plan Year.

SECTION 13.09--COMPENSATION FOR PURPOSES OF LIMITS.

For purposes of Sections 13.05, 13.06, and 13.07, "compensation" means wages within the meaning of IRC Section 3401(a) (for the purposes of income tax withholding at the source) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC Section 3401(a)(2)).

(a) For limitation years beginning after December 31, 1997, "compensation" includes any elective deferral (as defined in IRC Section 402(g)(3)) contributed by the employer and any amount contributed or deferred by the employer at the election of the participant and not includable in the gross income of the participant by reason of IRC Section 125 or 457.

(b) For limitation years beginning after December 31, 2000, "compensation" includes any amount contributed or deferred by the employer at the election of the participant and not includable in the gross income of the participant by reason of IRC Section 132(f)(4).

(c) Effective January 1, 2002, "compensation" includes any additional elective deferral under IRC Section 414(v) contributed by the employer.

(d) For purposes of Sections 13.05, 13.06, and 13.07, the amounts included in a participant's compensation under this Section 13.09 will be based on such amounts from the employer (within the meaning of IRC Section 414(b), (c), (m), and (o) [effective July 18, 1984], after applying IRC Section 415(h)).

SECTION 13.10--ANNUITY CONTRACTS.

Benefits may be paid by distributing an annuity contract purchased by the Employer for the Participant, alternate payee, or Beneficiary (the payee).

(a) Delivery of any such contract will be in full satisfaction of the rights under the Plan of the payee and the payee's Contingent Annuitant, Beneficiary, and estate, and upon the delivery thereof such persons will have no further interest under the Plan or in the Group Contract with respect to the benefits to be paid under the contract and must look solely to the insurer issuing the contract for the payment of such benefits.

(b) Any refund or credit under any such contract (on account of dividends, earnings, or other experience rating credits, or surrender or cancellation credits) in excess of the benefits under the Plan to be paid under the contract, and any proceeds from demutualization of the issuer of the contract or the issuer's successor, will be paid to the Plan for addition to the Group Contract.

(c) Any such contract must be nontransferable.

(d) The terms of the Plan control in the event of any conflict between the terms of the Plan and the terms of any such contract.

ARTICLE 14. GENERAL PROVISIONS

SECTION 14.01--AMENDMENT OF PLAN.

The Employer, acting through its City Council or City Manager, may amend this Plan at any time, including any remedial retroactive changes (within the specified period of time as may be determined by Treasury regulations or Internal Revenue Service guidance from time to time) to comply with the requirements of any law or regulation issued by any governmental agency to which the Employer is subject. However, the City Manager may amend this Plan only to clarify this Plan, facilitate the administration of this Plan, or make changes adapting this Plan to the requirements of law, changes in law, or the terms of a collective bargaining agreement, all as determined in the discretion of the City Manager.

SECTION 14.02--EXCLUSIVE BENEFIT.

Except as provided in Section 3.01 (about return of contributions) or Article 11. (about termination of the Plan), no asset of the Plan or Group Contract may be used for or diverted to any purpose other than for the exclusive benefit of participants or their beneficiaries and defraying reasonable expenses of administering the Plan and Group Contract; and no amendment or termination of the Plan, or merger or consolidation with, or transfer of assets or liabilities to, any other plan, shall operate to allow any asset of the Plan or Group Contract to be used for or diverted to any such prohibited purpose.

SECTION 14.03--PROVISIONS RELATING TO THE INSURER.

The Insurer is not a party to the Plan, nor will it be bound in any way by the provisions of the Plan, nor will it be required to look to the terms of this Plan, nor to determine whether the Employer has the authority to act in any particular manner or to make any contract or agreement.

SECTION 14.04--EMPLOYMENT STATUS.

Nothing contained in this Plan will be deemed to give any Employee the right to be retained in the employ of the Employer or to interfere with the rights of the Employer to discharge any Employee at any time.

Any final payment or distribution to any Participant or his legal representative or to any Beneficiaries, Contingent Annuitant, or alternate payee of such Participant in accordance with the provisions herein will be in full satisfaction of all claims against the Plan, the Insurer, and the Employer arising under or by virtue of the Plan.

SECTION 14.05--BENEFICIARY.

Each Participant may name a Beneficiary to receive any death benefit (other than any monthly income payable to a Contingent Annuitant) which may arise out of his participation in the Plan and may change such Beneficiary from time to time without the consent of such Beneficiary. It will be the responsibility of the Participant to give written notice to the Insurer of the name of his Beneficiary on a form furnished for that purpose.

In modification of the above, the Employer may maintain records of Beneficiary designations as to Participants prior to their Retirement Dates, in which event the written designations made by Participants will be filed with the Employer and in the event of a Participant's death prior to his Retirement Date, the Employer will certify to the Insurer the Beneficiary designation on its records as to such Participant.

If, at the death of a Participant, there is no Beneficiary named or surviving, the death benefit, if any, under the Plan will be paid to the Participant's estate.

For purposes of determining a Participant's Beneficiary:

(a) A Beneficiary does not include an individual, even if designated by the Participant, who does not survive the Participant or who is treated under Oregon law as not surviving the Participant. For this purpose (1) the Participant and the individual will be treated as residing in Oregon and (2) Oregon law includes without limitation the Uniform Simultaneous Death Act (ORS 112.570 to ORS 112.590) or its successor and the Uniform Disclaimer of Property Interests Act, ORS 105.623 to 105.649, or its successor but does not include Oregon law regarding conflicts of laws.

(b) ORS 112.175 to 112.195, about adoption, or successor Oregon statutes, apply to determine relationships. ORS 112.105, about paternity, or successor Oregon statutes, and other comparable state laws apply without regard to any limitation therein regarding intestate succession. ORS 112.455 to 112.555, regarding certain deaths caused by an individual, or successor Oregon statutes, apply without regard to whether the death occurs or the individual or Participant resides in Oregon.

SECTION 14.06--SPENDTHRIFT CLAUSE.

Except as provided in Section 14.14 (about domestic relations orders), no benefit under the Plan or Group Contract may be voluntarily or involuntarily or revocably or irrevocably alienated, transferred, assigned (either at law or in equity), anticipated, mortgaged, or otherwise encumbered, or be subject to garnishment attachment, levy, seizure, execution, sequestration, or other legal or equitable process for the payment of debts, judgments, alimony, separate maintenance, or other amounts or claims, or be transferred by operation of law in the event of bankruptcy, insolvency, or otherwise.

SECTION 14.07--FACILITY OF PAYMENT.

If any person to whom a Plan benefit is payable is a minor or (as determined in the Employer's discretion) incompetent by reason of physical or mental disability, the Employer may direct the Insurer to make the payments becoming due to such person to another for such person's benefit without responsibility for the Employer or the Insurer to see to the application of such payments, including without limitation to a custodian for the person, selected by the Employer or the Insurer without liability for the selection made, under the Oregon Uniform Transfers to Minors Act or under any other comparable state law. Any payment made pursuant to such power will as to such payment operate as a complete discharge of the Employer and the Insurer.

SECTION 14.08--CONSTRUCTION.

The Plan will be construed according to the laws of the State of Oregon and will be interpreted and administered consistent with the applicable requirements of the IRC for the Plan to be qualified under IRC Section 401(a). Any provision of the Plan that is based on a provision of the IRC, including one not necessary for the Plan to be qualified, will be interpreted and administered consistent with such provision of the IRC and the interpretive authorities thereunder.

The Plan includes provisions adopted in good faith to comply with the Economic Growth and Tax Relief Reconciliation Act of 2001. Such provisions shall be interpreted and administered consistent with Treasury regulations and Internal Revenue Service guidance regarding such Act, even where such regulations and guidance are inconsistent with the literal interpretation of such provisions.

In case any provision of this Plan will be held illegal or invalid for any reason, such determination will not affect the remaining provisions of this Plan, but the Plan will be construed and enforced as if said illegal or invalid provision had never been included.

SECTION 14.09--LEGAL ACTIONS.

To any action or proceeding involving the assets held with respect to the Plan or the administration thereof, the Plan and the Employer will be the necessary parties and no person employed by the Employer, Participant, former Participant or their Beneficiaries or any other person having or claiming to have an interest in the Plan will be entitled to any notice or process. Any final judgment which is appealed or appealable that may be entered in any such action or proceeding will be binding and conclusive on all persons having or claiming to have any interest in the Plan.

SECTION 14.10--MODIFICATION IN MODE OF PAYMENT.

If the present value of the initial monthly amount of retirement benefit payable to any Participant on his Retirement Date, to a Participant's Beneficiary or Contingent Annuitant due to such Participant's death, or to an alternate payee, is less than $1,750, such value may, at the discretion

of the Employer, be paid in a single sum in full settlement of all benefits otherwise payable. Such value will be determined on the basis of the annuity purchase rates in the Group Contract.

SECTION 14.11--INTEREST.

Interest will not be paid on any amount of benefit paid after the date as of which it is to be paid under the Plan if the amount is paid as soon as administratively feasible after such date, taking into account any delay caused by the person entitled to the payment, any inability to locate such person, and any uncertainty regarding the identity of such person or the amount to be paid. Where interest is payable, it will be paid at the rate specified in Section 1.03(i).

SECTION 14.12--PRONOUNS.

Masculine pronouns as used in this Plan will include both masculine and feminine gender unless the context indicates otherwise.

SECTION 14.13--CAPTIONS.

The captions are for convenience only and have no substantive effect.

SECTION 14.14--DISTRIBUTION OF BENEFITS TO ALTERNATE PAYEE.

Despite any contrary provision of the Plan except Section 13.01 (about required starting date), to the extent required by and subject to the restrictions of ORS 237.600, a participant's benefit will be paid, in whole or in part, to an alternate payee (and not to the participant or other beneficiary) 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. Payment to the alternate payee may be made before the participant's Termination of Employment with the Employer if provided or allowed by the decree, order, or agreement.

(a) The Plan will apply ORS 237.600 to decrees, orders, or agreements whenever entered or modified, including those entered or last modified before January 1, 1994.

(b) No benefit under the Plan will 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 satisfy the Employer:

(1) That the copy is a true copy of the Order.

(2) That the Order is, within the meaning of ORS 237.600, 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.

(3) Of the extent to which the terms of the Order expressly provide for payment of a benefit under the Plan to an alternate payee.

(4) Of any other fact or matter required for the Employer to:

(i) Determine the application of ORS 237.600 to the Order or the extent to which the Order applies to the Plan.

(ii) Comply with the Order or with ORS 237.600.

(iii) Administer the Plan under the terms of the Order.

(c) Neither Employer nor the Plan will charge or collect out of the benefits payable to the participant or the alternate payee any administrative expenses or related costs incurred by Employer or the Plan in obtaining data or making calculations necessary by reason of ORS 237.600.

(d) For periods beginning before a participant's Termination of Employment with the Employer, the amounts payable to the participant's alternate payee will be determined using the interest rate and mortality table specified in Section 1.03(i), not the factors specified in Section 4.01(b) or the provision in Section 4.01(b) for no reduction.

SECTION 14.15--MERGER.

This Plan is funded by Group Contracts issued by the Insurer to fund benefits for participants and their beneficiaries in the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and in the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN, which plans are restated in this Plan. Effective as of a date to be determined by the Employer's Finance Director, the Employer shall cause the Insurer to modify or combine the Group Contracts so that all of the assets of the Group Contracts are available to pay benefits to all employees who are covered by this Plan and their beneficiaries. Until that date, the part of this Plan resulting from the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN may continue to be known by such name, and the part of

this Plan resulting from the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN may continue to be known by such name.

DATED June 26, 2002.

CITY OF NEWBERG

By _____
City Manager

CITY OF NEWBERG [

~~GENERAL]~~ EMPLOYEES [

]RETIREMENT PLAN

REDLINE SHOWING THE CHANGES MADE TO THE PLAN IN THE 2002 RESTATEMENT

~~[Through Amendment No. 8~~

~~Defined Benefit Pension Plan~~
~~Restated July 1, 1982]~~ [2002 Restatement

~~[Title]~~CITY OF NEWBERG [EMPLOYEES] RETIREMENT PLAN

~~[GENERAL EMPLOYEES~~

~~July 1, 1982]~~ [2002 Restatement]

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]

INTRODUCTION

The City of Newberg adopted a defined benefit pension plan in 1964 for its employees. Effective July 1, 1979, the ~~[Plan]~~ [plan] was restated as two separate plans, ~~[one]~~ [the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN] for general employees of the City and ~~[one for uniform employees. In accordance with Oregon Revised Statutes, the Plans have]~~[the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN for police officers and firefighters. Effective July 1, 1982, both plans were restated. Both plans have since] been amended ~~[from time to time to keep benefits for policemen and firemen comparable to those offered uniform employees under the Public Employee Retirement System of Oregon (PERS)]~~.
~~[~~
~~]~~It is the City's desire to ~~[amend the]~~[combine the assets of both plans as provided herein and to update both plans for law changes after 1981 by amending and restating both plans in this] Plan~~[,]~~ effective July 1, [2002, unless otherwise stated.

] ~~[1982, to consolidate previous amendments to the Plan and to make additional changes to the Plan so as to improve its general benefits and to restructure other features to more closely parallel PERS.~~

~~This amendment will not reduce any employee's accrued benefit as of July 1, 1982, nor will it reduce the vested interest of any eligible employee. This amendment will not change the benefits currently in pay status.~~

~~The restated retirement plan continues to be for the exclusive benefit of general employees of the City. The City agrees to operate the restated plan in accordance with the terms, provisions and conditions set forth on the following pages:~~]

ARTICLE [1.] ~~[~~

~~]~~ DEFINITIONS

SECTION 1.01--THE PLAN AND PARTIES CONCERNED.

(a) "Plan" means the restated defined benefit retirement plan of the Employer as set forth herein and as amended from time to time.

[(b)] "Prior Plan" means the ~~[retirement plan of the Employer]~~ [CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN] prior to the Effective Date~~[, as explained briefly in the Introduction.]~~[.]

~~[(b)]~~[(c)] "Group Contract" means the group annuity contract or contracts which the Employer enters into with the Insurer for the purpose of payment of retirement income and other benefits in accordance with this Plan and for the purpose of investment of Contributions made under the Plan. [All benefits payable under the Plan will be paid or provided for solely from the Group Contract, and the Employer assumes no liability or responsibility therefor.

(d)]~~[(c)]~~ "Employer" means CITY OF NEWBERG, OREGON, and any successor by change of name or merger.

~~[(d)]~~[(e)] "Insurer" means ~~[Bankers Life Company of Des Moines, Iowa]~~ [Principal Financial Group, Inc.], or such other insurance company or companies as may, from time to time, be designated by the Employer.

~~[(e)]~~[(f)] "Employee" means any natural person who is employed by the Employer. ["Employee" excludes:

(1) Any person who would be treated as a leased employee of the Employer under IRC Section 414(n).

(2) An individual whose wages are paid by an agency or other business that provides individuals who perform services for the Employer and pays the individuals' wages.

(3) Persons not treated as an employee on the Employer's payroll records.

(g) Effective July 1, 2002,][~~(f)~~] "Eligible Employee" means ~~[any]~~[, except for purpose of Article 9., any full-time regular] Employee [employed in a position not eligible for membership in the Oregon Public Employees Retirement System under the Employer's agreements with the System and] whose employment with the Employer is as follows:

(1) ~~[Policemen and Firemen.]~~ [General Employee.]

~~[(2)]~~[(2) Police Officer.

(3) Firefighter.

(4)] City Attorney, effective July 1, 1992.

The City Attorney shall be eligible as a General Employee with five years employment with the ~~[City]~~ [Employer] and shall be given credit for contributions as of July 1, 1988[,] through June 30, 1992. Pursuant to Resolution No. 92-1726, the City Attorney shall be classified with the Police [Officer] and ~~[Fire]~~ [Firefighter] personnel instead of the ~~[general administrative employees]~~ [General Employee] classification, effective July 1, 1992.

~~[(g)]~~[(h)] "Participant" means a person who is either an Active Participant or an Inactive Participant.

~~[(h)]~~[(i)] "Active Participant" means an Eligible Employee who has become an Active Participant as provided in Section 2.01.

~~[(i)]~~[(j)] "Inactive Participant" means a person who has become an Inactive Participant as provided in Section 2.02.

~~[(j)]~~[(k)] "Beneficiary" means any person or persons designated by a Participant pursuant to Section ~~[9.04]~~ [14.05] to receive any death benefit upon the death of the Participant.

~~[(k)]~~[(l)] "Contingent Annuitant" means a natural person designated by the Participant to receive a lifetime benefit after the death of such Participant in accordance with the survivorship life annuity optional form of retirement benefit provided in Section ~~[4.03]~~ [4.02].

~~[(l) "Actuarial Equivalent" means 7.5%, 1971 GAM for pre-retirement, and 7.5%, UP-84 Unisex for post-retirement.]~~

SECTION 1.02--IMPORTANT DATES AND PERIODS.

(a) "Effective Date" means July 1, 1982~~[, the date on which the provisions of this amended and restated plan became effective]~~.

(b) "Anniversary Date" means the Effective Date and the same day of each year thereafter.

(c) "Quarterly Date" means the effective date and every third Monthly Date thereafter.

(d) "Monthly Date" means the Effective Date and the same day of each month thereafter.

(e) "Eligibility Date" means, as to a Participant, the Eligibility Date as provided in Section 2.01.

(f) "Re-entry Date" means, for a Participant, the Re-entry Date as provided in Section 2.01.

(g) "Retirement Date" means, for a Participant, the date for commencement of monthly retirement benefit which will be his Early, Normal[,] or Late Retirement Date, whichever is applicable.

(h) "Normal Retirement Date" means, for a Participant, the first day of the month coinciding with (immediately following, if none coincides with) the date on which he attains age 60 [(58 for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney)].

(i) "Early Retirement Date" means the first day of the month selected by the Participant for beginning an early retirement benefit before his Normal Retirement Date which is on or after the later of the following:

(1) The date he ceases to be an Employee.

(2) The date he attains age 55 [(50 for Police Officers, Firefighters, and the City Attorney)].

(j) "Late Retirement Date" means, for a Participant who continues active work for the Employer after his Normal Retirement Date, the first day of the month selected by him for commencement of monthly retirement benefit which follows his Normal Retirement Date and is no later than the first day of the month coinciding with (immediately following, if none coincides with) the date of his Termination of Employment.

(k) "Service" means, as to an Employee, any service for which he is either (i) directly or indirectly compensated by the Employer or (ii) performing duties for the Employer. No interruption in Service (based on the regular work week for his job without overtime) will be deemed to have occurred during any approved periods of absence from the Employer by reason of

(1) temporary lay-off,

(2) leave of absence (not to exceed one year),

(3) a temporary absence on account of disability, illness[,] or injury, [or]

(4) pregnancy[.]~~[, or~~

~~(5) military service]~~

Any discretion of the Employer under the provisions of this definition will be exercised without discrimination in accordance with definitely established rules uniformly applicable to Participants whose approved periods of absence were occasioned by similar circumstances.

(l) "Years of Service" means, as to an Employee on any date of determination, unless indicated otherwise, the number of years (counting completed months as fractional parts of a year) of Service since his latest date of employment, but excluding any Service after the establishment of the ~~[prior plan]~~ [Prior Plan] during which he made no contributions, if contributions were required by him under said ~~[prior plan]~~ [Prior Plan] during any such period and he failed or refused to so contribute.

(m)~~["Credited Service" means, as to a Participant, the current period and all prior periods of his Years of Service.~~

~~(n)]~~ "Plan Participation" means, as to a Participant, all periods of his employment with the Employer during which he has been an Active Participant.

~~[(o)]~~[(n)] "Termination of Employment" means cessation of active work (resulting in an interruption in ~~[service)]~~ [Service)] with the Employer, other than by reason of retirement, death, or disability, due to

(1) voluntary or involuntary termination or separation of employment, or

(2) failure to return to work upon the expiration of any approved period of absence from the Employer, in which event cessation of active work shall be deemed to have occurred at the time such approved period of absence expired.

~~[(p) "Military Service" means, as to a person~~

~~(1) who served as a member of the armed forces of the United States, and~~

~~(2) who was reemployed by the Employer at a time when he had a right to reemployment at his former position or a substantially similar position upon his separation from such military duty in accordance with his seniority rights as protected under Section 2021 through 2026 of Title 38 of the U.S. Code.~~

~~(q)~~][(o)] "Plan Year" means a period commencing on an Anniversary Date and ending on the day immediately preceding the next Anniversary Date.

~~[(r)~~][(p)] "Compensation Year" means a one-year period ending on the June 30 immediately preceding a Participant's Eligibility Date and ending on the same month and day of each year thereafter on which he is an Active Participant.

SECTION 1.03--DEFINITIONS RELATING TO DETERMINATION OF BENEFITS.

(a) (1) This Section 1.03(a)(1) applies to Plan Years beginning before July 1, 1993.

"Average Compensation" means, for a Participant on any specified date, the monthly average of his total pay from the Employer for those ~~[3]~~ [three] consecutive Compensation Years (all Compensation Years, if less than ~~[3]~~] [three)] which give the highest average out of the 10 latest Compensation Years (all Compensation Years, if less than 10) occurring prior to such specified date.

Pay as used in this definition means the type of compensation subject to tax for Social Security benefits without regard to the dollar limitation on such compensation subject to FICA taxes.

However, for a Participant who was not employed by the Employer for at least one of the Compensation Years immediately preceding either his Eligibility Date or his Re-entry Date, his fixed rate of monthly pay from the

Employer on either such applicable date will be deemed to be his monthly average for such Compensation Year.

(2) This Section 1.03(a)(2) applies to Plan Years beginning on or after July 1, 1993.

[(i)] Average ~~[compensation]~~ [Compensation] means 1/12th of the following [(as such 1/12th is increased below):]~~[:]~~

~~[(i)]~~[(A)] For an employee who has completed at least 10 ~~[years]~~ [Years] of ~~[service]~~ [Service], the average of the person's ~~[monthly earnings]~~ [Monthly Earnings] for each month in a ~~[thirty-six (36)]~~ [36] consecutive month period during the last 120 months of employment preceding the date the benefit is being determined which produces the highest average of ~~[monthly earnings.]~~ [Monthly Earnings.]

~~[(ii)]~~[(B)] For an employee who has completed at least three ~~[years]~~ [Years] of ~~[service]~~ [Service], but less than 10 ~~[years]~~ [Years] of ~~[service]~~ [Service], the average of the person's ~~[monthly earnings]~~ [Monthly Earnings] for each month in a ~~[thirty-six (36)]~~ [36] consecutive month period preceding the date the benefit is being determined which produced the highest average of ~~[monthly earnings.]~~ [Monthly Earnings.]

~~[(iii)]~~[(C)] For an employee who has completed less than three ~~[years]~~ [Years] of ~~[service]~~ [Service], the average of the person's ~~[monthly earnings]~~ [Monthly Earnings] for each month preceding the date of benefit is being determined.

"Monthly ~~[earnings]~~ [Earnings]" means the base remuneration which the ~~[City]~~ [Employer] pays to an ~~[employee]~~ [Employee] in a month before any payroll deduction for income taxes, social security, group insurance, deferred compensation[,] or any other purpose. The full amount of required employee contributions ~~[pick-]~~[picked] up, assumed[,] or paid by the ~~[City]~~ [Employer] on behalf of its employees shall be considered ~~[monthly earnings]~~ [Monthly Earnings] under the provisions of this ~~[plan.]~~ [Plan.]

~~[A. The average compensation in 1.03(a)(2)]~~[(ii) The Average Compensation determined above shall be increased as follows:

(A) The Average Compensation determined] above is divided by 173.33 to arrive at the average hourly rate of earnings.

~~[B.]~~[(B)] The number of unused sick leave hours is multiplied by the result in ~~[A.]~~ [Section 1.03(a)(2)(ii)(A)] above~~[,]~~ to arrive at the value of unused sick leave.

~~[C.]~~[(C)] One-half of the value of unused sick leave, divided by 36, shall be added to the ~~[average compensation in 1.03(a)(2)]~~ [Average Compensation determined] above.

(b) "Vesting Percentage" means, for a Participant

(1) prior to the date on which he has completed ~~[3]~~ [three] years of Plan Participation, 0%, if employed prior to July 1, 1982, or prior to the date on which he has completed ~~[5]~~ [five] years of Plan Participation, 0%, if employed after June 30, 1982.

(2) on or subsequent to the date in [Section 1.03(b)](1) above, 100%.

In any event, a Participant's Vesting Percentage shall be 100% on or subsequent to the earlier of (i) the date on which he attains age 50 [(45 for Police Officers, Firefighters, and the City Attorney)] or (ii) the date on which he becomes Totally and Permanently Disabled.

(c) "Contributions" means Employer Contributions, Required Participant Contributions[,] and Voluntary Contributions as set out in Article ~~[III]~~ [3.], unless the term as used refers to one of these only, in which event it means the one thus referred to.

(d) "Participant's Contribution Account" means, for a Participant as of any specified date, the aggregate value of the Required Participant Contributions (including any interest earnings thereon) made for or by him pursuant to the Prior Plan ~~[and]~~[, under Section 3.02 of the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN, under Section 3.02 of the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN, or] under Section 3.02 of this ~~[restated]~~ Plan, and which have not been previously paid or applied as to him.

Such Participant's Contribution Account will be zero upon the earliest to occur of (1), (2)[,] or (3) below:

(1) The date a death benefit is paid on account of his death pursuant to Section ~~[5.01]~~ [7.01].

(2) The date a cash termination benefit is paid to him pursuant to Article ~~[VI]~~ [8].

(3) His Retirement Date.

A Participant's Contribution Account will be credited with interest at the rate of 7.5% (8% for periods beginning on or after July 1, 1990) compounded annually.

(e) "Normal Form" means a straight life annuity with ~~[5]~~ [five] year certain period pursuant to ~~[paragraph (b)]~~ Section 4.02[(b)].

(f) "Totally and Permanently Disabled" means, as to a Participant, that he is disabled, as a result of sickness or injury to the extent that he is prevented from engaging in any occupation for wage or profit and is entitled to a disability benefit under Title II of the Federal Social Security Act, as determined by the ~~[Contractholder]~~ [Employer] and reported to the ~~[Company]~~ [Insurer].

(g) "Voluntary Account" means the value of a Participant's Voluntary Contributions which have been made as provided in Article ~~[VIA]~~ [10].

A Participant's Voluntary Account will be credited with interest at a rate of not less than the rate credited to his Participant's Contribution Account.

A Participant's Voluntary Account will be reduced by any distribution [therefrom] made under the Plan.

(h) "Voluntary Contributions" means Voluntary Contributions as set out in Section ~~[6A.01.~~

~~]~~[10.01.

(i) "Actuarial Equivalent" means:

(1) Police Officers and Firefighters: 7.5% and 1971 GAM for pre-retirement; and 7.5% and UP-84 Unisex for post-retirement.

(2) For General Employees and the City Attorney:

(i) For Retirement Dates and other annuity starting dates before September 1, 2002: 7.5% and 1971 GAM for pre-retirement; and 7.5% and UP-84 Unisex for post-retirement.

(ii) For Retirement Dates and other annuity starting dates after August 31, 2002: 7.5% and the table prescribed in Revenue Ruling 2001-62. However, in no circumstance will the amount of a General Employee's or the City Attorney's benefit as of a Retirement Date or other annuity starting date be less than the amount determined using (A) the factors in Section 1.03(i)(2)(i) above, (B) the Participant's Accrued Benefit earned as of June 30, 2002, based on Average Compensation and Years of Service as of June 30, 2002, and (C) the amount of the Participant's Contribution Account as of June 30, 2002.

The cost of living adjustment provided in Article 6. shall not be considered in determining Actuarial Equivalent benefits.]

SECTION 1.04--[ADDITIONAL DEFINITIONS.

(a) "IRC" means the Internal Revenue Code of 1986, as amended.

(b) "ORS" means Oregon Revised Statutes, as amended.

SECTION 1.05--]ACCRUED BENEFIT[.]

An Active Participant's monthly Accrued Benefit as of any specified date will be an amount equal to the product of a Participant's ~~[average monthly compensation,]~~ [Average Compensation,] times 1.67% [(2% for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney)], times his total Years of Service.

In no event will a Participant's Accrued Benefit be less than his Accrued Benefit on July 1, 1982.

ARTICLE [2.] ~~II~~

~~}~~ PARTICIPATION

[SECTION] 2.01--ACTIVE PARTICIPANT.

(a) An [Eligible] Employee may first become an Active Participant under the Plan on his employment commencement date [or, if later, the date he becomes an Eligible Employee].

(b) A Participant who became an Inactive Participant pursuant to Section 2.02 may again become an Active Participant on the date on which he again becomes an Eligible Employee by reason of re-employment or otherwise. Such date is his Re-entry Date.

(c) A former Participant who ceased to be a Participant pursuant to Section 2.03 may again become an Active Participant on the date on which he again becomes an Eligible Employee by reason of re-employment or otherwise. Such date is his Re-entry Date.

SECTION 2.02--INACTIVE PARTICIPANT.

An Active Participant will become an Inactive Participant on the earliest of the following:

(a) The date following the date on which a monthly income is provided as to him under this Plan.

(b) The date he ceases to be an Eligible Employee by reason of Termination of Employment or otherwise, occurring one month or more prior to his Retirement Date.

(c) The date he ceases to be an Eligible Employee by reason of partial termination of [the] Plan pursuant to Article ~~{VII}~~ [11].

(d) The effective date of complete termination of [the] Plan pursuant to Article ~~{VII}~~ [11].

SECTION 2.03--CESSATION OF PARTICIPATION.

A Participant will cease to be a Participant on the earlier of the following:

(a) His death.

(b) The date he receives a single sum distribution which is in lieu of all other benefits under the Plan as to him.

[SECTION 2.04–TRANSFERRED EMPLOYEES.

Despite any contrary provision of the Plan, the Plan shall be applied to transferred employees who are subject to ORS 236.605 to 236.640 as the Employer determines appropriate in the Employer's discretion to implement ORS 236.605 to 236.640.

]

ARTICLE [3.] ~~III~~

~~]~~ CONTRIBUTIONS

SECTION 3.01--EMPLOYER CONTRIBUTIONS.

The Employer will make contributions at such times and in such amounts as will be determined based upon periodic actuarial valuations and recommendations as to the amount or amounts required to fund retirement benefits and other benefits payable in accordance with this Plan.

~~[Except as provided in Article VII, contributions]~~ [Any contribution] made by the Employer ~~[under this Plan will be irrevocable, and will be used for the exclusive benefit of the Participants]~~ [because of a mistake of fact must be returned to the Employer within one year of the contribution, but only if the Employer makes timely written demand therefor. Such returned contributions will not include attributable earnings but will be reduced by attributable losses].[

]Dividends declared under the Group Contract or any forfeitures resulting from a Participant's Termination of Employment or death will be applied to reduce future Employer Contributions.

SECTION 3.02--REQUIRED PARTICIPANT CONTRIBUTIONS.

Monthly required contributions will be made under this Plan on behalf of each Active Participant. The amount of each such Required Participant Contribution will be equal to 6% of such Participant's monthly earnings.

For purposes of this Section 3.02, monthly earnings shall include all forms of compensation received by an Employee during such month, including bonuses and overtime. [However, effective July 1, 2002, monthly earnings excludes, for General Employees and the City Attorney, overtime, longevity pay, and pager pay.]

Required Participant Contributions are fully vested and nonforfeitable as to each Participant at all times.

Effective January 1, 1995, or as required by state law, the ~~[employer]~~ [Employer] shall not make the ~~[required participant contributions for employees]~~ [Required Participant Contributions for Employees].

SECTION ~~[3.02a-]~~[3.03-]-MANDATORY EMPLOYEE CONTRIBUTIONS.

Effective January 1, 1995, or as required by state law, the ~~[employer]~~ [Employer] shall pick-up and pay on behalf of all ~~[employees a six percent (6%)]~~ [Active Participants a 6%] mandatory contribution of ~~[Monthly Earnings]~~ [monthly earnings as defined in Section 3.02]. Such picked-up

mandatory contributions shall be made pursuant to the provisions of ~~[the Internal Revenue Code,]~~ [IRC] Section 414(h).

SECTION ~~[3.03-]~~[3.04-]-INVESTMENT OF CONTRIBUTIONS.

All Contributions made under the Plan will be deposited with the Insurer and invested in accordance with the provisions of the Group Contract. To the extent not prohibited by State law, the Employer may specify whether all or any portion of an Employer Contribution deposited under the Group Contract is to be invested in any of the separate accounts of the Insurer in which the Group Contract participates.

ARTICLE [4.] ~~IV~~

~~]~~ RETIREMENT BENEFITS

SECTION 4.01--AMOUNT OF MONTHLY RETIREMENT BENEFIT.

The amount of monthly retirement benefit for an Active Participant on his Retirement Date in accordance with the provisions of Section 4.02 will be determined as follows.

(a) At Normal Retirement Date~~[.]~~[,] the amount of monthly retirement benefit for an Active Participant on his Normal Retirement Date will be equal to his Accrued Benefit as of such date.

(b) At Early Retirement Date, an Active Participant's retirement benefit on his Early Retirement Date will be equal to his Accrued Benefit on such specified date, multiplied by the factor shown below corresponding to the number of years his Early Retirement Date is before his Normal Retirement Date.

Number of Years Early Retirement Date is Before Normal Retirement Date	Factor
1	.92
2	.84
3	.76
4	.68
5	.60

[However, in lieu of the above table the following table applies to Police Officers and Firefighters and, effective July 1, 1992, the City Attorney:

Number of Years Early Retirement Date is Before Normal Retirement Date	Factor
1	1.0
2	1.0
3	1.0
4	.92
5	.84
6	.76

7	.68
8	.60]

Provided, however, no reduction will apply to the Accrued Benefit of an Active Participant who retires on his Early Retirement Date with 30 [(25 for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney)] Years of Service.

The above factors will be adjusted proportionately for fractional parts of a year (counting a partial month as a complete month).

(c) At Late Retirement Date~~[.]~~[,] the amount of monthly retirement benefit for an Active Participant on his Late Retirement Date will be equal to his Accrued Benefit as of his Late Retirement Date.

SECTION 4.02--OPTIONAL FORMS OF MONTHLY RETIREMENT BENEFIT.

The monthly retirement benefit for a Participant on his Retirement Date may be paid in accordance with any one of the optional methods of payment under the Group Contract, which will be limited to the following ~~[actuarial equivalent]~~ [Actuarial Equivalent] optional forms.

(a) Straight life annuity; for the lifetime of the Participant, without death benefits.

(b) Life annuity with certain period; for the lifetime of the Participant and, if the death of the Participant occurs prior to the end of the certain period, the balance of the remaining certain period payments to his Beneficiary.

(c) Survivorship life annuity; for the lifetime of the Participant and, upon his death, a percentage of such annuity for the lifetime of his named Contingent Annuitant.

(d) Life annuity with modified cash refund; for the lifetime of the Participant and upon his death, a single sum payment will be made to his Beneficiary of the excess, if any, of his initial death benefit over the monthly annuity payments made to the Participant. The Participant may change his Beneficiary at any time.

A Participant's initial death benefit is an amount equal to the sum of (1) his Participant's Contribution Account plus (2) his Voluntary Account, if any, both determined on his Retirement Date.

The amount of each payment to a Participant under any of the optional forms of benefit in ~~[subparagraphs (a), (b), (c) or (d)]~~ [Section 4.02(a), 4.02(b), 4.02(c), or 4.02(d)] above (other than the Normal Form) ~~[is determined by multiplying]~~ [will be] the amount ~~[payable in accordance with]~~ [required for the optional form to be the Actuarial Equivalent of] the Normal Form ~~[by the~~

~~actuarial equivalent ratio of (i) the applicable rate in the Group Contract for the Normal Form, to (ii) the applicable rate in the Group Contract for the option in effect for him~~].

The Participant may elect in writing the method of payment of any one of the optional forms above within 90 days prior to his Retirement Date.

In no event will an "interest-only" optional form be available. The Participant will name any certain period or any survivorship percentage and Contingent Annuitant prior to his Retirement Date.

~~[Any optional form of retirement benefit under either subparagraph (b), (c) or (d) above will not be available on a Participant's Retirement Date unless the present value as of such date of the amount to be paid to the Participant while living is more than 50% of the present value of the total benefit to the Participant and his Beneficiary or, if applicable, his Contingent Annuitant.]~~

If no optional form has been elected by the Participant, payment will be made to him under the Normal Form.

SECTION 4.03--ADDITIONAL MONTHLY INCOME.

The monthly retirement benefit determined for a Participant under Section 4.01 may be increased, as determined in accordance with the following provisions:

(a) For a Participant hired prior to July 1, 1993, [and also for Police Officers, Firefighters, and the City Attorney,] that portion of a Participant's Contribution Account derived from Required Participant Contributions made on or after July 1, 1979[,] shall be applied as of the Participant's Retirement Date to provide him an amount of monthly retirement income in addition to that provided under Section 4.01(a), ~~[(b),]~~ [4.01(b),] or ~~[(c)]~~ [4.01(c)], whichever is applicable.

(b) A Participant ~~[hired prior to July 1, 1993]~~ [described in Section 4.03(a) above] may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement Date. Payment of his Participant's Contribution Account derived from Required Participant Contributions made on or after July 1, 1979[,] is in lieu of any ~~[Additional Monthly Income]~~ [additional monthly income] that otherwise would be provided under this Section 4.03. Payment of his Participant's Contribution Account derived from Required Participant Contributions made prior to July 1, 1979[,] is in lieu of the Actuarially Equivalent Monthly Benefit of that portion of his Accrued Benefit (Section ~~[1.04)]~~ [1.05)] attributable to such Required Participant Contributions.

(c) Effective on and after July 1, 1993, a Participant ~~[hired on or after July 1, 1993]~~ [who is not described in Section 4.03(a) above] may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement

Date. Lump Sum payment of his Participant's Contribution Account will reduce his Accrued Benefit (Section ~~[1.04)]~~ [1.05)] by the monthly benefit that is ~~[actuarially]~~ [the Actuarial] equivalent ~~[to]~~ [of] the lump sum.

SECTION 4.04~~[--]~~[–]MINIMUM DISTRIBUTION.

In no event will a Participant who is vested on the date of his ~~[termination of employment]~~ [Termination of Employment] receive a distribution less than the Actuarial Equivalent of his Participant's Contribution Account on such date.

~~[SECTION 4.05--LIMITATION OF BENEFITS.~~

~~(a) Maximum Annual Benefit. Subject to exceptions below, the "annual benefit" payable under this Plan shall not exceed the lesser of: (1) $90,000 or (2) 100% of the Participant's compensation for the period of three consecutive years during which the Employee had the greatest aggregate compensation from the Employer. In determining an Employee's high three years, any 12-month period may be used, provided that it is uniformly and consistently applied.~~

~~(b) For purposes of this Plan, "annual benefit" means the benefit payable in the form of a straight life annuity with no ancillary benefit. If a benefit is payable in any other form, the "annual benefit" limitation shall be applied by adjusting it to the equivalent of a straight life annuity in accordance with the regulations of the Secretary of the Treasury.~~

~~(c) For purposes of the maximum limitation of this Article all defined benefit plans maintained by the Employer shall be viewed as a single plan.~~

~~(d) If the "annual benefit" begins before age 62, the $90,000 limitation (but not the 100% of compensation limitation) shall be actuarially reduced so that it is the equivalent of an "annual benefit" beginning at age 62. However, the limitation shall not be actuarially reduced to less than: (1) $75,000 if the "annual benefit" commenced on or after age 55, or (2) the amount which is the actuarial equivalent of $75,000 at age 55 if the "annual benefit" commences prior to age 55.~~

~~(e) If the "annual benefit" begins after age 65, the $90,000 limitation shall be increased so that it is the actuarial equivalent of the maximum "annual benefit" at age 65.~~

~~(f) For purposes of adjusting any "annual benefit" payable prior to age 62 or in a form other than a straight life annuity, the interest rate assumption shall not be less than the greater of five percent (5%) or the rate specified in Section 1.3.~~

~~(g) For purposes of adjusting any "annual benefit" payable after age 65, the interest assumption shall not be greater than the lesser of five percent (5%) or the rate specified in Section 1.3.~~

~~(h) For purposes of adjusting any "annual benefit" under subparagraph (b), (d), and/or (e), no adjustments shall be taken into account before the year for which such adjustment first takes effect.~~

~~(i) Secondary Maximum Annual Benefit: If a Retired Participant has less than 10 Years of Service with the Employer, the maximum annual benefit payable to the Retired Participant shall be reduced by multiplying such maximum "annual benefit" by the fraction, the numerator of which is the number of Years of Service, or part thereof, with the Employer and the denominator of which is ten (10).~~

~~(j) Exception Benefit: Subject to the limitations of Section 6.1(i) above, this Plan may pay an "annual benefit" to any Retired Participant which shall exceed 100% of such Participant's average~~

compensation (6.1(a) above) provided the "annual benefit" shall not be in excess of $10,000 for the current Plan Year and for all other Plan Years; and provided the Participant shall not be or have been at any time considered as an active Participant in any defined contribution plan maintained by the Employer.

(k) Multiple Plan Reduction: If an Employee is a Participant in one or more defined benefit plans and one or more defined contribution plans maintained by the Employer, the sum of the defined benefit plan fraction and the defined contribution plan fraction for any year may not exceed 1.0. The defined benefit plan fraction for any year is a fraction (a) the numerator of which is the projected "annual benefit" of the Participant under the Plan (determined as of the close of the Plan Year), and (b) the denominator of which is the lesser of: (1) the product of 1.25 multiplied by the maximum dollar limitation in effect under Section 415(b)(1)(A) of the Code for such year, or (2) the Product of 1.4 multiplied by the amount which may be taken into account under Section 415(b)(1)(B) of the Code for such year. The defined contribution plan fraction for any year is a fraction (a) the numerator of which is the sum of the "annual additions" to the Participant's Account as of the close of the Plan Year and (b) the denominator of which is the sum of the lesser of the following amounts determined for such year and each prior year of service with the Employer: (1) the product of 1.25 multiplied by the dollar limitation in effect under Section 415(c)(1)(A) of the Code for such year (determined without regard to Section 415(c)(6) of the Code), or (2) the product of 1.4 multiplied by the amount which may be taken into account under Section 415(c)(1)(B) of the Code for such year.

For the purposes of this paragraph, the term "Participant's Account" shall mean the account established and maintained by the Administrator for each Participant with respect to his total interest in the defined contribution plan maintained by the Employer resulting from the Employer's contribution.

(l) Special Rule for Defined Contribution Fraction: At the election of the Administrator, in applying the provisions of Section 4.01(k) with respect to the defined contribution plan fraction for any Plan Year ending after December 31, 1982, the amount taken into account for the denominator for each Participant for all Plan Years ending before January 1, 1983 shall be an equal to the product of (a) the amount of the denominator determined under Section 4.05(k) for Plan Years ending before January 1, 1982, multiplied by (b) the "transition fraction".

For purposes of the preceding paragraph, the term "transition fraction" shall mean a fraction (a) the numerator of which is the lesser of (1) $51,875 or (2) 1.4 multiplied by twenty-five percent (25%) of the Participant's compensation for the Plan Year ending in 1981, and (b) the denominator of which is the lesser of (1) $41,500 or (2) twenty-five percent (25%) of the Participant's compensation for the Plan Year ending in 1981.

(m) Excessive Benefit: If the sum of the defined benefit plan fraction and the defined benefit contribution plan fraction shall exceed 1.0 in any year for any Participant in this Plan, the Employer shall adjust the numerator of the defined benefit plan fraction so that the sum of both fractions shall not exceed 1.0 in any year for such Participant.

~~(n) Annual benefit as used in this Article shall mean the benefit payable from the Plan for retirement purposes on an annualized basis.~~

~~(o) Limitation Year: For purposes of determining "annual benefits", the limitation year shall be the Fiscal Year.~~

~~(p) In the case of a group of employers which constitutes either a controlled group of corporations, trades or businesses under common control (as defined in Section 1563(a) or Section 414(b) as modified by Section 415(h) and Section 414(c) of the Code), or an affiliated service group (as defined by Section 414(m) of the Code), all such employers shall be considered a single employer for purposes of applying the limitation of Section 415 of the Code.~~

~~(q) The maximum benefit stated in paragraph (a) above shall be adjusted annually as provided by Section 415(d) of the Code to take into account increases in cost of living in accordance with the regulations prescribed by the Secretary of the Treasury. The adjusted dollar limitation is effective as of January 1st of each calendar year and applies with respect to the limitation year ending with or within that calendar year.~~

~~(r) Except as specifically permitted in the Regulations of the Secretary of the Treasury under Section 415 of the Code, the benefits paid or payable at any time shall not exceed the limitations of subparagraph (a) above.~~

~~(s) This Section 4.05 is effective July 1, 1976.~~

~~ARTICLE IVA~~

~~]~~[ARTICLE 5.] DISABILITY PAYMENTS

SECTION ~~[4A.01--]~~[5.01--]ELIGIBILITY.

An Active Participant will become eligible for monthly disability payments under this Article ~~[IVA]~~ [5.] in the event (i) he becomes Totally and Permanently Disabled while in the actual performance of his duties [for the Employer] or (ii) he becomes Totally and Permanently Disabled on or after the date he completes 10 or more ~~[years of service]~~ [Years of Service and while he is an Employee] but before his Retirement Date (Normal Retirement Date, if earlier).

Such Participant will become an Inactive Participant as of the date he becomes Totally and Permanently Disabled.

For purposes of this Article ~~[IVA,]~~ [5.] Termination of Employment is deemed not to have occurred as to such Participant because of his disability, until and unless his employment is otherwise terminated; provided, however, that any periods of absence due to his disability under this Article ~~[IVA]~~ [5.] will not be counted wherever in this Plan ~~[service]~~ [Service] is a determining factor.

SECTION ~~[4A.02-]~~[5.02-]-AMOUNT OF PAYMENTS.

[(a) This Section 5.02(a) is effective before July 1, 1990, for all Participants and is effective on and after July 1, 1990, for Participants other than Police Officers, Firefighters, and the City Attorney.]

The amount of monthly disability payment for a Participant is equal to his Accrued Benefit determined as of the first day of the month coinciding with (immediately following, if none coincides with) the date on which he is disabled.

In no event, however, will the amount of each disability payment for any Participant be less than $100.

[(b) This Section 5.02(b) is effective on and after July 1, 1990, for Police Officers, Firefighters, and the City Attorney.

The amount of monthly disability payment for a Participant is equal to his Accrued Benefit determined as of the first day of the month coinciding with or immediately following the date on which he is disabled, based on Average Compensation as of the date of disability and Years of Service as of the disability date or projected to age 55, if later. Benefits determined under Section 4.03 will be paid in addition to these amounts.

In no event, however, will the amount of each disability payment for any Participant be less than $100 nor greater than 75% of the Participant's Average Compensation.]

SECTION ~~[4A.03-]~~[5.03-]-DURATION OF PAYMENTS.

Monthly disability payments will commence on the first day of the month coinciding with (immediately following, if none coincides with) the date such Participant becomes Totally and Permanently Disabled and will continue thereafter through the first day of the month preceding the earliest of the following dates:

(a) His Normal Retirement Date.

(b) The date of his death.

(c) The effective date of termination of Plan.

(d) The date he is no longer Totally and Permanently Disabled.

If such payments continue through the first day of the month preceding such Participant's Normal Retirement Date, monthly retirement benefits will be provided for him on his Normal Retirement

Date in accordance with the provisions of Article ~~[IV]~~ [4.] in like manner as for an Active Participant, with Accrued Benefit equal to the amount of monthly disability payment paid to him pursuant to Section ~~[4A.02]~~ [5.02]. If, prior to such Participant's Normal Retirement Date, he recovers and returns to active work for the Employer within one month of the date he is no longer Totally and Permanently Disabled, such payments will stop and he will again become an Active Participant pursuant to Section 2.01. If, prior to such Participant's Normal Retirement Date, he recovers and does not return to active work for the Employer within one month of his recovery, such payments will stop and his Termination of Employment will be deemed to have occurred as of the date he became Totally and Permanently Disabled and his benefits will be redetermined pursuant to Article ~~[VI]~~ [8].

If the Participant dies while receiving monthly disability payments and he meets the requirements pursuant to Section ~~[5.01(a)]~~ [7.01(a)], death benefits will be paid in accordance with the provisions of said Section ~~[5.01(a)]~~ [7.01(a)].

ARTICLE [6.] ~~[IVB~~

~~]~~ COST OF LIVING ADJUSTMENT

SECTION ~~[4B.01-]~~[6.01-]-IMPORTANT TERMS.

For the purpose of determining the cost of living adjustment of benefits, the following terms are defined here:

ADJUSTMENT DATE means each Anniversary Date on and after the Effective Date on which the Price Index has changed from the Price Index on the last preceding Anniversary Date as of which the monthly retirement benefit payments under this Plan were changed in accordance with this Article ~~[IVB]~~ [6.] (on the Effective Date if no prior changes have been made).

ADJUSTMENT FACTOR means, as of any Adjustment Date, the quotient of (a) divided by (b):

(a) The Price Index as of such Adjustment Date.

(b) The Price Index as of the last previous Adjustment Date.

In no event, however, will the Adjustment Factor exceed 1.02. Prior to July 1, 1982, the Adjustment Factor will not exceed 1.04.

ANNUITANT means either an Inactive Participant whose Retirement Date has occurred and who is entitled to monthly retirement benefit payments under this Plan, [an alternate payee,] or the Beneficiary~~[,]~~ or Contingent Annuitant of such Participant, if any, who is entitled to monthly retirement benefit payments under this Plan as the result of such Participant's death.

PRICE INDEX means, as of any Anniversary Date, the Consumer Price Index (Portland area-all items) as published by the Bureau of Labor Statistics of the United States Department of Labor in the City of Portland, Oregon[, or a comparable index as determined by the Employer if such index ceases to be published].

SECTION ~~[4B.02-]~~[6.02-]-CHANGE IN MONTHLY RETIREMENT BENEFIT.

As of each Adjustment Date, the monthly retirement benefit payments payable to an Annuitant will be changed to the amount determined by multiplying such payments by the Adjustment Factor as of such Adjustment Date, subject to the following provisions:

(a) If such change results in an increase in the amount of monthly retirement benefit payments to an Annuitant, an amount of monthly retirement benefit will be provided for him under the Group Contract in the amount of such increase with payments consistent with the payments being made as to the monthly retirement annuity provided under the Group Contract on the Participant's Retirement Date.

(b) If such change results in a decrease in the amount of the monthly retirement benefit payments to an Annuitant, an amount or amounts of monthly retirement benefit previously provided for him under the Group Contract will be cancelled as of such Adjustment Date so that the total amount of monthly retirement benefit remaining will be only the reduced amount to which he is then entitled.

In no event will any decrease become effective which would reduce the monthly retirement benefit payments for an Annuitant to an amount which would be less than the amount he would have received had the provisions of this Article ~~[IVB]~~ [6.] not been in effect.

(c) On and after the effective date of termination of Plan pursuant to Article ~~[VII]~~ [11.], no further changes in monthly retirement benefit payments will be made in accordance with this Article ~~[IVB.]~~[6.

SECTION 6.03--MINIMUM ADJUSTMENT FOR RETIREMENTS AFTER JULY 1, 1990.

Effective on and after July 1, 1990, for Police Officers, Firefighters, and the City Attorney, monthly payments for such Participants retiring on or after July 1, 1990, will be increased annually to a level that is no less than that which would have been in effect had the initial monthly benefits been payable from the Oregon Public Employees Retirement System, determined without including any payments under ORS 238.375 to 238.387 or any other tax remedy payments.

[

ARTICLE [7.] ~~[V~~

~~]~~ DEATH BENEFITS

SECTION ~~[5.01-]~~[7.01-]-DEATH BENEFIT BEFORE RETIREMENT[.]

(a) Death Benefit before Retirement Date (Normal Retirement Date, if earlier): If the death of a Participant occurs prior to his Retirement Date (Normal Retirement Date, if earlier), a single sum death benefit equal to the sum of (i) two times ~~[(two and two-tenths (2.2) times effective July 1, 1990)]~~ his Participant's Contribution Account as of the date of his death, and (ii) his Voluntary Account as of the date of his death will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section ~~[4.03]~~ [4.02] for the benefit of such Beneficiary.

[Effective July 1, 1990, for Participants other than Police Officers, Firefighters, and the City Attorney, "two and two-tenths (2.2) times" shall replace "two times" where "two times" appears in the above paragraph.]

In no event, however, will such death benefit be less than the death benefit that would have been payable upon the death of such Participant under the Prior Plan on the day before the Effective Date.

(b) Deferred Retirement Death Benefit: If the death of an Active Participant occurs on or after his Normal Retirement Date and prior to his ~~[Late]~~ Retirement Date, and

(1) If the straight life annuity optional form under Section ~~[4.03]~~ [4.02] is in effect for him on the date of his death, there are no death benefits payable under this Article ~~[V]~~ [7].

(2) If the life annuity with certain period optional form under Section ~~[4.03]~~ [4.02] is in effect for him on the date of his death, there will be provided for his Beneficiary, beginning on the Monthly Date following his death, a certain period benefit payable monthly for the certain period applicable under said option. The amount of the monthly payments to such Beneficiary will be equal to the amount that would have been payable monthly to such Participant had his Retirement Date occurred on the Monthly Date coinciding with (immediately preceding, if none coincides with) the date of his death.

(3) If the survivorship life annuity optional form under Section ~~[4.03]~~ [4.02] is in effect for him on the date of his death, there will be provided for his designated Contingent Annuitant, beginning on the Monthly Date

coinciding with (immediately following, if none coincides with) the date of his death, a retirement benefit payable monthly in like manner as if such Contingent Annuitant were a Participant with Retirement Date beginning on such Monthly Date if and so long as such Contingent Annuitant lives. The amount of such monthly retirement benefit will be equal to the amount that would have been payable to such Participant had his Retirement Date occurred on the Monthly Date coinciding with (immediately preceding, if none coincides with) the date of his death, multiplied by the percentage in effect under such optional form.

(4) If the life annuity with modified cash refund [optional] form under Section 4.02 is in effect for him on the date of his death, there will be provided for his Beneficiary, a single sum payment equal to his Participant's Contribution Account.

[(5) If none of the above optional forms is in effect for him on the date of his death, a single sum death benefit equal to the amount provided in Section 7.01(a) (determined as if Section 7.01(a) applied) will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section 4.02 for the benefit of such Beneficiary.]

There are no death benefits under this Plan before retirement, except as may be provided under Article ~~[VIA]~~ [10].

SECTION ~~[5.02-]~~[7.02-]-DEATH BENEFIT AFTER RETIREMENT.

Any death benefit after retirement will be in accordance with the form of retirement benefit in effect on a Participant's Retirement Date and will be payable in accordance with the provisions under Article ~~[IV]~~ [4].

ARTICLE [8.] ~~[VI~~

~~]~~ TERMINATION OF BENEFITS

SECTION ~~[6.01--]~~[8.01--TERMINATION] BENEFITS.

An Employee who becomes an Inactive Participant one month or more prior to his Retirement Date shall be entitled to one of the following benefits:

(a) Deferred Payment. If an Inactive Participant so elects, he will receive a deferred monthly retirement benefit to commence on his Normal Retirement Date. The amount of such deferred monthly retirement benefit, in accordance with the Normal Form, shall be equal to the following:

(1) Effective on and after July 1, 1993, for an Inactive Participant hired on or after July 1, 1993[, other than an Inactive Participant who was a Police Officer, Firefighter, or the City Attorney]:

An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant. The amount may not exceed 100% of his Average ~~[Monthly]~~ Compensation, but in no event shall be less than the monthly benefit provided by the ~~[actuarial equivalent]~~ [Actuarial Equivalent] of his Participant's Contribution Account.

(2) For an Inactive Participant hired prior to July 1, 1993[, and for an Inactive Participant who was a Police Officer, Firefighter, or the City Attorney,] an amount equal to the sum of (i) and (ii) below:

(i) An amount equal to the amount of monthly retirement benefit which could be provided on his Normal Retirement Date by that portion of his Participant's Contribution Account made on or after July 1, 1979~~[,]~~[;] and

(ii) An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant[,]

provided that the sum of (i) and (ii) do not exceed 100% of his Average ~~[Monthly]~~ Compensation, but in no event shall be less than the monthly benefit provided by the ~~[actuarial equivalent]~~ [Actuarial Equivalent] of his Participant's Contribution Account.

(b) An Inactive Participant may elect to have his deferred monthly retirement benefit commence on his Early Retirement Date. The amount of such deferred monthly

retirement benefit shall be equal to the amount of deferred benefit determined in ~~[(a)]~~ [Section 8.01(a)] above multiplied by the factor shown in ~~[paragraph (b) of]~~ Section 4.01[(b)] corresponding to the number of years his Early Retirement Date precedes his Normal Retirement Date.

Payment of the deferred monthly retirement benefit will be in the form of retirement benefit in effect on a Participant's Retirement Date as provided under Section 4.02.

(c) Immediate Payment. In lieu of any benefits otherwise available under this Article ~~[VI]~~ [8.], a Participant may elect to receive his Participant's Contribution Account in a single sum payment.

If the Inactive Participant elects to receive his Participant's Contribution Account in a single sum payment, he shall receive his payment 90 days after the date he ceases to be an Employee and before his Retirement Date. Any such payment will be a voluntary cash-out, in lieu of a part of the deferred retirement benefit otherwise available to him on his Retirement Date. Payment of his Participant's Contribution Account cancels the part of his benefit determined under ~~[(a)(1) and (a)(2)]~~ [Section 8.01(a)] above.

If, upon the date a Participant ceases to be an Employee, the present value of his deferred retirement benefit is less than $1,750, it will, unless otherwise directed by the ~~[Plan Administrator]~~ [Employer], be paid as an involuntary cash-out in a single sum in full settlement of all benefits otherwise payable to him. This value will be determined under the provisions of the Group Contract.

SECTION ~~[6.02-]~~[8.02-]-REPAYMENT OF SINGLE SUM PAYMENT.

[(a)] A Participant

~~[(a)]~~[(1)] who received a single sum payment under this Plan of less than the present value of his Accrued Benefit on the date of payment, and

~~[(b)]~~[(2)] who again performs ~~[service]~~ [Service] as an Eligible Employee

may make repayment to the Plan no longer than the earlier of

~~[(c)]~~[(3)] the last day of the two-year period which begins on the date he again performs ~~[service]~~ [Service] as an Eligible Employee, or

~~[(d)]~~[(4)] the last day of the five-year period which begins on the date the single sum payment is made.

The amount which must be repaid is the full amount of the single sum payment he received with interest at the rate of ~~{5% (or such other percentage as may be determined by governmental regulations from time to time)}~~ [8%] per annum [compounded annually], on such payment compounded annually from the date the payment was made to the date he repaid the full amount. ~~{~~

~~}~~If repayment is made, the Participant's Accrued Benefit will not be reduced for the single sum payment.

~~{ARTICLE VIA}~~[(b) Beginning July 1, 2002, the Plan will accept a Participant's repayment in the form of the following rollovers, contributions, and transfers made after December 31, 2001, from the types of plans described below:]

~~{VOLUNTARY CONTRIBUTIONS}~~[(1) A direct rollover of an eligible rollover distribution from, or a participant contribution of an eligible rollover distribution from:

(i) A qualified plan described in IRC Section 401(a) or 403(a);

(ii) An annuity contract described in IRC Section 403(b); or

(iii) An eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A),

but only if the Plan is an eligible retirement plan with respect to the direct rollover or participant contribution.

(2) A participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in IRC Section 408(a) or 408(b) that is eligible to be rolled over and would otherwise be includible in gross income.

(3) A direct trustee-to-trustee transfer authorized by IRC Section 457(e)(17) from an eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A).

The definitions in Section 13.03 apply for purposes of this Section 8.02(b).

ARTICLE 9. ADDITIONAL BENEFITS FOR PERS BENEFIT INCREASES

SECTION 9.01--PURPOSE.

This Article 9. implements the requirement that the Employer provide increases in benefits for certain Public Safety Employees that are equal to or the actuarial equivalent of certain increases in benefits under the Oregon Public Employees Retirement System granted in 1991 and 1995 to certain police officers and firefighters. That requirement and those increases are provided in ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

SECTION 9.02--INCREASE IN DISTRIBUTION.

Upon distribution of an Eligible Employee's Accrued Benefit in a calendar year in which distributions under this Plan are not exempt from Oregon personal income taxation, the amount of the distribution shall be increased by the greater of the following amounts:

(a) The amount determined by multiplying the Eligible Payments of the Eligible Portion of the Employee's Accrued Benefit by the following percentage:]

[If the Employee's Years of PSE Service at the Employee's last Severance of Employment are:	*The percentage is:*
Less than 10	0%
At least 10 but not 20	1%
At least 20 but not 25	$2^1/_2$%
25 or more	4%]

[(b) The amount determined by multiplying the Eligible Payments of the Eligible Portion of the Employee's Accrued Benefit by the percentage determined under the following formula:

$$\left(\frac{1}{.91} - 1\right) \times \left(\frac{\text{the Employee's Years of PSE Service before October 1, 1991}}{\text{the Employee's Years of PSE Service}}\right)$$

The amount of such increase shall be allocated among the components of the Employee's Accrued Benefit in proportion to the Actuarial Equivalent value of each. The increase allocated to each component shall be paid in the same form as the component is paid.

SECTION 9.03--ALTERNATE PAYEES.

Despite Section 9.02 above, (1) the amount by which the distribution to an alternate payee is to be increased shall not be determined or paid before the participant's Severance of Employment,

(2) no increase shall be paid (even after the participant's Severance of Employment) with respect to a lump sum distribution (including a direct rollover) made to an alternate payee before the participant's Severance of Employment, and (3) the amount of the increase in the distribution to the alternate payee with respect to distributions previously made shall be distributed in the following forms, without interest for delayed payment:

(a) In a lump sum distribution if the benefit is attributable to monthly payments previously made under an annuity.

(b) As a supplement to the annuity if the increase is attributable to monthly payments to be made in the future under a previously started annuity.

SECTION 9.04--DEFINITIONS; CHANGE IN TAX RATE.

For purposes of this Article 9.:

(a) An "Eligible Employee" is any Employee who before July 14, 1995, was a Public Safety Member and whose last Severance of Employment occurred or occurs while the Employee is a Public Safety Employee and either occurred before January 1, 1991, for a reason other than the Employee's death or occurred or occurs after December 31, 1990, for any reason.

(b) "Public Safety Member" means an Active Participant employed by the Employer as a firefighter or police officer as those terms are defined in ORS 237.610.

(c) "Public Safety Employee" means an Employee employed by the Employer as a firefighter or police officer as those terms are defined in ORS 237.610.

(d) "Accrued Benefit" means the participant's Accrued Benefit as defined in Section 1.05, but specifically excluding the cost of living adjustment provided in Article 6., the benefit provided in this Article 9., and the benefit attributable to the participant's Voluntary Account.

(e) "Eligible Payments" are all payments made after December 31, 1990, other than:

(1) Payments that would have been made before January 1, 1991, but for the Employee's election to defer distribution, as determined in the discretion of the Employer.

(2) Payments with respect to an Eligible Employee whose last Severance of Employment occurred before January 1, 1991, other than periodic payments made under an annuity. Whether a payment is periodic shall be determined in the discretion of the Employer.

(f) The "Eligible Portion" is the part of the Accrued Benefit attributable to Plan Participation as a Public Safety Member.

(g) "Years of PSE Service" are Years of Service during which the Eligible Employee was a Public Safety Employee, which Years of Service shall be determined by counting only completed months of Service during which the Employee was at all times a Public Safety Employee.

(h) "Severance of Employment" means permanent termination of employment with the Employer for any cause.

(i) The decimal .91 in the formula in Section 9.02(b) above shall automatically be adjusted as provided in this Section 9.04(i) to reflect changes in the maximum Oregon personal income tax rate imposed upon individuals who are full-year residents of Oregon. An increase in such rate by x percentage points shall cause such decimal to be reduced by x 100ths, and a reduction in such rate by x percentage points shall cause such decimal to be increased by x 100ths. For example, following are the decimals that correspond to particular rates:]

[If the rate is:	*The decimal is:*
7%	.93
8%	.92
9%	.91
10%	.90
11%	.89]

[Any such change in the decimal shall be effective only for distributions made on or after the effective date of the change in such rate. No amount distributed to an Eligible Employee, Beneficiary, Contingent Annuitant, or alternate payee before the change is implemented may be recovered from any person or offset against any undistributed benefit of any person to account for any such change.

SECTION 9.05--PRIOR DISTRIBUTIONS.

The Employer shall as soon as administratively feasible cause to be distributed to Eligible Employees (and where applicable their Beneficiaries, Contingent Annuitants, and alternate payees) without interest any benefits provided in this Article 9. or Article 6. attributable to distributions previously made and shall appropriately adjust the cost of living adjustment provided in Article 6. for payments to be made in the future. Such benefits shall be distributed in the following forms:

(a) In a lump sum distribution if the benefit is attributable to:

(1) A lump sum distribution (including a direct rollover); or

(2) Monthly payments previously made under an annuity.

(b) As a supplement to the annuity if the benefit is attributable to monthly payments to be made in the future under a previously started annuity.

SECTION 9.06--LIMITATIONS.

The benefits provided in this Article 9.:

(a) Shall not be paid with respect to any portion of an Eligible Employee's Accrued Benefit that is transferred to the Oregon Public Employees Retirement System or the payment of which is assumed or made by the Oregon Public Employees Retirement System.

(b) May by amendment of this Plan be reduced, eliminated, or changed for all or some Employees with respect to service performed before or after the amendment:

(1) To the extent a court of competent jurisdiction or the Employer determines that the Employer is not required to implement one or more of the provisions of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569 that by their terms apply to the Employer.

(2) To the extent a court of competent jurisdiction or the Employer determines that any of the benefits, or the aggregate benefits, provided in this Article 9. are more than is required to implement the provisions of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

(3) As the Employer determines appropriate to respond to any law modifying any requirement of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

(4) As the Employer in the Employer's absolute discretion deems appropriate, even though none of the events described above in this Section 9.06(b), and no like event, has occurred.

Any such benefits that are reduced, eliminated, or changed after they have been distributed may not be recovered from any person or offset against any undistributed benefit of any person to account for any such reduction, elimination, or change.

SECTION 9.07--NO CONTRACT RIGHTS.

No Eligible Employee, Beneficiary, Contingent Annuitant, or alternate payee shall acquire a right, contractual or otherwise, to the increased benefits provided by this Article 9.

ARTICLE 10. VOLUNTARY CONTRIBUTIONS]

SECTION ~~[6A.01-]~~[10.01-]-VOLUNTARY CONTRIBUTIONS.

An Active Participant may make Voluntary Contributions. These Contributions may be made during any period in which he is an Active Participant. Voluntary Contributions will be made in accordance with procedures set up by the Employer.

A Participant's Voluntary Contributions, including any voluntary contributions he has made under any other qualified plan of the Employer or predecessor of the Employer, may not, in the aggregate, exceed 10% of his aggregate earnings from the Employer and predecessor for the period of time that he has actively participated under this and such other plan or plans.

An Active Participant may begin to make Voluntary Contributions on any Quarterly Date.

An Active Participant may change the amount of future Voluntary Contributions on any Quarterly Date.

An Active Participant may stop making his Voluntary Contributions on any Quarterly Date. He may then resume making Voluntary Contributions on any Quarterly Date.

Before the date he ceases to be an Employee, a Participant may withdraw any part of his Voluntary Account resulting from his Voluntary Contributions in a single sum, but not more than the original amount of those Contributions. A withdrawal may occur only once in a Plan Year.

Stopping, changing[,] or withdrawing Voluntary Contributions will not affect a Participant's participation in the Plan. No portion of his Voluntary Account resulting from any other Contributions will be forfeited solely because of such withdrawal. An Active Participant's request to begin, change, stop[,] or withdraw his Voluntary Contributions will be in writing on a form furnished for that purpose. This form will include any necessary authorization for payroll deduction and will be delivered to the Employer before the date Contributions are to begin, change, stop[,] or be withdrawn.

No Voluntary Contributions will be made by a Participant after the second calendar month preceding his Retirement Date.

Voluntary Contributions will be credited to the Participant's Voluntary Account as they are made and will be forwarded to the Insurer at least quarterly.

Voluntary Contributions are fully vested and nonforfeitable.

SECTION ~~[6A.02-]~~[10.02-]-INVESTMENT OF VOLUNTARY CONTRIBUTIONS.

All Voluntary Contributions made by or on behalf of an Active Participant will be forwarded by the Employer to the Insurer to be deposited under the Group Contract and invested according to its provisions.

However, no Voluntary Contributions may be invested in any of the separate accounts of the Insurer in which the Group Contract participates.

SECTION ~~[6A.03-]~~[10.03-]-RETIREMENT BENEFITS.

On a Participant's Retirement Date, his Voluntary Account will be used to purchase additional benefits for him as provided in Section 4.03.

SECTION ~~[6A.04-]~~[10.04-]-DEATH BENEFITS.

If the death of the Participant occurs before his Retirement Date, a distribution of his Voluntary Account will be made to his Beneficiary as provided in this Article [10. A Participant's Voluntary Account will not be distributed to his Beneficiary under this Article 10. if a death benefit is paid under Section 7.01(a) or 7.01(b)(5) on account of the Participant's death].

SECTION ~~[6A.05-]~~[10.05-]-VESTED BENEFITS.

The Participant's Voluntary Account will be held for him until the earlier of his Retirement Date or death and will then be applied as provided in Section ~~[6A.03]~~ [10.03] or Section ~~[6A.04]~~ [10.04], unless he receives earlier distribution under this Section ~~[6A.05]~~ [10.05].

An Inactive Participant may elect to have his Voluntary Account distributed under one or more of the methods described in Section 4.02 before his Retirement Date or death. The distribution may be in the form of an immediate annuity only if the amount which would be applied to purchase the annuity under the Group Contract is $1,750 or more. Benefit payments may begin at the time after the Participant ceases to be an Employee but not later than his Normal Retirement Date.

Any election by a Participant to receive a distribution of all or part of his Voluntary Account must be made before he again becomes an Employee.

If, on the date he ceases to be an Employee, a Participant's Voluntary Account is less than $1,750, it will, unless otherwise directed by the Employer be paid to him in a single sum as an involuntary cash-out.

ARTICLE [11.] ~~[VII~~

~~]~~ TERMINATION OF PLAN

SECTION ~~[7.01-]~~[11.01-]-TERMINATION OF PLAN.

The Employer expects to continue the Plan indefinitely but reserves the right to terminate the Plan in whole or in part at any time by giving written notice to all parties concerned.

~~[In any event,]~~ [SECTION 11.02--VESTING ON TERMINATION.

Upon termination or partial termination of the Plan or] complete discontinuance of contributions under the Plan ~~[shall constitute termination of Plan.]~~[, the rights of all affected employees to benefits accrued to the date of such termination, to the extent then funded, shall become nonforfeitable.]

SECTION ~~[7.02-]~~[11.03-]-PROCEDURES UPON TERMINATION OF PLAN.

Upon termination of Plan, the following provisions shall apply:

(a) No further Employees shall become Participants and no further contributions shall be made.

(b)~~[The Vesting Percentage shall be 100% with respect to any Inactive Participant who became such by reason of termination of Plan.~~

~~(c)]~~ Each Participant's account shall be held under the Group Contract and applied as heretofore provided in this Plan upon such Participant's death, Termination of Employment[,] or Retirement Date.

In lieu of a portion of his deferred monthly retirement income under this ~~[subparagraph (c)]~~ [Section 11.03(b)], such Participant may elect to receive his Participant's Contribution Account in a single sum payment at any time on or subsequent to his Termination of Employment and prior to his Retirement Date.

~~[(d)]~~[(c)] All disability payments will cease and the Plan assets, other than those arising from ~~[subparagraph (c) of this]~~ Section ~~[7.02]~~ [11.03(b)] held by the Insurer under the Group Contract as to those Participants whose Retirement Dates have not yet occurred shall be allocated and applied to the extent they are sufficient to purchase benefits for all Participants who had not reached their Retirement Dates prior to the effective date of termination of Plan, in accordance with the following classifications and order of precedence.

(1) First, to purchase immediate monthly retirement benefits for those Participants whose Normal Retirement Dates occurred on or prior to the effective date of termination of Plan, but who had not retired, and for those Participants who were receiving disability benefits pursuant to Article ~~[IV.A]~~ [5.] on the effective date of termination of Plan.

(2) Second, to purchase deferred monthly retirement benefits for such Participants who have attained age 60 or older on the effective date of termination of Plan and who are not included in [Section 11.03(c)](1) above.

(3) Third, to purchase deferred monthly retirement benefits for such Participants who have attained age 55 or older on the effective date of termination of Plan and who are not included in [Section 11.03(c)](1) or [11.03(c)](2) above.

(4) Fourth, to purchase deferred monthly retirement benefits for all other Participants.

The monthly retirement benefit to be purchased for each such Participant shall be payable in accordance with the Normal Form beginning on his Normal Retirement Date (on the effective date of termination of Plan, if later) and the amount shall be equal to (i) his Accrued Benefit (or disability benefit, if applicable) on the effective date of termination of Plan; provided, however, that if the Plan assets are insufficient to purchase such monthly retirement benefits in full for any class, the monthly retirement benefits for all in such class shall be reduced, as determined by the Insurer, to such fraction as the amount available will provide. ~~[If the Plan assets are more than sufficient to purchase such monthly retirement benefits in full for all classes, the monthly retirement benefits for all such Participants shall be increased as determined by the Insurer by such uniform percentage as the amount available will provide.]~~

In any event, that portion of the Plan assets attributable to each Participant's Voluntary Account, if any, will be applied on the effective date of termination of Plan to provide for him an amount of deferred monthly retirement income benefit before the allocation and application of assets determined according to the classification and order of precedence in ~~[subparagraph (d) of this]~~ Section ~~[7.02]~~ [11.03(c)].

~~[In any event, the benefits provided as to each Participant upon termination of Plan shall be fully vested and nonforfeitable.]~~ No part of the assets of ~~[any Employer's pension plan]~~ [the Plan] shall be paid or distributed to such Employer at any time~~[, except that]~~ [except as provided in Section 3.01 (about returned contributions) and except that,] after satisfaction of all liabilities under such Plan, any overpayments made by such Employer as a result of erroneous actuarial computations shall be repaid to such Employer.

ARTICLE ~~[VIIA~~

~~TEMPORARY LIMITATION OF BENEFITS FOR HIGHLY PAID EMPLOYEES~~

~~SECTION 7A.01--DEFINITIONS.~~

~~The definitions shown below are in addition to the definitions shown under Article I:~~

~~(a) "Highly Paid Employee" means each one of the twenty-five persons employed by the Employer~~

~~(1) who have the highest annual compensations on a Commencement Date (as defined below), and~~

~~(2) for each of whom the monthly retirement benefit to be provided on his Normal Retirement Date on the basis of his annual compensation on such Commencement Date is in excess of $125.~~

~~(b) "Commencement Date" means the effective date of the Employer's retirement plan or the effective date of any amendment to the Employer's retirement plan which increases the monthly retirement benefit to be provided for Highly Paid Employees on their Normal Retirement Dates determined pursuant to the provisions of the Prior Plan or this Plan, whichever is applicable.~~

~~(c) "Currently Funded." This Plan is deemed to be Currently Funded as of any date of determination if the full current costs of the Plan have been funded as of the last day of the Plan Year in which such date of determination occurs. The term "full current costs" means the normal cost (the amount actuarially determined which would be required as a contribution by the Employer each year to maintain such Plan if such Plan had been in effect from the beginning of service of each then included person employed by the Employer and if such costs for prior years had been paid and all assumptions entering into the determinations of such costs had been fulfilled) for all years since the effective date of such Plan, plus interest on any unfunded liability during such period.~~

~~(d) "Restriction Period" means the period during which the limitations of this Article VIIA are applicable. If this Plan is Currently Funded on the date ten years after the latest Commencement Date, the limitations of this Article VIIA will thereupon cease to apply; otherwise, the limitations of this Article VIIA will cease to apply on the earliest date thereafter on which this Plan becomes Currently Funded.~~

~~(e) "Average Annual Compensation" means for the purposes of this Article VIIA, the annual average of the Highly Paid Employee's total pay received from the Employer for the latest five calendar years ending prior to the earliest of his Termination of Employment, his Retirement Date and the date as of which the computation of Unrestricted Benefits is made.~~

~~(f) "Unrestricted Benefits" means the amount of benefits under this Plan for a Highly Paid Employee equal to his Required Participant Contribution Accrued Benefit plus the amount provided by the greatest of the following amounts:~~

~~(1) $20,000.~~

~~(2) 20% of the first $50,000 of his Average Annual Compensation multiplied by the number of years with respect to which this Plan has been in force subsequent to the latest Commencement Date and prior to the earlier of the date as of which the computation of Unrestricted Benefits is made and the last date as of which this Plan was Currently Funded, plus the amount which would have been applied to provide his Unrestricted Benefits if the Plan had terminated on the day preceding the latest Commencement Date.~~

~~(3) The amount which would have been applied to provide his Unrestricted Benefits if the Plan, as in effect on the day preceding the latest Commencement Date, had continued without change.~~

~~SECTION 7A.02--LIMITATION OF BENEFITS.~~

~~While this Plan is Currently Funded and prior to the effective date of termination of Plan and within a Restriction Period, income payments will be provided for a Highly Paid Employee in excess of his Unrestricted Benefits to the extent total monthly payments to him do not exceed the full amount of retirement benefit on the Normal Form to which he is entitled under the Plan.~~

~~If, prior to the effective date of termination of Plan and within a Restriction Period this Plan fails to be Currently Funded, then after the date on which it is determined that this Plan is not Currently Funded and continuing until this Plan becomes Currently Funded or until termination of Plan occurs, if earlier, that portion of each income payment to be made to a Highly Paid Employee who was alive on such date of determination (to his Beneficiary or to his Contingent Annuitant if he died subsequent to such date) in excess of that provided by his Unrestricted Benefits will be withheld. The amount thus withheld will be added to the Plan assets held by the Insurer under the Group Contract as of the date of payment.~~

~~If termination of Plan occurs within the Restriction Period, the following will apply:~~

~~(a) No benefit may be provided under this Plan for any Highly Paid Employee in excess of his Unrestricted Benefits.~~

~~(b) If any monthly retirement benefit has been provided for any Highly Paid Employee in excess of his Unrestricted Benefits, and if he is living on the effective date of termination of Plan, such excess will be cancelled as of the effective date of termination of Plan. The reserve for such cancelled monthly retirement benefit will be added to the Plan assets held by the Insurer under the Group Contract as of such date.~~

~~ARTICLE VIII~~

~~]~~[12.] ADMINISTRATION OF PLAN

SECTION ~~[8.01-]~~[12.01-]-ADMINISTRATION.

The Employer will have complete control of the administration of the Plan, subject to the provisions hereof, with all powers necessary to enable it properly to carry out its duties in that respect. Not in limitation, but in amplification of the foregoing, it will have the [discretionary] power to construe the Plan and to determine all questions that may arise hereunder, including all questions relating to the eligibility of Employees to participate in the Plan and the amount of benefit to which any Participant, Beneficiary, ~~[or]~~ Contingent Annuitant[, or alternate payee] may become entitled hereunder. Its decision upon all matters within the scope of its authority will be final.

The Employer will establish rules and procedures to be followed by Participants, Beneficiaries, ~~[and]~~ Contingent Annuitants[, and alternate payees] in filing applications for benefits, in furnishing and verifying proofs necessary to determine age, and in any other matters required to administer the Plan. It may delegate to any person or firm such recordkeeping and other duties necessary to assist the Employer with the administration of the Plan not otherwise set out in the Plan or the Group Contract, as specifically agreed to by such person or firm.

The Employer will receive all applications for benefits and will determine all facts necessary to establish the right of the applicant to benefits under the provisions of the Plan and the amount thereof as herein provided.

The Employer will be entitled to rely upon all tables, valuations, certificates[,] and reports furnished by the consultant or actuary appointed by the Employer and upon all opinions given by any counsel selected or approved by it.

SECTION ~~[8.02-]~~[12.02-]-RECORDS.

All acts and determinations of the Employer will be duly recorded and all such records, together with such other documents as may be necessary for the administration of the Plan, will be preserved in its custody.

SECTION ~~[8.03-]~~[12.03-]-DELEGATION OF AUTHORITY.

The ~~[Administrative]~~ [administrative] duties and responsibilities set forth in Section ~~[8.01]~~ [12.01] may be delegated by the Employer to a retirement committee consisting of such persons as it selects. The Employer shall notify the Insurer in writing of the authority conferred upon the retirement committee and of the membership of the retirement committee and any changes therein as they occur from time to time. The Insurer shall be entitled to rely on the last such notification received, until written notification to the contrary has been received from the Employer. The members of the retirement committee shall be free from all liability, joint or several, for their acts, omissions[,] and conduct, and for the acts, omissions[,] and conduct of their duly constituted agents, in the administration of the Plan, and the Employer shall indemnify and save each of them

harmless from effects and consequences of their acts, omissions[,] and conduct in their official capacity, except to the extent that such effects and consequences shall result from their own willful misconduct or gross negligence.

Members of the retirement committee shall serve without compensation for services as such, but all expenses incurred by it shall be paid by the Employer or by the Plan, upon written authorization of the Employer provided to the Insurer. Such expenses shall include any expenses incident to the functioning of the retirement committee including, but not limited to, fees of accountants, counsel, and other specialists related directly to the administration and operation of the Plan. [All other expenses of the Plan or the Group Contract, unless paid by the Employer, shall be paid by the Plan upon written authorization of the Employer provided to the Insurer.]

The Employer will have the power to appoint or remove any person to manage (including the power to acquire and dispose of) any assets of the Plan. It may appoint or remove any person or persons to serve in more than one fiduciary capacity with respect to the Plan (including service both as trustee and administrator).

The Employer will have the power to appoint or remove the Insurer.

SECTION ~~[8.04-]~~[12.04-]-INFORMATION AVAILABLE.

Any Participant ~~[in the Plan]~~ [or alternate payee] or any Beneficiary [or Contingent Annuitant] receiving benefits under the Plan may examine copies of ~~[Plan description, latest annual report,]~~ this Plan, the Group Contract[,] or any other instrument under which the Plan was established or is operated. The Employer will maintain all of the items listed in this Section ~~[8.04]~~ [12.04] in its office, or in such place or places as it may designate from time to time, for examination during reasonable business hours. Upon written request of a Participant or [alternate payee or] Beneficiary [or Contingent Annuitant] receiving benefits under the Plan, the Employer will furnish him with a copy of any item listed in this Section ~~[8.04]~~ [12.04]. The Employer may make a reasonable charge to the requesting person for the copy so furnished.

~~[ARTICLE IX~~

~~GENERAL PROVISIONS~~

~~SECTION 9.01--ESTABLISHMENT AND AMENDMENT OF PLAN.~~

~~This Plan is established with the intent and purpose that it will qualify as an employee retirement plan within the terms and conditions of the Internal Revenue Code and contributions thereunder will come within the terms of said Code.~~

~~The Employer may amend this plan at any time, including any remedial retroactive changes (within the specified period of time as may be determined by Internal Revenue Service regulations~~

~~from time to time) to comply with the requirements of any law or regulation issued by any governmental agency to which the Employer is subject. No amendment will diminish or adversely affect any accrued interest or benefit of Participants or their Beneficiaries, except as may be required to comply with the requirements of any law or regulation issued by any governmental agency to which the Employer is subject. Any amendment of the Plan will not allow reversion or diversion of Plan assets to the Employer at any time; nor will any such amendment allow the merger or consolidation with, or transfer of assets or liabilities to or from, any other plan, unless provision is made that benefits to Plan Participants immediately after the merger, consolidation or transfer (if the Plan then terminated) are equal to or greater than the benefits to which such Participants would have been entitled to receive immediately before the merger, consolidation or transfer (if the Plan had then terminated).]~~ [SECTION 12.05--CLAIMS.

Upon the request of a participant or beneficiary (including an alternate payee), or by action of the Employer, the Employer shall provide claim forms to any participant or his beneficiary who becomes entitled to benefits under the Plan. Such claim form shall be completed and submitted to the Employer no later than 30 days after it is received by the participant or beneficiary. Upon receipt of the claim form, the Employer shall review the appropriateness of the claim and if the Employer determines that the claim should not be allowed, the Employer shall respond in writing within 30 days of the receipt of the claim to the participant or beneficiary. The response 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, need be supplied by the participant or beneficiary 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 30 days of receipt by the Employer, the claim shall be deemed denied.

Within 60 days after receipt of notice of denial of the claim or when the claim is deemed to have been denied, the participant or beneficiary (or representative) may respond to the denial by requesting, in writing, a review of the decision and a review of pertinent documents. If the participant or beneficiary (or representative) 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 60 days from the Employer's receipt of the request for review, respond to said request. In modification of the foregoing, if the Employer, in the Employer's sole discretion, determines that special circumstances warrant the holding of a hearing, it shall promptly be held and a decision shall be rendered within 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.

ARTICLE 13. REQUIRED PROVISIONS

SECTION 13.01--REQUIRED STARTING DATE.

(a) The entire interest of each participant in the Plan:

(1) Will be distributed to the participant no later than the Required Starting Date; or

(2) Will be distributed, starting not later than the Required Starting Date, in accordance with Treasury regulations, over the life of the participant or over the lives of the participant and a Designated Beneficiary (or over a period not extending beyond the life expectancy of the participant or the life expectancy of the participant and a Designated Beneficiary).

(b) If the distribution of the participant's interest has begun in accordance with Section 13.01(a)(2) above and the participant dies before the participant's entire interest has been distributed to the participant, the remaining portion of the participant's interest will be distributed at least as rapidly as under the method of distributions being made under Section 13.01(a)(2) above as of the date of the participant's death.

(c) If a participant dies before the distribution of the participant's interest has begun in accordance with Section 13.01(a)(2) above, the entire interest of the participant will be distributed within five years after the death of the participant. However, the five-year rule does not apply to any portion of the participant's interest payable to (or for the benefit of) a Designated Beneficiary; and not later than one year after the date of the participant's death or such later date as may be prescribed by Treasury regulations distributions (in accordance with Treasury regulations) of such portion will start over the life of the Designated Beneficiary (or over a period not extending beyond the life expectancy of the Designated Beneficiary).

(d) With respect to a Designated Beneficiary who is the participant's surviving spouse:

(1) The date on which the distributions are required to start for purposes of the exception to the five-year rule in Section 13.01(c) above will not be earlier than the date on which the participant would have attained age 70½; and

(2) If the surviving spouse dies before the distributions to the spouse start, Section 13.01(b) and 13.01(c) above will be applied as if the spouse were the participant.

(e) For purposes of this Section 13.01.:

(1) "Required Starting Date" means April 1 of the calendar year following the later of (a) the calendar year in which the participant attains age 70½ or (b) the calendar year in which the participant retires.

(2) "Designated Beneficiary" means any individual designated as a beneficiary by the participant.

(3) "Spouse" and "surviving spouse" include an alternate payee who is the participant's former spouse.

(4) In accordance with Treasury regulations, any amount paid to a child will be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse upon such child reaching majority (or other designated event permitted under Treasury regulations).

(5) Any distribution required under the incidental death benefit requirements of IRC Section 401(a) will be treated as a distribution required under this Section 13.01.

(f) Despite any contrary provision of the Plan, the Plan will apply the minimum distribution requirements of IRC Section 401(a)(9) in accordance with the following proposed, final, and temporary Treasury regulations:

(1) With respect to distributions made for calendar years beginning before January 1, 2001, the regulations under IRC Section 401(a)(9) that were proposed in 1987, including Proposed Treasury Regulation Section 1.401(a)(9)-2.

(2) With respect to distributions made for the calendar year beginning on January 1, 2001, the regulations under IRC Section 401(a)(9) that were proposed on January 17, 2001.

(3) With respect to distributions made for calendar years beginning on or after January 1, 2002, Treasury Regulation Sections 1.401(a)(9)-1 through 1.401(a)(9)-9, and also Treasury Regulation Section 1.401(a)(9)-6T for the period it applies.

(g) This Section 13.01.:

(1) Applies only to the extent this Section 13.01 requires a distribution to be made earlier than otherwise required under the Plan.

(2) Overrides any distribution options in the Plan inconsistent with IRC Section 401(a)(9).

(3) Applies to Plan Years beginning after December 31, 1986, or such later date provided in Public Law No. 98-369, Section 521(d)(5) (about collective bargaining agreements).

SECTION 13.02--ANNUAL COMPENSATION LIMIT.

Except for purposes of Sections 13.05, 13.06, and 13.07, the annual compensation taken into account for each participant in determining plan allocations and benefit accruals under the Plan for any Plan Year is limited to the annual compensation limit under IRC Section 401(a)(17)(A) ($150,000 for Plan Years beginning before January 1, 2002, and $200,000 for Plan Years beginning after December 31, 2001), as adjusted for increases in the cost of living in accordance with IRC Section 401(a)(17)(B). For Plan Years beginning before January 1, 1997, in determining the compensation of a participant the rules of IRC Section 414(q)(6) shall apply, except that in applying such rules the term "family" shall include only the spouse of the participant and any lineal descendants of the participant who have not attained age 19 before the close of the Plan Year. The requirements of IRC Section 401(a)(17) and the Treasury regulations thereunder are incorporated into the Plan by this reference. This Section 13.02 applies to Plan Years beginning after December 31, 1995.

SECTION 13.03--DIRECT ROLLOVERS.

Despite any contrary provision of the Plan that would otherwise limit a distributee's election under this Section 13.03, a distributee may elect, at the time and in the manner prescribed by the Employer, to have any portion of an eligible rollover distribution made after December 31, 1992, paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions shall apply to this Section 13.03 and Section 8.02(b).:

(a) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, but not including:

(1) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

(2) Any distribution to the extent such distribution is required under IRC Section 401(a)(9);

(3) For distributions made before January 1, 2002, the portion of any distribution that is not includable in gross income;

(4) For distributions made after December 31, 2001, any distribution that is made upon hardship of the employee; and

(5) Unless the Employer affirmatively elects to the contrary, any minimum amount permitted by IRC Section 401(a)(31) and Treasury regulations issued thereunder that is permitted to be excluded from the definition of eligible rollover distribution.

(b) Eligible retirement plan: An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution:

(1) An individual retirement account or annuity described in IRC Section 408(a) or 408(b);

(2) A qualified plan described in IRC Section 401(a) or 403(a);

(3) For distributions made after December 31, 2001, an annuity contract described in IRC Section 403(b); or

(4) For distributions made after December 31, 2001, an eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A) and that agrees to separately account for amounts transferred into such plan from the Plan.

However:

(5) In the case of an eligible rollover distribution to the surviving spouse in a distribution made before January 1, 2002, an eligible retirement plan is only an individual retirement account described in IRC Section 408(a) or individual retirement annuity described in IRC Section 408(b).

(6) In the case of a direct rollover of an amount that is not includable in gross income in a distribution made after December 31, 2001, an eligible retirement plan is only (a) a qualified defined contribution plan described in IRC Section 401(a) or 403(a) that agrees to separately account for amounts transferred in the direct rollover, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable, (b) an individual retirement plan described in IRC Section 408(a), or (c) an individual retirement annuity described in IRC Section 408(b).

(c) Distributee: A distributee includes a participant. In addition, the participant's surviving spouse and the participant's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

(d) Direct rollover: A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

Such distribution may begin less than 30 days after the required special tax notice is given to the distributee if (1) the Employer clearly informs the distributee that the distributee has a right to a period of at least 30 days after receiving the notice to consider the decision whether to elect a particular distribution option and (2) the distributee, after receiving the notice, affirmatively elects a distribution.

SECTION 13.04--BENEFITS FOR MILITARY SERVICE.

Effective for reemployments initiated on or after December 12, 1994, and despite any contrary provision of the Plan, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with IRC Section 414(u).

SECTION 13.05--LIMIT ON BENEFITS.

For limitation years beginning after December 31, 1983, and despite any contrary provision of the Plan a participant's annual benefit under the Plan during any limitation year may not exceed the limitations of IRC Section 415 as provided in this Section 13.05.

(a) A participant's annual benefit under the Plan during any limitation year may not exceed the dollar limitation under IRC Section 415(b)(1)(A) for the limitation year and, for limitation years beginning before January 1, 1995, also may not exceed 100% of the participant's average compensation (as defined in Section 13.09) for the participant's high three years.

(b) The dollar limitation and the compensation limitation in Section 13.05(a) above and in IRC Section 415(b)(1)(A) and (B) will be annually adjusted for increases in the cost of living in accordance with Treasury regulations, including for participants who have separated from service. Without limiting the foregoing:

(1) As of January 1 of each calendar year the dollar limitation will be automatically adjusted to the new dollar limitation determined by the Commissioner of Internal Revenue for that calendar year. The new dollar limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

(2) In the case of a participant who has separated from service, the participant's average compensation for the participant's high three years will be automatically adjusted by multiplying such average compensation by the cost of living adjustment factor prescribed by the Secretary of the Treasury under IRC Section 415(d) in such manner as the Secretary shall prescribe. Such adjusted average compensation will apply to limitation years ending within the calendar year of the date of adjustment.

(c) A participant's high three years will be determined based on calendar years.

(d) If a participant's annual benefit during a limitation year (payable in the normal form or in any optional form subject to adjustment under IRC Section 415(b)(2)(B)) would exceed the amount provided in Section 13.05(a) above, the participant's annual benefit during such limitation year will be reduced to the amount provided in Section 13.05(a).

(e) Except as provided in IRC Section 415(f)(3) (about multiemployer plans), which is effective for limitation years beginning after December 31, 2001, in the case of any participant in another defined benefit plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), (1) all such plans will be treated as one plan and (2) the annual benefit that may be provided to the participant under the Plan as provided in Section 13.05(a) above will be reduced by the amount of the aggregate of the annual benefits provided to the participant under such other plans.

(f) The limitations in this Section 13.05 will be applied according to the adjustments described in and the provisions of IRC Section 415 (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into the Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(b)(2)(B) (about benefits payable in other than the normal form), 415(b)(2)(C) and (D) (about benefits commencing before or after a stated age or stated ages), 415(b)(2)(F) (about plans maintained by governments), 415(b)(2)(G) and (H) (about police and firefighters), 415(b)(2)(I) (about disability and survivor benefits under governmental plans), 415(b)(4) (about total annual benefits not exceeding $10,000), 415(b)(5) (about employees with less than 10 years of participation or service), and 415(n) (about purchase of permissive service credit).

(g) The adjustments described in IRC Section 415(b)(2)(B), (C), and (D) will be made by ignoring mortality decrement to the extent a forfeiture does not occur upon death and as follows:

(1) The adjustment described in IRC Section 415(b)(2)(B) will be made using (i) the interest rate and applicable mortality table specified in Section 1.03(i) or (ii) 5% interest and the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v), whichever produces the greater annual benefit.

(2) The adjustments described in IRC Section 415(b)(2)(C) and (D) will be made using (i) the interest rate and applicable mortality table specified in Section 1.03(i) or (ii) 5% interest and the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v), whichever produces the lesser annual benefit.

For limitation years beginning before January 1, 2000, the above provisions of this Section 13.05(g) shall be applied by substituting "the applicable mortality table specified in Section 1.03(i)" for "the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v)" wherever such latter phrase appears. The mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v) is, for distributions with annuity starting dates before January 1, 2002, the table prescribed in Revenue Ruling 95-6 and, for distributions with annuity starting dates on or after December 31, 2002, the table prescribed in Revenue Ruling 2001-62.

(h) For purposes of the adjustment in IRC Section 415(b)(5):

(1) A year of participation is a Plan Year for which the participant is a participant;

(2) A year of service is a Plan Year for which the participant is employed by the Employer; and

(3) A participant who is permanently and totally disabled (as defined in IRC Section 22(e)(3)) for a Plan Year will be credited with a year of participation and a year of service for that year.

SECTION 13.06--LIMIT ON ANNUAL ADDITIONS.

(a) For limitation years beginning after December 31, 1983, and despite any contrary provision of the Plan, the annual additions to any participant's accounts under the Plan may not exceed the lesser of the dollar limitation in IRC Section 415(c)(1)(A) or 25% (100% for limitation years beginning after December 31, 2001) of the participant's compensation (as defined in Section 13.09). The dollar limit in this Section 13.06(a) will be adjusted as follows:

(1) For increases in the cost of living in accordance with IRC Section 415(d).

(2) For limitation years beginning after December 31, 1986, and before January 1, 1995, the dollar limit will be adjusted to, if greater, one-quarter of the dollar limitation in effect under IRC Section 415(b)(1)(A).

(b) In the case of any participant in another defined contribution plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), all such plans will be treated as one plan, and the maximum annual addition to the participant's accounts as provided above will be reduced by the aggregate of the amount of the annual additions to the participant's accounts under such other plans. For this purpose a defined contribution plan includes a welfare benefit fund (within the meaning of IRC Section 419(e)), an individual medical benefit account (within the meaning of IRC Section 415(l)(2)), and a simplified employee pension (within the meaning of IRC Section 408(k)).

(c) If as a result of a reasonable error in estimating a participant's compensation or such other reason as is permitted under Treasury Regulation Section 1.415-6(b)(6) a participant's annual addition would exceed the limitations in this Section 13.06, determined after applying Section 13.07, the participant's contributions to the participant's accounts together with any allocable earnings will be distributed to the participant as soon as administratively feasible to the extent required to eliminate such excess.

(d) The limitations in this Section 13.06 will be applied according to adjustments described in and the provisions of IRC Sections 415 and 419A(d) (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(c)(2) (defining "annual addition"), 415(d) (about COLAs), 415(l) (about individual medical benefit accounts), and 419A(d)(2) (about medical benefit accounts for key employees in a welfare benefit fund).

SECTION 13.07--COMBINED LIMIT ON BENEFITS AND ANNUAL ADDITIONS.

For limitation years beginning after December 31, 1983, and before January 1, 2000, and despite any contrary provision of the Plan:

(a) The sum of a participant's defined benefit plan fraction (within the meaning of IRC Section 415(e)) for the Plan and the participant's defined contribution plan fraction (within the meaning of IRC Section 415(e)) for the Plan for any year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under the Plan will be reduced to the extent necessary for such sum not to exceed 1.0.

(b) If a participant is a participant in another defined contribution or defined benefit plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), all defined benefit plans of the employer will be treated as one plan, and all defined contribution plans of the employer will be treated as one plan, and the sum of the participant's defined benefit plan fraction (within the meaning of IRC Section 415(e)) for such aggregate defined benefit plans and the participant's defined contribution plan fraction (within the meaning of IRC Section 415(e)) for such aggregate defined contribution plans for any year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under the Plan will be reduced to the extent necessary for such sum not to exceed 1.0. For this purpose a defined contribution plan includes a welfare benefit fund (within the meaning of IRC Section 419(e)), an individual medical benefit account (within the meaning of IRC Section 415(l)(2)), and a simplified employee pension (within the meaning of IRC Section 408(k)).

(c) The limitations in this Section 13.07 will be applied according to adjustments described in and the provisions of IRC Section 415 (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(e) (about limitation in the case of a defined benefit plan and a defined contribution plan for the same employee).

(l) At the election of the Employer, in applying the provisions of this Section 13.07 with respect to the defined contribution plan fraction the amount taken into account for the denominator for each participant for all Plan Years ending before January 1, 1983, shall be an equal to the product of (1) the amount of the denominator determined under Section 4.05(k) of the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN for Plan Years ending before January 1, 1982, multiplied by (2) the "transition fraction," which is a fraction (i) the numerator of which is the lesser of (A) $51,875 or (B) 1.4 multiplied by 25% of the participant's compensation for the Plan Year ending in 1981, and (ii) the denominator of which is the lesser of (A) $41,500 or (B) 25% of the participant's compensation for the Plan Year ending in 1981.

SECTION 13.08--LIMITATION YEAR.

The limitation year shall be the Plan Year.

SECTION 13.09--COMPENSATION FOR PURPOSES OF LIMITS.

For purposes of Sections 13.05, 13.06, and 13.07, "compensation" means wages within the meaning of IRC Section 3401(a) (for the purposes of income tax withholding at the source) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC Section 3401(a)(2)).

(a) For limitation years beginning after December 31, 1997, "compensation" includes any elective deferral (as defined in IRC Section 402(g)(3)) contributed by the employer and any amount contributed or deferred by the employer at the election of the participant and not includable in the gross income of the participant by reason of IRC Section 125 or 457.

(b) For limitation years beginning after December 31, 2000, "compensation" includes any amount contributed or deferred by the employer at the election of the participant and not includable in the gross income of the participant by reason of IRC Section 132(f)(4).

(c) Effective January 1, 2002, "compensation" includes any additional elective deferral under IRC Section 414(v) contributed by the employer.

(d) For purposes of Sections 13.05, 13.06, and 13.07, the amounts included in a participant's compensation under this Section 13.09 will be based on such amounts from the employer (within the meaning of IRC Section 414(b), (c), (m), and (o) [effective July 18, 1984], after applying IRC Section 415(h)).

SECTION 13.10--ANNUITY CONTRACTS.

Benefits may be paid by distributing an annuity contract purchased by the Employer for the Participant, alternate payee, or Beneficiary (the payee).

(a) Delivery of any such contract will be in full satisfaction of the rights under the Plan of the payee and the payee's Contingent Annuitant, Beneficiary, and estate, and upon the delivery thereof such persons will have no further interest under the Plan or in the Group Contract with respect to the benefits to be paid under the contract and must look solely to the insurer issuing the contract for the payment of such benefits.

(b) Any refund or credit under any such contract (on account of dividends, earnings, or other experience rating credits, or surrender or cancellation credits) in excess of the benefits under the Plan to be paid under the contract, and any proceeds from demutualization of the issuer of the contract or the issuer's successor, will be paid to the Plan for addition to the Group Contract.

(c) Any such contract must be nontransferable.

(d) The terms of the Plan control in the event of any conflict between the terms of the Plan and the terms of any such contract.

ARTICLE 14. GENERAL PROVISIONS

SECTION 14.01--AMENDMENT OF PLAN.

The Employer, acting through its City Council or City Manager, may amend this Plan at any time, including any remedial retroactive changes (within the specified period of time as may be determined by Treasury regulations or Internal Revenue Service guidance from time to time) to comply with the requirements of any law or regulation issued by any governmental agency to which the Employer is subject. However, the City Manager may amend this Plan only to clarify this Plan, facilitate the administration of this Plan, or make changes adapting this Plan to the requirements of law, changes in law, or the terms of a collective bargaining agreement, all as determined in the discretion of the City Manager.

SECTION 14.02--EXCLUSIVE BENEFIT.

Except as provided in Section 3.01 (about return of contributions) or Article 11. (about termination of the Plan), no asset of the Plan or Group Contract may be used for or diverted to any purpose other than for the exclusive benefit of participants or their beneficiaries and defraying reasonable expenses of administering the Plan and Group Contract; and no amendment or termination of the Plan, or merger or consolidation with, or transfer of assets or liabilities to, any other plan, shall operate to allow any asset of the Plan or Group Contract to be used for or diverted to any such prohibited purpose.]

SECTION ~~[9.02-]~~[14.03-]-PROVISIONS RELATING TO THE INSURER.

The Insurer is not a party to the Plan, nor will it be bound in any way by the provisions of the Plan, nor will it be required to look to the terms of this Plan, nor to determine whether the Employer has the authority to act in any particular manner or to make any contract or agreement.

SECTION ~~[9.03-]~~[14.04-]-EMPLOYMENT STATUS.

Nothing contained in this Plan will be deemed to give any Employee the right to be retained in the employ of the Employer or to interfere with the rights of the Employer to discharge any Employee at any time.

Any final payment or distribution to any Participant or his legal representative or to any Beneficiaries ~~[to]~~[,] Contingent Annuitant[, or alternate payee] of such Participant in accordance with the provisions herein will be in full satisfaction of all claims against the Plan, the Insurer[,] and the Employer arising under or by virtue of the Plan.

SECTION ~~[9.04--]~~[14.05--]BENEFICIARY.

Each Participant may name a Beneficiary to receive any death benefit (other than any monthly income payable to a Contingent Annuitant) which may arise out of his participation in the Plan and may change such Beneficiary from time to time without the consent of such Beneficiary. It will be the responsibility of the Participant to give written notice to the Insurer of the name of his Beneficiary on a form furnished for that purpose.

In modification of the above, the Employer may maintain records of Beneficiary designations as to Participants prior to their Retirement Dates, in which event the written designations made by Participants will be filed with the Employer and in the event of a Participant's death prior to his Retirement Date, the Employer will certify to the ~~[insurer]~~ [Insurer] the Beneficiary designation on its records as to such Participant.

If, at the death of a Participant, there is no Beneficiary named or surviving, the death benefit, if any, under the ~~[Group Contract]~~ [Plan] will be paid ~~[in accordance with the applicable provisions of such Group Contract.]~~ [to the Participant's estate.

For purposes of determining a Participant's Beneficiary:

(a) A Beneficiary does not include an individual, even if designated by the Participant, who does not survive the Participant or who is treated under Oregon law as not surviving the Participant. For this purpose (1) the Participant and the individual will be treated as residing in Oregon and (2) Oregon law includes without limitation the Uniform Simultaneous Death Act (ORS 112.570 to ORS 112.590) or its successor and the Uniform Disclaimer of Property Interests Act, ORS 105.623 to 105.649, or its successor but does not include Oregon law regarding conflicts of laws.

(b) ORS 112.175 to 112.195, about adoption, or successor Oregon statutes, apply to determine relationships. ORS 112.105, about paternity, or successor Oregon statutes, and other comparable state laws apply without regard to any limitation therein regarding intestate succession. ORS 112.455 to 112.555, regarding certain deaths caused by an individual, or successor Oregon statutes, apply without regard to whether the death occurs or the individual or Participant resides in Oregon.]

SECTION ~~[9.05-]~~[14.06-]-SPENDTHRIFT CLAUSE.

~~[None of the benefits payable hereunder will]~~ [Except as provided in Section 14.14 (about domestic relations orders), no benefit under the Plan or Group Contract may be voluntarily or involuntarily or revocably or irrevocably alienated, transferred, assigned (either at law or in equity), anticipated, mortgaged, or otherwise encumbered, or] be subject to ~~[the claims of any creditor of any Participant, Beneficiary or Contingent Annuitant, nor will any Participant, Beneficiary or Contingent annuitant have any right to alienate, anticipate, commute, pledge,~~

~~encumber or assign any of such benefits.~~] [garnishment attachment, levy, seizure, execution, sequestration, or other legal or equitable process for the payment of debts, judgments, alimony, separate maintenance, or other amounts or claims, or be transferred by operation of law in the event of bankruptcy, insolvency, or otherwise.]

SECTION ~~[9.06-]~~[14.07-]-FACILITY OF PAYMENT.

If any ~~[Participant, Beneficiary of Contentent Annuitant is physically or mentally incapable of giving a valid receipt for any payment due him and no legal representative has been appointed for him]~~ [person to whom a Plan benefit is payable is a minor or (as determined in the Employer's discretion) incompetent by reason of physical or mental disability], the Employer may direct the Insurer to make ~~[such payment to any person or institution maintaining such Participant, Beneficiary or Contingent Annuitant and the release]~~ [the payments becoming due to such person to another for such person's benefit without responsibility for the Employer or the Insurer to see to the application] of such ~~[person or institution will be a valid and complete discharge for such]~~[payments, including without limitation to a custodian for the person, selected by the Employer or the Insurer without liability for the selection made, under the Oregon Uniform Transfers to Minors Act or under any other comparable state law. Any payment made pursuant to such power will as to such] payment [operate as a complete discharge of the Employer and the Insurer].

SECTION ~~[9.07--]~~[14.08--]CONSTRUCTION.

The ~~[validity of the]~~ Plan ~~[or any of its provisions will be determined under and]~~ will be construed according to ~~[federal law, and to the extent permissible according to]~~ the laws of the ~~[state in which the Employer has its principal office]~~ [State of Oregon and will be interpreted and administered consistent with the applicable requirements of the IRC for the Plan to be qualified under IRC Section 401(a). Any provision of the Plan that is based on a provision of the IRC, including one not necessary for the Plan to be qualified, will be interpreted and administered consistent with such provision of the IRC and the interpretive authorities thereunder.

The Plan includes provisions adopted in good faith to comply with the Economic Growth and Tax Relief Reconciliation Act of 2001. Such provisions shall be interpreted and administered consistent with Treasury regulations and Internal Revenue Service guidance regarding such Act, even where such regulations and guidance are inconsistent with the literal interpretation of such provisions].[

]In case any provision of this Plan will be held illegal or invalid for any reason, such determination will not affect the remaining provisions of this Plan, but the Plan will be construed and enforced as if said illegal or invalid provision had never been included.

SECTION ~~[9.08-]~~[14.09-]-LEGAL ACTIONS.

To any action or proceeding involving the assets held with respect to the Plan or the administration thereof, the ~~[plan]~~ [Plan] and the Employer will be the necessary parties and no person employed

by the Employer, Participant, former Participant or their Beneficiaries or any other person having or claiming to have an interest in the Plan will be entitled to any notice or process. Any final judgment which is appealed or appealable that may be entered in any such action or proceeding will be binding and conclusive on all persons having or claiming to have any interest in the Plan.

SECTION ~~[9.09-]~~[14.10-]-MODIFICATION IN MODE OF PAYMENT.

If the present value of the initial monthly amount of retirement benefit payable to any Participant on his Retirement Date, ~~[or]~~ to a Participant's Beneficiary or Contingent Annuitant due to such Participant's death, [or to an alternate payee,] is less than $1,750, such value may, at the discretion of the Employer, be paid in a single sum in full settlement of all benefits otherwise payable. Such value will be determined on the basis of the annuity purchase rates in the Group Contract.

SECTION ~~[9.10--]~~[14.11--INTEREST.

Interest will not be paid on any amount of benefit paid after the date as of which it is to be paid under the Plan if the amount is paid as soon as administratively feasible after such date, taking into account any delay caused by the person entitled to the payment, any inability to locate such person, and any uncertainty regarding the identity of such person or the amount to be paid. Where interest is payable, it will be paid at the rate specified in Section 1.03(i).

SECTION 14.12--]PRONOUNS.

Masculine pronouns as used in this Plan will include both masculine and feminine gender unless the context indicates otherwise.

SECTION ~~[9.11-]~~[14.13--CAPTIONS.

The captions are for convenience only and have no substantive effect.

SECTION 14.14-]-DISTRIBUTION OF BENEFITS TO ~~[FORMER SPOUSE.]~~ [ALTERNATE PAYEE.]

~~[Notwithstanding any other]~~ [Despite any contrary] provision ~~[contained in this Plan, the Administrator shall make an immediate distribution of a Participant's Required Participant Contributions to a former spouse of the Participant if the Administrator receives a Domestic Relations Order ordering that such payment shall be made. The distribution shall be limited to the lesser of the amount necessary to satisfy the Domestic Relations order or the amount which is in the Participant's Contribution Account on the date the order is issued. The distribution to the former spouse shall be in the form of a single sum payment, the value of which shall be determined under the provisions of the Group Contract, consistent with the provisions of Section 6.01(c)]~~ of the Plan~~[. This Section 9.11 is effective July 1, 1988.~~

~~IN WITNESS WHEREOF, this Employer has caused this Plan to be executed by its duly appointed officers this _____ day of _____, 19____.]~~ [except Section 13.01 (about required starting date), to the extent required by and subject to the restrictions of ORS 237.600, a participant's benefit will be paid, in whole or in part, to an alternate payee (and not to the participant or other beneficiary) 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. Payment to the alternate payee may be made before the participant's Termination of Employment with the Employer if provided or allowed by the decree, order, or agreement.

(a) The Plan will apply ORS 237.600 to decrees, orders, or agreements whenever entered or modified, including those entered or last modified before January 1, 1994.

(b) No benefit under the Plan will 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 satisfy the Employer:

(1) That the copy is a true copy of the Order.

(2) That the Order is, within the meaning of ORS 237.600, 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.

(3) Of the extent to which the terms of the Order expressly provide for payment of a benefit under the Plan to an alternate payee.

(4) Of any other fact or matter required for the Employer to:

(i) Determine the application of ORS 237.600 to the Order or the extent to which the Order applies to the Plan.

(ii) Comply with the Order or with ORS 237.600.

(iii) Administer the Plan under the terms of the Order.

(c) Neither Employer nor the Plan will charge or collect out of the benefits payable to the participant or the alternate payee any administrative expenses or related costs incurred by Employer or the Plan in obtaining data or making calculations necessary by reason of ORS 237.600.

(d) For periods beginning before a participant's Termination of Employment with the Employer, the amounts payable to the participant's alternate payee will be determined using the interest rate and mortality table specified in Section 1.03(i), not the factors specified in Section 4.01(b) or the provision in Section 4.01(b) for no reduction.

SECTION 14.15--MERGER.

This Plan is funded by Group Contracts issued by the Insurer to fund benefits for participants and their beneficiaries in the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and in the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN, which plans are restated in this Plan. Effective as of a date to be determined by the Employer's Finance Director, the Employer shall cause the Insurer to modify or combine the Group Contracts so that all of the assets of the Group Contracts are available to pay benefits to all employees who are covered by this Plan and their beneficiaries. Until that date, the part of this Plan resulting from the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN may continue to be known by such name, and the part of this Plan resulting from the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN may continue to be known by such name.

DATED June 26, 2002.]

CITY OF NEWBERG

By _____
City Manager

HERSHNER, HUNTER, ANDREWS, NEILL & SMITH, LLP
LAW OFFICES

180 East 11th Avenue
P.O. Box 1475
Eugene, Oregon 97440
Telecopy (541) 344-2025
Telephone (541) 686-8511

June 30, 2002

VCP

Employee Plans VCP
Internal Revenue Service
2 Cupania Circle
Monterey Park, CA 91755-7431

RE: VCP Submission for the City of Newberg General Employees Retirement Plan
Our File No. 21867-20202

To Whom It May Concern:

This VCP submission relates to a plan document failure of the City of Newberg General Employees Retirement Plan (the Plan). The City of Newberg, Oregon, which is the plan sponsor of the Plan, requests a compliance statement to be issued in connection with this VCP submission. Concurrent with this VCP submission the Plan is being submitted for a determination letter, the application for which is enclosed.

Enclosed with this VCP submission are the following documents:

1. A completed Appendix C to Revenue Procedure 2001-17 (the "Checklist").

2. The plan sponsor's examination and perjury statements (item numbers 8, 9, and 15 on the Checklist).

3. A memo providing information relating to this submission required by the Checklist and Section 11 of Revenue Procedure 2001-17.

4. A copy of the Plan (item number 10 on the Checklist).

5. A copy of the most recent favorable determination letter (item number 11 on the Checklist).

6. Power of Attorney, IRS Form 2848 (item number 14 on the Checklist).

FILE COPY

7. A copy of IRS Form 5300 and an Attachment to IRS Form 5300 that are being submitted in conjunction with this VCP submission for a determination letter (item number 25 on the Checklist).

Very truly yours,

EMMA THOMPSON
Plan sponsor's authorized representative

ECT:pk
Enclosures

cc: City of Newberg (w/enclosures 1-3)

file copy

APPENDIX C

VCP CHECKLIST
IS YOUR SUBMISSION COMPLETE?

INSTRUCTIONS

The Service will be able to respond more quickly to your VCP request if it is carefully prepared and complete. To ensure that your request is in order, use this checklist. Answer each question in the checklist by inserting yes, no, or N/A, as appropriate, in the blank next to the item. *Sign and date the checklist (as taxpayer or authorized representative) and place it on top of your request.* You must submit a completed copy of this checklist with your request.

If a completed checklist is not submitted with your request, substantive consideration of your submission will be deferred until a completed checklist is received.

TAXPAYER'S NAME City of Newberg

TAXPAYER'S I.D. NO. 93-6002221

PLAN NAME & NO. City of Newberg General Employee Retirement Plan #002

ATTORNEY/P.O.A. Everett Moreland

The following items relate to all submissions:

Yes — 1. Have you included a complete description of the failure(s) and the years in which the failure(s) occurred (including the years for which the statutory period has expired)? (See section 11.02(1) of Rev. Proc. 2001-17.) (Hereafter, all section references are to Rev. Proc. 2001-17.)

Yes — 2. Have you included an explanation of how and why the failure(s) arose, including a description of the administrative procedures for the plan in effect at the time the failure(s) occurred? (See section 11.02(2) and (3).)

Yes — 3. Have you included a detailed description of the method for correcting the failure(s) identified in your submission? This description must include, for example, the number of employees affected and the expected cost of correction (both of which may be approximated if the exact number cannot be determined at the time of the request), the years involved, and calculations or assumptions the Plan Sponsor used to determine the amounts needed for correction. In lieu of providing correction calculations with respect to each employee affected by a failure, you may submit calculations with respect to a representative sample of affected employees. However, the representative sample calculations must be sufficient to demonstrate each aspect of the correction method proposed. Note that each step of the correction method must be described in narrative form. (See section 11.02(4).)

N/A — 4. Have you described the earnings or interest methodology (indicating computation period and basis for determining earnings or interest rates) that will be used to calculate earnings or interest on any corrective contributions or distributions? (As a general rule, the interest rate (or rates) earned by the plan during the applicable period(s) should be used in determining the earnings for corrective contributions or distributions.) (See section 11.02(5).)

If you inserted "N/A" for item 4, enter explanation:

This is a VCP Submission for a plan document failure. No corrective contributions or distributions are required.

N/A — 5. Have you submitted specific calculations for each affected employee or a representative sample of affected employees? (See section 11.02(6).)

N/A — 6. Have you described the method that will be used to locate and notify former employees or, if there are no former employees affected by the failure(s) or the correction(s), provided an affirmative statement to that effect? (See section 11.02(7).)

Yes — 7. Have you provided a description of the administrative measures that have been or will be implemented to ensure that the same failure(s) do not recur? (See section 11.02(8).)

Yes — 8. Have you included a statement that, to the best of the Plan Sponsor's knowledge, the plan is not currently under an Employee Plans examination? (See section 11.02(9).)

Yes — 9. Have you included a statement that, to the best of the Plan Sponsor's knowledge, the Plan Sponsor is not under an Exempt Organizations examination? (See section 11.02(9).)

Yes — 10. Have you included a copy of the portions of the plan document (and adoption agreement, if applicable) relevant to the failure(s) and method(s) of correction? (See section 11.04(2).)

Yes — 11. Have you included a copy of the plan's most recent Favorable Letter and/or the required applicable document(s)? (See section 11.04(4).)

N/A — 12. Have you included the appropriate voluntary compliance fee due with the submission? (See section 11.06.)

Yes — 13. Have you included the original signature of the sponsor or the sponsor's authorized representative? (See section 11.07.)

Yes — 14. Have you included a Power of Attorney (Form 2848)? Note: representation under VCP is limited to attorneys, certified public accountants, enrolled agents, and enrolled actuaries; unenrolled return preparers are not eligible to act as representatives under VCP. (See section 11.08.)

Yes — 15. Have you included a Penalty of Perjury Statement signed (original signature only) and dated by the Plan Sponsor? (See section 11.09.)

Yes — 16. Have you designated your submission as a VCP, VCO, VCS, VCT, VCSEP, VCGroup, or Anonymous Submission Procedure, as appropriate? (See section 11.11.)

The following items relate only to submissions under VCO (including VCS):

N/A — 17. If the plan is currently being considered in a determination letter application on a Form 5310, have you included a statement to that effect? (See section 11.03(10).)

N/A — 18. Have you included a copy of the first page, the page containing employee census information (currently line 7f of the 1999 Form 5500), and the information relating to plan assets (currently line 31f of the 1999 Form 5500) of the most recently filed Form 5500 series return? Note: If a Form 5500 is not applicable, insert N/A and furnish the name of the plan, and the census information required of Form 5500 series filers. (See section 11.04(1)(b).)

N/A — 19. Have you proposed a time period of correction that is limited to 150 days (240 days for VCGroup) from the date the compliance statement is issued? (See sections 10.06(8) and 10.14(3)(b).)

The following items relate only to submissions under VCS:

N/A — 20. Are each of the failures you have identified eligible for correction under VCS? (See Appendix A and Appendix B.)

N/A — 21. Have you identified no more than two VCS failures? (If more than two failures were identified, VCS is not available, but you may make a submission under VCO.) (See section 10.11(3).)

N/A — 22. Have you proposed to correct the failure(s) identified in your request using the permitted correction method(s) set forth in Appendix A or Appendix B? (See Appendix A and Appendix B.)

The following items relates only to submissions under the general procedures of VCP:

N/A — 24. Have you included a copy of the most recently filed Form 5500? (See section 11.04(1)(b).)

Yes — 25. Have you submitted an application for a determination letter? (See section 11.05.)

Emma Thompson — June 24, 2002

Signature — Date

Plan representative

Title or Authority

Emma Thompson

Typed or printed name of person signing checklist

PERJURY STATEMENT

By signing below, I declare that, to the best of my knowledge, neither the Plan nor the Plan Sponsor is under an exempt organizations examination (as defined in Revenue Procedure 2001-17).

Under penalties of perjury, I declare that I have examined this submission, including accompanying documents, and, to the best of my knowledge and belief, the facts presented in support of this submission are true, correct, and complete.

PLAN SPONSOR

Date: June 24, 2002

By: Kathleen Hu

Its: Finance Director

FILE COPY

MEMORANDUM

TO: Internal Revenue Services - Employee Plans VCP

FROM: Emma Thompson (Plan Representative for City of Newberg)

DATE: June 28, 2002

RE: City of Newberg General Employees Retirement Plan

The following paragraphs provide the information requested by the Checklist and Section 11 of Revenue Procedure 2001-17:

1. **Complete Description of the Failures and the Years in Which the Failures Occurred (number 1 on the Checklist).**

Failure to timely amend the Plan for law changes and other requirements not covered by the Plan's last determination letter (TEFRA except for IRC Section 415, DEFRA, REA, and any other requirements). The years in which the failures occurred are the years in which the remedial amendment periods for those laws expired.

2. **Explanation of how and why the failures arose, including a description of the administrative procedures in effect at the time the failures occurred (number 2 on the Checklist).**

The failures to timely amend for law changes arose because during the relevant years the Plan was not assisted by a profession responsible to identify to the plan sponsor the need to timely amend the Plan for law changes. During the relevant years the Plan's administration was performed by personnel at the City of Newberg (the plan sponsor), Milliman USA (the plan actuary), and Principal Financial Group (the issuer of the group annuity contract funding the Plan). City personnel administering the Plan did not have the training to identify the need to timely amend the Plan for law changes. These personnel assumed that Milliman USA and Principal Financial Group were providing all the professional assistance required to maintain the Plan's tax qualification. However, neither Milliman USA nor Principal Financial Group assumed the duty to advise City personnel of the need to timely amend the Plan for law changes.

3. **Detailed description of the method for correcting the failures (number 3 on the Checklist).**

The plan document failure has been corrected by restating the Plan. That Plan restatement is enclosed with this VCP submission. The restatement includes all of the required amendments since the last favorable determination letter was issued for the Plan.

HERSHNER, HUNTER, ANDREWS, NEILL & SMITH, LLP
LAW OFFICES
P.O. BOX 1475
EUGENE, OREGON 97440
FAX (541) 344-3025
TELEPHONE (541) 686-7551

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The rest of the information described in item number 3 of the Checklist is not applicable to the failures.

4. **Description of the methodology used to calculate earnings or actuarial adjustments on any corrective contributions or distributions (number 4 on the Checklist).**

Not applicable to the failures.

5. **Specific calculations for each affected employee or representative sample of affected employees (number 5 on the Checklist).**

Not applicable to the failures.

6. **The method to be used to contact former employees and beneficiaries (number 6 on the Checklist).**

No former employee is affected by the failures.

7. **Description of the administrative measures that have been or will be implemented to ensure that the same failures will not recur (number 7 on the Checklist).**

The plan sponsor (the City of Newberg) has retained an attorney to advise the City when the Plan needs to be amended for law changes.

8. **Copy of the most recently filed Form 5500 (number 24 on the Checklist).**

Form 5500 is not filed for the Plan. The Plan is a governmental plan.

HERSHNER, HUNTER, ANDREWS, NEILL & SMITH, LLP
LAW OFFICES
P.O. BOX 1475
EUGENE, OREGON 97440
FAX (541) 344-2025
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Telephone (541) 686-8511

EMMA C. THOMPSON
ethompson@hershnerhunter.com

June 30, 2002

Employee Plans VCP
Internal Revenue Service
2 Cupania Circle
Monterey Park, CA 91755-7431

RE: Application for Determination for Qualification of the
City of Newberg Police and Fire Men Retirement Plan
Our File No. 21867-20201

Enclosed in support of this application for determination letter for the above referenced plan are the following:

1. A copy of the above plan. The plan document enclosed, as explained in its introduction, updates both this plan and the City of Newberg General Employees Retirement Plan. An Application for Determination for the City of Newberg General Employees Retirement Plan is also being submitted at this time.

2. A completed IRS Form 5300.

3. An Attachment to IRS Form 5300 containing required supplemental information.

4. A IRS Form 8717, together with our client's check in the amount of $1400 to pay for this submission and the determination letter submission for the City of Newberg General Employees Retirement Plan, which is being submitted in conjunction with this plan.

5. A certified true copy of IRS Form 2848, Power of Attorney.

6. A copy of the most recent favorable determination letter.

FILE COPY

7. A copy of the plan amendments since the most recent favorable determination letter.

8. A Statement of the Amendments to the Plan.

A Schedule Q is not being filed for this Plan.

Additional Rulings Requested.

1. The Plan Sponsor requests a ruling that the Plan, in Section 13.01(f), has been properly amended for the proposed and final regulations under IRC § 401(a)(9).

2. The Plan Sponsor requests a ruling that the Plan, in Section 13.05(g), has been properly amended to incorporate reference to the mortality tables found in Revenue Ruling 2001-62.

Sincerely,

EMMA C. THOMPSON

ECT:pk

Enclosures

cc: City of Newberg (without enclosures)

EGS CASE # 60 of 1 1 0 0

Form **5300**
(Rev. September 2001)
Department of the Treasury
Internal Revenue Service

Application for Determination for Employee Benefit Plan

(Including collectively bargained plans formerly filed on Form 5303)
(Under sections 401(a) and 501(a) of the Internal Revenue Code)

Read the Procedural Requirements Checklist on page 5 before submitting this application.

OMB No. 1545-0197

For IRS Use Only

001

1a Name of plan sponsor (employer if single-employer plan)
City of Newberg

1b Employer identification number
93-6002221

Number, street, and room or suite no. (If a P.O. box, see instructions.)
401 E. Third Street

1c Employer's tax year ends — Enter (MM)
06

City | State | ZIP code
Newberg OR 97132

1d Telephone number
(503) 537-1216

2a Person to contact if more information is needed. (See instructions.) (If Form 2848, Power of Attorney and Declaration of Representative, or other written designation is attached, check box and do not complete the rest of this line.) ▶ [X]

1e Fax number
(503) 538-5393

Name

Number, street, and room or suite no. (If a P.O. box, see instructions.)

2b Telephone number

City | State | ZIP code

2c Fax number

3a Determination requested for (enter applicable number(s) in the box and fill in required information). (See instructions.)

[ ] Enter 1 for Initial Qualification — Date plan signed ▶ _____

[2] Enter 2 for a request after initial qualification — Is complete plan attached? (See instructions.) ▶ Yes [X] No [ ]
Date amendment signed ▶ June 24, 2002 Date amendment effective ▶ July 1, 2002

[ ] Enter 3 for Affiliated Service Group status (section 414(m)) — Date effective ▶ _____

[ ] Enter 4 for Leased Employee status

[ ] Enter 5 for Partial termination — Date effective ▶ _____

[ ] Enter 6 for Termination of collectively bargained multiemployer or multiple-employer plan covered by PBGC Insurance — Date of Termination ▶ _____

b Has the plan received a determination letter? Yes [X] No [ ]
Date of letter ▶ March 14, 1983
If "Yes," submit a copy of the latest letter and subsequent amendments.
Number of amendments ▶ Several
If "No," submit all prior plan(s) and/or adoption agreement(s). (See instructions.)

c Have interested parties been given the required notification of this application? (See instructions.) Yes [X] No [ ]

d Does the plan have a cash or deferred arrangement (section 401(k))? Yes [ ] No [X]

e Does the plan have matching contributions (section 401(m))? Yes [ ] No [X]

f Does the plan have after-tax employee voluntary contributions (section 401(m))? Yes [X] No [ ]

g Does this plan benefit noncollectively bargained employees or are more than 2% of the employees who are covered under a collective bargaining agreement for professional employees? Yes [ ] No [X]
See Regulations section 1.410(b)-9.

h Does the plan provide for disparity in contributions or benefits that is intended to meet the permitted disparity requirements of section 401(l)? Yes [ ] No [X]

4a Name of plan (Plan name may not exceed 66 characters, including spaces.):
City of Newberg Police and Fire Men Retirement Plan

001 b Enter 3-digit plan number

07/01/1964 d Enter plan's original effective date (MMDDYYYY)

06/30 c Enter date plan year ends (MMDD)

20 e Enter number of participants (See instructions.)

Under penalties of perjury, I declare that I have examined this application, including accompanying statements and schedules, and to the best of my knowledge and belief, it is true, correct, and complete.

Print Name ▶ Katherine L. Tri Title ▶ Finance Director

Signature ▶ Katherine Tri Date ▶ 6/24/2002

For Paperwork Reduction Act Notice, see separate instructions. Form 5300 (Rev. 9-2001)

ISA
STF FED5405F.1

5 Indicate type of plan by entering the number from the list below.

[4]

1 — profit-sharing and/or 401(k) 4 — defined benefit but not cash balance 7 — non-leveraged ESOP
2 — money purchase 5 — cash balance 8 — stock bonus
3 — target benefit 6 — leveraged ESOP 9 — safe harbor 401(k)

		Yes	No
6a	Is the employer a member of an affiliated service group?		X
b	Is the employer a member of a controlled group of corporations or a group of trades or businesses under common control?		X
	If **a** and/or **b** above is "Yes," complete required statement (see instructions).		
7a	Is this a governmental plan?	X	
	If "Yes," is the plan a state level plan?		X
b	Is this a nonelecting church plan?		X
c	Is this a collectively bargained plan? (See Regulations section 1.410(b)-9.)	X	
d	Is this a section 412(i) plan?		X
e	Is this a multiple-employer plan? Enter number of participating employers ▶ _____		X
f	Is this a multiemployer plan as described in section 414(f)?		X
8a	Do you maintain any other qualified plan(s) under section 401(a)?	X	
	If "Yes," attach required statement (see instructions).		
	If "No," skip to line 8d.		
b	Do you maintain another plan of the same type (i.e., both this plan and the other plan are defined contribution plans or both are defined benefit plans) that covers non-key employees who are also covered under this plan?		X
	If yes, when the plan is top-heavy, do the non-key employees covered under both plans receive the required top-heavy minimum contribution or benefit under:		
	(1) This plan?		
	(2) The other plan?		
c	If this is a defined contribution plan, do you maintain a defined benefit plan (or if this is a defined benefit plan, do you maintain a defined contribution plan) that covers non-key employees who are also covered under this plan?		X
	If yes, when the plan is top-heavy, do non-key employees covered under both plans receive:		
	(1) the top-heavy minimum benefit under the defined benefit plan?		
	(2) at least a 5% minimum contribution under the defined contribution plan?		
	(3) the minimum benefit offset by benefits provided by the defined contribution plan?		
	(4) benefits under both plans that, using a comparability analysis, are at least equal to the minimum benefit? (See instructions.)		
d	Does the plan prevent the possibility that the section 415 limitations will be exceeded for any employee who is (or was) a participant in this plan and any other plan of the employer?	X	

General Eligibility Requirements (Complete all lines.)

9a Check all that apply:
- (1) ☐ All employees
- (2) ☐ Hourly rate employees
- (3) ☐ Salaried employees
- (4) ☒ Other (Specify) See Attachment to IRS Form 5300

b Minimum years of service required to participate _____ If no minimum, check ▶ ☒

c Minimum age required to participate (Specify) If no minimum, check ▶ ☒

Vesting (Check one box to indicate the regular (non-top heavy) vesting provisions of the plan.)

10a ☐ Full and immediate
b ☐ Full vesting after 2 years of service
c ☐ Full vesting after 3 years of service
d ☐ Full vesting after 5 years of service
e ☐ 2 to 6 year graded vesting
f ☐ 3 to 7 year graded vesting
g ☐ Other

Benefits and Requirements for Benefits

11a For defined benefit plans — Method for determining accrued benefit ▶ See Attachment to IRS Form 5300.

(1) Benefit formula at normal retirement age is 2% of Average Compensation times Years of Service.

(2) Benefit formula at early retirement age is normal retirement benefit multiplied by percentage reduction depending on number of years that retirement precedes normal retirement age. There is no deduction if participant has 25 or more years of service.

(3) Normal form of retirement benefit is single life annuity with five years certain.

b For defined contribution plans — Employer contributions:

(1) Profit-sharing or stock bonus plan contributions are determined under:
☐ A definite formula ☐ A discretionary formula ☐ Both

(2) Matching contributions are determined under:
☐ A definite formula ☐ A discretionary formula ☐ Both

(3) Money purchase plan — Enter rate of contribution

(4) Target benefit plan — state target benefit formula

Miscellaneous

	N/A	Yes	No
12a Does any amendment to the plan reduce or eliminate any section 411(d)(6) protected benefit, including an amendment adopted after September 6, 2000, to eliminate a joint and survivor annuity form of benefit? (See instructions.)			X
b Are trust earnings and losses allocated on the basis of account balances in a defined contribution plan? If "No," attach a statement explaining how they are allocated.		X	
c Is this plan or trust currently under examination or is any issue related to this plan or trust currently pending before:			
• The Internal Revenue Service			X
• The Department of Labor			X
• The Pension Benefit Guaranty Corporation, or			X
• Any court?			X
If "Yes," attach a statement explaining the issues involved, the contact person's name (IRS Agent, DOL Investigator, etc.) and their telephone number. Do not answer "Yes" if the plan has been submitted under the Voluntary Compliance Program of the Employee Plans Compliance Resolution System (EPCRS).			

Optional determination request regarding the ratio percentage test. A determination regarding the average benefit test may be requested by attaching Schedule Q (Form 5300).

		Yes	No
13	Is this a request for a determination regarding the ratio percentage test of Regs. section 1.410(b)-2(b)(2) or a request for a determination regarding one of the special requirements of Regs. section 1.410(b)-2(b)(5), (6), or (7)?		X
	If "Yes," complete only lines 13a through 13n for a ratio percentage test determination, or complete only line 13o for a determination regarding one of the special requirements.		
	If "No," skip to line 14.		
a	Is this plan disaggregated into two or more separate plans that are not 401(k), 401(m), or profit sharing plans? If "Yes," see the instructions and attach separate schedules for each disaggregated portion		
b	Does the employer receive services from any leased employees as defined in section 414(n)?		
c	Coverage date (MMDDYYYY). See instructions for inserting date		
d	Total number of employees (include self-employed individuals) (employer-wide)		
e	Statutory and regulatory exclusions under this plan (do not count an employee more than once):		
	(1) Number of employees excluded because of minimum age or years of service required		
	(2) Number of employees excluded because of inclusion in a collective bargaining unit		
	(3) Number of employees excluded because they terminated employment with less than 501 hours of service and were not employed on last day of plan year		
	(4) Number of employees excluded because employed by other qualified separate lines of business (QSLOBs)		
	(5) Number of employees excluded because they were nonresident aliens with no earned income from sources within the United States		
f	Total statutory and regulatory exclusions (add lines 13e(1) through 13e(5))		
g	Nonexcludable employees (subtract line 13f from line 13d)		
h	Number of nonexcludable employees on line 13g who are highly compensated employees (HCEs)		
i	Number of nonexcludable HCEs on line 13h benefiting under the plan		
j	Number of nonexcludable employees who are nonhighly compensated employees (NHCEs) (subtract line 13h from line 13g)		
k	Number of nonexcludable NHCEs on line 13j benefiting under the plan		
l	Ratio percentage (See instructions.)		
m	Enter the ratio percentage for the following, if applicable:		
	(1) Section 401(k) part of the plan		
	(2) Section 401(m) part of the plan		

		Yes	No
n	Are the results on line 13l or 13m based on the aggregated coverage of more than one plan? If "Yes," attach a statement showing the names, plan numbers, EINs, and benefit/allocation formulas of the other plans. **All aggregated plans should be filed concurrently.**		

o If the plan satisfied coverage using one of the special requirements of Regulations section 1.410(b)-2(b)(5), (6), or (7), enter the letter from the list below that identifies the special requirement:

☐
A — 1.410(b)-2(b)(5) — No NHCEs employed
B — 1.410(b)-2(b)(6) — No HCEs benefit
C — 1.410(b)-2(b)(7) — Collectively bargained only

Optional determination request regarding the nondiscrimination design-based safe harbors of section 401(a)(4).

Section 401(k) and/or section 401(m) plans that do not contain a provision for discretionary contributions should not complete this line.

		Yes	No
14	Is this a request for a determination regarding a design-based safe harbor under section 401(a)(4)? If "Yes," complete the following:		X
	Design-based nondiscrimination safe harbors:		
a	Does the plan provide for disparity in contributions or benefits that is intended to meet the permitted disparity requirements of section 401(l)? If "Yes," answer line 14b. Otherwise, skip to line 14c.		
b	Do the provisions of the plan ensure that the overall permitted disparity limits will not be exceeded?		

c Enter the letter ("A" - "G") from the list below that identifies the safe harbor intended to be satisfied ▶

A — 1.401(a)(4)-2(b)(2) defined contribution (DC) plan with uniform allocation formula
B — 1.401(a)(4)-3(b)(3) unit credit defined benefit (DB) plan
C — 1.401(a)(4)-3(b)(4)(i)(C)(1) unit credit DB fractional rule plan
D — 1.401(a)(4)-3(b)(4)(i)(C)(2) flat benefit DB plan
E — 1.401(a)(4)-3(b)(5) insurance account
F — 1.401(a)(4)-8(b)(3) target benefit plan
G — 1.401(a)(4)-8(c)(3)(iii)(b) cash balance plan

d List the plan section(s) that satisfy the safe harbor (including, if applicable, the permitted disparity requirements) here:

Procedural Requirements Checklist

**********Form 5300**********

Use this list to ensure that your submitted package is complete. Failure to supply the appropriate information may result in a delay in the processing of the application.

☐ 1 Is **Form 8717,** User Fee for Employee Plan Determination Letter Request, attached to your submission?

☐ 2 Is the appropriate user fee for your submission attached to Form 8717?

☐ 3 If appropriate, is **Form 2848,** Power of Attorney and Declaration of Representative, or a privately designated authorization attached? (For more information, see the **Disclosure Request by Taxpayer** in the instructions.)

☐ 4 Is a copy of your plan's latest determination letter, if any, attached?

☐ 5 Is the Employer Identification Number (EIN) of the **plan sponsor/employer** (NOT the trust's EIN) entered on line 1b?

☐ 6 Does line 4d list the plan's original effective date?

☐ 7 Is the application signed and dated?

☐ 8 Have interested parties been given the required notification of this application? (See the instructions for line 3c.)

☐ 9 If you are requesting a determination as an **Affiliated Service Group,** have you included the information requested in the instructions?

NOTE: You can request a ruling from the IRS as to whether or not you are an **Affiliated Service Group** by listing your request on line 3 of Form 5300.

☐ 10 If you answered "Yes" to line(s) 6a and/or line 6b, have you included the information requested in the instructions?

☐ 11 **For Multiple Employer Plans:** Have you included the required information as specified in the instructions under **Specific Plans — Additional Requirements?**

☐ 12 **For Partial Termination Requests:** If requesting a determination for the plan and one or more employers maintaining the plan, have you included the required information as specified in the instructions under **Types of Determination Letters, Partial Termination?**

☐ 13 If you answered "Yes" to line 8a, have you included the requested information?

☐ 14 If you are requesting additional determinations, is page 4 completed and/or Schedule Q attached?

☐ 15 If filing Schedule Q, are all appropriate demonstrations attached? (See Instructions for Schedule Q)

☐ Demo 1	☐ Demo 5	☐ Demo 8	☐ Demo 11
☐ Demo 3	☐ Demo 6	☐ Demo 9	
☐ Demo 4	☐ Demo 7	☐ Demo 10	

☐ 16 Have you included a copy of the plan, trust, and all amendments since your last determination letter?

☐ 17 **For Employee Stock Ownership Plans (ESOP):** Have you attached **Form 5309,** Application for Determination of Employee Stock Ownership Plan, to your submission?

18 **For PBGC Terminations:** Have you included the required information as specified in the instructions under **Types of Determination Letters?**

ATTACHMENT TO IRS FORM 5300
EIN: 93-6002221
PLAN NAME: CITY OF NEWBERG POLICE AND FIRE MEN RETIREMENT PLAN
PLAN NUMBER: 001

Line 8.a. Other Qualified Plans Maintained under IRC §401(a).

Name of Plan	Type of Plan	Plan Number	Whether another application is simultaneously being submitted with this application
City of Newberg General Employees Retirement Plan	Defined Benefit	002	Yes

Line 9.a. General Eligibility Requirements.

Any full-time regular Employee of the Employer is eligible to participate in the plan provided the Employee is employed in a position not eligible for membership in the Oregon Public Employees Retirement System under the Employer's agreements with the System and whose employment with the Employer is as follows:

(1) Police Officer.

(2) Firefighter.

(3) City Attorney, effective July 1, 1992.

Line 11.a. Method for Determining Accrued Benefit.

The participant's accrued benefit is the product of a Participant's Average Compensation, times 2% for Police Officers and Firefighters times participant's total Years of Service.

FILE COPY

Form **8717**
(Rev. February 2002)
Department of the Treasury
Internal Revenue Service

User Fee for Employee Plan Determination Letter Request

▶ Attach to determination letter application.

For IRS Use Only

OMB No. 1545-1772
Control number
Amount paid
User fee screener

1 Name of plan sponsor (employer if single-employer plan)
City of Newberg

2 Sponsor's employer identification number
93-6002221

3 Plan name
City of Newberg Policmen and Firemen Reitrement Plan

4 Plan number
001

Caution: *If you qualify for the exemption from user fees for small business employers, complete only the certification below (see the instructions on page 2 for details). For all other applications, leave the certification blank and check the appropriate box in column A or B of line 5.*

Certification

I certify that the application for a determination letter on the qualified status of City of Newberg Policmen and Fire Men Reitrement Plan (name of the plan) meets the conditions for exemption from user fees described in section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

Signature ▶ [signature] Title ▶ Finance Director Date ▶ 4/24/2002

Form Submitted	Fee Schedule A	Fee Schedule B
5a Form 5300:	with Demo 5 and/or Demo 6: ☐ $1,250	no Demo 5 and no Demo 6 ☒ $700
b Form 5307:	with Demo 5 and/or Demo 6: ☐ $1,000	no Demo 5 and no Demo 6 ☐ $125
c Form 5310:	with Demo 5 and/or Demo 6: ☐ $375	no Demo 5 and no Demo 6 ☐ $225
d Form 6406:	Not applicable	☐ $125
e Multiple employer plans (**Form 5300**):	with Demo 5 and/or Demo 6:	no Demo 5 and no Demo 6
(1) 2 to 10 Forms 5300 submitted	☐ (1) $ 1,250	☐ (1) $ 700
(2) 11 to 99 Forms 5300 submitted	☐ (2) $ 2,000	☐ (2) $ 1,400
(3) 100 to 499 Forms 5300 submitted	☐ (3) $ 3,500	☐ (3) $ 2,800
(4) Over 499 Forms 5300 submitted	☐ (4) $ 6,500	☐ (4) $ 5,600
f Multiple employer plans (**Form 5310**):	with Demo 5 and/or Demo 6:	no Demo 5 and no Demo 6
(1) 2 to 10 employers maintaining the plan	☐ (1) $ 375	☐ (1) $ 225
(2) 11 to 99 employers maintaining the plan	☐ (2) $ 600	☐ (2) $ 450
(3) 100 to 499 employers maintaining the plan	☐ (3) $ 1,000	☐ (3) $ 900
(4) Over 499 employers maintaining the plan	☐ (4) $ 2,000	☐ (4) $ 1,800
g Volume submitter:		
(1) Specimen plan		☐ (1) $ 1,500
(2) Lead specimen plan (see Rev. Proc. 2000-20)		☐ (2) $ 3,000
(3) Specimen plan identical to lead specimen plan (see Rev. Proc. 2000-20)		☐ (3) $ 100
h Group trust		☐ $ 750

Attach Check or Money Order Here

FILE COPY

Form **2848**
(Rev. January 2002)
Department of the Treasury
Internal Revenue Service

Power of Attorney and Declaration of Representative

▶ See the separate instructions.

OMB No. 1545-0150

For IRS Use Only
Received by:
Name
Telephone
Function
Date / /

Part I **Power of Attorney** (Type or print.)

1 Taxpayer information. Taxpayer(s) must sign and date this form on page 2, line 9.

Taxpayer name(s) and address	Social security number(s)	Employer identification number
City of Newberg 401 E. Third Street Newberg OR 97132		93-6002221
	Daytime telephone number (503) 537-1216	Plan number (if applicable) 001

hereby appoint(s) the following representative(s) as attorney(s)-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address	CAF No. / Telephone No. / Fax No. / Check if new
Everett Moreland P.O. Box 1475 Eugene, OR 97401	CAF No. 3205-14754R Telephone No. (541) 686-8511 Fax No. (541) 344-2025 Check if new: Address ☐ Telephone No. ☐
Jeff Kirtner P.O. Box 1475 Eugene, OR 97401	CAF No. none Telephone No. (541) 686-8511 Fax No. (541) 344-2025 Check if new: Address ☐ Telephone No. ☐
Emma Thompson P.O. Box 1475 Eugene, OR 97401	CAF No. none Telephone No. (541) 686-8511 Fax No. (541) 344-2025 Check if new: Address ☐ Telephone No. ☐

to represent the taxpayer(s) before the Internal Revenue Service for the following tax matters:

3 Tax matters

Type of Tax (Income, Employment, Excise, etc.) or Civil Penalty (See the instructions for line 3.)	Tax Form Number (1040, 941, 720, etc.)	Year(s) or Period(s)
Application for Determination on	5300	
Plan Qualification		
VCP Submission	n/a	

4 Specific use not recorded on Centralized Authorization File (CAF). If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for **Line 4. Specific uses not recorded on CAF.** ▶ ☐

5 Acts authorized. The representatives are authorized to receive and inspect confidential tax information and to perform any and all acts that I (we) can perform with respect to the tax matters described on line 3, for example, the authority to sign any agreements, consents, or other documents. The authority does not include the power to receive refund checks (see line 6 below), the power to substitute another representative, the authority to execute a request for a tax return, or a consent to disclose tax information unless specifically added below, or the power to sign certain returns. See the instructions for **Line 5. Acts authorized.**

List any specific additions or deletions to the acts otherwise authorized in this power of attorney: _____

Note: *In general, an unenrolled preparer of tax returns cannot sign any document for a taxpayer. See Revenue Procedure 81-38, printed as Pub. 470, for more information.*

Note: *The tax matters partner of a partnership is not permitted to authorize representatives to perform certain acts. See the separate instructions for more information.*

6 Receipt of refund checks. If you want to authorize a representative named on line 2 to receive, **BUT NOT TO ENDORSE OR CASH,** refund checks, initial here _____ and list the name of that representative below.

Name of representative to receive refund check(s) ▶

7 **Notices and communications.** Original notices and other written communications will be sent to you and a copy to the first representative listed on line 2 unless you check one or more of the boxes below.

a If you want the first representative listed on line 2 to receive the original, and yourself a copy, of such notices or communications, check this box . . . . . ▶ [x]

b If you also want the second representative listed to receive a copy of such notices and communications, check this box. . . ▶ [ ]

c If you do not want any notices or communications sent to your representative(s), check this box . . . . . ▶ [ ]

8 **Retention/revocation of prior power(s) of attorney.** The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same tax matters and years or periods covered by this document. If you **do not** want to revoke a prior power of attorney, check here . . . . . ▶ [ ]

YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.

9 **Signature of taxpayer(s).** If a tax matter concerns a joint return, **both** husband and wife must sign if joint representation is requested, otherwise, see the instructions. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the authority to execute this form on behalf of the taxpayer.

▶ **IF NOT SIGNED AND DATED, THIS POWER OF ATTORNEY WILL BE RETURNED.**

Signature	Date	Title (if applicable)
Katherine L. Tri	6/24/2002	Finance Director
KATHERINE L. TRI (Print Name)		
Elaina Canutt	6/24/02	Assistant Finance Director
Elaina Canutt (Print Name)		

Part II Declaration of Representative

Caution: *Students with a special order to represent taxpayers in Qualified Low Income Taxpayer Clinics or the Student Tax Clinic Program, see the separate instructions for Part II.*

Under penalties of perjury, I declare that:

- I am not currently under suspension or disbarment from practice before the Internal Revenue Service;
- I am aware of regulations contained in Treasury Department Circular No. 230 (31 CFR, Part 10), as amended, concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others;
- I am authorized to represent the taxpayer(s) identified in Part I for the tax matter(s) specified there; and
- I am one of the following:
  - a Attorney — a member in good standing of the bar of the highest court of the jurisdiction shown below.
  - b Certified Public Accountant — duly qualified to practice as a certified public accountant in the jurisdiction shown below.
  - c Enrolled Agent — enrolled as an agent under the requirements of Treasury Department Circular No. 230.
  - d Officer — a bona fide officer of the taxpayer's organization.
  - e Full-Time Employee — a full-time employee of the taxpayer.
  - f Family Member — a member of the taxpayer's immediate family (i.e., spouse, parent, child, brother, or sister).
  - g Enrolled Actuary — enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Service is limited by section 10.3(d)(1) of Treasury Department Circular No. 230).
  - h Unenrolled Return Preparer — an unenrolled return preparer under section 10.7(c)(1)(viii) of Treasury Department Circular No. 230.

▶ **IF THIS DECLARATION OF REPRESENTATIVE IS NOT SIGNED AND DATED, THE POWER OF ATTORNEY WILL BE RETURNED.**

Designation — Insert above letter (a-h)	Jurisdiction (state) or Enrollment Card No.	Signature	Date
a	Oregon	Ewell Moreland	6/28/02
a	Oregon	Jeffrey D. Kest	
a	Oregon	E — Thompson	6/28/02

mil - plan doc notebook

Internal Revenue Service

P.O. BOX 21224
SEATTLE, WA 93174

In reply refer to: 91710026
MAR. 14, 1983 LTR 835C 9029
93-6002221

MAR 83 10: 22

CITY OF NEWBURG OREGON
414 EAST FIRST STREET
NEWBURG, OR 97132

District Office Code and
Case Serial Number: 93301805EP
Name of Plan: City Of Newburg Policemen And Fire
Men Retirement Plan
Application Form: 5300
Date Amended: Dec 06 1982
Employer Identification Number: 93-6002221
Plan Number: 001
File Number: 930004215

Dear Applicant:

Based on the information supplied, we have made a favorable determination on your application identified above. Please keep this letter in your permanent records.

Continued qualification of the plan will depend on its effect in operation under its present form. (See section 1.401-1(b)(3) of the Income Tax Regulations.) The status of the plan in operation will be reviewed periodically.

The enclosed document describes some events that could occur after you receive this letter that would automatically nullify it without specific notice from us. The document also explains how operation of the plan may affect a favorable determination letter, and contains information about filing requirements.

This letter relates only to the status of your plan under the Internal Revenue Code. It is not a determination regarding the effect of other Federal or local statutes.

This determination is subject to your adoption of the proposed amendments submitted in your or your representative's letter dated Feb 24 1983. The proposed amendments should be adopted on or before the date prescribed by the regulations under Code section 401(b).

This determination does not express an opinion on any provisions of the Tax Equity and Fiscal Responsibility Act of 1982, except for amended Code sec 415.

We have sent a copy of this letter to your representative as indicated in the power of attorney.

Department of the Treasury
Internal Revenue Service

91710026

MAR. 14, 1983 LTR 835C 9029
93-6002221

CITY OF NEWBURG OREGON
414 EAST FIRST STREET
NEWBURG, OR 97132

If you have any questions, please contact Earl Parker at (206)442-5124.

Sincerely yours,

Michael J Quinn

District Director

Enclosure(s):

Publication 794
LMSA 645

STATEMENT OF AMENDMENTS TO CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN

This statement summarizes amendments to the above Plan after the version of the Plan last approved by the IRS.

The IRS has approved the Restated 7/1/82 plan and Amendment No. 1 thereto.

Later amendments to the Plan, which are summarized below, consist of:

Amendment No. 2
Amendment No. 3
Resolution No. 94-1834 (No. 4)
11/2/94 Contract
Amendment No. 5
2002 Restatement

Amendment No. 2

Amended 4.01(b) to reduce the percentage reduction in the Accrued Benefit at an Early Retirement Date.

Amendment No. 3

Amended the last sentence of 1.03(d) to change the crediting rate to Participants' Contributions Accounts from 7.5% to 8%.

Amended 4A.02 to increase disability benefits.

Added 4B.03 to require the Plan to match COLA increases paid by the Oregon Public Employees Retirement System.

Resolution No. 94-1834 (No. 4)

Amended 1.03(a) to change the definition of average compensation (used in the benefit formula) and to include one-half of unused sick leave in average compensation.

11/2/94 Contract

Provided that certain police service employees would participate in the Oregon Public Employees Retirement System in lieu of participating in the Plan.

FILE COPY

Amendment No. 5

Amended 3.02 and added 3.02a to require Participants to fund (as pick-up contributions) the required 6% contributions to Participants' Contribution Accounts.

2002 Restatement

Attached to this Statement is a redline document showing the differences between (1) the 2002 Restatement and (2) the Plan as amended through Amendment No. 8 (stating on the cover page: "REDLINE SHOWING THE CHANGES MADE TO THE PLAN IN THE 2002 RESTATEMENT"). The principal changes made in the 2002 Restatement are summarized below. Please note that the 2002 Restatement combines the Plan in the same document with the City of General Employees Retirement Plan. The City of Newberg has applied for a separate determination letter for the General Employees Retirement Plan. The following discussion notes changes shown in the redline that result merely from combining the two plans into one document.

Plan Section or Article in 2002 Restatement	*Change*
1.01(c)	Amended to state that all benefits will be paid from the Group Contract funding the Plan.
1.01(f)(1), (2), and (3)	Added to exclude leased employees, individuals whose wages are not paid by the City, and persons not treated as employees on the City's payroll records.
1.01(g)	Amended to limit participation to full-time regular employees not eligible to participate in the Oregon Public Employees Retirement System.
Old 1.01(*l*)	The definition of Actuarial Equivalent was moved to 1.03(i).
1.02(h) and (i)(2)	These additions result from combining the two Retirement Plans.
Old 1.02(k)(5)	Amended to delete the reference to military service. The 2002 Restatement deals with military service in 13.04.
Old 1.02(m)	Amended to delete the definition of Credited Service because that term was not used in the Plan before the 2002 Restatement and is not used in the 2002 Restatement.
Old 1.02(p)	Amended to delete the reference to military service. The 2002 Restatement deals with military service in 13.04.
1.03(b)	The addition at the end results from combining the two Retirement Plans.

Plan Section or Article in 2002 Restatement	*Change*
1.03(i)(2)(ii)	This addition results from (1) moving the definition of Actuarial Equivalent from old 1.01(*l*), (2) combining the two Retirement Plans, and (3) stating that actuarial equivalency is to be determined by not considering the COLA provided in Article 6.
1.05	The addition at the end results from combining the two Retirement Plans.
2.01(a)	These additions are clarifications.
2.04	This deals with employees who transfer to or from the City as part of the transfer of functions from one governmental unit to another.
3.01	The exclusive benefit language was moved to 14.02 and more fully stated. The new material deals with returning contributions made because of a mistake of fact.
3.02	The addition in the second paragraph results from combining the two Retirement Plans.
4.01(b)	These additions result from combining the two Retirement Plans.
4.02	The second paragraph was changed to base actuarial equivalency on the factors in 1.03(i) rather than on the annuity purchase rates under the Group Contract. The deleted paragraph near the end is now covered by the required distribution rules stated in 13.01.
4.03	These changes result from combining the two Retirement Plans or from clarifications.
4.05	This 415 limit is now stated in 13.05-13.09.
5.01	"[F]or the Employer" and "and while he is an Employee" were added to clarify that the Plan's disability benefit is not payable to a former employee who becomes disabled after terminating employment.
5.02	These additions result from combining the two Retirement Plans.
6.01	A reference to a comparable COLA index was added, in case the COLA index described in 6.01 ceases to be published.

Plan Section or Article in 2002 Restatement	*Change*
6.03	The first addition (referring to Police Officers, Firefighters, and the City Attorney) results from combining the two Retirement Plans. The new language after the last comma ("determined without including any payments under ORS 238.375 to 238.387 or any other tax remedy payments") clarifies that 6.03 obligates the City to match only COLAs paid by the Oregon Public Employees Retirement System to retirees, not tax remedy payments provided by the System to retirees.
7.01(a)	These changes result from a clarification or from combining the two Retirement Plans.
7.01(b)	The deletion of "Late" clarifies that the death benefit provided in 7.01(b) does not apply after retirement benefits begin.
7.01(b)(5)	This addition is a clarification.
8.01(a)	These additions result from combining the two Retirement Plans.
8.02(b)	This addition allows Participants to make tax-free rollovers and transfers to the Plan to make the repayment allowed by 8.02(a).
9.	This provides, to public safety employees, a benefit increase required by Oregon statutes.
10.04	This addition is a clarification.
11.02 and 11.03	The requirement of vesting on plan termination was deleted from 11.03(b) and restated in 11.02.
11.03	The deleted sentence at the end of the first paragraph after 11.03(c)(4) (using excess funds to increase benefits) was deleted as inconsistent with the last paragraph (paying excess funds to the City).
Old VIIA	This deleted limitation on benefits for highly paid employees no longer applies to governmental plans.
12.03	The addition at the end of the second paragraph authorizes paying plan expenses with plan assets.

Plan Section or Article in 2002 Restatement	*Change*
Old 9.01	The first paragraph was deleted as outdated. The first sentence of the second deleted paragraph is now dealt with in 14.01. The second sentence is deleted because it states a requirement of tax law that does not apply to governmental plans. The part of the third sentence before the semicolon is deleted because it is inconsistent with the last sentence of 11.03 (paying excess funds to the City). The part of the third sentence before the period that is required by tax law is now stated in 14.02. The part of the third sentence after the semicolon is deleted because it states a requirement of tax law that does not apply to governmental plans.
12.05	This states a claims procedure.
13.	The required distribution rules are stated in 13.01; the annual compensation limit in 13.02; the direct rollover rules in 13.03; the rules for military leave in 13.04; the 415 limits in 13.05-13.09; and the rules for distributed annuity contracts in 13.10.
14.01	This authorizes amendment of the Plan and is a restatement of part of old 9.01.
14.02	This restates the exclusive benefit requirement that was formerly stated in 3.01.
14.05	The third paragraph was amended to pay death benefits to the Participant's estate where no Beneficiary is named or survives. The addition at the end refers to Oregon statutory rules for determining whether a Beneficiary survives the Participant.
14.06	These changes restate the Plan's anti-assignment provision.
14.07	These changes restate the Plan's facility of payment provision.
14.08	The first paragraph restates the Plan's provision about applying Oregon and federal law. The second paragraph is an EGTRRA amendment.
14.11	This deals with interest on late benefit payments.
14.14	This deals with domestic relations orders under Oregon Revised Statutes 237.600.
14.15	This provides for merging the assets of the City's two Retirement Plans.

CITY OF NEWBERG
POLICEMEN AND FIREMEN
RETIREMENT PLAN

Amendment No. 2

WHEREAS, The City of Newberg (the "Employer") restated the Plan effective July 1, 1982, to consolidate previous amendments to its Plan and to make additional changes to the Plan so as to improve its general benefits; and

WHEREAS, the Employer desires to modify the Plan in such a manner as to provide greater Early Retirement Benefits.

NOW THEREFORE, effective July 1, 1982, in accordance with the provisions of the Plan pertaining to amendments thereof, the City of Newberg hereby amends the Plan as follows:

Section 4.01(b) shall be changed to read as follows:

Section 4.01--AMOUNT OF MONTHLY RETIREMENT BENEFIT.

At Early Retirement Date, an Active Participant's retirement benefit on his Early Retirement Date will be equal to his Accrued Benefit on such specified date, multiplied by the factor shown below corresponding to the number of years his Early Retiremenet Date is before his Normal Retirement Date.

Number of Years Early Retirement Date is Before Normal Retirement Date	Factor
1	1.0
2	1.0
3	1.0
4	.92
5	.84
6	.76
7	.68
8	.60

Provided, however, no reduction will apply to the Accrued Benefit of an Active Participant who retires on his Early Retirement Date with 25 Years of Service.

The above factors will be adjusted proportionately for fractional parts of a year (counting a partial month as a complete month).

IN WITNESS WHEREOF, this Employer has caused this Plan to be executed by its duly appointed officers this 23 day of June, 1983.

CITY OF NEWBERG

By _____

City Manager
Title

CITY OF NEWBERG
POLICEMEN AND FIREMEN
RETIREMENT PLAN

Amendment No. 3

WHEREAS, the City of Newberg (the "Employer") restated the Plan effective July 1, 1982, to consolidate previous amendments to its Plan and to make additional changes to the Plan so as to improve its general benefits; and

WHEREAS, the Employer desires to modify the Plan in such a manner as to improve the annual interest credit and provide greater death, disability and retiree cost-of-living benefits.

NOW THEREFORE, effective July 1, 1990, in accordance with the provisions of the Plan pertaining to amendments thereof, the City of Newberg hereby amends the Plan as follows:

The last sentence of Section 1.03(d) is changed to read as follows:

> A Participant's Contribution Account will be credited with interest at the rate of 8% compounded annually.

Section 4A.02 shall be changed to read as follows:

> The amount of monthly disability payment for a Participant is equal to his Accrued Benefit determined as of the first day of the month coinciding with or immediately following the date on which he is disabled, based on Average Compensation as of the date of disability and Years of Service as of the disability date or projected to age 55, if later. Benefits determined under Section 4.03 will be paid in addition to these amounts.
>
> In no event, however, will the amount of each disability payment for any Participant be less than $100 nor greater than 75% of the Participant's Average Compensation.

Section 4B.03 shall be added to read as follows:

> Section 4B.03-- MINIMUM ADJUSTMENT FOR RETIREMENTS AFTER JULY 1, 1990.
>
> Monthly payments for Participants retiring on or after July 1, 1990, will be increased annually to a level that is no less than that which would have been in effect had the initial monthly benefits been payable from the Oregon Public Employes Retirement System.

RESOLUTION NO. 94-1834

A RESOLUTION AMENDING THE GENERAL EMPLOYEES RETIREMENT PLAN AND POLICE AND FIREMEN'S RETIREMENT PLAN AND CREDITING UNUSED SICK LEAVE FOR PERS EMPLOYEES

WHEREAS, the City of Newberg restated its retirement plans effective July 1, 1982; and

WHEREAS, the City of Newberg's personnel rules have stated that one half of unused sick leave shall be credited to a retiring employee's retirement benefit; and

Personnel Rules 9.3(e)

WHEREAS, the City's retirement plans are so stated that an employee may retire on June 30 of any given year versus any day in a year; and

WHEREAS, Oregon PERS requires a separate statement regarding crediting unused sick leave;

NOW THEREFORE BE IT RESOLVED by the Council of the City of Newberg as follows:

Section 1. Article I, Section 1.03 (a) is amended to read as follows:

"(a) Average compensation means 1/12th of the following:

(1) For an employee who has completed at least 10 years of service, the average of the person's monthly earnings for each month in a thirty-six (36) consecutive month period during the last 120 months of employment preceding the date the benefit is being determined which produces the highest average of monthly earnings.

(2) For an employee who has completed at least three years of service, but less than 10 years of service, the average of the person's monthly earnings for each month in a thirty-six (36) consecutive month period preceding the date the benefit is being determined which produced the highest average of monthly earnings.

(3) For an employee who has completed less than three years of service, the average of the person's monthly earnings for each month preceding the date of benefit is being determined.

"Monthly earnings" means the base remuneration which the City pays to an employee in a month before any payroll deduction for income taxes, social security, group insurance, deferred compensation or any other purpose. The full amount of required employee contributions pick-up, assumed or paid by the City on behalf of its employees shall be considered monthly earnings under the provisions of this plan."

Section 2. Article I, Section 1.03(a) is amended to add:

"(i) The average compensation in 1.03 (a) above is divided by 173.33 to arrive at the average hourly rate of earnings.

(ii) The number of unused sick leave hours is multiplied by the result in (i) above, to arrive at the value of unused sick leave.

(iii) One-half of the value of unused sick leave, divided by 36, shall be added to the average compensation in 1.03(a) above."

Section 3. In accordance with the City's personnel rules, the City hereby elects to add one half of unused sick leave to the value of the average compensation to those employees in the Oregon Public Employees Retirement Plan.

Amendment 6 - G.E
Amendment 4 - P/F

Section 4. The above provisions are to become effective for the 1993-94 plan year.

ADOPTED by the City Council of the City of Newberg, Oregon, this 4th day of April, 1994.

Duane R. Cole, City Recorder

THIS CONTRACT is made between the PUBLIC EMPLOYES RETIREMENT BOARD (hereinafter referred to as the "Board") on behalf of the PUBLIC EMPLOYES RETIREMENT SYSTEM (hereinafter referred to as "PERS") and the CITY OF NEWBERG (hereinafter referred to as the "City"), for the purpose of integrating the City of Newberg Policemen and Firemen Retirement Plan for eligible employees (hereinafter referred to as the "previous plan"), as maintained on behalf of the City's eligible employes (hereinafter referred to as the "employes"), into PERS pursuant to the provisions of ORS 237.031, and in addition to the contract of integration under ORS 237.051.

This contract is effective July 1, 1994, but shall have no effect until:

(1) No less than two-thirds of the current eligible employes of the City who participate in the previous plan have duly approved said integration pursuant to ORS 237.051. Two-thirds of the current eligible employes of the City did approve such integration on xxxxx xx, 1994.

(2) The contract has been approved by the City and by the Board.

THEREFORE, the parties mutually agree that:

(1) Definitions for purposes of this contract:

(a) The terms "creditable service' and "retirement credit" have the same meanings as defined by ORS 237.003(4) and 237.003(10) respectively.

(b) "Eligible employes" are employes of the City of Newberg who are classified by the City as "police service". Eligible employes includes those employes who are considered to be "police officers" as defined in ORS 237.003(14)(e). Eligible employes also includes those employes who are classified by the City as "police service" but who are not considered to be "police officers" as defined in ORS 237.003(14)(e).

(2) Effective July 1, 1994, the City will begin participation in PERS for all eligible City employes who participated in the previous plan, as of June 30, 1994.

(3) For eligible City employes who participated in the previous plan as of the effective date of this contract, retirement credit under PERS shall be granted for all years and months of service beginning from the date of their enrollment in the City of Newberg Policemen and Firemen Retirement Plan.

(4) Effective July 1, 1994, the City will begin participation in PERS for all eligible employes who did not participate in the previous plan as of June 30, 1994, if the employe qualifies for PERS membership under ORS 237.011 as of July 1, 1994. If the employe has not qualified for PERS membership under ORS 237.011 as of July 1, 1994, PERS membership shall begin the first day of the calendar month that immediately follows such qualification.

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Co. | Co. Newberg
Dept. | Phone #
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(5) For eligible City employes who did not participate in the previous plan as of the effective date of this contract, creditable service under PERS shall include all years and months of service beginning the later of July 1, 1994 or the date on which PERS membership begins under Section (4) of this contract.

(6) Nothing in this contract nor any action taken under this contract shall reduce or impair the benefits which former employes of the City, who left City employment as police service employes, and who are currently receiving benefits from the previous plan would have received had the integration not been effected.

(7) Former employes receiving retirement benefits from the City of Newberg Policemen and Firemen Retirement Plan shall continue to receive benefits from the previous plan.

Any benefits due to former employes from the City of Newberg Policemen and Firemen Retirement Plan as of June 30, 1994 shall remain the liability of the previous plan.

(8) The PERS Board has caused a financial and actuarial investigation of this integration to be made, the cost of which has been borne by the City or by the previous plan. Such investigation determined the present actuarial value of projected benefits and of accrued benefits for former employes who have terminated with a vested interest, current assets, and any unfunded liability of the previous plan.

(9) The City will furnish PERS with payroll and personnel information to establish salary history, years of service, member account balances and other such information deemed to be necessary by the Board to integrate the previous plan into PERS, within 60 days after the date on which this contract is signed.

(10) The City agrees that it is solely responsible to inform all eligible employes participating in the previous plan of the transfer.

(11) The City will transfer cash assets from the previously established plan to its' account in PERS not later than December 31, 1994.

Member accounts shall be first credited by PERS from the assets received from the City. The sum of the eligible employe's Member Required Contribution Account and Voluntary Individual Contribution Account as of June 30, 1994 shall be considered to be the Member Account under PERS as of July 1, 1994.

PERS individual accounts for eligible employees will be established not later than January 1, 1995. The individual account shall be considered to have been established as of July 1, 1994, and will be treated as a PERS member account for all purposes after that date.

The City will transfer approximately $ 464,262 in previous plan assets, in one single payment. The City agrees that interest will accrue on the outstanding amount annually,

effective July 1st, beginning July 1, 1994. Accrual of interest on the outstanding amount shall be computed at the rate credited annually by PERS to member accounts.

(12) The initial employer contribution rate pursuant to ORS 237.081 will be 12.00% of the employes' total gross salary as defined in ORS 237.003 and 237.075. The City will initially pick-up, pay or assume the employes' contributions of 6% of total gross salary as defined in ORS 237.003.

(13) The City agrees that actual payment of contributions will be based on a composite employer contribution rate developed for the City by PERS consulting actuary, which takes into account all different Contracts between the City and PERS.

(14) Notwithstanding Section (2) of this Contract, eligible employes who participated in the previous plan as of June 30, 1994, may irrevocably elect not to become PERS members, and to remain participants in the previous plan.

The election must be made in writing to the City, in the form prescribed by the City, within 60 days after the date on which this contract is signed. An eligible employe who fails to make an election will be considered to have elected to become a member of PERS.

(15) If an eligible employe irrevocably elects not to become a member of PERS under Section (14) of this contract, no benefit shall be paid from PERS for any period of employment with the City of Newberg as an employe classified by the City as "police service".

(16) The City agrees that accumulated unused sick leave shall be used to increase retirement benefits as defined in ORS 237.153 for all eligible employes.

(17) The City agrees to eventually contract to provide Public Employes Retirement System membership to all of the employees of the City of Newberg who have not become members as of the effective date of this contract.

For the City of Newberg this 2 day of November, 1994.

By _____
City Manager, CITY OF NEWBERG

For Oregon Public Employes Retirement System this 15 day of Feb, 1995.

By _____
Director, OREGON PUBLIC EMPLOYES RETIREMENT SYSTEM

By _____
Chairman, OREGON PUBLIC EMPLOYES RETIREMENT BOARD

Approved as to form: _____
Assistant Attorney General

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CITY OF NEWBERG
POLICEMEN AND FIREMEN
RETIREMENT PLAN

Amendment No. 5

WHEREAS, the CITY OF NEWBERG (the "Employer") restated the Plan effective July 1, 1982, to consolidate previous amendments to its Plan, to make additional changes to the Plan as to improve its general benefits and to make changes so as to comply with State of Oregon law; and

WHEREAS, the Employer desires to modify the Plan in such a manner as to apply IRS Code Section 414(h)(2) to pick-up mandatory employee contributions. Employees will not have the option of receiving the salary payment, and paying the employee contribution directly, and employees' reported salary on the W-2 form for purposes will be reduced by the amount of the employees' contributions.

NOW THEREFORE, effective on or after January 1, 1995, and in accordance with the provisions of the Plan pertaining to amendments thereof, the City of Newberg hereby amends the Plan as follows:

A new paragraph shall be added at the end of Section 3.02, the Required Participant Contributions Section on page 9 to read as follows:

> Effective January 1, 1995, or as required by state law, the employer shall not make the required participant contributions for employees.

A new subsection 3.02a, Mandatory Employee Contributions, shall be added following Section 3.02 to read as follows:

> Effective January 1, 1995, or as required by state law, the employer shall pick-up and pay on behalf of all employees a six percent (6%) mandatory contribution of Monthly Earnings. Such picked-up mandatory contributions shall be made pursuant to the provisions of the Internal Revenue Code, Section 414(h).

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed by its duly appointed officers this _____ day of _____, 1995.

CITY OF NEWBERG, OREGON

By: _____
Title

53

CITY OF NEWBERG [EMPLOYEES] ~~[POLICEMEN AND FIREMEN~~ ~~]~~ RETIREMENT PLAN

REDLINE SHOWING THE CHANGES MADE TO THE PLAN IN THE 2002 RESTATEMENT

~~[Through Amendment No. 5~~

~~Defined Benefit Pension Plan~~
~~Restated July 1, 1982]~~ [2002 Restatement

~~[Title]~~CITY OF NEWBERG [EMPLOYEES] RETIREMENT PLAN

~~[POLICEMEN AND FIREMEN~~

~~July 1, 1982]~~ [2002 Restatement]

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INTRODUCTION

The City of Newberg adopted a defined benefit pension plan in 1964 for its employees. Effective July 1, 1979, the ~~{Plan}~~ [plan] was restated as two separate plans, ~~{one}~~ [the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN] for general employees of the City and ~~{one for uniform employees. In accordance with Oregon Revised Statutes, the Plans have }~~[the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN for police officers and firefighters. Effective July 1, 1982, both plans were restated. Both plans have since] been amended ~~{from time to time to keep benefits for policemen and firemen comparable to those offered uniform employees under the Public Employee Retirement System of Oregon (PERS)}~~.

~~{~~

~~}~~It is the City's desire to ~~{amend the }~~[combine the assets of both plans as provided herein and to update both plans for law changes after 1981 by amending and restating both plans in this] Plan~~[,]~~ effective July 1, [2002, unless otherwise stated.

] ~~[1982, to consolidate previous amendments to the Plan and to make additional changes to the Plan so as to improve its general benefits and to restructure other features to more closely parallel PERS.~~

~~This amendment will not reduce any employee's accrued benefit as of July 1, 1982, nor will it reduce the vested interest of any eligible employee. This amendment will not change the benefits currently in pay status.~~

~~The restated retirement plan continues to be for the exclusive benefit of policemen and firemen of the City. The City agrees to operate the restated plan in accordance with the terms, provisions and conditions set forth on the following pages:~~]

ARTICLE [1.] ~~[~~

~~]~~ DEFINITIONS

SECTION 1.01--THE PLAN AND PARTIES CONCERNED.

(a) "Plan" means the restated defined benefit retirement plan of the Employer as set forth herein and as amended from time to time.

[(b)] "Prior Plan" means the ~~[retirement plan of the Employer]~~ [CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN] prior to the Effective Date~~[, as explained briefly in the Introduction.]~~[.]

~~[(b)]~~[(c)] "Group Contract" means the group annuity contract or contracts which the Employer enters into with the Insurer for the purpose of payment of retirement income and other benefits in accordance with this Plan and for the purpose of investment of Contributions made under the Plan. [All benefits payable under the Plan will be paid or provided for solely from the Group Contract, and the Employer assumes no liability or responsibility therefor.

(d)]~~[(c)]~~ "Employer" means CITY OF NEWBERG, OREGON, and any successor by change of name or merger.

~~[(d)]~~[(e)] "Insurer" means ~~[Bankers Life Company of Des Moines, Iowa]~~ [Principal Financial Group, Inc.], or such other insurance company or companies as may, from time to time, be designated by the Employer.

~~[(e)]~~[(f)] "Employee" means any natural person who is employed by the Employer. ["Employee" excludes:

(1) Any person who would be treated as a leased employee of the Employer under IRC Section 414(n).

(2) An individual whose wages are paid by an agency or other business that provides individuals who perform services for the Employer and pays the individuals' wages.

(3) Persons not treated as an employee on the Employer's payroll records.

(g) Effective July 1, 2002,][~~(f)~~] "Eligible Employee" means ~~[any]~~[, except for purpose of Article 9., any full-time regular] Employee [employed in a position not eligible for membership in the Oregon Public Employees Retirement System under the Employer's agreements with the System and] whose employment with the Employer is as follows:

(1) ~~[Policemen and Firemen]~~ [General Employee.]

~~[(g)]~~[(2) Police Officer.

(3) Firefighter.

(4) City Attorney, effective July 1, 1992.

The City Attorney shall be eligible as a General Employee with five years employment with the Employer and shall be given credit for contributions as of July 1, 1988, through June 30, 1992. Pursuant to Resolution No. 92-1726, the City Attorney shall be classified with the Police Officer and Firefighter personnel instead of the General Employee classification, effective July 1, 1992.

(h)] "Participant" means a person who is either an Active Participant or an Inactive Participant.

~~[(h)]~~[(i)] "Active Participant" means an Eligible Employee who has become an Active Participant as provided in Section 2.01.

~~[(i)]~~[(j)] "Inactive Participant" means a person who has become an Inactive Participant as provided in Section 2.02.

~~[(j)]~~[(k)] "Beneficiary" means any person or persons designated by a Participant pursuant to Section ~~[9.04]~~ [14.05] to receive any death benefit upon the death of the Participant.

~~[(k)]~~[(l)] "Contingent Annuitant" means a natural person designated by the Participant to receive a lifetime benefit after the death of such Participant

in accordance with the survivorship life annuity optional form of retirement benefit provided in Section ~~[4.03]~~ [4.02].

~~[(l) "Actuarial Equivalent" means 7.5%, 1971 GAM for pre-retirement, and 7.5%, UP-84 Unisex for post-retirement.]~~

SECTION 1.02--IMPORTANT DATES AND PERIODS.

(a) "Effective Date" means July 1, 1982~~[, the date on which the provisions of this amended and restated plan became effective]~~.

(b) "Anniversary Date" means the Effective Date and the same day of each year thereafter.

(c) "Quarterly Date" means the effective date and every third Monthly Date thereafter.

(d) "Monthly Date" means the Effective Date and the same day of each month thereafter.

(e) "Eligibility Date" means, as to a Participant, the Eligibility Date as provided in Section 2.01.

(f) "Re-entry Date" means, for a Participant, the Re-entry Date as provided in Section 2.01.

(g) "Retirement Date" means, for a Participant, the date for commencement of monthly retirement benefit which will be his Early, Normal[,] or Late Retirement Date, whichever is applicable.

(h) "Normal Retirement Date" means, for a Participant, the first day of the month coinciding with (immediately following, if none coincides with) the date on which he attains age ~~[58.]~~ [60 (58 for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney).]

(i) "Early Retirement Date" means the first day of the month selected by the Participant for beginning an early retirement benefit before his Normal Retirement Date which is on or after the later of the following:

(1) The date he ceases to be an Employee.

(2) The date he attains age ~~[50.]~~ [55 (50 for Police Officers, Firefighters, and the City Attorney).]

(j) "Late Retirement Date" means, for a Participant who continues active work for the Employer after his Normal Retirement Date, the first day of the month selected by him for commencement of monthly retirement benefit which follows his Normal Retirement Date and is no later than the first day of the month coinciding with (immediately following, if none coincides with) the date of his Termination of Employment.

(k) "Service" means, as to an Employee, any service for which he is either (i) directly or indirectly compensated by the Employer or (ii) performing duties for the Employer. No interruption in Service (based on the regular work week for his job without overtime) will be deemed to have occurred during any approved periods of absence from the Employer by reason of

(1) temporary lay-off,

(2) leave of absence (not to exceed one year),

(3) a temporary absence on account of disability, illness[,] or injury, [or]

(4) pregnancy[.][~~, or~~

~~(5) military service~~]

Any discretion of the Employer under the provisions of this definition will be exercised without discrimination in accordance with definitely established rules uniformly applicable to Participants whose approved periods of absence were occasioned by similar circumstances.

(l) "Years of Service" means, as to an Employee on any date of determination, unless indicated otherwise, the number of years (counting completed months as fractional parts of a year) of Service since his latest date of employment, but excluding any Service after the establishment of the ~~[prior plan]~~ [Prior Plan] during which he made no contributions, if contributions were required by him under said ~~[prior plan]~~ [Prior Plan] during any such period and he failed or refused to so contribute.

(m)~~["Credited Service" means, as to a Participant, the current period and all prior periods of his Years of Service.~~

~~(n)~~] "Plan Participation" means, as to a Participant, all periods of his employment with the Employer during which he has been an Active Participant.

~~[(o)]~~[(n)] "Termination of Employment" means cessation of active work (resulting in an interruption in ~~[service)]~~ [Service)] with the Employer, other than by reason of retirement, death, or disability, due to

(1) voluntary or involuntary termination or separation of employment, or

(2) failure to return to work upon the expiration of any approved period of absence from the Employer, in which event cessation of active work shall be deemed to have occurred at the time such approved period of absence expired.

~~[(p) "Military Service" means, as to a person~~

~~(1) who served as a member of the armed forces of the United States, and~~

~~(2) who was reemployed by the Employer at a time when he had a right to reemployment at his former position or a substantially similar position upon his separation from such military duty in accordance with his seniority rights as protected under Section 2021 through 2026 of Title 38 of the U.S. Code.~~

~~(q)~~[(o)] "Plan Year" means a period commencing on an Anniversary Date and ending on the day immediately preceding the next Anniversary Date.

~~[(r)]~~[(p)] "Compensation Year" means a one-year period ending on the June 30 immediately preceding a Participant's Eligibility Date and ending on the same month and day of each year thereafter on which he is an Active Participant.

SECTION 1.03--DEFINITIONS RELATING TO DETERMINATION OF BENEFITS.

(a) (1) This Section 1.03(a)(1) applies to Plan Years beginning before July 1, 1993.

"Average Compensation" means, for a Participant on any specified date, the monthly average of his total pay from the Employer for those ~~[3]~~ [three] consecutive Compensation Years (all Compensation Years, if less than ~~[3)]~~ [three)] which give the highest average out of the 10 latest Compensation Years (all Compensation Years, if less than 10) occurring prior to such specified date.

Pay as used in this definition means the type of compensation subject to tax for Social Security benefits without regard to the dollar limitation on such compensation subject to FICA taxes.

However, for a Participant who was not employed by the Employer for at least one of the Compensation Years immediately preceding either his Eligibility Date or his Re-entry Date, his fixed rate of monthly pay from the

Employer on either such applicable date will be deemed to be his monthly average for such Compensation Year.

(2) This Section 1.03(a)(2) applies to Plan Years beginning on or after July 1, 1993.

[(i)] Average ~~[compensation]~~ [Compensation] means 1/12th of the following [(as such 1/12th is increased below):]~~[.]~~

~~[(i)]~~[(A)] For an employee who has completed at least 10 ~~[years]~~ [Years] of ~~[service]~~ [Service], the average of the person's ~~[monthly earnings]~~ [Monthly Earnings] for each month in a ~~[thirty-six (36)]~~ [36] consecutive month period during the last 120 months of employment preceding the date the benefit is being determined which produces the highest average of ~~[monthly earnings.]~~ [Monthly Earnings.]

~~[(ii)]~~[(B)] For an employee who has completed at least three ~~[years]~~ [Years] of ~~[service]~~ [Service], but less than 10 ~~[years]~~ [Years] of ~~[service]~~ [Service], the average of the person's ~~[monthly earnings]~~ [Monthly Earnings] for each month in a ~~[thirty-six (36)]~~ [36] consecutive month period preceding the date the benefit is being determined which produced the highest average of ~~[monthly earnings.]~~ [Monthly Earnings.]

~~[(iii)]~~[(C)] For an employee who has completed less than three ~~[years]~~ [Years] of ~~[service]~~ [Service], the average of the person's ~~[monthly earnings]~~ [Monthly Earnings] for each month preceding the date of benefit is being determined.

"Monthly ~~[earnings]~~ [Earnings]" means the base remuneration which the ~~[City]~~ [Employer] pays to an ~~[employee]~~ [Employee] in a month before any payroll deduction for income taxes, social security, group insurance, deferred compensation[,] or any other purpose. The full amount of required employee contributions ~~[pick-]~~[picked] up, assumed[,] or paid by the ~~[City]~~ [Employer] on behalf of its employees shall be considered ~~[monthly earnings]~~ [Monthly Earnings] under the provisions of this ~~[plan.]~~ [Plan.]

~~[(i) The average compensation in 1.03(a)]~~[(ii) The Average Compensation determined above shall be increased as follows:

(A) The Average Compensation determined] above is divided by 173.33 to arrive at the average hourly rate of earnings.

~~[(ii)]~~[(B)] The number of unused sick leave hours is multiplied by the result in ~~[(i)]~~ [Section 1.03(a)(2)(ii)(A)] above~~[,]~~ to arrive at the value of unused sick leave.

~~[(iii)]~~[(C)] One-half of the value of unused sick leave, divided by 36, shall be added to the ~~[average compensation in 1.03(a)]~~ [Average Compensation determined] above.

(b) "Vesting Percentage" means, for a Participant

(1) prior to the date on which he has completed ~~[3]~~ [three] years of Plan Participation, 0%, if employed prior to July 1, 1982, or prior to the date on which he has completed ~~[5]~~ [five] years of Plan Participation, 0%, if employed after June 30, 1982.

(2) on or subsequent to the date in [Section 1.03(b)](1) above, 100%.

In any event, a Participant's Vesting Percentage shall be 100% on or subsequent to the earlier of (i) the date on which he attains age ~~[45]~~ [50 (45 for Police Officers, Firefighters, and the City Attorney)] or (ii) the date on which he becomes Totally and Permanently Disabled.

(c) "Contributions" means Employer Contributions, Required Participant Contributions[,] and Voluntary Contributions as set out in Article ~~[III]~~ [3.], unless the term as used refers to one of these only, in which event it means the one thus referred to.

(d) "Participant's Contribution Account" means, for a Participant as of any specified date, the aggregate value of the Required Participant Contributions (including any interest earnings thereon) made for or by him pursuant to the Prior Plan ~~[and]~~[, under Section 3.02 of the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN, under Section 3.02 of the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN, or] under Section 3.02 of this ~~[restated]~~ Plan, and which have not been previously paid or applied as to him.

Such Participant's Contribution Account will be zero upon the earliest to occur of (1), (2)[,] or (3) below:

(1) The date a death benefit is paid on account of his death pursuant to Section ~~[5.01]~~ [7.01].

(2) The date a cash termination benefit is paid to him pursuant to Article ~~[VI]~~ [8].

(3) His Retirement Date.

A Participant's Contribution Account will be credited with interest at the rate of 7.5% (8% for periods beginning on or after July 1, 1990) compounded annually.

(e) "Normal Form" means a straight life annuity with ~~[5]~~ [five] year certain period pursuant to ~~[paragraph (b)]~~ Section 4.02[(b)].

(f) "Totally and Permanently Disabled" means, as to a Participant, that he is disabled, as a result of sickness or injury to the extent that he is prevented from engaging in any occupation for wage or profit and is entitled to a disability benefit under Title II of the Federal Social Security Act, as determined by the ~~[Contractholder]~~ [Employer] and reported to the ~~[Company]~~ [Insurer].

(g) "Voluntary Account" means the value of a Participant's Voluntary Contributions which have been made as provided in Article ~~[VIA]~~ [10].

A Participant's Voluntary Account will be credited with interest at a rate of not less than the rate credited to his Participant's Contribution Account.

A Participant's Voluntary Account will be reduced by any distribution [therefrom] made under the Plan.

(h) "Voluntary Contributions" means Voluntary Contributions as set out in Section ~~[6A.01.~~

~~]~~[10.01.

(i) "Actuarial Equivalent" means:

(1) Police Officers and Firefighters: 7.5% and 1971 GAM for pre-retirement; and 7.5% and UP-84 Unisex for post-retirement.

(2) For General Employees and the City Attorney:

(i) For Retirement Dates and other annuity starting dates before September 1, 2002: 7.5% and 1971 GAM for pre-retirement; and 7.5% and UP-84 Unisex for post-retirement.

(ii) For Retirement Dates and other annuity starting dates after August 31, 2002: 7.5% and the table prescribed in Revenue Ruling 2001-62. However, in no circumstance will the amount of a General Employee's or the City Attorney's benefit as of a Retirement Date or other annuity starting date be less than the amount determined using (A) the factors in Section 1.03(i)(2)(i) above, (B) the Participant's Accrued Benefit earned as of June 30, 2002, based on Average Compensation and Years of Service as of June 30, 2002, and (C) the amount of the Participant's Contribution Account as of June 30, 2002.

The cost of living adjustment provided in Article 6. shall not be considered in determining Actuarial Equivalent benefits.]

SECTION 1.04--[ADDITIONAL DEFINITIONS.

(a) "IRC" means the Internal Revenue Code of 1986, as amended.

(b) "ORS" means Oregon Revised Statutes, as amended.

SECTION 1.05--]ACCRUED BENEFIT[.]

An Active Participant's monthly Accrued Benefit as of any specified date will be an amount equal to the product of a Participant's ~~[average monthly compensation, times 2.0%]~~ [Average Compensation, times 1.67% (2% for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney)], times his total Years of Service.

In no event will a Participant's Accrued Benefit be less than his Accrued Benefit on July 1, 1982.

ARTICLE [2.] ~~II~~

~~}~~ PARTICIPATION

[SECTION] 2.01--ACTIVE PARTICIPANT.

(a) An [Eligible] Employee may first become an Active Participant under the Plan on his employment commencement date [or, if later, the date he becomes an Eligible Employee].

(b) A Participant who became an Inactive Participant pursuant to Section 2.02 may again become an Active Participant on the date on which he again becomes an Eligible Employee by reason of re-employment or otherwise. Such date is his Re-entry Date.

(c) A former Participant who ceased to be a Participant pursuant to Section 2.03 may again become an Active Participant on the date on which he again becomes an Eligible Employee by reason of re-employment or otherwise. Such date is his Re-entry Date.

SECTION 2.02--INACTIVE PARTICIPANT.

An Active Participant will become an Inactive Participant on the earliest of the following:

(a) The date following the date on which a monthly income is provided as to him under this Plan.

(b) The date he ceases to be an Eligible Employee by reason of Termination of Employment or otherwise, occurring one month or more prior to his Retirement Date.

(c) The date he ceases to be an Eligible Employee by reason of partial termination of [the] Plan pursuant to Article ~~[VII]~~ [11].

(d) The effective date of complete termination of [the] Plan pursuant to Article ~~[VII]~~ [11].

SECTION 2.03--CESSATION OF PARTICIPATION.

A Participant will cease to be a Participant on the earlier of the following:

(a) His death.

(b) The date he receives a single sum distribution which is in lieu of all other benefits under the Plan as to him.

[SECTION 2.04–TRANSFERRED EMPLOYEES.

Despite any contrary provision of the Plan, the Plan shall be applied to transferred employees who are subject to ORS 236.605 to 236.640 as the Employer determines appropriate in the Employer's discretion to implement ORS 236.605 to 236.640.

]

ARTICLE [3.] ~~III~~

~~]~~ CONTRIBUTIONS

SECTION 3.01--EMPLOYER CONTRIBUTIONS.

The Employer will make contributions at such times and in such amounts as will be determined based upon periodic actuarial valuations and recommendations as to the amount or amounts required to fund retirement benefits and other benefits payable in accordance with this Plan.

~~[Except as provided in Article VII, contributions]~~ [Any contribution] made by the Employer ~~[under this Plan will be irrevocable, and will be used for the exclusive benefit of the Participants]~~ [because of a mistake of fact must be returned to the Employer within one year of the contribution, but only if the Employer makes timely written demand therefor. Such returned contributions will not include attributable earnings but will be reduced by attributable losses].[

]Dividends declared under the Group Contract or any forfeitures resulting from a Participant's Termination of Employment or death will be applied to reduce future Employer Contributions.

SECTION 3.02--REQUIRED PARTICIPANT CONTRIBUTIONS.

Monthly required contributions will be made under this Plan on behalf of each Active Participant. The amount of each such Required Participant Contribution will be equal to 6% of such Participant's monthly earnings.

For purposes of this Section 3.02, monthly earnings shall include all forms of compensation received by an Employee during such month, including bonuses and overtime. [However, effective July 1, 2002, monthly earnings excludes, for General Employees and the City Attorney, overtime, longevity pay, and pager pay.]

Required Participant Contributions are fully vested and nonforfeitable as to each Participant at all times.

Effective January 1, 1995, or as required by state law, the ~~[employer]~~ [Employer] shall not make the ~~[required participant contributions for employees]~~ [Required Participant Contributions for Employees].

SECTION ~~[3.02a-]~~[3.03-]-MANDATORY EMPLOYEE CONTRIBUTIONS.

Effective January 1, 1995, or as required by state law, the ~~[employer]~~ [Employer] shall pick-up and pay on behalf of all ~~[employees a six percent (6%)]~~ [Active Participants a 6%] mandatory contribution of ~~[Monthly Earnings]~~ [monthly earnings as defined in Section 3.02]. Such picked-up

mandatory contributions shall be made pursuant to the provisions of ~~[the Internal Revenue Code,]~~ [IRC] Section 414(h).

SECTION ~~[3.03-]~~[3.04-]-INVESTMENT OF CONTRIBUTIONS.

All Contributions made under the Plan will be deposited with the Insurer and invested in accordance with the provisions of the Group Contract. To the extent not prohibited by State law, the Employer may specify whether all or any portion of an Employer Contribution deposited under the Group Contract is to be invested in any of the separate accounts of the Insurer in which the Group Contract participates.

ARTICLE [4.] ~~IV~~

~~]~~ RETIREMENT BENEFITS

SECTION 4.01--AMOUNT OF MONTHLY RETIREMENT BENEFIT.

The amount of monthly retirement benefit for an Active Participant on his Retirement Date in accordance with the provisions of Section 4.02 will be determined as follows.

(a) At Normal Retirement Date~~[:]~~[,] the amount of monthly retirement benefit for an Active Participant on his Normal Retirement Date will be equal to his Accrued Benefit as of such date.

(b) At Early Retirement Date, an Active Participant's retirement benefit on his Early Retirement Date will be equal to his Accrued Benefit on such specified date, multiplied by the factor shown below corresponding to the number of years his Early Retirement Date is before his Normal Retirement Date.

[Number of Years Early Retirement Date is Before Normal Retirement Date	Factor
1	.92
2	.84
3	.76
4	.68
5	.60

However, in lieu of the above table the following table applies to Police Officers and Firefighters and, effective July 1, 1992, the City Attorney:]

Number of Years Early Retirement Date is Before Normal Retirement Date	Factor
1	1.0
2	1.0
3	1.0
4	.92
5	.84
6	.76

7	.68
8	.60

Provided, however, no reduction will apply to the Accrued Benefit of an Active Participant who retires on his Early Retirement Date with ~~[25]~~ [30 (25 for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney)] Years of Service.

The above factors will be adjusted proportionately for fractional parts of a year (counting a partial month as a complete month).

(c) At Late Retirement Date~~[.]~~[,] the amount of monthly retirement benefit for an Active Participant on his Late Retirement Date will be equal to his Accrued Benefit as of his Late Retirement Date.

SECTION 4.02--OPTIONAL FORMS OF MONTHLY RETIREMENT BENEFIT.

The monthly retirement benefit for a Participant on his Retirement Date may be paid in accordance with any one of the optional methods of payment under the Group Contract, which will be limited to the following ~~[actuarial equivalent]~~ [Actuarial Equivalent] optional forms.

(a) Straight life annuity; for the lifetime of the Participant, without death benefits.

(b) Life annuity with certain period; for the lifetime of the Participant and, if the death of the Participant occurs prior to the end of the certain period, the balance of the remaining certain period payments to his Beneficiary.

(c) Survivorship life annuity; for the lifetime of the Participant and, upon his death, a percentage of such annuity for the lifetime of his named Contingent Annuitant.

(d) Life annuity with modified cash refund; for the lifetime of the Participant and upon his death, a single sum payment will be made to his Beneficiary of the excess, if any, of his initial death benefit over the monthly annuity payments made to the Participant. The Participant may change his Beneficiary at any time.

A Participant's initial death benefit is an amount equal to the sum of (1) his Participant's Contribution Account plus (2) his Voluntary Account, if any, both determined on his Retirement Date.

The amount of each payment to a Participant under any of the optional forms of benefit in ~~[subparagraphs (a), (b), (c) or (d)]~~ [Section 4.02(a), 4.02(b), 4.02(c), or 4.02(d)] above (other than the Normal Form) ~~[is determined by multiplying]~~ [will be] the amount ~~[payable in accordance with]~~ [required for the optional form to be the Actuarial Equivalent of] the Normal Form ~~[by the~~

~~actuarial equivalent ratio of (i) the applicable rate in the Group Contract for the Normal Form, to (ii) the applicable rate in the Group Contract for the option in effect for him]~~.

The Participant may elect in writing the method of payment of any one of the optional forms above within 90 days prior to his Retirement Date.

In no event will an "interest-only" optional form be available. The Participant will name any certain period or any survivorship percentage and Contingent Annuitant prior to his Retirement Date.

~~[Any optional form of retirement benefit under either subparagraph (b), (c) or (d) above will not be available on a Participant's Retirement Date unless the present value as of such date of the amount to be paid to the Participant while living is more than 50% of the present value of the total benefit to the Participant and his Beneficiary or, if applicable, his Contingent Annuitant.]~~

If no optional form has been elected by the Participant, payment will be made to him under the Normal Form.

SECTION 4.03--ADDITIONAL MONTHLY INCOME.

The monthly retirement benefit determined for a Participant under Section 4.01 may be increased, as determined in accordance with the following provisions:

(a) ~~[That]~~ [For a Participant hired prior to July 1, 1993, and also for Police Officers, Firefighters, and the City Attorney, that] portion of a Participant's Contribution Account derived from Required Participant Contributions made on or after July 1, 1979[,] shall be applied as of the Participant's Retirement Date to provide him an amount of monthly retirement income in addition to that provided under Section 4.01(a), ~~[(b)]~~ [4.01(b),] or ~~[(c)]~~ [4.01(c)], whichever is applicable.

(b) A Participant [described in Section 4.03(a) above] may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement Date. Payment of his Participant's Contribution Account derived from ~~[required]~~ [Required] Participant Contributions made on or after July 1, 1979[,] is in lieu of any ~~[Additional Monthly Income]~~ [additional monthly income] that otherwise would be provided under this Section 4.03. Payment of his Participant's Contribution Account derived from Required Participant Contributions made ~~[before]~~ [prior to] July 1, 1979[,] is in lieu of the ~~[Actuarial]~~ [Actuarially] Equivalent ~~[Value]~~ [Monthly Benefit] of that portion of his Accrued Benefit (Section ~~[1.04)]~~ [1.05)] attributable to such Required Participant Contributions.

[(c) Effective on and after July 1, 1993, a Participant who is not described in Section 4.03(a) above may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement Date. Lump Sum payment of his

Participant's Contribution Account will reduce his Accrued Benefit (Section 1.05) by the monthly benefit that is the Actuarial equivalent of the lump sum.]

SECTION 4.04~~[--]~~[-]MINIMUM DISTRIBUTION.

In no event will a Participant who is vested on the date of his ~~[termination of employment]~~ [Termination of Employment] receive a distribution less than the Actuarial Equivalent of his Participant's Contribution Account on such date.

[SECTION 4.05--LIMITATION OF BENEFITS.

(a) Maximum Annual Benefit. Subject to exceptions below, the "annual benefit" payable under this Plan shall not exceed the lesser of: (1) $90,000 or (2) 100% of the Participant's compensation for the period of three consecutive years during which the Employee had the greatest aggregate compensation from the Employer. In determining an Employee's high three years, any 12-month period may be used, provided that it is uniformly and consistently applied.

(b) For purposes of this Plan, "annual benefit" means the benefit payable in the form of a straight life annuity with no ancillary benefit. If a benefit is payable in any other form, the "annual benefit" limitation shall be applied by adjusting it to the equivalent of a straight life annuity in accordance with the regulations of the Secretary of the Treasury.

(c) For purposes of the maximum limitation of this Article all defined benefit plans maintained by the Employer shall be viewed as a single plan.

(d) If the "annual benefit" begins before age 62, the $90,000 limitation (but not the 100% of compensation limitation) shall be actuarially reduced so that it is the equivalent of an "annual benefit" beginning at age 62. However, the limitation shall not be actuarially reduced to less than: (1) $75,000 if the "annual benefit" commenced on or after age 55, or (2) the amount which is the actuarial equivalent of $75,000 at age 55 if the "annual benefit" commences prior to age 55.

(e) If the "annual benefit" begins after age 65, the $90,000 limitation shall be increased so that it is the actuarial equivalent of the maximum "annual benefit" at age 65.

(f) For purposes of adjusting any "annual benefit" payable prior to age 62 or in a form other than a straight life annuity, the interest rate assumption shall not be less than the greater of five percent (5%) or the rate specified in Section 1.3.

(g) For purposes of adjusting any "annual benefit" payable after age 65, the interest assumption shall not be greater than the lesser of five percent (5%) or the rate specified in Section 1.3.

(h) For purposes of adjusting any "annual benefit" under subparagraph (b), (d), and/or (e), no adjustments shall be taken into account before the year for which such adjustment first takes effect.

(i) Secondary Maximum Annual Benefit: If a Retired Participant has less than 10 Years of Service with the Employer, the maximum annual benefit payable to the Retired Participant shall be reduced by multiplying such maximum "annual benefit" by the fraction, the numerator of which is the number of Years of Service, or part thereof, with the Employer and the denominator of which is ten (10).

(j) Exception Benefit: Subject to the limitations of Section 6.1(i) above, this Plan may pay an "annual benefit" to any Retired Participant which shall exceed 100% of such Participant's average

compensation (6.1(a) above) provided the "annual benefit" shall not be in excess of $10,000 for the current Plan Year and for all other Plan Years; and provided the Participant shall not be or have been at any time considered as an active Participant in any defined contribution plan maintained by the Employer.

(k) Multiple Plan Reduction: If an Employee is a Participant in one or more defined benefit plans and one or more defined contribution plans maintained by the Employer, the sum of the defined benefit plan fraction and the defined contribution plan fraction for any year may not exceed 1.0. The defined benefit plan fraction for any year is a fraction (a) the numerator of which is the projected "annual benefit" of the Participant under the Plan (determined as of the close of the Plan Year), and (b) the denominator of which is the lesser of: (1) the product of 1.25 multiplied by the maximum dollar limitation in effect under Section 415(b)(1)(A) of the Code for such year, or (2) the Product of 1.4 multiplied by the amount which may be taken into account under Section 415(b)(1)(B) of the Code for such year. The defined contribution plan fraction for any year is a fraction (a) the numerator of which is the sum of the "annual additions" to the Participant's Account as of the close of the Plan Year and (b) the denominator of which is the sum of the lesser of the following amounts determined for such year and each prior year of service with the Employer: (1) the product of 1.25 multiplied by the dollar limitation in effect under Section 415(c)(1)(A) of the Code for such year (determined without regard to Section 415(c)(6) of the Code), or (2) the product of 1.4 multiplied by the amount which may be taken into account under Section 415(c)(1)(B) of the Code for such year.

For the purposes of this paragraph, the term "Participant's Account" shall mean the account established and maintained by the Administrator for each Participant with respect to his total interest in the defined contribution plan maintained by the Employer resulting from the Employer's contribution.

(l) Special Rule for Defined Contribution Fraction: At the election of the Administrator, in applying the provisions of Section 4.01(k) with respect to the defined contribution plan fraction for any Plan Year ending after December 31, 1982, the amount taken into account for the denominator for each Participant for all Plan Years ending before January 1, 1983 shall be an equal to the product of (a) the amount of the denominator determined under Section 4.05(k) for Plan Years ending before January 1, 1982, multiplied by (b) the "transition fraction".

For purposes of the preceding paragraph, the term "transition fraction" shall mean a fraction (a) the numerator of which is the lesser of (1) $51,875 or (2) 1.4 multiplied by twenty-five percent (25%) of the Participant's compensation for the Plan Year ending in 1981, and (b) the denominator of which is the lesser of (1) $41,500 or (2) twenty-five percent (25%) of the Participant's compensation for the Plan Year ending in 1981.

(m) Excessive Benefit: If the sum of the defined benefit plan fraction and the defined benefit contribution plan fraction shall exceed 1.0 in any year for any Participant in this Plan, the Employer shall adjust the numerator of the defined benefit plan fraction so that the sum of both fractions shall not exceed 1.0 in any year for such Participant.

~~(n) Annual benefit as used in this Article shall mean the benefit payable from the Plan for retirement purposes on an annualized basis.~~

~~(o) Limitation Year: For purposes of determining "annual benefits", the limitation year shall be the Fiscal Year.~~

~~(p) In the case of a group of employers which constitutes either a controlled group of corporations, trades or businesses under common control (as defined in Section 1563(a) or Section 414(b) as modified by Section 415(h) and Section 414(c) of the Code), or an affiliated service group (as defined by Section 414(m) of the Code), all such employers shall be considered a single employer for purposes of applying the limitation of Section 415 of the Code.~~

~~(q) The maximum benefit stated in paragraph (a) above shall be adjusted annually as provided by Section 415(d) of the Code to take into account increases in cost of living in accordance with the regulations prescribed by the Secretary of the Treasury. The adjusted dollar limitation is effective as of January 1st of each calendar year and applies with respect to the limitation year ending with or within that calendar year.~~

~~(r) Except as specifically permitted in the Regulations of the Secretary of the Treasury under Section 415 of the Code, the benefits paid or payable at any time shall not exceed the limitations of subparagraph (a) above.~~

~~(s) This Section 4.05 is effective July 1, 1976.~~

~~ARTICLE IVA~~

~~[~~[ARTICLE 5.] DISABILITY PAYMENTS

SECTION ~~[4A.01--]~~[5.01--]ELIGIBILITY.

An Active Participant will become eligible for monthly disability payments under this Article ~~[IVA]~~ [5.] in the event (i) he becomes Totally and Permanently Disabled while in the actual performance of his duties [for the Employer] or (ii) he becomes Totally and Permanently Disabled on or after the date he completes 10 or more ~~[years of service]~~ [Years of Service and while he is an Employee] but before his Retirement Date (Normal Retirement Date, if earlier).

Such Participant will become an Inactive Participant as of the date he becomes Totally and Permanently Disabled.

For purposes of this Article ~~[IVA,]~~ [5.] Termination of Employment is deemed not to have occurred as to such Participant because of his disability, until and unless his employment is otherwise terminated; provided, however, that any periods of absence due to his disability under this Article ~~[IVA]~~ [5.] will not be counted wherever in this Plan ~~[service]~~ [Service] is a determining factor.

SECTION ~~[4A.02-]~~[5.02-]-AMOUNT OF PAYMENTS.

(a) This Section ~~[4A.02(a)]~~ [5.02(a)] is effective before July 1, 1990[, for all Participants and is effective on and after July 1, 1990, for Participants other than Police Officers, Firefighters, and the City Attorney].

The amount of monthly disability payment for a Participant is equal to his Accrued Benefit determined as of the first day of the month coinciding with (immediately following, if none coincides with) the date on which he is disabled.

In no event, however, will the amount of each disability payment for any Participant be less than $100.

(b) This Section ~~[4A.02(b)]~~ [5.02(b)] is effective on and after July 1, 1990[, for Police Officers, Firefighters, and the City Attorney].

The amount of monthly disability payment for a Participant is equal to his Accrued Benefit determined as of the first day of the month coinciding with or immediately following the date on which he is disabled, based on Average Compensation as of the date of disability and Years of Service as of the disability date or projected to age 55, if later. Benefits determined under Section 4.03 will be paid in addition to these amounts.

In no event, however, will the amount of each disability payment for any Participant be less than $100 nor greater than 75% of the Participant's Average Compensation.

SECTION ~~[4A.03-]~~[5.03-]-DURATION OF PAYMENTS.

Monthly disability payments will commence on the first day of the month coinciding with (immediately following, if none coincides with) the date such Participant becomes Totally and Permanently Disabled and will continue thereafter through the first day of the month preceding the earliest of the following dates:

(a) His Normal Retirement Date.

(b) The date of his death.

(c) The effective date of termination of Plan.

(d) The date he is no longer Totally and Permanently Disabled.

If such payments continue through the first day of the month preceding such Participant's Normal Retirement Date, monthly retirement benefits will be provided for him on his Normal Retirement

Date in accordance with the provisions of Article ~~[IV]~~ [4.] in like manner as for an Active Participant, with Accrued Benefit equal to the amount of monthly disability payment paid to him pursuant to Section ~~[4A.02]~~ [5.02]. If, prior to such Participant's Normal Retirement Date, he recovers and returns to active work for the Employer within one month of the date he is no longer Totally and Permanently Disabled, such payments will stop and he will again become an Active Participant pursuant to Section 2.01. If, prior to such Participant's Normal Retirement Date, he recovers and does not return to active work for the Employer within one month of his recovery, such payments will stop and his Termination of Employment will be deemed to have occurred as of the date he became Totally and Permanently Disabled and his benefits will be redetermined pursuant to Article ~~[VI]~~ [8].

If the Participant dies while receiving monthly disability payments and he meets the requirements pursuant to Section ~~[5.01(a)]~~ [7.01(a)], death benefits will be paid in accordance with the provisions of said Section ~~[5.01(a)]~~ [7.01(a)].

ARTICLE [6.] ~~[IVB~~ ~~]~~ COST OF LIVING ADJUSTMENT

SECTION ~~[4B.01-]~~[6.01-]-IMPORTANT TERMS.

For the purpose of determining the cost of living adjustment of benefits, the following terms are defined here:

ADJUSTMENT DATE means each Anniversary Date on and after the Effective Date on which the Price Index has changed from the Price Index on the last preceding Anniversary Date as of which the monthly retirement benefit payments under this Plan were changed in accordance with this Article ~~[IVB]~~ [6.] (on the Effective Date if no prior changes have been made).

ADJUSTMENT FACTOR means, as of any Adjustment Date, the quotient of (a) divided by (b):

(a) The Price Index as of such Adjustment Date.

(b) The Price Index as of the last previous Adjustment Date.

In no event, however, will the Adjustment Factor exceed 1.02. Prior to July 1, 1982, the Adjustment Factor will not exceed 1.04.

ANNUITANT means either an Inactive Participant whose Retirement Date has occurred and who is entitled to monthly retirement benefit payments under this Plan, [an alternate payee,] or the Beneficiary~~[,]~~ or Contingent Annuitant of such Participant, if any, who is entitled to monthly retirement benefit payments under this Plan as the result of such Participant's death.

PRICE INDEX means, as of any Anniversary Date, the Consumer Price Index (Portland area-all items) as published by the Bureau of Labor Statistics of the United States Department of Labor in the City of Portland, Oregon[, or a comparable index as determined by the Employer if such index ceases to be published].

SECTION ~~[4B.02-]~~[6.02-]-CHANGE IN MONTHLY RETIREMENT BENEFIT.

As of each Adjustment Date, the monthly retirement benefit payments payable to an Annuitant will be changed to the amount determined by multiplying such payments by the Adjustment Factor as of such Adjustment Date, subject to the following provisions:

(a) If such change results in an increase in the amount of monthly retirement benefit payments to an Annuitant, an amount of monthly retirement benefit will be provided for him under the Group Contract in the amount of such increase with payments consistent with the payments being made as to the monthly retirement annuity provided under the Group Contract on the Participant's Retirement Date.

(b) If such change results in a decrease in the amount of the monthly retirement benefit payments to an Annuitant, an amount or amounts of monthly retirement benefit previously provided for him under the Group Contract will be cancelled as of such Adjustment Date so that the total amount of monthly retirement benefit remaining will be only the reduced amount to which he is then entitled.

In no event will any decrease become effective which would reduce the monthly retirement benefit payments for an Annuitant to an amount which would be less than the amount he would have received had the provisions of this Article ~~[IVB]~~ [6.] not been in effect.

(c) On and after the effective date of termination of Plan pursuant to Article ~~[VII]~~ [11.], no further changes in monthly retirement benefit payments will be made in accordance with this Article ~~[IVB]~~ [6].

SECTION ~~[4B.03-]~~[6.03-]-MINIMUM ADJUSTMENT FOR RETIREMENTS AFTER JULY 1, 1990.

Effective on and after July 1, 1990, [for Police Officers, Firefighters, and the City Attorney,] monthly payments for [such] Participants retiring on or after July 1, 1990, will be increased annually to a level that is no less than that which would have been in effect had the initial monthly benefits been payable from the Oregon Public ~~[Employes]~~ [Employees] Retirement System[, determined without including any payments under ORS 238.375 to 238.387 or any other tax remedy payments.

[

ARTICLE [7.] ~~[V~~

~~]~~ DEATH BENEFITS

SECTION ~~[5.01-]~~[7.01-]-DEATH BENEFIT BEFORE RETIREMENT[.]

(a) Death Benefit before Retirement Date (Normal Retirement Date, if earlier): If the death of a Participant occurs prior to his Retirement Date (Normal Retirement Date, if earlier), a single sum death benefit equal to the sum of (i) two times his Participant's Contribution Account ~~[and (ii) his Voluntary Account]~~ as of the date of his death[, and (ii) his Voluntary Account as of the date of his death] will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section ~~[4.03]~~ [4.02] for the benefit of such Beneficiary.

[Effective July 1, 1990, for Participants other than Police Officers, Firefighters, and the City Attorney, "two and two-tenths (2.2) times" shall replace "two times" where "two times" appears in the above paragraph.]

In no event, however, will such death benefit be less than the death benefit that would have been payable upon the death of such Participant under the Prior Plan on the day before the Effective Date.

(b) Deferred Retirement Death Benefit: If the death of an Active Participant occurs on or after his Normal Retirement Date and prior to his ~~[Late]~~ Retirement Date, and

(1) If the straight life annuity optional form under Section ~~[4.03]~~ [4.02] is in effect for him on the date of his death, there are no death benefits payable under this Article ~~[V]~~ [7].

(2) If the life annuity with certain period optional form under Section ~~[4.03]~~ [4.02] is in effect for him on the date of his death, there will be provided for his Beneficiary, beginning on the Monthly Date following his death, a certain period benefit payable monthly for the certain period applicable under said option. The amount of the monthly payments to such Beneficiary will be equal to the amount that would have been payable monthly to such Participant had his Retirement Date occurred on the Monthly Date coinciding with (immediately preceding, if none coincides with) the date of his death.

(3) If the survivorship life annuity optional form under Section ~~[4.03]~~ [4.02] is in effect for him on the date of his death, there will be provided for his designated Contingent Annuitant, beginning on the Monthly Date

coinciding with (immediately following, if none coincides with) the date of his death, a retirement benefit payable monthly in like manner as if such Contingent Annuitant were a Participant with Retirement Date beginning on such Monthly Date if and so long as such Contingent Annuitant lives. The amount of such monthly retirement benefit will be equal to the amount that would have been payable to such Participant had his Retirement Date occurred on the Monthly Date coinciding with (immediately preceding, if none coincides with) the date of his death, multiplied by the percentage in effect under such optional form.

(4) If the life annuity with modified cash refund [optional] form under Section 4.02 is in effect for him on the date of his death, there will be provided for his Beneficiary, a single sum payment equal to his Participant's Contribution Account.

[(5) If none of the above optional forms is in effect for him on the date of his death, a single sum death benefit equal to the amount provided in Section 7.01(a) (determined as if Section 7.01(a) applied) will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section 4.02 for the benefit of such Beneficiary.]

There are no death benefits under this Plan before retirement, except as may be provided under Article ~~[VIA]~~ [10].

SECTION ~~[5.02-]~~[7.02-]-DEATH BENEFIT AFTER RETIREMENT.

Any death benefit after retirement will be in accordance with the form of retirement benefit in effect on a Participant's Retirement Date and will be payable in accordance with the provisions under Article ~~[IV]~~ [4].

ARTICLE [8.] ~~[VI~~

~~]~~ TERMINATION OF BENEFITS

SECTION ~~[6.01-]~~[8.01-]-TERMINATION BENEFITS.

An Employee who becomes an Inactive Participant one month or more prior to his Retirement Date shall be entitled to one of the following benefits:

(a) Deferred Payment. If an Inactive Participant so elects, he will receive a deferred monthly retirement benefit to commence on his Normal Retirement Date. The amount of such deferred monthly retirement benefit, in accordance with the Normal Form, shall be equal to the ~~[sum of (1) and (2) below:]~~ [following:]

~~[(1)]~~[(1) Effective on and after July 1, 1993, for an Inactive Participant hired on or after July 1, 1993, other than an Inactive Participant who was a Police Officer, Firefighter, or the City Attorney:

An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant. The amount may not exceed 100% of his Average Compensation, but in no event shall be less than the monthly benefit provided by the Actuarial Equivalent of his Participant's Contribution Account.

(2) For an Inactive Participant hired prior to July 1, 1993, and for an Inactive Participant who was a Police Officer, Firefighter, or the City Attorney, an amount equal to the sum of (i) and (ii) below:

(i)] An amount equal to the amount of monthly retirement benefit which could be provided on his Normal Retirement Date by that portion of his Participant's Contribution Account made on or after July 1, 1979~~[,]~~[;] and

~~[(2)]~~[(ii)] An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant[,]

provided that the sum of ~~[(1)]~~[(i)] and ~~[(2)]~~[(ii)] do not exceed 100% of his Average ~~[Monthly]~~ Compensation, but in no event shall ~~[the deferred Monthly Retirement Benefit]~~ be less than [the monthly benefit provided by] the Actuarial Equivalent of his Participant's Contribution Account.

(b) An Inactive Participant may elect to have his deferred monthly retirement benefit commence on his Early Retirement Date. The amount of such deferred monthly

retirement benefit shall be equal to the amount of deferred benefit determined in ~~[(a)]~~ [Section 8.01(a)] above multiplied by the factor shown in ~~[paragraph (b) of]~~ Section 4.01[(b)] corresponding to the number of years his Early Retirement Date precedes his Normal Retirement Date.

Payment of the deferred monthly retirement benefit will be in the form of retirement benefit in effect on a Participant's Retirement Date as provided under Section 4.02.

(c) Immediate Payment. In lieu of any benefits otherwise available under this Article ~~[VI]~~ [8.], a Participant may elect to receive his Participant's Contribution Account in a single sum payment.

If the Inactive Participant elects to receive his Participant's Contribution Account in a single sum payment, he shall receive his payment 90 days after the date he ceases to be an Employee and before his Retirement Date. Any such payment will be a voluntary cash-out, in lieu of a part of the deferred retirement benefit otherwise available to him on his Retirement Date. Payment of his Participant's Contribution Account cancels the part of his benefit determined under ~~[(a)(1) and (a)(2)]~~ [Section 8.01(a)] above.

If, upon the date a Participant ceases to be an Employee, the present value of his deferred retirement benefit is less than $1,750, it will, unless otherwise directed by the ~~[Plan Administrator]~~ [Employer], be paid as an involuntary cash-out in a single sum in full settlement of all benefits otherwise payable to him. This value will be determined under the provisions of the Group Contract.

SECTION ~~[6.02-]~~[8.02-]-REPAYMENT OF SINGLE SUM PAYMENT.

[(a)] A Participant

~~[(a)]~~[(1)] who received a single sum payment under this Plan of less than the present value of his Accrued Benefit on the date of payment, and

~~[(b)]~~[(2)] who again performs ~~[service]~~ [Service] as an Eligible Employee

may make repayment to the Plan no longer than the earlier of

~~[(c)]~~[(3)] the last day of the two-year period which begins on the date he again performs ~~[service]~~ [Service] as an Eligible Employee, or

~~[(d)]~~[(4)] the last day of the five-year period which begins on the date the single sum payment is made.

The amount which must be repaid is the full amount of the single sum payment he received with interest at the rate of ~~[5% (or such other percentage as may be determined by governmental regulations from time to time)]~~ [8%] per annum [compounded annually], on such payment compounded annually from the date the payment was made to the date he repaid the full amount. ~~[~~

~~]~~If repayment is made, the Participant's Accrued Benefit will not be reduced for the single sum payment.

~~[ARTICLE VIA]~~[(b) Beginning July 1, 2002, the Plan will accept a Participant's repayment in the form of the following rollovers, contributions, and transfers made after December 31, 2001, from the types of plans described below:]

~~[VOLUNTARY CONTRIBUTIONS]~~[(1) A direct rollover of an eligible rollover distribution from, or a participant contribution of an eligible rollover distribution from:

(i) A qualified plan described in IRC Section 401(a) or 403(a);

(ii) An annuity contract described in IRC Section 403(b); or

(iii) An eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A),

but only if the Plan is an eligible retirement plan with respect to the direct rollover or participant contribution.

(2) A participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in IRC Section 408(a) or 408(b) that is eligible to be rolled over and would otherwise be includible in gross income.

(3) A direct trustee-to-trustee transfer authorized by IRC Section 457(e)(17) from an eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A).

The definitions in Section 13.03 apply for purposes of this Section 8.02(b).

ARTICLE 9. ADDITIONAL BENEFITS FOR PERS BENEFIT INCREASES

SECTION 9.01--PURPOSE.

This Article 9. implements the requirement that the Employer provide increases in benefits for certain Public Safety Employees that are equal to or the actuarial equivalent of certain increases in benefits under the Oregon Public Employees Retirement System granted in 1991 and 1995 to certain police officers and firefighters. That requirement and those increases are provided in ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

SECTION 9.02--INCREASE IN DISTRIBUTION.

Upon distribution of an Eligible Employee's Accrued Benefit in a calendar year in which distributions under this Plan are not exempt from Oregon personal income taxation, the amount of the distribution shall be increased by the greater of the following amounts:

(a) The amount determined by multiplying the Eligible Payments of the Eligible Portion of the Employee's Accrued Benefit by the following percentage:]

[If the Employee's Years of PSE Service at the Employee's last Severance of Employment are:	*The percentage is:*
Less than 10	0%
At least 10 but not 20	1%
At least 20 but not 25	2½%
25 or more	4%]

[(b) The amount determined by multiplying the Eligible Payments of the Eligible Portion of the Employee's Accrued Benefit by the percentage determined under the following formula:

$$\left(\frac{1}{.91} - 1\right) \left(\frac{\text{the Employee's Years of PSE Service before October 1, 1991}}{\text{the Employee's Years of PSE Service}} \right)$$

The amount of such increase shall be allocated among the components of the Employee's Accrued Benefit in proportion to the Actuarial Equivalent value of each. The increase allocated to each component shall be paid in the same form as the component is paid.

SECTION 9.03--ALTERNATE PAYEES.

Despite Section 9.02 above, (1) the amount by which the distribution to an alternate payee is to be increased shall not be determined or paid before the participant's Severance of Employment,

(2) no increase shall be paid (even after the participant's Severance of Employment) with respect to a lump sum distribution (including a direct rollover) made to an alternate payee before the participant's Severance of Employment, and (3) the amount of the increase in the distribution to the alternate payee with respect to distributions previously made shall be distributed in the following forms, without interest for delayed payment:

(a) In a lump sum distribution if the benefit is attributable to monthly payments previously made under an annuity.

(b) As a supplement to the annuity if the increase is attributable to monthly payments to be made in the future under a previously started annuity.

SECTION 9.04--DEFINITIONS; CHANGE IN TAX RATE.

For purposes of this Article 9.:

(a) An "Eligible Employee" is any Employee who before July 14, 1995, was a Public Safety Member and whose last Severance of Employment occurred or occurs while the Employee is a Public Safety Employee and either occurred before January 1, 1991, for a reason other than the Employee's death or occurred or occurs after December 31, 1990, for any reason.

(b) "Public Safety Member" means an Active Participant employed by the Employer as a firefighter or police officer as those terms are defined in ORS 237.610.

(c) "Public Safety Employee" means an Employee employed by the Employer as a firefighter or police officer as those terms are defined in ORS 237.610.

(d) "Accrued Benefit" means the participant's Accrued Benefit as defined in Section 1.05, but specifically excluding the cost of living adjustment provided in Article 6., the benefit provided in this Article 9., and the benefit attributable to the participant's Voluntary Account.

(e) "Eligible Payments" are all payments made after December 31, 1990, other than:

(1) Payments that would have been made before January 1, 1991, but for the Employee's election to defer distribution, as determined in the discretion of the Employer.

(2) Payments with respect to an Eligible Employee whose last Severance of Employment occurred before January 1, 1991, other than periodic payments made under an annuity. Whether a payment is periodic shall be determined in the discretion of the Employer.

(f) The "Eligible Portion" is the part of the Accrued Benefit attributable to Plan Participation as a Public Safety Member.

(g) "Years of PSE Service" are Years of Service during which the Eligible Employee was a Public Safety Employee, which Years of Service shall be determined by counting only completed months of Service during which the Employee was at all times a Public Safety Employee.

(h) "Severance of Employment" means permanent termination of employment with the Employer for any cause.

(i) The decimal .91 in the formula in Section 9.02(b) above shall automatically be adjusted as provided in this Section 9.04(i) to reflect changes in the maximum Oregon personal income tax rate imposed upon individuals who are full-year residents of Oregon. An increase in such rate by x percentage points shall cause such decimal to be reduced by x 100ths, and a reduction in such rate by x percentage points shall cause such decimal to be increased by x 100ths. For example, following are the decimals that correspond to particular rates:]

[If the rate is:	*The decimal is:*
7%	.93
8%	.92
9%	.91
10%	.90
11%	.89]

[Any such change in the decimal shall be effective only for distributions made on or after the effective date of the change in such rate. No amount distributed to an Eligible Employee, Beneficiary, Contingent Annuitant, or alternate payee before the change is implemented may be recovered from any person or offset against any undistributed benefit of any person to account for any such change.

SECTION 9.05--PRIOR DISTRIBUTIONS.

The Employer shall as soon as administratively feasible cause to be distributed to Eligible Employees (and where applicable their Beneficiaries, Contingent Annuitants, and alternate payees) without interest any benefits provided in this Article 9. or Article 6. attributable to distributions previously made and shall appropriately adjust the cost of living adjustment provided in Article 6. for payments to be made in the future. Such benefits shall be distributed in the following forms:

(a) In a lump sum distribution if the benefit is attributable to:

(1) A lump sum distribution (including a direct rollover); or

(2) Monthly payments previously made under an annuity.

(b) As a supplement to the annuity if the benefit is attributable to monthly payments to be made in the future under a previously started annuity.

SECTION 9.06--LIMITATIONS.

The benefits provided in this Article 9.:

(a) Shall not be paid with respect to any portion of an Eligible Employee's Accrued Benefit that is transferred to the Oregon Public Employees Retirement System or the payment of which is assumed or made by the Oregon Public Employees Retirement System.

(b) May by amendment of this Plan be reduced, eliminated, or changed for all or some Employees with respect to service performed before or after the amendment:

(1) To the extent a court of competent jurisdiction or the Employer determines that the Employer is not required to implement one or more of the provisions of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569 that by their terms apply to the Employer.

(2) To the extent a court of competent jurisdiction or the Employer determines that any of the benefits, or the aggregate benefits, provided in this Article 9. are more than is required to implement the provisions of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

(3) As the Employer determines appropriate to respond to any law modifying any requirement of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

(4) As the Employer in the Employer's absolute discretion deems appropriate, even though none of the events described above in this Section 9.06(b), and no like event, has occurred.

Any such benefits that are reduced, eliminated, or changed after they have been distributed may not be recovered from any person or offset against any undistributed benefit of any person to account for any such reduction, elimination, or change.

SECTION 9.07--NO CONTRACT RIGHTS.

No Eligible Employee, Beneficiary, Contingent Annuitant, or alternate payee shall acquire a right, contractual or otherwise, to the increased benefits provided by this Article 9.

ARTICLE 10. VOLUNTARY CONTRIBUTIONS]

SECTION ~~[6A.01-]~~[10.01-]-VOLUNTARY CONTRIBUTIONS.

An Active Participant may make Voluntary Contributions. These Contributions may be made during any period in which he is an Active Participant. Voluntary Contributions will be made in accordance with procedures set up by the Employer.

A Participant's Voluntary Contributions, including any voluntary contributions he has made under any other qualified plan of the Employer or predecessor of the Employer, may not, in the aggregate, exceed 10% of his aggregate earnings from the Employer and predecessor for the period of time that he has actively participated under this and such other plan or plans.

An Active Participant may begin to make Voluntary Contributions on any Quarterly Date.

An Active Participant may change the amount of future Voluntary Contributions on any Quarterly Date.

An Active Participant may stop making his Voluntary Contributions on any Quarterly Date. He may then resume making Voluntary Contributions on any Quarterly Date.

Before the date he ceases to be an Employee, a Participant may withdraw any part of his Voluntary Account resulting from his Voluntary Contributions in a single sum, but not more than the original amount of those Contributions. A withdrawal may occur only once in a Plan Year.

Stopping, changing[,] or withdrawing Voluntary Contributions will not affect a Participant's participation in the Plan. No portion of his Voluntary Account resulting from any other Contributions will be forfeited solely because of such withdrawal. An Active Participant's request to begin, change, stop[,] or withdraw his Voluntary Contributions will be in writing on a form furnished for that purpose. This form will include any necessary authorization for payroll deduction and will be delivered to the Employer before the date Contributions are to begin, change, stop[,] or be withdrawn.

No Voluntary Contributions will be made by a Participant after the second calendar month preceding his Retirement Date.

Voluntary Contributions will be credited to the Participant's Voluntary Account as they are made and will be forwarded to the Insurer at least quarterly.

Voluntary Contributions are fully vested and nonforfeitable.

SECTION ~~[6A.02-]~~[10.02-]-INVESTMENT OF VOLUNTARY CONTRIBUTIONS.

All Voluntary Contributions made by or on behalf of an Active Participant will be forwarded by the Employer to the Insurer to be deposited under the Group Contract and invested according to its provisions.

However, no Voluntary Contributions may be invested in any of the separate accounts of the Insurer in which the Group Contract participates.

SECTION ~~[6A.03-]~~[10.03-]-RETIREMENT BENEFITS.

On a Participant's Retirement Date, his Voluntary Account will be used to purchase additional benefits for him as provided in Section 4.03.

SECTION ~~[6A.04-]~~[10.04-]-DEATH BENEFITS.

If the death of the Participant occurs before his Retirement Date, a distribution of his Voluntary Account will be made to his Beneficiary as provided in this Article [10. A Participant's Voluntary Account will not be distributed to his Beneficiary under this Article 10. if a death benefit is paid under Section 7.01(a) or 7.01(b)(5) on account of the Participant's death].

SECTION ~~[6A.05-]~~[10.05-]-VESTED BENEFITS.

The Participant's Voluntary Account will be held for him until the earlier of his Retirement Date or death and will then be applied as provided in Section ~~[6A.03]~~ [10.03] or Section ~~[6A.04]~~ [10.04], unless he receives earlier distribution under this Section ~~[6A.05]~~ [10.05].

An Inactive Participant may elect to have his Voluntary Account distributed under one or more of the methods described in Section 4.02 before his Retirement Date or death. The distribution may be in the form of an immediate annuity only if the amount which would be applied to purchase the annuity under the Group Contract is $1,750 or more. Benefit payments may begin at the time after the Participant ceases to be an Employee but not later than his Normal Retirement Date.

Any election by a Participant to receive a distribution of all or part of his Voluntary Account must be made before he again becomes an Employee.

If, on the date he ceases to be an Employee, a Participant's Voluntary Account is less than $1,750, it will, unless otherwise directed by the Employer be paid to him in a single sum as an involuntary cash-out.

ARTICLE [11.] ~~[VII~~

~~]~~ TERMINATION OF PLAN

SECTION ~~[7.01-]~~[11.01-]-TERMINATION OF PLAN.

The Employer expects to continue the Plan indefinitely but reserves the right to terminate the Plan in whole or in part at any time by giving written notice to all parties concerned.

~~[In any event,]~~ [SECTION 11.02--VESTING ON TERMINATION.

Upon termination or partial termination of the Plan or] complete discontinuance of contributions under the Plan ~~[shall constitute termination of Plan.]~~[, the rights of all affected employees to benefits accrued to the date of such termination, to the extent then funded, shall become nonforfeitable.]

SECTION ~~[7.02-]~~[11.03-]-PROCEDURES UPON TERMINATION OF PLAN.

Upon termination of Plan, the following provisions shall apply:

(a) No further Employees shall become Participants and no further contributions shall be made.

(b)~~[The Vesting Percentage shall be 100% with respect to any Inactive Participant who became such by reason of termination of Plan.~~

~~(c)]~~ Each Participant's account shall be held under the Group Contract and applied as heretofore provided in this Plan upon such Participant's death, Termination of Employment[,] or Retirement Date.

In lieu of a portion of his deferred monthly retirement income under this ~~[subparagraph (c)]~~ [Section 11.03(b)], such Participant may elect to receive his Participant's Contribution Account in a single sum payment at any time on or subsequent to his Termination of Employment and prior to his Retirement Date.

~~[(d)]~~[(c)] All disability payments will cease and the Plan assets, other than those arising from ~~[subparagraph (c) of this]~~ Section ~~[7.02]~~ [11.03(b)] held by the Insurer under the Group Contract as to those Participants whose Retirement Dates have not yet occurred shall be allocated and applied to the extent they are sufficient to purchase benefits for all Participants who had not reached their Retirement Dates prior to the effective date of termination of Plan, in accordance with the following classifications and order of precedence.

(1) First, to purchase immediate monthly retirement benefits for those Participants whose Normal Retirement Dates occurred on or prior to the effective date of termination of Plan, but who had not retired, and for those Participants who were receiving disability benefits pursuant to Article ~~[IVA]~~ [5.] on the effective date of termination of Plan.

(2) Second, to purchase deferred monthly retirement benefits for such Participants who have attained age 60 or older on the effective date of termination of Plan and who are not included in [Section 11.03(c)](1) above.

(3) Third, to purchase deferred monthly retirement benefits for such Participants who have attained age 55 or older on the effective date of termination of Plan and who are not included in [Section 11.03(c)](1) or [11.03(c)](2) above.

(4) Fourth, to purchase deferred monthly retirement benefits for all other Participants.

The monthly retirement benefit to be purchased for each such Participant shall be payable in accordance with the Normal Form beginning on his Normal Retirement Date (on the effective date of termination of Plan, if later) and the amount shall be equal to (i) his Accrued Benefit (or disability benefit, if applicable) on the effective date of termination of Plan; provided, however, that if the Plan assets are insufficient to purchase such monthly retirement benefits in full for any class, the monthly retirement benefits for all in such class shall be reduced, as determined by the Insurer, to such fraction as the amount available will provide. ~~[If the Plan assets are more than sufficient to purchase such monthly retirement benefits in full for all classes, the monthly retirement benefits for all such Participants shall be increased as determined by the Insurer by such uniform percentage as the amount available will provide.]~~

In any event, that portion of the Plan assets attributable to each Participant's Voluntary Account, if any, will be applied on the effective date of termination of Plan to provide for him an amount of deferred monthly retirement income benefit before the allocation and application of assets determined according to the classification and order of precedence in ~~[subparagraph (d) of this]~~ Section ~~[7.02]~~ [11.03(c)].

~~[In any event, the benefits provided as to each Participant upon termination of Plan shall be fully vested and nonforfeitable.]~~ No part of the assets of ~~[any Employer's pension plan]~~ [the Plan] shall be paid or distributed to such Employer at any time~~[, except that]~~ [except as provided in Section 3.01 (about returned contributions) and except that,] after satisfaction of all liabilities under such Plan, any overpayments made by such Employer as a result of erroneous actuarial computations shall be repaid to such Employer.

ARTICLE ~~[VIIA~~

~~TEMPORARY LIMITATION OF BENEFITS FOR HIGHLY PAID EMPLOYEES~~

~~SECTION 7A.01--DEFINITIONS.~~

~~The definitions shown below are in addition to the definitions shown under Article I:~~

~~(a) "Highly Paid Employee" means each one of the twenty-five persons employed by the Employer~~

~~(1) who have the highest annual compensations on a Commencement Date (as defined below), and~~

~~(2) for each of whom the monthly retirement benefit to be provided on his Normal Retirement Date on the basis of his annual compensation on such Commencement Date is in excess of $125.~~

~~(b) "Commencement Date" means the effective date of the Employer's retirement plan or the effective date of any amendment to the Employer's retirement plan which increases the monthly retirement benefit to be provided for Highly Paid Employees on their Normal Retirement Dates determined pursuant to the provisions of the Prior Plan or this Plan, whichever is applicable.~~

~~(c) "Currently Funded." This Plan is deemed to be Currently Funded as of any date of determination if the full current costs of the Plan have been funded as of the last day of the Plan Year in which such date of determination occurs. The term "full current costs" means the normal cost (the amount actuarially determined which would be required as a contribution by the Employer each year to maintain such Plan if such Plan had been in effect from the beginning of service of each then included person employed by the Employer and if such costs for prior years had been paid and all assumptions entering into the determinations of such costs had been fulfilled) for all years since the effective date of such Plan, plus interest on any unfunded liability during such period.~~

~~(d) "Restriction Period" means the period during which the limitations of this Article VIIA are applicable. If this Plan is Currently Funded on the date ten years after the latest Commencement Date, the limitations of this Article VIIA will thereupon cease to apply; otherwise, the limitations of this Article VIIA will cease to apply on the earliest date thereafter on which this Plan becomes Currently Funded.~~

~~(e) "Average Annual Compensation" means for the purposes of this Article VIIA, the annual average of the Highly Paid Employee's total pay received from the Employer for the latest five calendar years ending prior to the earliest of his Termination of Employment, his Retirement Date and the date as of which the computation of Unrestricted Benefits is made.~~

~~(f) "Unrestricted Benefits" means the amount of benefits under this Plan for a Highly Paid Employee equal to his Required Participant Contribution Accrued Benefit plus the amount provided by the greatest of the following amounts:~~

~~(1) $20,000.~~

~~(2) 20% of the first $50,000 of his Average Annual Compensation multiplied by the number of years with respect to which this Plan has been in force subsequent to the latest Commencement Date and prior to the earlier of the date as of which the computation of Unrestricted Benefits is made and the last date as of which this Plan was Currently Funded, plus the amount which would have been applied to provide his Unrestricted Benefits if the Plan had terminated on the day preceding the latest Commencement Date.~~

~~(3) The amount which would have been applied to provide his Unrestricted Benefits if the Plan, as in effect on the day preceding the latest Commencement Date, had continued without change.~~

~~SECTION 7A.02--LIMITATION OF BENEFITS.~~

~~While this Plan is Currently Funded and prior to the effective date of termination of Plan and within a Restriction Period, income payments will be provided for a Highly Paid Employee in excess of his Unrestricted Benefits to the extent total monthly payments to him do not exceed the full amount of retirement benefit on the Normal Form to which he is entitled under the Plan.~~

~~If, prior to the effective date of termination of Plan and within a Restriction Period this Plan fails to be Currently Funded, then after the date on which it is determined that this Plan is not Currently Funded and continuing until this Plan becomes Currently Funded or until termination of Plan occurs, if earlier, that portion of each income payment to be made to a Highly Paid Employee who was alive on such date of determination (to his Beneficiary or to his Contingent Annuitant if he died subsequent to such date) in excess of that provided by his Unrestricted Benefits will be withheld. The amount thus withheld will be added to the Plan assets held by the Insurer under the Group Contract as of the date of payment.~~

~~If termination of Plan occurs within the Restriction Period, the following will apply:~~

~~(a) No benefit may be provided under this Plan for any Highly Paid Employee in excess of his Unrestricted Benefits.~~

~~(b) If any monthly retirement benefit has been provided for any Highly Paid Employee in excess of his Unrestricted Benefits, and if he is living on the effective date of termination of Plan, such excess will be cancelled as of the effective date of termination of Plan. The reserve for such cancelled monthly retirement benefit will be added to the Plan assets held by the Insurer under the Group Contract as of such date.~~

~~ARTICLE VIII~~

~~][12.]~~ ADMINISTRATION OF PLAN

SECTION ~~[8.01-]~~[12.01-]-ADMINISTRATION.

The Employer will have complete control of the administration of the Plan, subject to the provisions hereof, with all powers necessary to enable it properly to carry out its duties in that respect. Not in limitation, but in amplification of the foregoing, it will have the [discretionary] power to construe the Plan and to determine all questions that may arise hereunder, including all questions relating to the eligibility of Employees to participate in the Plan and the amount of benefit to which any Participant, Beneficiary, ~~[or]~~ Contingent Annuitant[, or alternate payee] may become entitled hereunder. Its decision upon all matters within the scope of its authority will be final.

The Employer will establish rules and procedures to be followed by Participants, Beneficiaries, ~~[and]~~ Contingent Annuitants[, and alternate payees] in filing applications for benefits, in furnishing and verifying proofs necessary to determine age, and in any other matters required to administer the Plan. It may delegate to any person or firm such recordkeeping and other duties necessary to assist the Employer with the administration of the Plan not otherwise set out in the Plan or the Group Contract, as specifically agreed to by such person or firm.

The Employer will receive all applications for benefits and will determine all facts necessary to establish the right of the applicant to benefits under the provisions of the Plan and the amount thereof as herein provided.

The Employer will be entitled to rely upon all tables, valuations, certificates[,] and reports furnished by the consultant or actuary appointed by the Employer and upon all opinions given by any counsel selected or approved by it.

SECTION ~~[8.02-]~~[12.02-]-RECORDS.

All acts and determinations of the Employer will be duly recorded and all such records, together with such other documents as may be necessary for the administration of the Plan, will be preserved in its custody.

SECTION ~~[8.03-]~~[12.03-]-DELEGATION OF AUTHORITY.

The ~~[Administrative]~~ [administrative] duties and responsibilities set forth in Section ~~[8.01]~~ [12.01] may be delegated by the Employer to a retirement committee consisting of such persons as it selects. The Employer shall notify the Insurer in writing of the authority conferred upon the retirement committee and of the membership of the retirement committee and any changes therein as they occur from time to time. The Insurer shall be entitled to rely on the last such notification received, until written notification to the contrary has been received from the Employer. The members of the retirement committee shall be free from all liability, joint or several, for their acts, omissions[,] and conduct, and for the acts, omissions[,] and conduct of their duly constituted agents, in the administration of the Plan, and the Employer shall indemnify and save each of them

harmless from effects and consequences of their acts, omissions[,] and conduct in their official capacity, except to the extent that such effects and consequences shall result from their own willful misconduct or gross negligence.

Members of the retirement committee shall serve without compensation for services as such, but all expenses incurred by it shall be paid by the Employer or by the Plan, upon written authorization of the Employer provided to the Insurer. Such expenses shall include any expenses incident to the functioning of the retirement committee including, but not limited to, fees of accountants, counsel, and other specialists related directly to the administration and operation of the Plan. [All other expenses of the Plan or the Group Contract, unless paid by the Employer, shall be paid by the Plan upon written authorization of the Employer provided to the Insurer.]

The Employer will have the power to appoint or remove any person to manage (including the power to acquire and dispose of) any assets of the Plan. It may appoint or remove any person or persons to serve in more than one fiduciary capacity with respect to the Plan (including service both as trustee and administrator).

The Employer will have the power to appoint or remove the Insurer.

SECTION ~~[8.04-]~~[12.04-]-INFORMATION AVAILABLE.

Any Participant ~~[in the Plan]~~ [or alternate payee] or any Beneficiary [or Contingent Annuitant] receiving benefits under the Plan may examine copies of ~~[Plan description, latest annual report,]~~ this Plan, the Group Contract[,] or any other instrument under which the Plan was established or is operated. The Employer will maintain all of the items listed in this Section ~~[8.04]~~ [12.04] in its office, or in such place or places as it may designate from time to time, for examination during reasonable business hours. Upon written request of a Participant or [alternate payee or] Beneficiary [or Contingent Annuitant] receiving benefits under the Plan, the Employer will furnish him with a copy of any item listed in this Section ~~[8.04]~~ [12.04]. The Employer may make a reasonable charge to the requesting person for the copy so furnished.

~~[ARTICLE IX~~

~~GENERAL PROVISIONS~~

~~SECTION 9.01--ESTABLISHMENT AND AMENDMENT OF PLAN.~~

~~This Plan is established with the intent and purpose that it will qualify as an employee retirement plan within the terms and conditions of the Internal Revenue Code and contributions thereunder will come within the terms of said Code.~~

~~The Employer may amend this plan at any time, including any remedial retroactive changes (within the specified period of time as may be determined by Internal Revenue Service regulations~~

~~from time to time) to comply with the requirements of any law or regulation issued by any governmental agency to which the Employer is subject. No amendment will diminish or adversely affect any accrued interest or benefit of Participants or their Beneficiaries, except as may be required to comply with the requirements of any law or regulation issued by any governmental agency to which the Employer is subject. Any amendment of the Plan will not allow reversion or diversion of Plan assets to the Employer at any time; nor will any such amendment allow the merger or consolidation with, or transfer of assets or liabilities to or from, any other plan, unless provision is made that benefits to Plan Participants immediately after the merger, consolidation or transfer (if the Plan then terminated) are equal to or greater than the benefits to which such Participants would have been entitled to receive immediately before the merger, consolidation or transfer (if the Plan had then terminated).]~~ [SECTION 12.05--CLAIMS.

Upon the request of a participant or beneficiary (including an alternate payee), or by action of the Employer, the Employer shall provide claim forms to any participant or his beneficiary who becomes entitled to benefits under the Plan. Such claim form shall be completed and submitted to the Employer no later than 30 days after it is received by the participant or beneficiary. Upon receipt of the claim form, the Employer shall review the appropriateness of the claim and if the Employer determines that the claim should not be allowed, the Employer shall respond in writing within 30 days of the receipt of the claim to the participant or beneficiary. The response 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, need be supplied by the participant or beneficiary 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 30 days of receipt by the Employer, the claim shall be deemed denied.

Within 60 days after receipt of notice of denial of the claim or when the claim is deemed to have been denied, the participant or beneficiary (or representative) may respond to the denial by requesting, in writing, a review of the decision and a review of pertinent documents. If the participant or beneficiary (or representative) 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 60 days from the Employer's receipt of the request for review, respond to said request. In modification of the foregoing, if the Employer, in the Employer's sole discretion, determines that special circumstances warrant the holding of a hearing, it shall promptly be held and a decision shall be rendered within 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.

ARTICLE 13. REQUIRED PROVISIONS

SECTION 13.01--REQUIRED STARTING DATE.

(a) The entire interest of each participant in the Plan:

(1) Will be distributed to the participant no later than the Required Starting Date; or

(2) Will be distributed, starting not later than the Required Starting Date, in accordance with Treasury regulations, over the life of the participant or over the lives of the participant and a Designated Beneficiary (or over a period not extending beyond the life expectancy of the participant or the life expectancy of the participant and a Designated Beneficiary).

(b) If the distribution of the participant's interest has begun in accordance with Section 13.01(a)(2) above and the participant dies before the participant's entire interest has been distributed to the participant, the remaining portion of the participant's interest will be distributed at least as rapidly as under the method of distributions being made under Section 13.01(a)(2) above as of the date of the participant's death.

(c) If a participant dies before the distribution of the participant's interest has begun in accordance with Section 13.01(a)(2) above, the entire interest of the participant will be distributed within five years after the death of the participant. However, the five-year rule does not apply to any portion of the participant's interest payable to (or for the benefit of) a Designated Beneficiary; and not later than one year after the date of the participant's death or such later date as may be prescribed by Treasury regulations distributions (in accordance with Treasury regulations) of such portion will start over the life of the Designated Beneficiary (or over a period not extending beyond the life expectancy of the Designated Beneficiary).

(d) With respect to a Designated Beneficiary who is the participant's surviving spouse:

(1) The date on which the distributions are required to start for purposes of the exception to the five-year rule in Section 13.01(c) above will not be earlier than the date on which the participant would have attained age 70½; and

(2) If the surviving spouse dies before the distributions to the spouse start, Section 13.01(b) and 13.01(c) above will be applied as if the spouse were the participant.

(e) For purposes of this Section 13.01.:

(1) "Required Starting Date" means April 1 of the calendar year following the later of (a) the calendar year in which the participant attains age 70½ or (b) the calendar year in which the participant retires.

(2) "Designated Beneficiary" means any individual designated as a beneficiary by the participant.

(3) "Spouse" and "surviving spouse" include an alternate payee who is the participant's former spouse.

(4) In accordance with Treasury regulations, any amount paid to a child will be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse upon such child reaching majority (or other designated event permitted under Treasury regulations).

(5) Any distribution required under the incidental death benefit requirements of IRC Section 401(a) will be treated as a distribution required under this Section 13.01.

(f) Despite any contrary provision of the Plan, the Plan will apply the minimum distribution requirements of IRC Section 401(a)(9) in accordance with the following proposed, final, and temporary Treasury regulations:

(1) With respect to distributions made for calendar years beginning before January 1, 2001, the regulations under IRC Section 401(a)(9) that were proposed in 1987, including Proposed Treasury Regulation Section 1.401(a)(9)-2.

(2) With respect to distributions made for the calendar year beginning on January 1, 2001, the regulations under IRC Section 401(a)(9) that were proposed on January 17, 2001.

(3) With respect to distributions made for calendar years beginning on or after January 1, 2002, Treasury Regulation Sections 1.401(a)(9)-1 through 1.401(a)(9)-9, and also Treasury Regulation Section 1.401(a)(9)-6T for the period it applies.

(g) This Section 13.01.:

(1) Applies only to the extent this Section 13.01 requires a distribution to be made earlier than otherwise required under the Plan.

(2) Overrides any distribution options in the Plan inconsistent with IRC Section 401(a)(9).

(3) Applies to Plan Years beginning after December 31, 1986, or such later date provided in Public Law No. 98-369, Section 521(d)(5) (about collective bargaining agreements).

SECTION 13.02--ANNUAL COMPENSATION LIMIT.

Except for purposes of Sections 13.05, 13.06, and 13.07, the annual compensation taken into account for each participant in determining plan allocations and benefit accruals under the Plan for any Plan Year is limited to the annual compensation limit under IRC Section 401(a)(17)(A) ($150,000 for Plan Years beginning before January 1, 2002, and $200,000 for Plan Years beginning after December 31, 2001), as adjusted for increases in the cost of living in accordance with IRC Section 401(a)(17)(B). For Plan Years beginning before January 1, 1997, in determining the compensation of a participant the rules of IRC Section 414(q)(6) shall apply, except that in applying such rules the term "family" shall include only the spouse of the participant and any lineal descendants of the participant who have not attained age 19 before the close of the Plan Year. The requirements of IRC Section 401(a)(17) and the Treasury regulations thereunder are incorporated into the Plan by this reference. This Section 13.02 applies to Plan Years beginning after December 31, 1995.

SECTION 13.03--DIRECT ROLLOVERS.

Despite any contrary provision of the Plan that would otherwise limit a distributee's election under this Section 13.03, a distributee may elect, at the time and in the manner prescribed by the Employer, to have any portion of an eligible rollover distribution made after December 31, 1992, paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions shall apply to this Section 13.03 and Section 8.02(b).:

(a) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, but not including:

(1) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

(2) Any distribution to the extent such distribution is required under IRC Section 401(a)(9);

(3) For distributions made before January 1, 2002, the portion of any distribution that is not includable in gross income;

(4) For distributions made after December 31, 2001, any distribution that is made upon hardship of the employee; and

(5) Unless the Employer affirmatively elects to the contrary, any minimum amount permitted by IRC Section 401(a)(31) and Treasury regulations issued thereunder that is permitted to be excluded from the definition of eligible rollover distribution.

(b) Eligible retirement plan: An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution:

(1) An individual retirement account or annuity described in IRC Section 408(a) or 408(b);

(2) A qualified plan described in IRC Section 401(a) or 403(a);

(3) For distributions made after December 31, 2001, an annuity contract described in IRC Section 403(b); or

(4) For distributions made after December 31, 2001, an eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A) and that agrees to separately account for amounts transferred into such plan from the Plan.

However:

(5) In the case of an eligible rollover distribution to the surviving spouse in a distribution made before January 1, 2002, an eligible retirement plan is only an individual retirement account described in IRC Section 408(a) or individual retirement annuity described in IRC Section 408(b).

(6) In the case of a direct rollover of an amount that is not includable in gross income in a distribution made after December 31, 2001, an eligible retirement plan is only (a) a qualified defined contribution plan described in IRC Section 401(a) or 403(a) that agrees to separately account for amounts transferred in the direct rollover, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable, (b) an individual retirement plan described in IRC Section 408(a), or (c) an individual retirement annuity described in IRC Section 408(b).

(c) Distributee: A distributee includes a participant. In addition, the participant's surviving spouse and the participant's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

(d) Direct rollover: A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

Such distribution may begin less than 30 days after the required special tax notice is given to the distributee if (1) the Employer clearly informs the distributee that the distributee has a right to a period of at least 30 days after receiving the notice to consider the decision whether to elect a particular distribution option and (2) the distributee, after receiving the notice, affirmatively elects a distribution.

SECTION 13.04--BENEFITS FOR MILITARY SERVICE.

Effective for reemployments initiated on or after December 12, 1994, and despite any contrary provision of the Plan, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with IRC Section 414(u).

SECTION 13.05--LIMIT ON BENEFITS.

For limitation years beginning after December 31, 1983, and despite any contrary provision of the Plan a participant's annual benefit under the Plan during any limitation year may not exceed the limitations of IRC Section 415 as provided in this Section 13.05.

(a) A participant's annual benefit under the Plan during any limitation year may not exceed the dollar limitation under IRC Section 415(b)(1)(A) for the limitation year and, for limitation years beginning before January 1, 1995, also may not exceed 100% of the participant's average compensation (as defined in Section 13.09) for the participant's high three years.

(b) The dollar limitation and the compensation limitation in Section 13.05(a) above and in IRC Section 415(b)(1)(A) and (B) will be annually adjusted for increases in the cost of living in accordance with Treasury regulations, including for participants who have separated from service. Without limiting the foregoing:

(1) As of January 1 of each calendar year the dollar limitation will be automatically adjusted to the new dollar limitation determined by the Commissioner of Internal Revenue for that calendar year. The new dollar limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

(2) In the case of a participant who has separated from service, the participant's average compensation for the participant's high three years will be automatically adjusted by multiplying such average compensation by the cost of living adjustment factor prescribed by the Secretary of the Treasury under IRC Section 415(d) in such manner as the Secretary shall prescribe. Such adjusted average compensation will apply to limitation years ending within the calendar year of the date of adjustment.

(c) A participant's high three years will be determined based on calendar years.

(d) If a participant's annual benefit during a limitation year (payable in the normal form or in any optional form subject to adjustment under IRC Section 415(b)(2)(B)) would exceed the amount provided in Section 13.05(a) above, the participant's annual benefit during such limitation year will be reduced to the amount provided in Section 13.05(a).

(e) Except as provided in IRC Section 415(f)(3) (about multiemployer plans), which is effective for limitation years beginning after December 31, 2001, in the case of any participant in another defined benefit plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), (1) all such plans will be treated as one plan and (2) the annual benefit that may be provided to the participant under the Plan as provided in Section 13.05(a) above will be reduced by the amount of the aggregate of the annual benefits provided to the participant under such other plans.

(f) The limitations in this Section 13.05 will be applied according to the adjustments described in and the provisions of IRC Section 415 (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into the Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(b)(2)(B) (about benefits payable in other than the normal form), 415(b)(2)(C) and (D) (about benefits commencing before or after a stated age or stated ages), 415(b)(2)(F) (about plans maintained by governments), 415(b)(2)(G) and (H) (about police and firefighters), 415(b)(2)(I) (about disability and survivor benefits under governmental plans), 415(b)(4) (about total annual benefits not exceeding $10,000), 415(b)(5) (about employees with less than 10 years of participation or service), and 415(n) (about purchase of permissive service credit).

(g) The adjustments described in IRC Section 415(b)(2)(B), (C), and (D) will be made by ignoring mortality decrement to the extent a forfeiture does not occur upon death and as follows:

(1) The adjustment described in IRC Section 415(b)(2)(B) will be made using (i) the interest rate and applicable mortality table specified in Section 1.03(i) or (ii) 5% interest and the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v), whichever produces the greater annual benefit.

(2) The adjustments described in IRC Section 415(b)(2)(C) and (D) will be made using (i) the interest rate and applicable mortality table specified in Section 1.03(i) or (ii) 5% interest and the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v), whichever produces the lesser annual benefit.

For limitation years beginning before January 1, 2000, the above provisions of this Section 13.05(g) shall be applied by substituting "the applicable mortality table specified in Section 1.03(i)" for "the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v)" wherever such latter phrase appears. The mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v) is, for distributions with annuity starting dates before January 1, 2002, the table prescribed in Revenue Ruling 95-6 and, for distributions with annuity starting dates on or after December 31, 2002, the table prescribed in Revenue Ruling 2001-62.

(h) For purposes of the adjustment in IRC Section 415(b)(5):

(1) A year of participation is a Plan Year for which the participant is a participant;

(2) A year of service is a Plan Year for which the participant is employed by the Employer; and

(3) A participant who is permanently and totally disabled (as defined in IRC Section 22(e)(3)) for a Plan Year will be credited with a year of participation and a year of service for that year.

SECTION 13.06--LIMIT ON ANNUAL ADDITIONS.

(a) For limitation years beginning after December 31, 1983, and despite any contrary provision of the Plan, the annual additions to any participant's accounts under the Plan may not exceed the lesser of the dollar limitation in IRC Section 415(c)(1)(A) or 25% (100% for limitation years beginning after December 31, 2001) of the participant's compensation (as defined in Section 13.09). The dollar limit in this Section 13.06(a) will be adjusted as follows:

(1) For increases in the cost of living in accordance with IRC Section 415(d).

(2) For limitation years beginning after December 31, 1986, and before January 1, 1995, the dollar limit will be adjusted to, if greater, one-quarter of the dollar limitation in effect under IRC Section 415(b)(1)(A).

(b) In the case of any participant in another defined contribution plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), all such plans will be treated as one plan, and the maximum annual addition to the participant's accounts as provided above will be reduced by the aggregate of the amount of the annual additions to the participant's accounts under such other plans. For this purpose a defined contribution plan includes a welfare benefit fund (within the meaning of IRC Section 419(e)), an individual medical benefit account (within the meaning of IRC Section 415(l)(2)), and a simplified employee pension (within the meaning of IRC Section 408(k)).

(c) If as a result of a reasonable error in estimating a participant's compensation or such other reason as is permitted under Treasury Regulation Section 1.415-6(b)(6) a participant's annual addition would exceed the limitations in this Section 13.06, determined after applying Section 13.07, the participant's contributions to the participant's accounts together with any allocable earnings will be distributed to the participant as soon as administratively feasible to the extent required to eliminate such excess.

(d) The limitations in this Section 13.06 will be applied according to adjustments described in and the provisions of IRC Sections 415 and 419A(d) (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(c)(2) (defining "annual addition"), 415(d) (about COLAs), 415(l) (about individual medical benefit accounts), and 419A(d)(2) (about medical benefit accounts for key employees in a welfare benefit fund).

SECTION 13.07--COMBINED LIMIT ON BENEFITS AND ANNUAL ADDITIONS.

For limitation years beginning after December 31, 1983, and before January 1, 2000, and despite any contrary provision of the Plan:

(a) The sum of a participant's defined benefit plan fraction (within the meaning of IRC Section 415(e)) for the Plan and the participant's defined contribution plan fraction (within the meaning of IRC Section 415(e)) for the Plan for any year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under the Plan will be reduced to the extent necessary for such sum not to exceed 1.0.

(b) If a participant is a participant in another defined contribution or defined benefit plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), all defined benefit plans of the employer will be treated as one plan, and all defined contribution plans of the employer will be treated as one plan, and the sum of the participant's defined benefit plan fraction (within the meaning of IRC Section 415(e)) for such aggregate defined benefit plans and the participant's defined contribution plan fraction (within the meaning of IRC Section 415(e)) for such aggregate defined contribution plans for any year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under the Plan will be reduced to the extent necessary for such sum not to exceed 1.0. For this purpose a defined contribution plan includes a welfare benefit fund (within the meaning of IRC Section 419(e)), an individual medical benefit account (within the meaning of IRC Section 415(l)(2)), and a simplified employee pension (within the meaning of IRC Section 408(k)).

(c) The limitations in this Section 13.07 will be applied according to adjustments described in and the provisions of IRC Section 415 (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(e) (about limitation in the case of a defined benefit plan and a defined contribution plan for the same employee).

(l) At the election of the Employer, in applying the provisions of this Section 13.07 with respect to the defined contribution plan fraction the amount taken into account for the denominator for each participant for all Plan Years ending before January 1, 1983, shall be an equal to the product of (1) the amount of the denominator determined under Section 4.05(k) of the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN for Plan Years ending before January 1, 1982, multiplied by (2) the "transition fraction," which is a fraction (i) the numerator of which is the lesser of (A) $51,875 or (B) 1.4 multiplied by 25% of the participant's compensation for the Plan Year ending in 1981, and (ii) the denominator of which is the lesser of (A) $41,500 or (B) 25% of the participant's compensation for the Plan Year ending in 1981.

SECTION 13.08--LIMITATION YEAR.

The limitation year shall be the Plan Year.

SECTION 13.09--COMPENSATION FOR PURPOSES OF LIMITS.

For purposes of Sections 13.05, 13.06, and 13.07, "compensation" means wages within the meaning of IRC Section 3401(a) (for the purposes of income tax withholding at the source) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC Section 3401(a)(2)).

(a) For limitation years beginning after December 31, 1997, "compensation" includes any elective deferral (as defined in IRC Section 402(g)(3)) contributed by the employer and any amount contributed or deferred by the employer at the election of the participant and not includable in the gross income of the participant by reason of IRC Section 125 or 457.

(b) For limitation years beginning after December 31, 2000, "compensation" includes any amount contributed or deferred by the employer at the election of the participant and not includable in the gross income of the participant by reason of IRC Section 132(f)(4).

(c) Effective January 1, 2002, "compensation" includes any additional elective deferral under IRC Section 414(v) contributed by the employer.

(d) For purposes of Sections 13.05, 13.06, and 13.07, the amounts included in a participant's compensation under this Section 13.09 will be based on such amounts from the employer (within the meaning of IRC Section 414(b), (c), (m), and (o) [effective July 18, 1984], after applying IRC Section 415(h)).

SECTION 13.10--ANNUITY CONTRACTS.

Benefits may be paid by distributing an annuity contract purchased by the Employer for the Participant, alternate payee, or Beneficiary (the payee).

(a) Delivery of any such contract will be in full satisfaction of the rights under the Plan of the payee and the payee's Contingent Annuitant, Beneficiary, and estate, and upon the delivery thereof such persons will have no further interest under the Plan or in the Group Contract with respect to the benefits to be paid under the contract and must look solely to the insurer issuing the contract for the payment of such benefits.

(b) Any refund or credit under any such contract (on account of dividends, earnings, or other experience rating credits, or surrender or cancellation credits) in excess of the benefits under the Plan to be paid under the contract, and any proceeds from demutualization of the issuer of the contract or the issuer's successor, will be paid to the Plan for addition to the Group Contract.

(c) Any such contract must be nontransferable.

(d) The terms of the Plan control in the event of any conflict between the terms of the Plan and the terms of any such contract.

ARTICLE 14. GENERAL PROVISIONS

SECTION 14.01--AMENDMENT OF PLAN.

The Employer, acting through its City Council or City Manager, may amend this Plan at any time, including any remedial retroactive changes (within the specified period of time as may be determined by Treasury regulations or Internal Revenue Service guidance from time to time) to comply with the requirements of any law or regulation issued by any governmental agency to which the Employer is subject. However, the City Manager may amend this Plan only to clarify this Plan, facilitate the administration of this Plan, or make changes adapting this Plan to the requirements of law, changes in law, or the terms of a collective bargaining agreement, all as determined in the discretion of the City Manager.

SECTION 14.02--EXCLUSIVE BENEFIT.

Except as provided in Section 3.01 (about return of contributions) or Article 11. (about termination of the Plan), no asset of the Plan or Group Contract may be used for or diverted to any purpose other than for the exclusive benefit of participants or their beneficiaries and defraying reasonable expenses of administering the Plan and Group Contract; and no amendment or termination of the Plan, or merger or consolidation with, or transfer of assets or liabilities to, any other plan, shall operate to allow any asset of the Plan or Group Contract to be used for or diverted to any such prohibited purpose.]

SECTION ~~[9.02-]~~[14.03-]-PROVISIONS RELATING TO THE INSURER.

The Insurer is not a party to the Plan, nor will it be bound in any way by the provisions of the Plan, nor will it be required to look to the terms of this Plan, nor to determine whether the Employer has the authority to act in any particular manner or to make any contract or agreement.

SECTION ~~[9.03-]~~[14.04-]-EMPLOYMENT STATUS.

Nothing contained in this Plan will be deemed to give any Employee the right to be retained in the employ of the Employer or to interfere with the rights of the Employer to discharge any Employee at any time.

Any final payment or distribution to any Participant or his legal representative or to any Beneficiaries ~~[to]~~[,] Contingent Annuitant[, or alternate payee] of such Participant in accordance with the provisions herein will be in full satisfaction of all claims against the Plan, the Insurer[,] and the Employer arising under or by virtue of the Plan.

SECTION ~~[9.04--]~~[14.05--]BENEFICIARY.

Each Participant may name a Beneficiary to receive any death benefit (other than any monthly income payable to a Contingent Annuitant) which may arise out of his participation in the Plan and may change such Beneficiary from time to time without the consent of such Beneficiary. It will be the responsibility of the Participant to give written notice to the Insurer of the name of his Beneficiary on a form furnished for that purpose.

In modification of the above, the Employer may maintain records of Beneficiary designations as to Participants prior to their Retirement Dates, in which event the written designations made by Participants will be filed with the Employer and in the event of a Participant's death prior to his Retirement Date, the Employer will certify to the ~~[insurer]~~ [Insurer] the Beneficiary designation on its records as to such Participant.

If, at the death of a Participant, there is no Beneficiary named or surviving, the death benefit, if any, under the ~~[Group Contract]~~ [Plan] will be paid ~~[in accordance with the applicable provisions of such Group Contract.]~~ [to the Participant's estate.

For purposes of determining a Participant's Beneficiary:

(a) A Beneficiary does not include an individual, even if designated by the Participant, who does not survive the Participant or who is treated under Oregon law as not surviving the Participant. For this purpose (1) the Participant and the individual will be treated as residing in Oregon and (2) Oregon law includes without limitation the Uniform Simultaneous Death Act (ORS 112.570 to ORS 112.590) or its successor and the Uniform Disclaimer of Property Interests Act, ORS 105.623 to 105.649, or its successor but does not include Oregon law regarding conflicts of laws.

(b) ORS 112.175 to 112.195, about adoption, or successor Oregon statutes, apply to determine relationships. ORS 112.105, about paternity, or successor Oregon statutes, and other comparable state laws apply without regard to any limitation therein regarding intestate succession. ORS 112.455 to 112.555, regarding certain deaths caused by an individual, or successor Oregon statutes, apply without regard to whether the death occurs or the individual or Participant resides in Oregon.]

SECTION ~~[9.05-]~~[14.06-]-SPENDTHRIFT CLAUSE.

~~[None of the benefits payable hereunder will]~~ [Except as provided in Section 14.14 (about domestic relations orders), no benefit under the Plan or Group Contract may be voluntarily or involuntarily or revocably or irrevocably alienated, transferred, assigned (either at law or in equity), anticipated, mortgaged, or otherwise encumbered, or] be subject to ~~[the claims of any creditor of any Participant, Beneficiary or Contingent Annuitant, nor will any Participant, Beneficiary or Contingent annuitant have any right to alienate, anticipate, commute, pledge,~~

~~encumber or assign any of such benefits.~~] [garnishment attachment, levy, seizure, execution, sequestration, or other legal or equitable process for the payment of debts, judgments, alimony, separate maintenance, or other amounts or claims, or be transferred by operation of law in the event of bankruptcy, insolvency, or otherwise.]

SECTION ~~[9.06-]~~[14.07-]-FACILITY OF PAYMENT.

If any ~~[Participant, Beneficiary of Contentent Annuitant is physically or mentally incapable of giving a valid receipt for any payment due him and no legal representative has been appointed for him]~~ [person to whom a Plan benefit is payable is a minor or (as determined in the Employer's discretion) incompetent by reason of physical or mental disability], the Employer may direct the Insurer to make ~~[such payment to any person or institution maintaining such Participant, Beneficiary or Contingent Annuitant and the release]~~ [the payments becoming due to such person to another for such person's benefit without responsibility for the Employer or the Insurer to see to the application] of such ~~[person or institution will be a valid and complete discharge for such]~~[payments, including without limitation to a custodian for the person, selected by the Employer or the Insurer without liability for the selection made, under the Oregon Uniform Transfers to Minors Act or under any other comparable state law. Any payment made pursuant to such power will as to such] payment [operate as a complete discharge of the Employer and the Insurer].

SECTION ~~[9.07--]~~[14.08--]CONSTRUCTION.

The ~~[validity of the]~~ Plan ~~[or any of its provisions will be determined under and]~~ will be construed according to ~~[federal law, and to the extent permissible according to]~~ the laws of the ~~[state in which the Employer has its principal office]~~ [State of Oregon and will be interpreted and administered consistent with the applicable requirements of the IRC for the Plan to be qualified under IRC Section 401(a). Any provision of the Plan that is based on a provision of the IRC, including one not necessary for the Plan to be qualified, will be interpreted and administered consistent with such provision of the IRC and the interpretive authorities thereunder.

The Plan includes provisions adopted in good faith to comply with the Economic Growth and Tax Relief Reconciliation Act of 2001. Such provisions shall be interpreted and administered consistent with Treasury regulations and Internal Revenue Service guidance regarding such Act, even where such regulations and guidance are inconsistent with the literal interpretation of such provisions].[

]In case any provision of this Plan will be held illegal or invalid for any reason, such determination will not affect the remaining provisions of this Plan, but the Plan will be construed and enforced as if said illegal or invalid provision had never been included.

SECTION ~~[9.08-]~~[14.09-]-LEGAL ACTIONS.

To any action or proceeding involving the assets held with respect to the Plan or the administration thereof, the ~~[plan]~~ [Plan] and the Employer will be the necessary parties and no person employed

by the Employer, Participant, former Participant or their Beneficiaries or any other person having or claiming to have an interest in the Plan will be entitled to any notice or process. Any final judgment which is appealed or appealable that may be entered in any such action or proceeding will be binding and conclusive on all persons having or claiming to have any interest in the Plan.

SECTION ~~[9.09-]~~[14.10-]-MODIFICATION IN MODE OF PAYMENT.

If the present value of the initial monthly amount of retirement benefit payable to any Participant on his Retirement Date, ~~[or]~~ to a Participant's Beneficiary or Contingent Annuitant due to such Participant's death, [or to an alternate payee,] is less than $1,750, such value may, at the discretion of the Employer, be paid in a single sum in full settlement of all benefits otherwise payable. Such value will be determined on the basis of the annuity purchase rates in the Group Contract.

SECTION ~~[9.10--]~~[14.11--INTEREST.

Interest will not be paid on any amount of benefit paid after the date as of which it is to be paid under the Plan if the amount is paid as soon as administratively feasible after such date, taking into account any delay caused by the person entitled to the payment, any inability to locate such person, and any uncertainty regarding the identity of such person or the amount to be paid. Where interest is payable, it will be paid at the rate specified in Section 1.03(i).

SECTION 14.12--]PRONOUNS.

Masculine pronouns as used in this Plan will include both masculine and feminine gender unless the context indicates otherwise.

[SECTION 14.13--CAPTIONS.

The captions are for convenience only and have no substantive effect.

SECTION 14.14--DISTRIBUTION OF BENEFITS TO ALTERNATE PAYEE.

Despite any contrary provision of the Plan except Section 13.01 (about required starting date), to the extent required by and subject to the restrictions of ORS 237.600, a participant's benefit will be paid, in whole or in part, to an alternate payee (and not to the participant or other beneficiary) 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. Payment to the alternate payee may be made before the participant's Termination of Employment with the Employer if provided or allowed by the decree, order, or agreement.

(a) The Plan will apply ORS 237.600 to decrees, orders, or agreements whenever entered or modified, including those entered or last modified before January 1, 1994.

(b) No benefit under the Plan will 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 satisfy the Employer:

(1) That the copy is a true copy of the Order.

(2) That the Order is, within the meaning of ORS 237.600, 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.

(3) Of the extent to which the terms of the Order expressly provide for payment of a benefit under the Plan to an alternate payee.

(4) Of any other fact or matter required for the Employer to:

(i) Determine the application of ORS 237.600 to the Order or the extent to which the Order applies to the Plan.

(ii) Comply with the Order or with ORS 237.600.

(iii) Administer the Plan under the terms of the Order.

(c) Neither Employer nor the Plan will charge or collect out of the benefits payable to the participant or the alternate payee any administrative expenses or related costs incurred by Employer or the Plan in obtaining data or making calculations necessary by reason of ORS 237.600.

(d) For periods beginning before a participant's Termination of Employment with the Employer, the amounts payable to the participant's alternate payee will be determined using the interest rate and mortality table specified in Section 1.03(i), not the factors specified in Section 4.01(b) or the provision in Section 4.01(b) for no reduction.

SECTION 14.15--MERGER.

This Plan is funded by Group Contracts issued by the Insurer to fund benefits for participants and their beneficiaries in the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and in the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN, which plans are restated in this Plan. Effective as of a date

to be determined by the Employer's Finance Director, the Employer shall cause the Insurer to modify or combine the Group Contracts so that all of the assets of the Group Contracts are available to pay benefits to all employees who are covered by this Plan and their beneficiaries. Until that date, the part of this Plan resulting from the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN may continue to be known by such name, and the part of this Plan resulting from the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN may continue to be known by such name.

DATED June 26, 2002.] ~~[IN WITNESS WHEREOF, this Employer has caused this Plan to be executed by its duly appointed officers this _____ day of _____, 19____.]~~

CITY OF NEWBERG

By _____
City Manager

HERSHNER, HUNTER, ANDREWS, NEILL & SMITH, LLP
LAW OFFICES

180 East 11th Avenue
P.O. Box 1475
Eugene, Oregon 97440
Telecopy (541) 344-2025
Telephone (541) 686-8511

June 30, 2002

VCP

Employee Plans VCP
Internal Revenue Service
2 Cupania Circle
Monterey Park, CA 91755-7431

RE: VCP Submission for the City of Newberg Police and Fire Men Retirement Plan
Our File No. 21867-20202

To Whom It May Concern:

This VCP submission relates to a plan document failure of the City of Newberg Police and Fire Men Retirement Plan (the Plan). The City of Newberg, Oregon, which is the plan sponsor of the Plan, requests a compliance statement to be issued in connection with this VCP submission. Concurrent with this VCP submission the Plan is being submitted for a determination letter, the application for which is enclosed.

Enclosed with this VCP submission are the following documents:

1. A completed Appendix C to Revenue Procedure 2001-17 (the "Checklist").

2. The plan sponsor's examination and perjury statements (item numbers 8, 9, and 15 on the Checklist).

3. A memo providing information relating to this submission required by the Checklist and Section 11 of Revenue Procedure 2001-17.

4. A copy of the Plan (item number 10 on the Checklist).

5. A copy of the most recent favorable determination letter (item number 11 on the Checklist).

6. Power of Attorney, IRS Form 2848 (item number 14 on the Checklist).

7. A copy of IRS Form 5300 and an Attachment to IRS Form 5300 that are being

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submitted in conjunction with this VCP submission for a determination letter (item number 25 on the Checklist).

Very truly yours,

EMMA THOMPSON
Plan sponsor's authorized representative

ECT:pk
Enclosures

cc: City of Newberg (w/enclosures 1-3)

file copy

APPENDIX C

VCP CHECKLIST
IS YOUR SUBMISSION COMPLETE?

INSTRUCTIONS

The Service will be able to respond more quickly to your VCP request if it is carefully prepared and complete. To ensure that your request is in order, use this checklist. Answer each question in the checklist by inserting yes, no, or N/A, as appropriate, in the blank next to the item. *Sign and date the checklist (as taxpayer or authorized representative) and place it on top of your request.* You must submit a completed copy of this checklist with your request.

If a completed checklist is not submitted with your request, substantive consideration of your submission will be deferred until a completed checklist is received.

TAXPAYER'S NAME City of Newberg

TAXPAYER'S I.D. NO. 93-6002221

PLAN NAME & NO. City of Newberg Police and Fire Men Retirement Plan #001

ATTORNEY/P.O.A. Everett Moreland

The following items relate to all submissions:

Yes — 1. Have you included a complete description of the failure(s) and the years in which the failure(s) occurred (including the years for which the statutory period has expired)? (See section 11.02(1) of Rev. Proc. 2001-17.) (Hereafter, all section references are to Rev. Proc. 2001-17.)

Yes — 2. Have you included an explanation of how and why the failure(s) arose, including a description of the administrative procedures for the plan in effect at the time the failure(s) occurred? (See section 11.02(2) and (3).)

Yes — 3. Have you included a detailed description of the method for correcting the failure(s) identified in your submission? This description must include, for example, the number of employees affected and the expected cost of correction (both of which may be approximated if the exact number cannot be determined at the time of the request), the years involved, and calculations or assumptions the Plan Sponsor used to determine the amounts needed for correction. In lieu of providing correction calculations with respect to each employee affected by a failure, you may submit calculations with respect to a representative sample of affected employees. However, the representative sample calculations must be sufficient to demonstrate each aspect of the correction method proposed. Note that each step of the correction method must be described in narrative form. (See section 11.02(4).)

N/A — 4. Have you described the earnings or interest methodology (indicating computation period and basis for determining earnings or interest rates) that will be used to calculate earnings or interest on any corrective contributions or distributions? (As a general rule, the interest rate (or rates) earned by the plan during the applicable period(s) should be used in determining the earnings for corrective contributions or distributions.) (See section 11.02(5).)

If you inserted "N/A" for item 4, enter explanation:

This is a VCP submission for a plan document failure. No corrective contributions or distributions are required.

N/A — 5. Have you submitted specific calculations for each affected employee or a representative sample of affected employees? (See section 11.02(6).)

N/A — 6. Have you described the method that will be used to locate and notify former employees or, if there are no former employees affected by the failure(s) or the correction(s), provided an affirmative statement to that effect? (See section 11.02(7).)

Yes — 7. Have you provided a description of the administrative measures that have been or will be implemented to ensure that the same failure(s) do not recur? (See section 11.02(8).)

Yes — 8. Have you included a statement that, to the best of the Plan Sponsor's knowledge, the plan is not currently under an Employee Plans examination? (See section 11.02(9).)

Yes — 9. Have you included a statement that, to the best of the Plan Sponsor's knowledge, the Plan Sponsor is not under an Exempt Organizations examination? (See section 11.02(9).)

Yes — 10. Have you included a copy of the portions of the plan document (and adoption agreement, if applicable) relevant to the failure(s) and method(s) of correction? (See section 11.04(2).)

Yes — 11. Have you included a copy of the plan's most recent Favorable Letter and/or the required applicable document(s)? (See section 11.04(4).)

N/A — 12. Have you included the appropriate voluntary compliance fee due with the submission? (See section 11.06.)

Yes — 13. Have you included the original signature of the sponsor or the sponsor's authorized representative? (See section 11.07.)

Yes — 14. Have you included a Power of Attorney (Form 2848)? Note: representation under VCP is limited to attorneys, certified public accountants, enrolled agents, and enrolled actuaries; unenrolled return preparers are not eligible to act as representatives under VCP. (See section 11.08.)

Yes — 15. Have you included a Penalty of Perjury Statement signed (original signature only) and dated by the Plan Sponsor? (See section 11.09.)

Yes — 16. Have you designated your submission as a VCP, VCO, VCS, VCT, VCSEP, VCGroup, or Anonymous Submission Procedure, as appropriate? (See section 11.11.)

The following items relate only to submissions under VCO (including VCS):

N/A — 17. If the plan is currently being considered in a determination letter application on a Form 5310, have you included a statement to that effect? (See section 11.03(10).)

N/A — 18. Have you included a copy of the first page, the page containing employee census information (currently line 7f of the 1999 Form 5500), and the information relating to plan assets (currently line 31f of the 1999 Form 5500) of the most recently filed Form 5500 series return? Note: If a Form 5500 is not applicable, insert N/A and furnish the name of the plan, and the census information required of Form 5500 series filers. (See section 11.04(1)(b).)

N/A — 19. Have you proposed a time period of correction that is limited to 150 days (240 days for VCGroup) from the date the compliance statement is issued? (See sections 10.06(8) and 10.14(3)(b).)

The following items relate only to submissions under VCS:

N/A — 20. Are each of the failures you have identified eligible for correction under VCS? (See Appendix A and Appendix B.)

N/A — 21. Have you identified no more than two VCS failures? (If more than two failures were identified, VCS is not available, but you may make a submission under VCO.) (See section 10.11(3).)

N/A — 22. Have you proposed to correct the failure(s) identified in your request using the permitted correction method(s) set forth in Appendix A or Appendix B? (See Appendix A and Appendix B.)

The following items relates only to submissions under the general procedures of VCP:

N/A — 24. Have you included a copy of the most recently filed Form 5500? (See section 11.04(1)(b).)

Yes — 25. Have you submitted an application for a determination letter? (See section 11.05.)

E Thompson
Signature

June 24, 2002
Date

Plan Representative
Title or Authority

Emma Thompson
ed or printed name of person signing checklist

PERJURY STATEMENT

By signing below, I declare that, to the best of my knowledge, neither the Plan nor the Plan Sponsor is under an exempt organizations examination (as defined in Revenue Procedure 2001-17).

Under penalties of perjury, I declare that I have examined this submission, including accompanying documents, and, to the best of my knowledge and belief, the facts presented in support of this submission are true, correct, and complete.

PLAN SPONSOR

Date: June 24, 2002

By: Kathleen Hu

Its: Finance Director

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MEMORANDUM

TO: Internal Revenue Services - Employee Plans VCP

FROM: Emma Thompson (Plan Representative for City of Newberg)

DATE: June 28, 2002

RE: City of Newberg Police and Fire Men Retirement Plan

The following paragraphs provide the information requested by the Checklist and Section 11 of Revenue Procedure 2001-17:

1. **Complete Description of the Failures and the Years in Which the Failures Occurred (number 1 on the Checklist).**

Failure to timely amend the Plan for law changes and other requirements not covered by the Plan's last determination letter (TEFRA except for IRC Section 415, DEFRA, REA, and any other requirements). The years in which the failures occurred are the years in which the remedial amendment periods for those laws expired.

2. **Explanation of how and why the failures arose, including a description of the administrative procedures in effect at the time the failures occurred (number 2 on the Checklist).**

The failures to timely amend for law changes arose because during the relevant years the Plan was not assisted by a profession responsible to identify to the plan sponsor the need to timely amend the Plan for law changes. During the relevant years the Plan's administration was performed by personnel at the City of Newberg (the plan sponsor), Milliman USA (the plan actuary), and Principal Financial Group (the issuer of the group annuity contract funding the Plan). City personnel administering the Plan did not have the training to identify the need to timely amend the Plan for law changes. These personnel assumed that Milliman USA and Principal Financial Group were providing all the professional assistance required to maintain the Plan's tax qualification. However, neither Milliman USA nor Principal Financial Group assumed the duty to advise City personnel of the need to timely amend the Plan for law changes.

3. **Detailed description of the method for correcting the failures (number 3 on the Checklist).**

The plan document failure has been corrected by restating the Plan. That Plan restatement is enclosed with this VCP submission. The restatement includes all of the required amendments since the last favorable determination letter was issued for the Plan.

HERSHNER, HUNTER, ANDREWS, NEILL & SMITH, LLP
LAW OFFICES
P.O. BOX 1475
EUGENE, OREGON 97440
FAX (541) 344-3025
TELEPHONE (541) 686-8511

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The rest of the information described in item number 3 of the Checklist is not applicable to the failures.

4. **Description of the methodology used to calculate earnings or actuarial adjustments on any corrective contributions or distributions (number 4 on the Checklist).**

Not applicable to the failures.

5. **Specific calculations for each affected employee or representative sample of affected employees (number 5 on the Checklist).**

Not applicable to the failures.

6. **The method to be used to contact former employees and beneficiaries (number 6 on the Checklist).**

No former employee is affected by the failures.

7. **Description of the administrative measures that have been or will be implemented to ensure that the same failures will not recur (number 7 on the Checklist).**

The plan sponsor (the City of Newberg) has retained an attorney to advise the City when the Plan needs to be amended for law changes.

8. **Copy of the most recently filed Form 5500 (number 24 on the Checklist).**

Form 5500 is not filed for the Plan. The Plan is a governmental plan.

HERSHNER, HUNTER, ANDREWS, NEILL & SMITH, LLP
LAW OFFICES
P.O. BOX 1475
EUGENE, OREGON 97440
FAX (541) 344-2025
TELEPHONE (541) 686-8511

FACSIMILE TRANSMISSION

Department of the Treasury - Internal Revenue Service

Tax Exempt and Government Entities
9350 Flair Drive, 2nd Floor
El Monte, CA 91731

Deliver to: **Hershner Hunter Andrews Neill & Smith**		From:	
Name of Recipient: **Everett Moreland**		Name of Sender: **Vickie Walker, EP Voluntary Compliance Agent**	
Division/Branch/Section/Unit:	Office:	Division/Branch/Section/Unit: **TE/GE**	Office: **El Monte**
Room Number (if any):	Stop Number:	Room Number (if any):	Stop Number: **T:EP:RA:VC:7554:VW**
Phone Number: (541) 686-8511	Fax Number: (541) 344-2025	Phone Number: **(626) 312-3628 Ext. 5503**	Fax Number: **(626) 312-5061**
Subject: **City of Newberg General Employees Retirement Plans #001 & 002 Case #1778 & 1779**			Page ___1__ of ___8__
Hard Copy: _____ Will follow by mail ___X__ Will not follow by mail		Please call me to confirm receipt of this fax? _____ Yes ___X__ No	
Date: **May 9, 2003**	Response Date: **May 26, 2003**	Response by: [ ] Fax [X] Mail [ ] Phone	Signature: V. Walker

CONFIDENTIALITY NOTICE

This communication is intended for the sole use of the individual to whom it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this communication is NOT the intended recipient (or the employee or agent for delivering the communication to the intended recipient), you are hereby notified that any dissemination, distribution, or copying of this communication may be strictly prohibited. **If you have received this communication in error, please notify the sender immediately by telephone (collect, if necessary), and return the communication to the address above via the U.S. Postal Service. Thank you.**

Comments:

INTERNAL REVENUE SERVICE
Tax Exempt & Government Entities Division
9350 Flair Drive, 2nd Floor
El Monte, CA 91731

Date: May 9, 2003

Person to Contact:
Vickie Walker, ID# 95-06329
Telephone Number:
Voice (626) 312-3628 Ext. 5503
Fax (626) 312-2928
Plan Name(s): City of Newberg General Employees Retirement Plan

Hershner Hunter Andrews Neill & Smith LLP
Everett Moreland
P.O. Box 1475
Eugene, OR 97440

Plan Number(s): 002

Taxpayer Identification Number(s):
93-6002221
Case ID Number(s): 1778

Refer Reply To:
T:EP:RA:VC:7554:VW
Response Date: May 26, 2003

Dear Sir or Madam:

The compliance statement request(s) for the plan identified above have been assigned to me. I have reviewed all of the information submitted to date, and I have prepared a summary of the identified failures, the applicable sections of the Internal Revenue Code, the proposed methods of correction, and any information/documentation that is needed for me to complete the processing of the compliance statement(s). A copy of this summary is attached for your reference.

Please read the attached summary carefully. If you disagree with anything contained in the summary, please submit a written statement that explains your position, and be sure to cite any relevant Code sections or other legal authority that supports your position. In addition, please submit the requested information by the response date listed above. If you are unable to submit all of the requested items at one time, please contact me.

If you have any questions concerning this matter, please contact me at the telephone number listed above.

Sincerely yours,

Vickie Walker

Employee Plans Voluntary Compliance Agent

Enclosure:
Summary of Failures and List of Requested Information

SUMMARY OF FAILURES AND LIST OF REQUESTED INFORMATION

Case ID Number(s): 1778

A.) **Failure #1:** The Plan was not timely amended to comply with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), the Deficit Reduction Act of 1984 (DEFRA), and the Retirement Equity Act of 1984 (REA).

Affected Plan Year(s):

Number of Affected Employees:

Code section(s):

Eligibility: The failure is eligible for resolution under Revenue Procedure 2001-17 and 2002-47.

Proposed method of correction: The failure was corrected by adopting a Plan restatement, with various effective dates to comply with the requirements of TEFRA, DEFRA, and REA.

Acceptability of correction: Amending the plan to comply with the requirements of TEFRA, DEFRA, and REA is an acceptable correction method.

Request for information:

1. Please provide the affected years.
2. Please provide the total number of affected employees.
3. The plan must be amended to provide the applicable effective dates for the provisions of TEFRA, DEFRA, and REA
4. Please demonstrate that the Plan was timely amended to comply with the Tax Reform Act of 1986 (TRA '86), UCA and OBRA '93. If not, would you like to add it to this request.

Compliance Correction Fee (CCF) – The information that you provided does not indicate the number of employees. Once provided, I will inform you of the CCF

A COPY OF THIS LETTER IS BEING SENT TO BOTH THE EMPLOYER AND POWER OF ATTORNEY.

INTERNAL REVENUE SERVICE
Tax Exempt & Government Entities Division
9350 Flair Drive, 2nd Floor
El Monte, CA 91731

Date: May 9, 2003

Person to Contact:
Vickie Walker, ID# 95-06329
Telephone Number:
Voice (626) 312-3628 Ext. 5503
Fax (626) 312-2928
Plan Name(s): City of Newberg Police and Fire Men Retirement Plan

Hershner Hunter Andrews Neill & Smith, LLP
Everett Moreland
P.O. Box 1475
Eugene, OR 97401

Plan Number(s): 001

Taxpayer Identification Number(s):
93-6002221
Case ID Number(s): 1779

Refer Reply To:
T:EP:RA:VC:7554:VW
Response Date: May 26, 2003

Dear Sir or Madam:

The compliance statement request(s) for the plan identified above have been assigned to me. I have reviewed all of the information submitted to date, and I have prepared a summary of the identified failures, the applicable sections of the Internal Revenue Code, the proposed methods of correction, and any information/documentation that is needed for us to complete the processing of the compliance statement(s). A copy of this summary is attached for your reference.

Please read the attached summary carefully. If you disagree with anything contained in the summary, please submit a written statement that explains your position, and be sure to cite any relevant Code sections or other legal authority that supports your position. In addition, please submit the requested information by the response date listed above. If you are unable to submit all of the requested items at one time, please contact me.

If you have any questions concerning this matter, please contact me at the telephone number listed above.

Sincerely yours,

V. D. Walker

Employee Plans Voluntary Compliance Agent

Enclosure:
Summary of Failures and List of Requested Information

SUMMARY OF FAILURES AND LIST OF REQUESTED INFORMATION

Case ID Number(s): 1779

A.) **Failure #1:** The Plan was not timely amended to comply with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), the Deficit Reduction Act of 1984 (DEFRA), and the Retirement Equity Act of 1984 (REA).

Affected Plan Year(s):

Number of Affected Employees:

Code section(s):

Eligibility: The failure is eligible for resolution under Revenue Procedure 2001-17 and 2002-47.

Proposed method of correction: The failure was corrected by adopting a Plan restatement, with various effective dates to comply with the requirements of TEFRA, DEFRA, and REA.

Acceptability of correction: Amending the plan to comply with the requirements of TEFRA, DEFRA, and REA is an acceptable correction method.

Request for information:

1. Please provide the affected years.
2. Please provide the total number of affected employees.
3. The plan must be amended to provide the applicable effective dates for the provisions of TEFRA, DEFRA, and REA
4. Please demonstrate that the Plan was timely amended to comply with the Tax Reform Act of 1986 (TRA '86), UCA and OBRA '93. If not, would you like to add it to this request.

Compliance Correction Fee (CCF) – The information that you provided does not indicate the number of employees. Once provided, I will inform you of the CCF

A COPY OF THIS LETTER IS BEING SENT TO BOTH THE EMPLOYER AND POWER OF ATTORNEY.

Internal Revenue Service
Tax Exempt & Government Entities Division
9350 Flair Drive, 2nd Floor
El Monte, CA 91731

Date: May 9, 2003

Name of Plan: City of Newberg Police and Firemen Retirement Plan/ General Employee Retirement Plan
Plan Number(s): 001 & 002

Case ID Number(s): 1778 & 1779

Person to Contact:
Vickie Walker
Telephone Number:
(626) 312-3628 Ext. 5503

Response Due Date: May 26, 2003

Hershner Hunter Andrews Neill & Smith, LLP
Everett Moreland
180 E. 11th Avenue
Eugene, Oregon 97440

Dear Sir or Madam:

We have received your request for a determination letter for the plan identified above. However, we need the information or amendments specified on the enclosed list before we can continue processing your request.

Please submit the requested information or amendments by the response date. If we do not hear from you by that date we may either (1) close your case as incomplete, or (2) process your application on the basis of the information available, which could result in a determination that your plan is not qualified for favorable tax treatment.

If you have any questions concerning this matter or cannot meet the response date, please contact the person whose name and telephone number are shown above. When you send any information we requested or if you write to us with questions about this letter, please provide your telephone number and the most convenient time for us to call if we need more information.

Thank you for your cooperation.

Sincerely,

Voluntary Compliance Agent

Enclosure:
List of Data Needed

Letter 1196

Data Needed

Please address each issue. If you feel that the requested provision is in the plan, please cite the location.

Police and Fire Men Retirement Plan (Plan #001)

1. Please provide a complete executed copy of Amendment 3.
2. Since the Contract dated 11/2/94 is not an amendment to the plan, the determination letter will not issue an opinion on this document.

General Employees Retirement Plan (Plan #002)

1. Amendment 2 was not complete. Please provide a complete copy of the amendment including the execution page; otherwise, the amendment will not be included on the determination letter.
2. Amendment 4 was not executed. Please provide a complete copy of the amendment including the execution page; otherwise, the amendment will not be included on the determination letter.
3. Amendment 5 was not executed. Please provide a complete copy of the amendment including the execution page; otherwise, the amendment will not be included on the determination letter.
4. Since the Contracts dated 11/15/93 and 7/1/94 are not amendments to the plan, the determination letter will not issue an opinion on these documents.

Information for both Plans including merged Plan document

1. Please provide an executed copy of the Resolution whereby the plans were merged into one document.
2. Plan section 1.01(c), last sentence must be amended. The Employer does assume responsibility for the funding of the plan.
3. Sections 2.01(a), (b) and (c) states when an Eligible Employee "may" become an Active Participant or Inactive Participant becomes a participant or former participant "may" become an Active participant. This plan section must state when the Employee "will" become an Active Participant. The plan must be amended accordingly.
4. Plan section 1.03(b) must be amended to clarify as to what contribution/benefit these vesting schedules apply.
5. Section 4.01 defines the normal retirement benefit and provides for a tabular reduction if a participant's early retirement date precedes the participant's normal retirement date. The above factors will be adjusted proportionately for fractional years, and this must be clarified to state that the adjustment will be based on a linear interpolation.
6. Optional forms of payment are given under Section 4.02. Because the plan permits a life annuity with a certain period, the options available with respect to the certain period must be specified. In similar fashion, because the plan permits a survivorship life annuity, the

percentage of the annuity available to the contingent annuitant must be specified. Generally, the survivorship percentage cannot be less than 50% or greater than 100%.

7. Section 6 provides that benefits will be adjusted to reflect changes in the Consumer Price Index. Section 6.02(b) permits benefits to be decreased, but the amount of the decrease will not be less than had the plan not provided for cost of living adjustments. Such a decrease could result in a violation of the anti-cutback rules of Code section 411(d)(6). This potential violation could be eliminated if the plan is amended to provide that the adjustment factor cannot be less than 1.0.
8. Section 9 provides additional benefits to reflect increases granted in 1991 and 1995 to certain Police Officers and Firefighters. The formula involves the use of the term "eligible payments" as defined under Section 9.04(e), and the employer has discretion in determining if payments constitute "eligible payments" as used in the formula given under Section 9.02. Because the formula used must preclude employer discretion, the terminology must be redefined.

A COPY OF THIS LETTER IS BEING SENT TO THE EMPLOYER AND THE POWER OF ATTORNEY.

HERSHNER, HUNTER, ANDREWS, NEILL & SMITH, LLP
LAW OFFICES

180 East 11th Avenue
P.O. Box 1475
Eugene, Oregon 97440
Telecopy (541) 344-2025
Telephone (541) 686-8511

June 6, 2003

BY FEDERAL EXPRESS

Internal Revenue Service
TE/GE Division
Attn: Vickie Walker
T:EP:RA:VC:7554:VW
9350 Flair Drive, 2d Floor
El Monte, California 91731-2885

RE: City of Newberg General Employees Retirement Plan, Plan # 002, Case # 1778
City of Newberg Policemen and Firemen Retirement Plan, Plan # 001, Case # 1779
Employer identification number: 93-6002221

Dear Ms. Walker:

This letter replies to your May 9, 2003, letters, copies of which are enclosed. Also enclosed are:

- Proposed 2003 Restatement of the City of Newberg Employees Retirement Plan, making changes you requested and additional changes.[1]

- Redline document showing the differences between the proposed 2003 Restatement and the 2002 Restatement submitted to you for a favorable determination letter.

---

[1]The proposed changes are in the Plan sections listed below. All the proposed changes are discussed in this letter except for the change in the Introduction to update the Plans' amendment history.

Introduction
1.03(b)
2.01
3.02
4.01; 4.02; 4.04
5.02
7.01(a)
9.02; new 9.04(e); 9.04(f) and (g)
10.01, last sentence
13.05(g)

FILE COPY

- Copies of signed First Amendment and Second Amendment to the 2002 Restatement. These amend the 2002 Restatement submitted to you for a favorable determination letter. The enclosed redline document shows the change made by the First Amendment and the Second Amendment. These changes are discussed at the end of this letter.

- Copy of signed Amendment No. 3 to the City of Newberg Policemen and Firemen Retirement Plan.

- Copy of signed Amendment No. 2 to the City of Newberg General Employees Retirement Plan.

- Copy of signed City of Newberg Resolution No. 2002-2374.

COMPLIANCE STATEMENTS: SUMMARIES OF FAILURES AND LISTS OF REQUESTED INFORMATION

Following are the employer's responses to the items in the Summaries of Failures and Lists of Requested Information regarding the employer's requests for compliance statements. The responses in 1., 3., and 4. below apply to both Plans.

1. Affected Plan Years. Plan Years ending after July 1, 1982, and before July 1, 2003 (i.e. the Plan Years ending June 30, 1983, through June 30, 2003).

2. Number of Affected Employees. As of June 30, 2002, the Plans had the following numbers of participants:

	City of Newberg General Employees Retirement Plan, Plan # 002, Case # 1778	City of Newberg Policemen and Firemen Retirement Plan, Plan # 001, Case # 1779
Retired	20	12
Vested and non-vested terminated	8	1
Active	47	7
Totals	75	20

3. Providing effective dates of Plan provisions implementing TEFRA, DEFRA, and REA. These are stated in the Introduction of the enclosed proposed 2003 Restatement.

4. Timely amendment for TRA '86, UCA, and OBRA'93. The Plans are governmental plans with a Plan Year ending June 30.[2] The Plans were amended for TRA '86, UCA, and OBRA '93 in June 2002 in the Plans' 2002 Restatement, which on June 30, 2002, was submitted to you for favorable determination letters. Revenue Procedure 2002-73, 2002-49 I.R.B. 932, Sec. 2.02, provides in effect that the Plans' remedial amendment period for TRA '86 and later laws ended June 30, 2002:

> "The GUST remedial amendment period for governmental plans, as defined in section 414(d), ends on the latest of (i) February 28, 2002, (ii) the last day of the first plan year beginning on or after January 1, 2001,[3] or (iii) the last day of the first plan year beginning on or after the '2000 legislative date' (that is, the 90th day after the opening of the first legislative session beginning after December 31, 1999, of the governing body with authority to amend the plan, if that body does not meet continuously). This is also the end of the TRA '86 remedial amendment period for governmental plans." (Emphasis added.)

Please let me know if you have any concern that the Plans were not timely amended for TRA '86, UCA, and OBRA '93 and timely submitted for a favorable determination letter on the TRA '86, UCA, and OBRA '93 amendments.

DETERMINATION LETTERS: DATA NEEDED

Following are the employer's responses to the items in Data Needed regarding the employer's requests for determination letters. Please let me know if this letter does not fully address your concerns; the employer will make any amendments you believe appropriate.

Policemen and Firemen Retirement Plan (Plan # 001)

Enclosed in response to your item 1. is a copy of Amendment No. 3 to the City of Newberg Policemen and Firemen Retirement Plan.

---

[2]See Plan Section 1.02(a), (b), and (o).

[3]The last day of the Plans' first Plan Year beginning on or after January 1, 2001, is June 30, 2002.

General Employees Retirement Plan (Plan # 002)

Enclosed are:

- In response to your item 1., a copy of signed Amendment No. 2 to the City of Newberg General Employees Retirement Plan.

- In response to your items 2 and 3, the employer has not been able to find a signed copy of Amendment 4 or Amendment 5.

Information for both Plans including merged Plan document

1. Executed copy of the resolution whereby the plans were merged into one plan document.

Enclosed is a copy of City of Newberg Resolution No. 2002-2374.

2. Plan Section 1.01(c), last sentence.

The last sentence of Section 1.01(c) states: "All benefits payable under the Plan will be paid or provided for solely from the Group Contract, and the Employer assumes no liability or responsibility therefor." I believe this sentence is proper. This sentence says two things:

1. The employer is not responsible to pay benefits directly.

2. The employer is not responsible to fund the Group Contracts if funding is inadequate to pay benefits.

As to 1. above, Revenue Ruling 71-91, 1971-1 C.B.116, states that a qualified plan may not provide for direct payment of benefits by the employer:

> "[A] qualified plan must be a funded plan. It may not provide for direct payments by an employer to his employees, as in the case of the pay-as-you-go pension plan described in this case."

As to 2. above:

a. The funding requirements of Code Section 412 and ERISA Section 302 do not apply to the Plans because the Plans are governmental plans. *See* Code Section 412(h)(3) ("This section shall not apply to . . . any governmental plan . . . .") and ERISA Section 4(b)(1) ("The provisions of this title shall not apply to any . . . governmental plan . . . .").

b. Even if those funding requirements were to apply to the Plans, the Plans are not, as a condition of tax qualification, required to meet them. *See* the following:

(1) IRS Technical Information Release No. 1334 at M-5 (January 8, 1975) ("If the funding of the plan does not satisfy the requirements of IRC Section 412 . . . an excise tax is imposed under IRC Section 4971 on the employer . . . . This tax, however, does not affect the qualification of the plan.").

(2) Proposed IRS Examination Guidelines, Minimum Funding Standards Under IRC 412, Section 1.8.2(3), accompanying IRS Announcement 98-1, 1998-2 I.R.B. 38 ("Generally, failure to satisfy the minimum funding requirements will not disqualify the plan.").

(3) *David E. Anthes v. Commissioner*, 81 T.C. 1, ___ (1983), *aff'd. without published opinion*, 740 F.2d 953 (1st Cir. 1984):

> "[A]n alleged failure to meet the minimum funding requirements of section 412 does not result in a plan's disqualification . . . ."

(4) Defined Benefit Listing of Required Modifications and Information Package, LRM #76 (02-2000) (available at http://www.irs.gov/retirement/article/0,,id=97182,00.html) (bold in original):

> **"76. Document Provision:**
>
> **"Statement of Requirement:** **Vesting - Plan termination, IRC §411(d)(3), Regs. §1.411(a)-4(a).**
>
> **"Sample Plan Language**:
>
> "In the event of the termination or partial termination of this plan, the rights of all affected employees to benefits accrued to the date of such termination or partial termination (to the extent funded as of such date) shall be nonforfeitable.
>
> **"(Note to reviewer: A plan will not violate the nonforfeitability requirement of 411 of the Code merely because in the event of termination an employee does not have any recourse toward satisfaction of his nonforfeitable benefits from other than plan assets or the Pension Benefit Guaranty Corporation.)"**

c. The Plans, as governmental plans, are required by Code Sections 411(e)(2) and 412(h) to satisfy Code Section 401(a)(7) as in effect on September 1, 1974. Code Section 401(a)(7) as in effect on September 1, 1974, makes clear that on termination of the Plans the employer is not responsible to fund the Group Contracts if funding is inadequate to pay benefits:

> "A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that, upon its termination or upon complete discontinuance of contributions under the plan, the rights of all employees to benefits accrued to the date of such termination or discontinuance, to the extent then funded, or the amounts credited to the employees' accounts, are nonforfeitable." (Emphasis added.)

(1) The interpretative Treasury regulation, Treasury Regulation Section 1.401-6(a)(1), also makes the same point:

> "In order for a pension, profit-sharing, or stock bonus trust to satisfy the requirements of section 401, the plan of which such trust forms a part must expressly provide that, upon the termination of the plan or upon the complete discontinuance of contributions under the plan, the rights of each employee to benefits accrued to the date of such termination or discontinuance, to the extent then funded, or the rights of each employee to the amounts credited to his account at such time, are nonforfeitable." (Emphasis added.)

(2) The Internal Revenue Manual (discussing a nongovernmental defined benefit plan) also makes the same point at 7.7.2.2.14 4. (04/20/99) (available at http://www.irs.ustreas.gov/irm/page/ 0,,id%3D22041,00.html#ss32):

> "If the value of plan assets is less than the present value of benefits as of the date of termination, assets must be allocated in accordance with ERISA 4044, regardless of whether the plan is covered by the PBGC. See ERISA 403(d)(1) and Reg. 1.411(d)-2(a)(2)(ii)."

3. Plan Section 2.01(a), (b), and (c).

As shown in the enclosed 2003 Restatement and redline document, "may" in Section 2.01(a), (b), and (c) will be changed to "will".

4. Plan Section 1.03(b) (and additional sections).

As shown in the enclosed 2003 Restatement and redline document:

1. Sections 1.03(b) and 4.04 will be amended to clarify that (a) the vesting rule in Section 1.03(b) applies to the Accrued Benefit and (b) 100% vesting in the Accrued Benefit upon attaining age 45 or 50 or becoming Totally and Permanently Disabled applies only if the participant attains that age or becomes Totally and Permanently Disabled while an Active Participant.

2. The next to last sentence of Section 3.02 and the last sentence of Section 10.01 will be amended to make explicit what has been implicit, which is that Accounts (not merely contributions to Accounts) are always 100% vested.

3. The following sections will be amended to clarify that Accrued Benefit means Vested Accrued Benefit: 4.01(a), (b), and (c); 5.02(a) and (b); 9.02; and 9.04(g).

4. New Section 9.04(e) will be added to define *Vested Accrued Benefit* for purposes of Article 9.

5. Plan Section 4.01.

As shown in the enclosed 2003 Restatement and redline document, the last sentence of Section 4.01(b) will be amended to add "(based on linear interpolation)".

6. Plan Section 4.02.

As shown in the enclosed 2003 Restatement and redline document, Sections 4.02(b) and (c) will be amended to specify periods certain of 5 or 10 years and survivorship annuities of 50% or 100%.

7. Plan Article 6.

Any reduction in a prior COLA under Article 6. would not violate Code Section 411(d)(6) because Code Section 411(d)(6) does not apply to the Plans. The Plans are governmental plans as defined in Code Section 414(d). The following Code Section 411(e) provides that Code Section 411(d)(6) does not apply to a governmental plan as defined in Code Section 414(d):

> "(1) The provisions of this section (other than paragraph (2)) shall not apply to–
>
> > "(A) a governmental plan (within the meaning of section 414(d)),

"* * * *.

"(2) A plan described in paragraph (1) shall be treated as meeting the requirements of this section, for purposes of section 401(a), if such plan meets the vesting requirements resulting from the application of sections 401(a)(4) and 401(a)(7) as in effect on September 1, 1974."

See also IRS Private Letter Ruling 9645031 (August 16, 1996):

"The Plan is a governmental plan within the meaning of section 414(d) of the Code . . . .

". . . . The Plan is not subject to the provisions of Code section 411, including section 411(d)(6) which prohibits, among other things, reductions in the accrued benefits of participants by plan amendment. Although the Retirement Board could change the interest rate mechanism by amending the Plan (e.g., to an interest rate based on 5-year or 10-year Treasury securities), benefits under the Plan so amended would remain definitely determinable. That is, the power of the Retirement Board to amend the plan to change the interest rate crediting mechanism does not mean that the benefits provided under the Plan are not definitely determinable."

8. Plan Section 9.

As shown in the enclosed 2003 Restatement and redline document:

1. Section 9.04(f) will be amended to eliminate employer discretion.

5. Additionally, the formula in Section 9.02(b) will be clarified by adding an "x" between the two sets of parentheses.

DETERMINATION LETTERS: ADDITIONAL CHANGES MADE BY THE FIRST AMENDMENT AND THE SECOND AMENDMENT

The employer requests that the determination letter cover all changes made by the enclosed First Amendment and the enclosed Second Amendment.

Changes made to the 2002 Restatement by the enclosed First Amendment and the enclosed Second Amendment are identified and discussed below. These changes are shown in the enclosed 2003 Restatement and redline document.

Plan Section	*Change*
7.01(a)	This change was made in the Second Amendment. As is explained in the Second Amendment, "The above amendment corrects a drafting error in Section 7.01(a) of the 2002 Restatement, which did not include the change made to Section 7.01(a) in Amendment No. 3 to the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN (then numbered as Section 5.01(a))."
13.05(g)	This change was made in the enclosed First Amendment. This change corrects a drafting error that left a year-long gap.

CONTACTING ME

Please contact me if you have any questions. You may call me direct at 541-302-5248, fax me at 541-344-2025, or email me at emoreland@hershnerhunter.com.

Very truly yours,

/s/ Everett R. Moreland

EVERETT R. MORELAND
ERM:em
Enclosures
cc: Ms. Katherine L. Tri (with enclosures)

CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN

2003 Restatement

CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN

2003 Restatement

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INTRODUCTION

The City of Newberg adopted a defined benefit pension plan in 1964 for its employees. Effective July 1, 1979, the plan was restated as two separate plans, the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN for police officers and firefighters. Effective July 1, 1982, both plans were restated. Both plans were later amended. Effective July 1, 2002, both plans were combined into one document as the 2002 Restatement. The 2002 Restatement has since been amended. This 2003 Restatement amends and restates the 2002 Restatement, as amended to date, effective July 1, 2002, unless otherwise stated.

Plan provisions implementing the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) are generally effective for limitation years beginning after December 31, 1982, or taxable years beginning after December 31, 1983. Plan provisions implementing the Deficit Reduction Act of 1984 are variously effective for (1) Plan Years beginning after December 31, 1986 (Plan provisions implementing IRC Section 401(a)(9)); (2) limitation years beginning after December 31, 1982, or taxable years beginning after December 31, 1983 (Plan provisions implementing technical corrections to TEFRA); (3) limitation years beginning after December 31, 1987 (Plan provisions delaying cost-of-living adjustments under IRC Section 415(d)); or (4) contributions paid or accrued after December 31, 1985, in tax years ending after December 31, 1985 (Plan provisions treating certain contributions to a medical account in a welfare benefit plan as contributions to a defined contribution plan for purposes of IRC Section 415). Plan provisions implementing the Retirement Equity Act of 1984 are generally effective January 1, 1985. Any Plan provision for which this Plan provides a specific effective date is subject to the specific effective date.

ARTICLE 1. DEFINITIONS

SECTION 1.01--THE PLAN AND PARTIES CONCERNED.

(a) "Plan" means the restated defined benefit retirement plan of the Employer as set forth herein and as amended from time to time.

(b) "Prior Plan" means the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN prior to the Effective Date.

(c) "Group Contract" means the group annuity contract or contracts which the Employer enters into with the Insurer for the purpose of payment of retirement income and other benefits in accordance with this Plan and for the purpose of investment of Contributions made under the Plan. All benefits payable under the Plan will be paid or provided for solely from the Group Contract, and the Employer assumes no liability or responsibility therefor.

(d) "Employer" means CITY OF NEWBERG, OREGON, and any successor by change of name or merger.

(e) "Insurer" means Principal Financial Group, Inc., or such other insurance company or companies as may, from time to time, be designated by the Employer.

(f) "Employee" means any natural person who is employed by the Employer. "Employee" excludes:

(1) Any person who would be treated as a leased employee of the Employer under IRC Section 414(n).

(2) An individual whose wages are paid by an agency or other business that provides individuals who perform services for the Employer and pays the individuals' wages.

(3) Persons not treated as an employee on the Employer's payroll records.

(g) Effective July 1, 2002, "Eligible Employee" means, except for purpose of Article 9., any full-time regular Employee employed in a position not eligible for membership in the Oregon Public Employees Retirement System under the Employer's agreements with the System and whose employment with the Employer is as follows:

(1) General Employee.

(2) Police Officer.

(3) Firefighter.

(4) City Attorney, effective July 1, 1992.

The City Attorney shall be eligible as a General Employee with five years employment with the Employer and shall be given credit for contributions as of July 1, 1988, through June 30, 1992. Pursuant to Resolution No. 92-1726, the City Attorney shall be classified with the Police Officer and Firefighter personnel instead of the General Employee classification, effective July 1, 1992.

(h) "Participant" means a person who is either an Active Participant or an Inactive Participant.

(i) "Active Participant" means an Eligible Employee who has become an Active Participant as provided in Section 2.01.

(j) "Inactive Participant" means a person who has become an Inactive Participant as provided in Section 2.02.

(k) "Beneficiary" means any person or persons designated by a Participant pursuant to Section 14.05 to receive any death benefit upon the death of the Participant.

(l) "Contingent Annuitant" means a natural person designated by the Participant to receive a lifetime benefit after the death of such Participant in accordance with the survivorship life annuity optional form of retirement benefit provided in Section 4.02.

SECTION 1.02--IMPORTANT DATES AND PERIODS.

(a) "Effective Date" means July 1, 1982.

(b) "Anniversary Date" means the Effective Date and the same day of each year thereafter.

(c) "Quarterly Date" means the effective date and every third Monthly Date thereafter.

(d) "Monthly Date" means the Effective Date and the same day of each month thereafter.

(e) "Eligibility Date" means, as to a Participant, the Eligibility Date as provided in Section 2.01.

(f) "Re-entry Date" means, for a Participant, the Re-entry Date as provided in Section 2.01.

(g) "Retirement Date" means, for a Participant, the date for commencement of monthly retirement benefit which will be his Early, Normal, or Late Retirement Date, whichever is applicable.

(h) "Normal Retirement Date" means, for a Participant, the first day of the month coinciding with (immediately following, if none coincides with) the date on which he attains age 60 (58 for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney).

(i) "Early Retirement Date" means the first day of the month selected by the Participant for beginning an early retirement benefit before his Normal Retirement Date which is on or after the later of the following:

(1) The date he ceases to be an Employee.

(2) The date he attains age 55 (50 for Police Officers, Firefighters, and the City Attorney).

(j) "Late Retirement Date" means, for a Participant who continues active work for the Employer after his Normal Retirement Date, the first day of the month selected by him for commencement of monthly retirement benefit which follows his Normal Retirement Date and is no later than the first day of the month coinciding with (immediately following, if none coincides with) the date of his Termination of Employment.

(k) "Service" means, as to an Employee, any service for which he is either (i) directly or indirectly compensated by the Employer or (ii) performing duties for the Employer. No interruption in Service (based on the regular work week for his job without overtime) will be deemed to have occurred during any approved periods of absence from the Employer by reason of

(1) temporary lay-off,

(2) leave of absence (not to exceed one year),

(3) a temporary absence on account of disability, illness, or injury, or

(4) pregnancy.

Any discretion of the Employer under the provisions of this definition will be exercised without discrimination in accordance with definitely established rules uniformly applicable to Participants whose approved periods of absence were occasioned by similar circumstances.

(l) "Years of Service" means, as to an Employee on any date of determination, unless indicated otherwise, the number of years (counting completed months as fractional parts of a year) of Service since his latest date of employment, but excluding any Service after the establishment of the Prior Plan during which he made no contributions, if contributions were required by him under said Prior Plan during any such period and he failed or refused to so contribute.

(m) "Plan Participation" means, as to a Participant, all periods of his employment with the Employer during which he has been an Active Participant.

(n) "Termination of Employment" means cessation of active work (resulting in an interruption in Service) with the Employer, other than by reason of retirement, death, or disability, due to

(1) voluntary or involuntary termination or separation of employment, or

(2) failure to return to work upon the expiration of any approved period of absence from the Employer, in which event cessation of active work shall be deemed to have occurred at the time such approved period of absence expired.

(o) "Plan Year" means a period commencing on an Anniversary Date and ending on the day immediately preceding the next Anniversary Date.

(p) "Compensation Year" means a one-year period ending on the June 30 immediately preceding a Participant's Eligibility Date and ending on the same month and day of each year thereafter on which he is an Active Participant.

SECTION 1.03--DEFINITIONS RELATING TO DETERMINATION OF BENEFITS.

(a) (1) This Section 1.03(a)(1) applies to Plan Years beginning before July 1, 1993.

"Average Compensation" means, for a Participant on any specified date, the monthly average of his total pay from the Employer for those three consecutive Compensation Years (all Compensation Years, if less than three) which give the highest average out of the 10 latest Compensation Years (all Compensation Years, if less than 10) occurring prior to such specified date.

Pay as used in this definition means the type of compensation subject to tax for Social Security benefits without regard to the dollar limitation on such compensation subject to FICA taxes.

However, for a Participant who was not employed by the Employer for at least one of the Compensation Years immediately preceding either his Eligibility Date or his Re-entry Date, his fixed rate of monthly pay from the

Employer on either such applicable date will be deemed to be his monthly average for such Compensation Year.

(2) This Section 1.03(a)(2) applies to Plan Years beginning on or after July 1, 1993.

(i) Average Compensation means 1/12th of the following (as such 1/12th is increased below):

(A) For an employee who has completed at least 10 Years of Service, the average of the person's Monthly Earnings for each month in a 36 consecutive month period during the last 120 months of employment preceding the date the benefit is being determined which produces the highest average of Monthly Earnings.

(B) For an employee who has completed at least three Years of Service, but less than 10 Years of Service, the average of the person's Monthly Earnings for each month in a 36 consecutive month period preceding the date the benefit is being determined which produced the highest average of Monthly Earnings.

(C) For an employee who has completed less than three Years of Service, the average of the person's Monthly Earnings for each month preceding the date of benefit is being determined.

"Monthly Earnings" means the base remuneration which the Employer pays to an Employee in a month before any payroll deduction for income taxes, social security, group insurance, deferred compensation, or any other purpose. The full amount of required employee contributions picked up, assumed, or paid by the Employer on behalf of its employees shall be considered Monthly Earnings under the provisions of this Plan.

(ii) The Average Compensation determined above shall be increased as follows:

(A) The Average Compensation determined above is divided by 173.33 to arrive at the average hourly rate of earnings.

(B) The number of unused sick leave hours is multiplied by the result in Section 1.03(a)(2)(ii)(A) above to arrive at the value of unused sick leave.

(C) One-half of the value of unused sick leave, divided by 36, shall be added to the Average Compensation determined above.

(b) "Vested Accrued Benefit" means the following percentage of a Participant's Accrued Benefit:

(1) prior to the date on which he has completed three years of Plan Participation, 0%, if employed prior to July 1, 1982, or prior to the date on which he has completed five years of Plan Participation, 0%, if employed after June 30, 1982.

(2) on or subsequent to the date in Section 1.03(b)(1) above, 100%.

In any event, the percentage shall be 100% on or subsequent to the earlier of (i) the date on which he attains age 50 (45 for Police Officers, Firefighters, and the City Attorney) while an Active Participant or (ii) the date on which he becomes Totally and Permanently Disabled while an Active Participant.

(c) "Contributions" means Employer Contributions, Required Participant Contributions, and Voluntary Contributions as set out in Article 3., unless the term as used refers to one of these only, in which event it means the one thus referred to.

(d) "Participant's Contribution Account" means, for a Participant as of any specified date, the aggregate value of the Required Participant Contributions (including any interest earnings thereon) made for or by him pursuant to the Prior Plan, under Section 3.02 of the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN, under Section 3.02 of the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN, or under Section 3.02 of this Plan, and which have not been previously paid or applied as to him. Such Participant's Contribution Account will be zero upon the earliest to occur of (1), (2), or (3) below:

(1) The date a death benefit is paid on account of his death pursuant to Section 7.01.

(2) The date a cash termination benefit is paid to him pursuant to Article 8.

(3) His Retirement Date.

A Participant's Contribution Account will be credited with interest at the rate of 7.5% (8% for periods beginning on or after July 1, 1990) compounded annually.

(e) "Normal Form" means a straight life annuity with five year certain period pursuant to Section 4.02(b).

(f) "Totally and Permanently Disabled" means, as to a Participant, that he is disabled, as a result of sickness or injury to the extent that he is prevented from engaging in any occupation for wage or profit and is entitled to a disability benefit under Title II of the Federal Social Security Act, as determined by the Employer and reported to the Insurer.

(g) "Voluntary Account" means the value of a Participant's Voluntary Contributions which have been made as provided in Article 10.

A Participant's Voluntary Account will be credited with interest at a rate of not less than the rate credited to his Participant's Contribution Account.

A Participant's Voluntary Account will be reduced by any distribution therefrom made under the Plan.

(h) "Voluntary Contributions" means Voluntary Contributions as set out in Section 10.01.

(i) "Actuarial Equivalent" means:

(1) Police Officers and Firefighters: 7.5% and 1971 GAM for pre-retirement; and 7.5% and UP-84 Unisex for post-retirement.

(2) For General Employees and the City Attorney:

(i) For Retirement Dates and other annuity starting dates before September 1, 2002: 7.5% and 1971 GAM for pre-retirement; and 7.5% and UP-84 Unisex for post-retirement.

(ii) For Retirement Dates and other annuity starting dates after August 31, 2002: 7.5% and the table prescribed in Revenue Ruling 2001-62. However, in no circumstance will the amount of a General Employee's or the City Attorney's benefit as of a Retirement Date or other annuity starting date be less than the amount determined using (A) the factors in Section 1.03(i)(2)(i) above, (B) the Participant's Accrued Benefit earned as of June 30, 2002, based on Average Compensation and Years of Service as of June 30, 2002, and (C) the amount of the Participant's Contribution Account as of June 30, 2002.

The cost of living adjustment provided in Article 6. shall not be considered in determining Actuarial Equivalent benefits.

SECTION 1.04--ADDITIONAL DEFINITIONS.

(a) "IRC" means the Internal Revenue Code of 1986, as amended.

(b) "ORS" means Oregon Revised Statutes, as amended.

SECTION 1.05--ACCRUED BENEFIT.

An Active Participant's monthly Accrued Benefit as of any specified date will be an amount equal to the product of a Participant's Average Compensation, times 1.67% (2% for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney), times his total Years of Service.

In no event will a Participant's Accrued Benefit be less than his Accrued Benefit on July 1, 1982.

ARTICLE 2. PARTICIPATION

SECTION 2.01--ACTIVE PARTICIPANT.

(a) An Eligible Employee will first become an Active Participant under the Plan on his employment commencement date or, if later, the date he becomes an Eligible Employee.

(b) A Participant who became an Inactive Participant pursuant to Section 2.02 will again become an Active Participant on the date on which he again becomes an Eligible Employee by reason of re-employment or otherwise. Such date is his Re- entry Date.

(c) A former Participant who ceased to be a Participant pursuant to Section 2.03 will again become an Active Participant on the date on which he again becomes an Eligible Employee by reason of re-employment or otherwise. Such date is his Re-entry Date.

SECTION 2.02--INACTIVE PARTICIPANT.

An Active Participant will become an Inactive Participant on the earliest of the following:

(a) The date following the date on which a monthly income is provided as to him under this Plan.

(b) The date he ceases to be an Eligible Employee by reason of Termination of Employment or otherwise, occurring one month or more prior to his Retirement Date.

(c) The date he ceases to be an Eligible Employee by reason of partial termination of the Plan pursuant to Article 11.

(d) The effective date of complete termination of the Plan pursuant to Article 11.

SECTION 2.03--CESSATION OF PARTICIPATION.

A Participant will cease to be a Participant on the earlier of the following:

(a) His death.

(b) The date he receives a single sum distribution which is in lieu of all other benefits under the Plan as to him.

SECTION 2.04–TRANSFERRED EMPLOYEES.

Despite any contrary provision of the Plan, the Plan shall be applied to transferred employees who are subject to ORS 236.605 to 236.640 as the Employer determines appropriate in the Employer's discretion to implement ORS 236.605 to 236.640.

ARTICLE 3. CONTRIBUTIONS

SECTION 3.01--EMPLOYER CONTRIBUTIONS.

The Employer will make contributions at such times and in such amounts as will be determined based upon periodic actuarial valuations and recommendations as to the amount or amounts required to fund retirement benefits and other benefits payable in accordance with this Plan.

Any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution, but only if the Employer makes timely written demand therefor. Such returned contributions will not include attributable earnings but will be reduced by attributable losses.

Dividends declared under the Group Contract or any forfeitures resulting from a Participant's Termination of Employment or death will be applied to reduce future Employer Contributions.

SECTION 3.02--REQUIRED PARTICIPANT CONTRIBUTIONS.

Monthly required contributions will be made under this Plan on behalf of each Active Participant. The amount of each such Required Participant Contribution will be equal to 6% of such Participant's monthly earnings.

For purposes of this Section 3.02, monthly earnings shall include all forms of compensation received by an Employee during such month, including bonuses and overtime. However, effective July 1, 2002, monthly earnings excludes, for General Employees and the City Attorney, overtime, longevity pay, and pager pay.

A Participant's Contribution Account is fully vested and nonforfeitable as to each Participant at all times.

Effective January 1, 1995, or as required by state law, the Employer shall not make the Required Participant Contributions for Employees.

SECTION 3.03--MANDATORY EMPLOYEE CONTRIBUTIONS.

Effective January 1, 1995, or as required by state law, the Employer shall pick-up and pay on behalf of all Active Participants a 6% mandatory contribution of monthly earnings as defined in Section 3.02. Such picked-up mandatory contributions shall be made pursuant to the provisions of IRC Section 414(h).

SECTION 3.04--INVESTMENT OF CONTRIBUTIONS.

All Contributions made under the Plan will be deposited with the Insurer and invested in accordance with the provisions of the Group Contract. To the extent not prohibited by State law, the Employer

may specify whether all or any portion of an Employer Contribution deposited under the Group Contract is to be invested in any of the separate accounts of the Insurer in which the Group Contract participates.

ARTICLE 4. RETIREMENT BENEFITS

SECTION 4.01--AMOUNT OF MONTHLY RETIREMENT BENEFIT.

The amount of monthly retirement benefit for an Active Participant on his Retirement Date in accordance with the provisions of Section 4.02 will be determined as follows.

(a) At Normal Retirement Date, the amount of monthly retirement benefit for an Active Participant on his Normal Retirement Date will be equal to his Vested Accrued Benefit as of such date.

(b) At Early Retirement Date, an Active Participant's retirement benefit on his Early Retirement Date will be equal to his Vested Accrued Benefit on such specified date, multiplied by the factor shown below corresponding to the number of years his Early Retirement Date is before his Normal Retirement Date.

Number of Years Early Retirement Date is Before Normal Retirement Date	Factor
1	.92
2	.84
3	.76
4	.68
5	.60

However, in lieu of the above table the following table applies to Police Officers and Firefighters and, effective July 1, 1992, the City Attorney:

Number of Years Early Retirement Date is Before Normal Retirement Date	Factor
1	1.0
2	1.0
3	1.0
4	.92
5	.84
6	.76
7	.68
8	.60

Provided, however, no reduction will apply to the Vested Accrued Benefit of an Active Participant who retires on his Early Retirement Date with 30 (25 for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney) Years of Service.

The above factors will be adjusted proportionately (based on linear interpolation) for fractional parts of a year (counting a partial month as a complete month).

(c) At Late Retirement Date, the amount of monthly retirement benefit for an Active Participant on his Late Retirement Date will be equal to his Vested Accrued Benefit as of his Late Retirement Date.

SECTION 4.02--OPTIONAL FORMS OF MONTHLY RETIREMENT BENEFIT.

The monthly retirement benefit for a Participant on his Retirement Date may be paid in accordance with any one of the optional methods of payment under the Group Contract, which will be limited to the following Actuarial Equivalent optional forms.

(a) Straight life annuity; for the lifetime of the Participant, without death benefits.

(b) Life annuity with certain period of five years or ten years; for the lifetime of the Participant and, if the death of the Participant occurs prior to the end of the certain period, the balance of the remaining certain period payments to his Beneficiary.

(c) Survivorship life annuity; for the lifetime of the Participant and, upon his death, 50% or 100% of such annuity for the lifetime of his named Contingent Annuitant.

(d) Life annuity with modified cash refund; for the lifetime of the Participant and upon his death, a single sum payment will be made to his Beneficiary of the excess, if any, of his initial death benefit over the monthly annuity payments made to the Participant. The Participant may change his Beneficiary at any time.

A Participant's initial death benefit is an amount equal to the sum of (1) his Participant's Contribution Account plus (2) his Voluntary Account, if any, both determined on his Retirement Date.

The amount of each payment to a Participant under any of the optional forms of benefit in Section 4.02(a), 4.02(b), 4.02(c), or 4.02(d) above (other than the Normal Form) will be the amount required for the optional form to be the Actuarial Equivalent of the Normal Form.

The Participant may elect in writing the method of payment of any one of the optional forms above within 90 days prior to his Retirement Date.

In no event will an "interest-only" optional form be available. The Participant will name any certain period or any survivorship percentage and Contingent Annuitant prior to his Retirement Date.

If no optional form has been elected by the Participant, payment will be made to him under the Normal Form.

SECTION 4.03--ADDITIONAL MONTHLY INCOME.

The monthly retirement benefit determined for a Participant under Section 4.01 may be increased, as determined in accordance with the following provisions:

(a) For a Participant hired prior to July 1, 1993, and also for Police Officers, Firefighters, and the City Attorney, that portion of a Participant's Contribution Account derived from Required Participant Contributions made on or after July 1, 1979, shall be applied as of the Participant's Retirement Date to provide him an amount of monthly retirement income in addition to that provided under Section 4.01(a), 4.01(b), or 4.01(c), whichever is applicable.

(b) A Participant described in Section 4.03(a) above may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement Date. Payment of his Participant's Contribution Account derived from Required Participant Contributions made on or after July 1, 1979, is in lieu of any additional monthly income that otherwise would be provided under this Section 4.03. Payment of his Participant's Contribution Account derived from Required Participant Contributions made prior to July 1, 1979, is in lieu of the Actuarially Equivalent Monthly Benefit of that portion of his Accrued Benefit (Section 1.05) attributable to such Required Participant Contributions.

(c) Effective on and after July 1, 1993, a Participant who is not described in Section 4.03(a) above may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement Date. Lump Sum payment of his Participant's Contribution Account will reduce his Accrued Benefit (Section 1.05) by the monthly benefit that is the Actuarial equivalent of the lump sum.

SECTION 4.04–MINIMUM DISTRIBUTION.

In no event will a Participant whose Accrued Benefit is 100% vested on the date of his Termination of Employment receive a distribution less than the Actuarial Equivalent of his Participant's Contribution Account on such date. A Participant's Accrued Benefit is 100% vested on the date of his Termination of Employment only if the Participant is an Active Participant on or subsequent to either the date in Section 1.03(b)(1) or the earlier of (a) the date on which he attains age 50 (45 for Police Officers, Firefighters, and the City Attorney) or (b) the date on which he becomes Totally and Permanently Disabled.

ARTICLE 5. DISABILITY PAYMENTS

SECTION 5.01--ELIGIBILITY.

An Active Participant will become eligible for monthly disability payments under this Article 5. in the event (i) he becomes Totally and Permanently Disabled while in the actual performance of his duties for the Employer or (ii) he becomes Totally and Permanently Disabled on or after the date he completes 10 or more Years of Service and while he is an Employee but before his Retirement Date (Normal Retirement Date, if earlier).

Such Participant will become an Inactive Participant as of the date he becomes Totally and Permanently Disabled.

For purposes of this Article 5. Termination of Employment is deemed not to have occurred as to such Participant because of his disability, until and unless his employment is otherwise terminated; provided, however, that any periods of absence due to his disability under this Article 5. will not be counted wherever in this Plan Service is a determining factor.

SECTION 5.02--AMOUNT OF PAYMENTS.

(a) This Section 5.02(a) is effective before July 1, 1990, for all Participants and is effective on and after July 1, 1990, for Participants other than Police Officers, Firefighters, and the City Attorney.

The amount of monthly disability payment for a Participant is equal to his Vested Accrued Benefit determined as of the first day of the month coinciding with (immediately following, if none coincides with) the date on which he is disabled.

In no event, however, will the amount of each disability payment for any Participant be less than $100.

(b) This Section 5.02(b) is effective on and after July 1, 1990, for Police Officers, Firefighters, and the City Attorney.

The amount of monthly disability payment for a Participant is equal to his Vested Accrued Benefit determined as of the first day of the month coinciding with or immediately following the date on which he is disabled, based on Average Compensation as of the date of disability and Years of Service as of the disability date or projected to age 55, if later. Benefits determined under Section 4.03 will be paid in addition to these amounts.

In no event, however, will the amount of each disability payment for any Participant be less than $100 nor greater than 75% of the Participant's Average Compensation.

SECTION 5.03--DURATION OF PAYMENTS.

Monthly disability payments will commence on the first day of the month coinciding with (immediately following, if none coincides with) the date such Participant becomes Totally and Permanently Disabled and will continue thereafter through the first day of the month preceding the earliest of the following dates:

(a) His Normal Retirement Date.

(b) The date of his death.

(c) The effective date of termination of Plan.

(d) The date he is no longer Totally and Permanently Disabled.

If such payments continue through the first day of the month preceding such Participant's Normal Retirement Date, monthly retirement benefits will be provided for him on his Normal Retirement Date in accordance with the provisions of Article 4. in like manner as for an Active Participant, with Accrued Benefit equal to the amount of monthly disability payment paid to him pursuant to Section 5.02. If, prior to such Participant's Normal Retirement Date, he recovers and returns to active work for the Employer within one month of the date he is no longer Totally and Permanently Disabled, such payments will stop and he will again become an Active Participant pursuant to Section 2.01. If, prior to such Participant's Normal Retirement Date, he recovers and does not return to active work for the Employer within one month of his recovery, such payments will stop and his Termination of Employment will be deemed to have occurred as of the date he became Totally and Permanently Disabled and his benefits will be redetermined pursuant to Article 8.

If the Participant dies while receiving monthly disability payments and he meets the requirements pursuant to Section 7.01(a), death benefits will be paid in accordance with the provisions of said Section 7.01(a).

ARTICLE 6. COST OF LIVING ADJUSTMENT

SECTION 6.01--IMPORTANT TERMS.

For the purpose of determining the cost of living adjustment of benefits, the following terms are defined here:

ADJUSTMENT DATE means each Anniversary Date on and after the Effective Date on which the Price Index has changed from the Price Index on the last preceding Anniversary Date as of which the monthly retirement benefit payments under this Plan were changed in accordance with this Article 6. (on the Effective Date if no prior changes have been made).

ADJUSTMENT FACTOR means, as of any Adjustment Date, the quotient of (a) divided by (b):

(a) The Price Index as of such Adjustment Date.

(b) The Price Index as of the last previous Adjustment Date.

In no event, however, will the Adjustment Factor exceed 1.02. Prior to July 1, 1982, the Adjustment Factor will not exceed 1.04.

ANNUITANT means either an Inactive Participant whose Retirement Date has occurred and who is entitled to monthly retirement benefit payments under this Plan, an alternate payee, or the Beneficiary or Contingent Annuitant of such Participant, if any, who is entitled to monthly retirement benefit payments under this Plan as the result of such Participant's death.

PRICE INDEX means, as of any Anniversary Date, the Consumer Price Index (Portland area-all items) as published by the Bureau of Labor Statistics of the United States Department of Labor in the City of Portland, Oregon, or a comparable index as determined by the Employer if such index ceases to be published.

SECTION 6.02--CHANGE IN MONTHLY RETIREMENT BENEFIT.

As of each Adjustment Date, the monthly retirement benefit payments payable to an Annuitant will be changed to the amount determined by multiplying such payments by the Adjustment Factor as of such Adjustment Date, subject to the following provisions:

(a) If such change results in an increase in the amount of monthly retirement benefit payments to an Annuitant, an amount of monthly retirement benefit will be provided for him under the Group Contract in the amount of such increase with payments consistent with the payments being made as to the monthly retirement annuity provided under the Group Contract on the Participant's Retirement Date.

(b) If such change results in a decrease in the amount of the monthly retirement benefit payments to an Annuitant, an amount or amounts of monthly retirement benefit previously provided for him under the Group Contract will be cancelled as of such Adjustment Date so that the total amount of monthly retirement benefit remaining will be only the reduced amount to which he is then entitled.

In no event will any decrease become effective which would reduce the monthly retirement benefit payments for an Annuitant to an amount which would be less than the amount he would have received had the provisions of this Article 6. not been in effect.

(c) On and after the effective date of termination of Plan pursuant to Article 11., no further changes in monthly retirement benefit payments will be made in accordance with this Article 6.

SECTION 6.03--MINIMUM ADJUSTMENT FOR RETIREMENTS AFTER JULY 1, 1990.

Effective on and after July 1, 1990, for Police Officers, Firefighters, and the City Attorney, monthly payments for such Participants retiring on or after July 1, 1990, will be increased annually to a level that is no less than that which would have been in effect had the initial monthly benefits been payable from the Oregon Public Employees Retirement System, determined without including any payments under ORS 238.375 to 238.387 or any other tax remedy payments.

ARTICLE 7. DEATH BENEFITS

SECTION 7.01--DEATH BENEFIT BEFORE RETIREMENT.

(a) Death Benefit before Retirement Date (Normal Retirement Date, if earlier): If the death of a Participant occurs prior to his Retirement Date (Normal Retirement Date, if earlier), a single sum death benefit equal to the sum of (i) two (effective July 1, 1990, two and two-tenths (2.2)) times his Participant's Contribution Account as of the date of his death, and (ii) his Voluntary Account as of the date of his death will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section 4.02 for the benefit of such Beneficiary.

In no event, however, will such death benefit be less than the death benefit that would have been payable upon the death of such Participant under the Prior Plan on the day before the Effective Date.

(b) Deferred Retirement Death Benefit: If the death of an Active Participant occurs on or after his Normal Retirement Date and prior to his Retirement Date, and

(1) If the straight life annuity optional form under Section 4.02 is in effect for him on the date of his death, there are no death benefits payable under this Article 7.

(2) If the life annuity with certain period optional form under Section 4.02 is in effect for him on the date of his death, there will be provided for his Beneficiary, beginning on the Monthly Date following his death, a certain period benefit payable monthly for the certain period applicable under said option. The amount of the monthly payments to such Beneficiary will be equal to the amount that would have been payable monthly to such Participant had his Retirement Date occurred on the Monthly Date coinciding with (immediately preceding, if none coincides with) the date of his death.

(3) If the survivorship life annuity optional form under Section 4.02 is in effect for him on the date of his death, there will be provided for his designated Contingent Annuitant, beginning on the Monthly Date coinciding with (immediately following, if none coincides with) the date of his death, a retirement benefit payable monthly in like manner as if such Contingent Annuitant were a Participant with Retirement Date beginning on such Monthly Date if and so long as such Contingent Annuitant lives. The amount of such monthly retirement benefit will be equal to the amount that would have been payable to such Participant had his Retirement Date occurred on the Monthly Date coinciding with (immediately preceding, if none coincides

with) the date of his death, multiplied by the percentage in effect under such optional form.

(4) If the life annuity with modified cash refund optional form under Section 4.02 is in effect for him on the date of his death, there will be provided for his Beneficiary, a single sum payment equal to his Participant's Contribution Account.

(5) If none of the above optional forms is in effect for him on the date of his death, a single sum death benefit equal to the amount provided in Section 7.01(a) (determined as if Section 7.01(a) applied) will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section 4.02 for the benefit of such Beneficiary.

There are no death benefits under this Plan before retirement, except as may be provided under Article 10.

SECTION 7.02--DEATH BENEFIT AFTER RETIREMENT.

Any death benefit after retirement will be in accordance with the form of retirement benefit in effect on a Participant's Retirement Date and will be payable in accordance with the provisions under Article 4.

ARTICLE 8. TERMINATION OF BENEFITS

SECTION 8.01--TERMINATION BENEFITS.

An Employee who becomes an Inactive Participant one month or more prior to his Retirement Date shall be entitled to one of the following benefits:

(a) Deferred Payment. If an Inactive Participant so elects, he will receive a deferred monthly retirement benefit to commence on his Normal Retirement Date. The amount of such deferred monthly retirement benefit, in accordance with the Normal Form, shall be equal to the following:

(1) Effective on and after July 1, 1993, for an Inactive Participant hired on or after July 1, 1993, other than an Inactive Participant who was a Police Officer, Firefighter, or the City Attorney:

An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant. The amount may not exceed 100% of his Average Compensation, but in no event shall be less than the monthly benefit provided by the Actuarial Equivalent of his Participant's Contribution Account.

(2) For an Inactive Participant hired prior to July 1, 1993, and for an Inactive Participant who was a Police Officer, Firefighter, or the City Attorney, an amount equal to the sum of (i) and (ii) below:

(i) An amount equal to the amount of monthly retirement benefit which could be provided on his Normal Retirement Date by that portion of his Participant's Contribution Account made on or after July 1, 1979; and

(ii) An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant,

provided that the sum of (i) and (ii) do not exceed 100% of his Average Compensation, but in no event shall be less than the monthly benefit provided by the Actuarial Equivalent of his Participant's Contribution Account.

(b) An Inactive Participant may elect to have his deferred monthly retirement benefit commence on his Early Retirement Date. The amount of such deferred monthly retirement benefit shall be equal to the amount of deferred benefit determined in Section 8.01(a) above multiplied by the factor shown in Section 4.01(b) corresponding to the number of years his Early Retirement Date precedes his Normal Retirement Date.

Payment of the deferred monthly retirement benefit will be in the form of retirement benefit in effect on a Participant's Retirement Date as provided under Section 4.02.

(c) Immediate Payment. In lieu of any benefits otherwise available under this Article 8., a Participant may elect to receive his Participant's Contribution Account in a single sum payment.

If the Inactive Participant elects to receive his Participant's Contribution Account in a single sum payment, he shall receive his payment 90 days after the date he ceases to be an Employee and before his Retirement Date. Any such payment will be a voluntary cash-out, in lieu of a part of the deferred retirement benefit otherwise available to him on his Retirement Date. Payment of his Participant's Contribution Account cancels the part of his benefit determined under Section 8.01(a) above.

If, upon the date a Participant ceases to be an Employee, the present value of his deferred retirement benefit is less than $1,750, it will, unless otherwise directed by the Employer, be paid as an involuntary cash-out in a single sum in full settlement of all benefits otherwise payable to him. This value will be determined under the provisions of the Group Contract.

SECTION 8.02--REPAYMENT OF SINGLE SUM PAYMENT.

(a) A Participant

(1) who received a single sum payment under this Plan of less than the present value of his Accrued Benefit on the date of payment, and

(2) who again performs Service as an Eligible Employee

may make repayment to the Plan no longer than the earlier of

(3) the last day of the two-year period which begins on the date he again performs Service as an Eligible Employee, or

(4) the last day of the five-year period which begins on the date the single sum payment is made.

The amount which must be repaid is the full amount of the single sum payment he received with interest at the rate of 8% per annum compounded annually, on such payment compounded annually from the date the payment was made to the date he repaid the full amount. If repayment is made, the Participant's Accrued Benefit will not be reduced for the single sum payment.

(b) Beginning July 1, 2002, the Plan will accept a Participant's repayment in the form of the following rollovers, contributions, and transfers made after December 31, 2001, from the types of plans described below:

(1) A direct rollover of an eligible rollover distribution from, or a participant contribution of an eligible rollover distribution from:

(i) A qualified plan described in IRC Section 401(a) or 403(a);

(ii) An annuity contract described in IRC Section 403(b); or

(iii) An eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A),

but only if the Plan is an eligible retirement plan with respect to the direct rollover or participant contribution.

(2) A participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in IRC Section 408(a) or 408(b) that is eligible to be rolled over and would otherwise be includible in gross income.

(3) A direct trustee-to-trustee transfer authorized by IRC Section 457(e)(17) from an eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A).

The definitions in Section 13.03 apply for purposes of this Section 8.02(b).

ARTICLE 9. ADDITIONAL BENEFITS FOR PERS BENEFIT INCREASES

SECTION 9.01--PURPOSE.

This Article 9. implements the requirement that the Employer provide increases in benefits for certain Public Safety Employees that are equal to or the actuarial equivalent of certain increases in benefits under the Oregon Public Employees Retirement System granted in 1991 and 1995 to certain police officers and firefighters. That requirement and those increases are provided in ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

SECTION 9.02--INCREASE IN DISTRIBUTION.

Upon distribution of an Eligible Employee's Vested Accrued Benefit in a calendar year in which distributions under this Plan are not exempt from Oregon personal income taxation, the amount of the distribution shall be increased by the greater of the following amounts:

(a) The amount determined by multiplying the Eligible Payments of the Eligible Portion of the Employee's Vested Accrued Benefit by the following percentage:

If the Employee's Years of PSE Service at the Employee's last Severance of Employment are:	*The percentage is:*
Less than 10	0%
At least 10 but not 20	1%
At least 20 but not 25	$2^1/_2$%
25 or more	4%

(b) The amount determined by multiplying the Eligible Payments of the Eligible Portion of the Employee's Vested Accrued Benefit by the percentage determined under the following formula:

$$\left(\frac{1}{.91} - 1\right) \times \left(\frac{\text{the Employee's Years of PSE Service before October 1, 1991}}{\text{the Employee's Years of PSE Service}}\right)$$

The amount of such increase shall be allocated among the components of the Employee's Vested Accrued Benefit in proportion to the Actuarial Equivalent value of each. The increase allocated to each component shall be paid in the same form as the component is paid.

SECTION 9.03--ALTERNATE PAYEES.

Despite Section 9.02 above, (1) the amount by which the distribution to an alternate payee is to be increased shall not be determined or paid before the participant's Severance of Employment, (2) no increase shall be paid (even after the participant's Severance of Employment) with respect to a lump sum distribution (including a direct rollover) made to an alternate payee before the participant's

Severance of Employment, and (3) the amount of the increase in the distribution to the alternate payee with respect to distributions previously made shall be distributed in the following forms, without interest for delayed payment:

(a) In a lump sum distribution if the benefit is attributable to monthly payments previously made under an annuity.

(b) As a supplement to the annuity if the increase is attributable to monthly payments to be made in the future under a previously started annuity.

SECTION 9.04--DEFINITIONS; CHANGE IN TAX RATE.

For purposes of this Article 9.:

(a) An "Eligible Employee" is any Employee who before July 14, 1995, was a Public Safety Member and whose last Severance of Employment occurred or occurs while the Employee is a Public Safety Employee and either occurred before January 1, 1991, for a reason other than the Employee's death or occurred or occurs after December 31, 1990, for any reason.

(b) "Public Safety Member" means an Active Participant employed by the Employer as a firefighter or police officer as those terms are defined in ORS 237.610.

(c) "Public Safety Employee" means an Employee employed by the Employer as a firefighter or police officer as those terms are defined in ORS 237.610.

(d) "Accrued Benefit" means the participant's Accrued Benefit as defined in Section 1.05, but specifically excluding the cost of living adjustment provided in Article 6., the benefit provided in this Article 9., and the benefit attributable to the participant's Voluntary Account.

(e) "Vested Accrued Benefit" means the participant's Accrued Benefit as defined in Section 9.04(d) above multiplied by the percentage determined under Section 1.03(b) with respect to the participant's Accrued Benefit.

(f) "Eligible Payments" are all payments made after December 31, 1990, other than:

(1) Payments that would have been made before January 1, 1991, if the Employee had elected to start benefit payments on the Employee's first possible Retirement Date on or next after the Employee's Severance of Employment.

(2) Payments with respect to an Eligible Employee whose last Severance of Employment occurred before January 1, 1991, other than periodic payments made under an annuity.

(g) The "Eligible Portion" is the part of the Vested Accrued Benefit attributable to Plan Participation as a Public Safety Member.

(h) "Years of PSE Service" are Years of Service during which the Eligible Employee was a Public Safety Employee, which Years of Service shall be determined by counting only completed months of Service during which the Employee was at all times a Public Safety Employee.

(i) "Severance of Employment" means permanent termination of employment with the Employer for any cause.

(j) The decimal .91 in the formula in Section 9.02(b) above shall automatically be adjusted as provided in this Section 9.04(j) to reflect changes in the maximum Oregon personal income tax rate imposed upon individuals who are full-year residents of Oregon. An increase in such rate by x percentage points shall cause such decimal to be reduced by x 100ths, and a reduction in such rate by x percentage points shall cause such decimal to be increased by x 100ths. For example, following are the decimals that correspond to particular rates:

If the rate is:	*The decimal is:*
7%	.93
8%	.92
9%	.91
10%	.90
11%	.89

Any such change in the decimal shall be effective only for distributions made on or after the effective date of the change in such rate. No amount distributed to an Eligible Employee, Beneficiary, Contingent Annuitant, or alternate payee before the change is implemented may be recovered from any person or offset against any undistributed benefit of any person to account for any such change.

SECTION 9.05--PRIOR DISTRIBUTIONS.

The Employer shall as soon as administratively feasible cause to be distributed to Eligible Employees (and where applicable their Beneficiaries, Contingent Annuitants, and alternate payees) without interest any benefits provided in this Article 9. or Article 6. attributable to distributions previously made and shall appropriately adjust the cost of living adjustment provided in Article 6. for payments to be made in the future. Such benefits shall be distributed in the following forms:

(a) In a lump sum distribution if the benefit is attributable to:

(1) A lump sum distribution (including a direct rollover); or

(2) Monthly payments previously made under an annuity.

(b) As a supplement to the annuity if the benefit is attributable to monthly payments to be made in the future under a previously started annuity.

SECTION 9.06--LIMITATIONS.

The benefits provided in this Article 9.:

(a) Shall not be paid with respect to any portion of an Eligible Employee's Accrued Benefit that is transferred to the Oregon Public Employees Retirement System or the payment of which is assumed or made by the Oregon Public Employees Retirement System.

(b) May by amendment of this Plan be reduced, eliminated, or changed for all or some Employees with respect to service performed before or after the amendment:

(1) To the extent a court of competent jurisdiction or the Employer determines that the Employer is not required to implement one or more of the provisions of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569 that by their terms apply to the Employer.

(2) To the extent a court of competent jurisdiction or the Employer determines that any of the benefits, or the aggregate benefits, provided in this Article 9. are more than is required to implement the provisions of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

(3) As the Employer determines appropriate to respond to any law modifying any requirement of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

(4) As the Employer in the Employer's absolute discretion deems appropriate, even though none of the events described above in this Section 9.06(b), and no like event, has occurred.

Any such benefits that are reduced, eliminated, or changed after they have been distributed may not be recovered from any person or offset against any undistributed benefit of any person to account for any such reduction, elimination, or change.

SECTION 9.07--NO CONTRACT RIGHTS.

No Eligible Employee, Beneficiary, Contingent Annuitant, or alternate payee shall acquire a right, contractual or otherwise, to the increased benefits provided by this Article 9.

ARTICLE 10. VOLUNTARY CONTRIBUTIONS

SECTION 10.01--VOLUNTARY CONTRIBUTIONS.

An Active Participant may make Voluntary Contributions. These Contributions may be made during any period in which he is an Active Participant. Voluntary Contributions will be made in accordance with procedures set up by the Employer.

A Participant's Voluntary Contributions, including any voluntary contributions he has made under any other qualified plan of the Employer or predecessor of the Employer, may not, in the aggregate, exceed 10% of his aggregate earnings from the Employer and predecessor for the period of time that he has actively participated under this and such other plan or plans.

An Active Participant may begin to make Voluntary Contributions on any Quarterly Date.

An Active Participant may change the amount of future Voluntary Contributions on any Quarterly Date.

An Active Participant may stop making his Voluntary Contributions on any Quarterly Date. He may then resume making Voluntary Contributions on any Quarterly Date.

Before the date he ceases to be an Employee, a Participant may withdraw any part of his Voluntary Account resulting from his Voluntary Contributions in a single sum, but not more than the original amount of those Contributions. A withdrawal may occur only once in a Plan Year.

Stopping, changing, or withdrawing Voluntary Contributions will not affect a Participant's participation in the Plan. No portion of his Voluntary Account resulting from any other Contributions will be forfeited solely because of such withdrawal. An Active Participant's request to begin, change, stop, or withdraw his Voluntary Contributions will be in writing on a form furnished for that purpose. This form will include any necessary authorization for payroll deduction and will be delivered to the Employer before the date Contributions are to begin, change, stop, or be withdrawn.

No Voluntary Contributions will be made by a Participant after the second calendar month preceding his Retirement Date.

Voluntary Contributions will be credited to the Participant's Voluntary Account as they are made and will be forwarded to the Insurer at least quarterly.

Participants' Voluntary Accounts are fully vested and nonforfeitable.

SECTION 10.02--INVESTMENT OF VOLUNTARY CONTRIBUTIONS.

All Voluntary Contributions made by or on behalf of an Active Participant will be forwarded by the Employer to the Insurer to be deposited under the Group Contract and invested according to its provisions.

However, no Voluntary Contributions may be invested in any of the separate accounts of the Insurer in which the Group Contract participates.

SECTION 10.03--RETIREMENT BENEFITS.

On a Participant's Retirement Date, his Voluntary Account will be used to purchase additional benefits for him as provided in Section 4.03.

SECTION 10.04--DEATH BENEFITS.

If the death of the Participant occurs before his Retirement Date, a distribution of his Voluntary Account will be made to his Beneficiary as provided in this Article 10. A Participant's Voluntary Account will not be distributed to his Beneficiary under this Article 10. if a death benefit is paid under Section 7.01(a) or 7.01(b)(5) on account of the Participant's death.

SECTION 10.05--VESTED BENEFITS.

The Participant's Voluntary Account will be held for him until the earlier of his Retirement Date or death and will then be applied as provided in Section 10.03 or Section 10.04, unless he receives earlier distribution under this Section 10.05.

An Inactive Participant may elect to have his Voluntary Account distributed under one or more of the methods described in Section 4.02 before his Retirement Date or death. The distribution may be in the form of an immediate annuity only if the amount which would be applied to purchase the annuity under the Group Contract is $1,750 or more. Benefit payments may begin at the time after the Participant ceases to be an Employee but not later than his Normal Retirement Date.

Any election by a Participant to receive a distribution of all or part of his Voluntary Account must be made before he again becomes an Employee.

If, on the date he ceases to be an Employee, a Participant's Voluntary Account is less than $1,750, it will, unless otherwise directed by the Employer be paid to him in a single sum as an involuntary cash-out.

ARTICLE 11. TERMINATION OF PLAN

SECTION 11.01--TERMINATION OF PLAN.

The Employer expects to continue the Plan indefinitely but reserves the right to terminate the Plan in whole or in part at any time by giving written notice to all parties concerned.

SECTION 11.02--VESTING ON TERMINATION.

Upon termination or partial termination of the Plan or complete discontinuance of contributions under the Plan, the rights of all affected employees to benefits accrued to the date of such termination, to the extent then funded, shall become nonforfeitable.

SECTION 11.03--PROCEDURES UPON TERMINATION OF PLAN.

Upon termination of Plan, the following provisions shall apply:

(a) No further Employees shall become Participants and no further contributions shall be made.

(b) Each Participant's account shall be held under the Group Contract and applied as heretofore provided in this Plan upon such Participant's death, Termination of Employment, or Retirement Date.

In lieu of a portion of his deferred monthly retirement income under this Section 11.03(b), such Participant may elect to receive his Participant's Contribution Account in a single sum payment at any time on or subsequent to his Termination of Employment and prior to his Retirement Date.

(c) All disability payments will cease and the Plan assets, other than those arising from Section 11.03(b) held by the Insurer under the Group Contract as to those Participants whose Retirement Dates have not yet occurred shall be allocated and applied to the extent they are sufficient to purchase benefits for all Participants who had not reached their Retirement Dates prior to the effective date of termination of Plan, in accordance with the following classifications and order of precedence.

(1) First, to purchase immediate monthly retirement benefits for those Participants whose Normal Retirement Dates occurred on or prior to the effective date of termination of Plan, but who had not retired, and for those Participants who were receiving disability benefits pursuant to Article 5. on the effective date of termination of Plan.

(2) Second, to purchase deferred monthly retirement benefits for such Participants who have attained age 60 or older on the effective date of termination of Plan and who are not included in Section 11.03(c)(1) above.

(3) Third, to purchase deferred monthly retirement benefits for such Participants who have attained age 55 or older on the effective date of termination of Plan and who are not included in Section 11.03(c)(1) or 11.03(c)(2) above.

(4) Fourth, to purchase deferred monthly retirement benefits for all other Participants.

The monthly retirement benefit to be purchased for each such Participant shall be payable in accordance with the Normal Form beginning on his Normal Retirement Date (on the effective date of termination of Plan, if later) and the amount shall be equal to (i) his Accrued Benefit (or disability benefit, if applicable) on the effective date of termination of Plan; provided, however, that if the Plan assets are insufficient to purchase such monthly retirement benefits in full for any class, the monthly retirement benefits for all in such class shall be reduced, as determined by the Insurer, to such fraction as the amount available will provide.

In any event, that portion of the Plan assets attributable to each Participant's Voluntary Account, if any, will be applied on the effective date of termination of Plan to provide for him an amount of deferred monthly retirement income benefit before the allocation and application of assets determined according to the classification and order of precedence in Section 11.03(c).

No part of the assets of the Plan shall be paid or distributed to such Employer at any time except as provided in Section 3.01 (about returned contributions) and except that, after satisfaction of all liabilities under such Plan, any overpayments made by such Employer as a result of erroneous actuarial computations shall be repaid to such Employer.

ARTICLE 12. ADMINISTRATION OF PLAN

SECTION 12.01--ADMINISTRATION.

The Employer will have complete control of the administration of the Plan, subject to the provisions hereof, with all powers necessary to enable it properly to carry out its duties in that respect. Not in limitation, but in amplification of the foregoing, it will have the discretionary power to construe the Plan and to determine all questions that may arise hereunder, including all questions relating to the eligibility of Employees to participate in the Plan and the amount of benefit to which any Participant, Beneficiary, Contingent Annuitant, or alternate payee may become entitled hereunder. Its decision upon all matters within the scope of its authority will be final.

The Employer will establish rules and procedures to be followed by Participants, Beneficiaries, Contingent Annuitants, and alternate payees in filing applications for benefits, in furnishing and verifying proofs necessary to determine age, and in any other matters required to administer the Plan. It may delegate to any person or firm such recordkeeping and other duties necessary to assist the Employer with the administration of the Plan not otherwise set out in the Plan or the Group Contract, as specifically agreed to by such person or firm.

The Employer will receive all applications for benefits and will determine all facts necessary to establish the right of the applicant to benefits under the provisions of the Plan and the amount thereof as herein provided.

The Employer will be entitled to rely upon all tables, valuations, certificates, and reports furnished by the consultant or actuary appointed by the Employer and upon all opinions given by any counsel selected or approved by it.

SECTION 12.02--RECORDS.

All acts and determinations of the Employer will be duly recorded and all such records, together with such other documents as may be necessary for the administration of the Plan, will be preserved in its custody.

SECTION 12.03--DELEGATION OF AUTHORITY.

The administrative duties and responsibilities set forth in Section 12.01 may be delegated by the Employer to a retirement committee consisting of such persons as it selects. The Employer shall notify the Insurer in writing of the authority conferred upon the retirement committee and of the membership of the retirement committee and any changes therein as they occur from time to time. The Insurer shall be entitled to rely on the last such notification received, until written notification to the contrary has been received from the Employer. The members of the retirement committee shall be free from all liability, joint or several, for their acts, omissions, and conduct, and for the acts, omissions, and conduct of their duly constituted agents, in the administration of the Plan, and the Employer shall indemnify and save each of them harmless from effects and consequences of their

acts, omissions, and conduct in their official capacity, except to the extent that such effects and consequences shall result from their own willful misconduct or gross negligence.

Members of the retirement committee shall serve without compensation for services as such, but all expenses incurred by it shall be paid by the Employer or by the Plan, upon written authorization of the Employer provided to the Insurer. Such expenses shall include any expenses incident to the functioning of the retirement committee including, but not limited to, fees of accountants, counsel, and other specialists related directly to the administration and operation of the Plan. All other expenses of the Plan or the Group Contract, unless paid by the Employer, shall be paid by the Plan upon written authorization of the Employer provided to the Insurer.

The Employer will have the power to appoint or remove any person to manage (including the power to acquire and dispose of) any assets of the Plan. It may appoint or remove any person or persons to serve in more than one fiduciary capacity with respect to the Plan (including service both as trustee and administrator).

The Employer will have the power to appoint or remove the Insurer.

SECTION 12.04--INFORMATION AVAILABLE.

Any Participant or alternate payee or any Beneficiary or Contingent Annuitant receiving benefits under the Plan may examine copies of this Plan, the Group Contract, or any other instrument under which the Plan was established or is operated. The Employer will maintain all of the items listed in this Section 12.04 in its office, or in such place or places as it may designate from time to time, for examination during reasonable business hours. Upon written request of a Participant or alternate payee or Beneficiary or Contingent Annuitant receiving benefits under the Plan, the Employer will furnish him with a copy of any item listed in this Section 12.04. The Employer may make a reasonable charge to the requesting person for the copy so furnished.

SECTION 12.05--CLAIMS.

Upon the request of a participant or beneficiary (including an alternate payee), or by action of the Employer, the Employer shall provide claim forms to any participant or his beneficiary who becomes entitled to benefits under the Plan. Such claim form shall be completed and submitted to the Employer no later than 30 days after it is received by the participant or beneficiary. Upon receipt of the claim form, the Employer shall review the appropriateness of the claim and if the Employer determines that the claim should not be allowed, the Employer shall respond in writing within 30 days of the receipt of the claim to the participant or beneficiary. The response 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, need be supplied by the participant or beneficiary 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 30 days of receipt by the Employer, the claim shall be deemed denied.

Within 60 days after receipt of notice of denial of the claim or when the claim is deemed to have been denied, the participant or beneficiary (or representative) may respond to the denial by requesting, in writing, a review of the decision and a review of pertinent documents. If the participant or beneficiary (or representative) 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 60 days from the Employer's receipt of the request for review, respond to said request. In modification of the foregoing, if the Employer, in the Employer's sole discretion, determines that special circumstances warrant the holding of a hearing, it shall promptly be held and a decision shall be rendered within 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.

ARTICLE 13. REQUIRED PROVISIONS

SECTION 13.01--REQUIRED STARTING DATE.

(a) The entire interest of each participant in the Plan:

(1) Will be distributed to the participant no later than the Required Starting Date; or

(2) Will be distributed, starting not later than the Required Starting Date, in accordance with Treasury regulations, over the life of the participant or over the lives of the participant and a Designated Beneficiary (or over a period not extending beyond the life expectancy of the participant or the life expectancy of the participant and a Designated Beneficiary).

(b) If the distribution of the participant's interest has begun in accordance with Section 13.01(a)(2) above and the participant dies before the participant's entire interest has been distributed to the participant, the remaining portion of the participant's interest will be distributed at least as rapidly as under the method of distributions being made under Section 13.01(a)(2) above as of the date of the participant's death.

(c) If a participant dies before the distribution of the participant's interest has begun in accordance with Section 13.01(a)(2) above, the entire interest of the participant will be distributed within five years after the death of the participant. However, the five-year rule does not apply to any portion of the participant's interest payable to (or for the benefit of) a Designated Beneficiary; and not later than one year after the date of the participant's death or such later date as may be prescribed by Treasury regulations distributions (in accordance with Treasury regulations) of such portion will start over the life of the Designated Beneficiary (or over a period not extending beyond the life expectancy of the Designated Beneficiary).

(d) With respect to a Designated Beneficiary who is the participant's surviving spouse:

(1) The date on which the distributions are required to start for purposes of the exception to the five-year rule in Section 13.01(c) above will not be earlier than the date on which the participant would have attained age 70½; and

(2) If the surviving spouse dies before the distributions to the spouse start, Section 13.01(b) and 13.01(c) above will be applied as if the spouse were the participant.

(e) For purposes of this Section 13.01.:

(1) "Required Starting Date" means April 1 of the calendar year following the later of (a) the calendar year in which the participant attains age 70½ or (b) the calendar year in which the participant retires.

(2) "Designated Beneficiary" means any individual designated as a beneficiary by the participant.

(3) "Spouse" and "surviving spouse" include an alternate payee who is the participant's former spouse.

(4) In accordance with Treasury regulations, any amount paid to a child will be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse upon such child reaching majority (or other designated event permitted under Treasury regulations).

(5) Any distribution required under the incidental death benefit requirements of IRC Section 401(a) will be treated as a distribution required under this Section 13.01.

(f) Despite any contrary provision of the Plan, the Plan will apply the minimum distribution requirements of IRC Section 401(a)(9) in accordance with the following proposed, final, and temporary Treasury regulations:

(1) With respect to distributions made for calendar years beginning before January 1, 2001, the regulations under IRC Section 401(a)(9) that were proposed in 1987, including Proposed Treasury Regulation Section 1.401(a)(9)-2.

(2) With respect to distributions made for the calendar year beginning on January 1, 2001, the regulations under IRC Section 401(a)(9) that were proposed on January 17, 2001.

(3) With respect to distributions made for calendar years beginning on or after January 1, 2002, Treasury Regulation Sections 1.401(a)(9)-1 through 1.401(a)(9)-9, and also Treasury Regulation Section 1.401(a)(9)-6T for the period it applies.

(g) This Section 13.01.:

(1) Applies only to the extent this Section 13.01 requires a distribution to be made earlier than otherwise required under the Plan.

(2) Overrides any distribution options in the Plan inconsistent with IRC Section 401(a)(9).

(3) Applies to Plan Years beginning after December 31, 1986, or such later date provided in Public Law No. 98-369, Section 521(d)(5) (about collective bargaining agreements).

SECTION 13.02--ANNUAL COMPENSATION LIMIT.

Except for purposes of Sections 13.05, 13.06, and 13.07, the annual compensation taken into account for each participant in determining plan allocations and benefit accruals under the Plan for any Plan Year is limited to the annual compensation limit under IRC Section 401(a)(17)(A) ($150,000 for Plan Years beginning before January 1, 2002, and $200,000 for Plan Years beginning after December 31, 2001), as adjusted for increases in the cost of living in accordance with IRC Section 401(a)(17)(B). For Plan Years beginning before January 1, 1997, in determining the compensation of a participant the rules of IRC Section 414(q)(6) shall apply, except that in applying such rules the term "family" shall include only the spouse of the participant and any lineal descendants of the participant who have not attained age 19 before the close of the Plan Year. The requirements of IRC Section 401(a)(17) and the Treasury regulations thereunder are incorporated into the Plan by this reference. This Section 13.02 applies to Plan Years beginning after December 31, 1995.

SECTION 13.03--DIRECT ROLLOVERS.

Despite any contrary provision of the Plan that would otherwise limit a distributee's election under this Section 13.03, a distributee may elect, at the time and in the manner prescribed by the Employer, to have any portion of an eligible rollover distribution made after December 31, 1992, paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions shall apply to this Section 13.03 and Section 8.02(b).:

(a) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, but not including:

(1) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

(2) Any distribution to the extent such distribution is required under IRC Section 401(a)(9);

(3) For distributions made before January 1, 2002, the portion of any distribution that is not includable in gross income;

(4) For distributions made after December 31, 2001, any distribution that is made upon hardship of the employee; and

(5) Unless the Employer affirmatively elects to the contrary, any minimum amount permitted by IRC Section 401(a)(31) and Treasury regulations issued thereunder that is permitted to be excluded from the definition of eligible rollover distribution.

(b) Eligible retirement plan: An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution:

(1) An individual retirement account or annuity described in IRC Section 408(a) or 408(b);

(2) A qualified plan described in IRC Section 401(a) or 403(a);

(3) For distributions made after December 31, 2001, an annuity contract described in IRC Section 403(b); or

(4) For distributions made after December 31, 2001, an eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A) and that agrees to separately account for amounts transferred into such plan from the Plan.

However:

(5) In the case of an eligible rollover distribution to the surviving spouse in a distribution made before January 1, 2002, an eligible retirement plan is only an individual retirement account described in IRC Section 408(a) or individual retirement annuity described in IRC Section 408(b).

(6) In the case of a direct rollover of an amount that is not includable in gross income in a distribution made after December 31, 2001, an eligible retirement plan is only (a) a qualified defined contribution plan described in IRC Section 401(a) or 403(a) that agrees to separately account for amounts transferred in the direct rollover, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable, (b) an individual retirement plan described in IRC Section 408(a), or (c) an individual retirement annuity described in IRC Section 408(b).

(c) Distributee: A distributee includes a participant. In addition, the participant's surviving spouse and the participant's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

(d) Direct rollover: A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

Such distribution may begin less than 30 days after the required special tax notice is given to the distributee if (1) the Employer clearly informs the distributee that the distributee has a right to a period of at least 30 days after receiving the notice to consider the decision whether to elect a particular distribution option and (2) the distributee, after receiving the notice, affirmatively elects a distribution.

SECTION 13.04--BENEFITS FOR MILITARY SERVICE.

Effective for reemployments initiated on or after December 12, 1994, and despite any contrary provision of the Plan, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with IRC Section 414(u).

SECTION 13.05--LIMIT ON BENEFITS.

For limitation years beginning after December 31, 1983, and despite any contrary provision of the Plan a participant's annual benefit under the Plan during any limitation year may not exceed the limitations of IRC Section 415 as provided in this Section 13.05.

(a) A participant's annual benefit under the Plan during any limitation year may not exceed the dollar limitation under IRC Section 415(b)(1)(A) for the limitation year and, for limitation years beginning before January 1, 1995, also may not exceed 100% of the participant's average compensation (as defined in Section 13.09) for the participant's high three years.

(b) The dollar limitation and the compensation limitation in Section 13.05(a) above and in IRC Section 415(b)(1)(A) and (B) will be annually adjusted for increases in the cost of living in accordance with Treasury regulations, including for participants who have separated from service. Without limiting the foregoing:

(1) As of January 1 of each calendar year the dollar limitation will be automatically adjusted to the new dollar limitation determined by the Commissioner of Internal Revenue for that calendar year. The new dollar limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

(2) In the case of a participant who has separated from service, the participant's average compensation for the participant's high three years will be automatically adjusted by multiplying such average compensation by the cost of living adjustment factor prescribed by the Secretary of the Treasury under IRC Section 415(d) in such manner as the Secretary shall prescribe. Such adjusted average compensation will apply to limitation years ending within the calendar year of the date of adjustment.

(c) A participant's high three years will be determined based on calendar years.

(d) If a participant's annual benefit during a limitation year (payable in the normal form or in any optional form subject to adjustment under IRC Section 415(b)(2)(B)) would exceed the amount provided in Section 13.05(a) above, the participant's annual benefit during such limitation year will be reduced to the amount provided in Section 13.05(a).

(e) Except as provided in IRC Section 415(f)(3) (about multiemployer plans), which is effective for limitation years beginning after December 31, 2001, in the case of any participant in another defined benefit plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), (1) all such plans will be treated as one plan and (2) the annual benefit that may be provided to the participant under the Plan as provided in Section 13.05(a) above will be reduced by the amount of the aggregate of the annual benefits provided to the participant under such other plans.

(f) The limitations in this Section 13.05 will be applied according to the adjustments described in and the provisions of IRC Section 415 (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into the Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(b)(2)(B) (about benefits payable in other than the normal form), 415(b)(2)(C) and (D) (about benefits commencing before or after a stated age or stated ages), 415(b)(2)(F) (about plans maintained by governments), 415(b)(2)(G) and (H) (about police and firefighters), 415(b)(2)(I) (about disability and survivor benefits under governmental plans), 415(b)(4) (about total annual benefits not exceeding $10,000), 415(b)(5) (about employees with less than 10 years of participation or service), and 415(n) (about purchase of permissive service credit).

(g) The adjustments described in IRC Section 415(b)(2)(B), (C), and (D) will be made by ignoring mortality decrement to the extent a forfeiture does not occur upon death and as follows:

(1) The adjustment described in IRC Section 415(b)(2)(B) will be made using (i) the interest rate and applicable mortality table specified in Section 1.03(i) or (ii) 5% interest and the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v), whichever produces the greater annual benefit.

(2) The adjustments described in IRC Section 415(b)(2)(C) and (D) will be made using (i) the interest rate and applicable mortality table specified in Section 1.03(i) or (ii) 5% interest and the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v), whichever produces the lesser annual benefit.

For limitation years beginning before January 1, 2000, the above provisions of this Section 13.05(g) shall be applied by substituting "the applicable mortality table specified in Section 1.03(i)" for "the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v)" wherever such latter phrase appears. The mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v) is, for distributions with annuity starting dates before December 31, 2002, the table prescribed in Revenue Ruling 95-6 and, for distributions with annuity starting dates on or after December 31, 2002, the table prescribed in Revenue Ruling 2001-62.

(h) For purposes of the adjustment in IRC Section 415(b)(5):

(1) A year of participation is a Plan Year for which the participant is a participant;

(2) A year of service is a Plan Year for which the participant is employed by the Employer; and

(3) A participant who is permanently and totally disabled (as defined in IRC Section 22(e)(3)) for a Plan Year will be credited with a year of participation and a year of service for that year.

SECTION 13.06--LIMIT ON ANNUAL ADDITIONS.

(a) For limitation years beginning after December 31, 1983, and despite any contrary provision of the Plan, the annual additions to any participant's accounts under the Plan may not exceed the lesser of the dollar limitation in IRC Section 415(c)(1)(A) or 25% (100% for limitation years beginning after December 31, 2001) of the participant's compensation (as defined in Section 13.09). The dollar limit in this Section 13.06(a) will be adjusted as follows:

(1) For increases in the cost of living in accordance with IRC Section 415(d).

(2) For limitation years beginning after December 31, 1986, and before January 1, 1995, the dollar limit will be adjusted to, if greater, one-quarter of the dollar limitation in effect under IRC Section 415(b)(1)(A).

(b) In the case of any participant in another defined contribution plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), all such plans will be treated as one plan, and the maximum annual addition to the participant's accounts as provided above will be reduced by the aggregate of the amount of the annual additions to the participant's accounts under such other plans. For this purpose a defined contribution plan includes a welfare benefit fund (within the meaning of IRC Section 419(e)), an individual medical benefit account (within the meaning of IRC Section 415(l)(2)), and a simplified employee pension (within the meaning of IRC Section 408(k)).

(c) If as a result of a reasonable error in estimating a participant's compensation or such other reason as is permitted under Treasury Regulation Section 1.415-6(b)(6) a participant's annual addition would exceed the limitations in this Section 13.06, determined after applying Section 13.07, the participant's contributions to the participant's accounts together with any allocable earnings will be distributed to the participant as soon as administratively feasible to the extent required to eliminate such excess.

(d) The limitations in this Section 13.06 will be applied according to adjustments described in and the provisions of IRC Sections 415 and 419A(d) (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(c)(2) (defining "annual addition"), 415(d) (about COLAs), 415(l) (about individual medical benefit accounts), and 419A(d)(2) (about medical benefit accounts for key employees in a welfare benefit fund).

SECTION 13.07--COMBINED LIMIT ON BENEFITS AND ANNUAL ADDITIONS.

For limitation years beginning after December 31, 1983, and before January 1, 2000, and despite any contrary provision of the Plan:

(a) The sum of a participant's defined benefit plan fraction (within the meaning of IRC Section 415(e)) for the Plan and the participant's defined contribution plan fraction (within the meaning of IRC Section 415(e)) for the Plan for any year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under the Plan will be reduced to the extent necessary for such sum not to exceed 1.0.

(b) If a participant is a participant in another defined contribution or defined benefit plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), all defined benefit plans of the employer will be treated as one plan, and all defined contribution plans of the employer will be treated as one plan, and the sum of the participant's defined benefit plan fraction (within the meaning of IRC Section 415(e)) for such aggregate defined benefit plans and the participant's defined contribution plan fraction (within the meaning of IRC Section 415(e)) for such aggregate defined contribution plans for any year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under the Plan will be reduced to the extent necessary for such sum not to exceed 1.0. For this purpose a defined contribution plan includes a welfare benefit fund (within the meaning of IRC Section 419(e)), an individual medical benefit account (within the meaning of IRC Section 415(l)(2)), and a simplified employee pension (within the meaning of IRC Section 408(k)).

(c) The limitations in this Section 13.07 will be applied according to adjustments described in and the provisions of IRC Section 415 (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(e) (about limitation in the case of a defined benefit plan and a defined contribution plan for the same employee).

(l) At the election of the Employer, in applying the provisions of this Section 13.07 with respect to the defined contribution plan fraction the amount taken into account for the denominator for each participant for all Plan Years ending before January 1, 1983, shall be an equal to the product of (1) the amount of the denominator determined under Section 4.05(k) of the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN for Plan Years ending before January 1, 1982, multiplied by (2) the "transition fraction," which is a fraction (i) the numerator of which is the lesser of (A) $51,875 or (B) 1.4 multiplied by 25% of the participant's compensation for the Plan Year ending in 1981, and (ii) the denominator of which is the lesser of (A) $41,500 or (B) 25% of the participant's compensation for the Plan Year ending in 1981.

SECTION 13.08--LIMITATION YEAR.

The limitation year shall be the Plan Year.

SECTION 13.09--COMPENSATION FOR PURPOSES OF LIMITS.

For purposes of Sections 13.05, 13.06, and 13.07, "compensation" means wages within the meaning of IRC Section 3401(a) (for the purposes of income tax withholding at the source) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC Section 3401(a)(2)).

(a) For limitation years beginning after December 31, 1997, "compensation" includes any elective deferral (as defined in IRC Section 402(g)(3)) contributed by the employer and any amount contributed or deferred by the employer at the election of the participant and not includable in the gross income of the participant by reason of IRC Section 125 or 457.

(b) For limitation years beginning after December 31, 2000, "compensation" includes any amount contributed or deferred by the employer at the election of the participant and not includable in the gross income of the participant by reason of IRC Section 132(f)(4).

(c) Effective January 1, 2002, "compensation" includes any additional elective deferral under IRC Section 414(v) contributed by the employer.

(d) For purposes of Sections 13.05, 13.06, and 13.07, the amounts included in a participant's compensation under this Section 13.09 will be based on such amounts from the employer (within the meaning of IRC Section 414(b), (c), (m), and (o) [effective July 18, 1984], after applying IRC Section 415(h)).

SECTION 13.10--ANNUITY CONTRACTS.

Benefits may be paid by distributing an annuity contract purchased by the Employer for the Participant, alternate payee, or Beneficiary (the payee).

(a) Delivery of any such contract will be in full satisfaction of the rights under the Plan of the payee and the payee's Contingent Annuitant, Beneficiary, and estate, and upon the delivery thereof such persons will have no further interest under the Plan or in the Group Contract with respect to the benefits to be paid under the contract and must look solely to the insurer issuing the contract for the payment of such benefits.

(b) Any refund or credit under any such contract (on account of dividends, earnings, or other experience rating credits, or surrender or cancellation credits) in excess of the benefits under the Plan to be paid under the contract, and any proceeds from demutualization of the issuer of the contract or the issuer's successor, will be paid to the Plan for addition to the Group Contract.

(c) Any such contract must be nontransferable.

(d) The terms of the Plan control in the event of any conflict between the terms of the Plan and the terms of any such contract.

ARTICLE 14. GENERAL PROVISIONS

SECTION 14.01--AMENDMENT OF PLAN.

The Employer, acting through its City Council or City Manager, may amend this Plan at any time, including any remedial retroactive changes (within the specified period of time as may be determined by Treasury regulations or Internal Revenue Service guidance from time to time) to comply with the requirements of any law or regulation issued by any governmental agency to which the Employer is subject. However, the City Manager may amend this Plan only to clarify this Plan, facilitate the administration of this Plan, or make changes adapting this Plan to the requirements of law, changes in law, or the terms of a collective bargaining agreement, all as determined in the discretion of the City Manager.

SECTION 14.02--EXCLUSIVE BENEFIT.

Except as provided in Section 3.01 (about return of contributions) or Article 11. (about termination of the Plan), no asset of the Plan or Group Contract may be used for or diverted to any purpose other than for the exclusive benefit of participants or their beneficiaries and defraying reasonable expenses of administering the Plan and Group Contract; and no amendment or termination of the Plan, or merger or consolidation with, or transfer of assets or liabilities to, any other plan, shall operate to allow any asset of the Plan or Group Contract to be used for or diverted to any such prohibited purpose.

SECTION 14.03--PROVISIONS RELATING TO THE INSURER.

The Insurer is not a party to the Plan, nor will it be bound in any way by the provisions of the Plan, nor will it be required to look to the terms of this Plan, nor to determine whether the Employer has the authority to act in any particular manner or to make any contract or agreement.

SECTION 14.04--EMPLOYMENT STATUS.

Nothing contained in this Plan will be deemed to give any Employee the right to be retained in the employ of the Employer or to interfere with the rights of the Employer to discharge any Employee at any time.

Any final payment or distribution to any Participant or his legal representative or to any Beneficiaries, Contingent Annuitant, or alternate payee of such Participant in accordance with the provisions herein will be in full satisfaction of all claims against the Plan, the Insurer, and the Employer arising under or by virtue of the Plan.

SECTION 14.05--BENEFICIARY.

Each Participant may name a Beneficiary to receive any death benefit (other than any monthly income payable to a Contingent Annuitant) which may arise out of his participation in the Plan and

may change such Beneficiary from time to time without the consent of such Beneficiary. It will be the responsibility of the Participant to give written notice to the Insurer of the name of his Beneficiary on a form furnished for that purpose.

In modification of the above, the Employer may maintain records of Beneficiary designations as to Participants prior to their Retirement Dates, in which event the written designations made by Participants will be filed with the Employer and in the event of a Participant's death prior to his Retirement Date, the Employer will certify to the Insurer the Beneficiary designation on its records as to such Participant.

If, at the death of a Participant, there is no Beneficiary named or surviving, the death benefit, if any, under the Plan will be paid to the Participant's estate.

For purposes of determining a Participant's Beneficiary:

(a) A Beneficiary does not include an individual, even if designated by the Participant, who does not survive the Participant or who is treated under Oregon law as not surviving the Participant. For this purpose (1) the Participant and the individual will be treated as residing in Oregon and (2) Oregon law includes without limitation the Uniform Simultaneous Death Act (ORS 112.570 to ORS 112.590) or its successor and the Uniform Disclaimer of Property Interests Act, ORS 105.623 to 105.649, or its successor but does not include Oregon law regarding conflicts of laws.

(b) ORS 112.175 to 112.195, about adoption, or successor Oregon statutes, apply to determine relationships. ORS 112.105, about paternity, or successor Oregon statutes, and other comparable state laws apply without regard to any limitation therein regarding intestate succession. ORS 112.455 to 112.555, regarding certain deaths caused by an individual, or successor Oregon statutes, apply without regard to whether the death occurs or the individual or Participant resides in Oregon.

SECTION 14.06--SPENDTHRIFT CLAUSE.

Except as provided in Section 14.14 (about domestic relations orders), no benefit under the Plan or Group Contract may be voluntarily or involuntarily or revocably or irrevocably alienated, transferred, assigned (either at law or in equity), anticipated, mortgaged, or otherwise encumbered, or be subject to garnishment attachment, levy, seizure, execution, sequestration, or other legal or equitable process for the payment of debts, judgments, alimony, separate maintenance, or other amounts or claims, or be transferred by operation of law in the event of bankruptcy, insolvency, or otherwise.

SECTION 14.07--FACILITY OF PAYMENT.

If any person to whom a Plan benefit is payable is a minor or (as determined in the Employer's discretion) incompetent by reason of physical or mental disability, the Employer may direct the Insurer to make the payments becoming due to such person to another for such person's benefit without responsibility for the Employer or the Insurer to see to the application of such payments,

including without limitation to a custodian for the person, selected by the Employer or the Insurer without liability for the selection made, under the Oregon Uniform Transfers to Minors Act or under any other comparable state law. Any payment made pursuant to such power will as to such payment operate as a complete discharge of the Employer and the Insurer.

SECTION 14.08--CONSTRUCTION.

The Plan will be construed according to the laws of the State of Oregon and will be interpreted and administered consistent with the applicable requirements of the IRC for the Plan to be qualified under IRC Section 401(a). Any provision of the Plan that is based on a provision of the IRC, including one not necessary for the Plan to be qualified, will be interpreted and administered consistent with such provision of the IRC and the interpretive authorities thereunder.

The Plan includes provisions adopted in good faith to comply with the Economic Growth and Tax Relief Reconciliation Act of 2001. Such provisions shall be interpreted and administered consistent with Treasury regulations and Internal Revenue Service guidance regarding such Act, even where such regulations and guidance are inconsistent with the literal interpretation of such provisions.

In case any provision of this Plan will be held illegal or invalid for any reason, such determination will not affect the remaining provisions of this Plan, but the Plan will be construed and enforced as if said illegal or invalid provision had never been included.

SECTION 14.09--LEGAL ACTIONS.

To any action or proceeding involving the assets held with respect to the Plan or the administration thereof, the Plan and the Employer will be the necessary parties and no person employed by the Employer, Participant, former Participant or their Beneficiaries or any other person having or claiming to have an interest in the Plan will be entitled to any notice or process. Any final judgment which is appealed or appealable that may be entered in any such action or proceeding will be binding and conclusive on all persons having or claiming to have any interest in the Plan.

SECTION 14.10--MODIFICATION IN MODE OF PAYMENT.

If the present value of the initial monthly amount of retirement benefit payable to any Participant on his Retirement Date, to a Participant's Beneficiary or Contingent Annuitant due to such Participant's death, or to an alternate payee, is less than $1,750, such value may, at the discretion of the Employer, be paid in a single sum in full settlement of all benefits otherwise payable. Such value will be determined on the basis of the annuity purchase rates in the Group Contract.

SECTION 14.11--INTEREST.

Interest will not be paid on any amount of benefit paid after the date as of which it is to be paid under the Plan if the amount is paid as soon as administratively feasible after such date, taking into account any delay caused by the person entitled to the payment, any inability to locate such person, and any

uncertainty regarding the identity of such person or the amount to be paid. Where interest is payable, it will be paid at the rate specified in Section 1.03(i).

SECTION 14.12--PRONOUNS.

Masculine pronouns as used in this Plan will include both masculine and feminine gender unless the context indicates otherwise.

SECTION 14.13--CAPTIONS.

The captions are for convenience only and have no substantive effect.

SECTION 14.14--DISTRIBUTION OF BENEFITS TO ALTERNATE PAYEE.

Despite any contrary provision of the Plan except Section 13.01 (about required starting date), to the extent required by and subject to the restrictions of ORS 237.600, a participant's benefit will be paid, in whole or in part, to an alternate payee (and not to the participant or other beneficiary) 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. Payment to the alternate payee may be made before the participant's Termination of Employment with the Employer if provided or allowed by the decree, order, or agreement.

(a) The Plan will apply ORS 237.600 to decrees, orders, or agreements whenever entered or modified, including those entered or last modified before January 1, 1994.

(b) No benefit under the Plan will 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 satisfy the Employer:

(1) That the copy is a true copy of the Order.

(2) That the Order is, within the meaning of ORS 237.600, 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.

(3) Of the extent to which the terms of the Order expressly provide for payment of a benefit under the Plan to an alternate payee.

(4) Of any other fact or matter required for the Employer to:

(i) Determine the application of ORS 237.600 to the Order or the extent to which the Order applies to the Plan.

(ii) Comply with the Order or with ORS 237.600.

(iii) Administer the Plan under the terms of the Order.

(c) Neither Employer nor the Plan will charge or collect out of the benefits payable to the participant or the alternate payee any administrative expenses or related costs incurred by Employer or the Plan in obtaining data or making calculations necessary by reason of ORS 237.600.

(d) For periods beginning before a participant's Termination of Employment with the Employer, the amounts payable to the participant's alternate payee will be determined using the interest rate and mortality table specified in Section 1.03(i), not the factors specified in Section 4.01(b) or the provision in Section 4.01(b) for no reduction.

SECTION 14.15--MERGER.

This Plan is funded by Group Contracts issued by the Insurer to fund benefits for participants and their beneficiaries in the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and in the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN, which plans are restated in this Plan. Effective as of a date to be determined by the Employer's Finance Director, the Employer shall cause the Insurer to modify or combine the Group Contracts so that all of the assets of the Group Contracts are available to pay benefits to all employees who are covered by this Plan and their beneficiaries. Until that date, the part of this Plan resulting from the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN may continue to be known by such name, and the part of this Plan resulting from the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN may continue to be known by such name.

DATED _____, 2003.

CITY OF NEWBERG

By _____
City Manager

CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN

~~[2002]~~ [2003] Restatement

CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN

~~[2002]~~ [2003] Restatement

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INTRODUCTION

The City of Newberg adopted a defined benefit pension plan in 1964 for its employees. Effective July 1, 1979, the plan was restated as two separate plans, the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN for police officers and firefighters. Effective July 1, 1982, both plans were restated. Both plans ~~[have]~~ [were later amended. Effective July 1, 2002, both plans were combined into one document as the 2002 Restatement. The 2002 Restatement has] since been amended. ~~[It is the City's desire to combine the assets of both plans as provided herein and to update both plans for law changes after 1981 by amending and restating both plans in this Plan]~~ [This 2003 Restatement amends and restates the 2002 Restatement, as amended to date,] effective July 1, 2002, unless otherwise stated.

[Plan provisions implementing the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) are generally effective for limitation years beginning after December 31, 1982, or taxable years beginning after December 31, 1983. Plan provisions implementing the Deficit Reduction Act of 1984 are variously effective for (1) Plan Years beginning after December 31, 1986 (Plan provisions implementing IRC Section 401(a)(9)); (2) limitation years beginning after December 31, 1982, or taxable years beginning after December 31, 1983 (Plan provisions implementing technical corrections to TEFRA); (3) limitation years beginning after December 31, 1987 (Plan provisions delaying cost-of-living adjustments under IRC Section 415(d)); or (4) contributions paid or accrued after December 31, 1985, in tax years ending after December 31, 1985 (Plan provisions treating certain contributions to a medical account in a welfare benefit plan as contributions to a defined contribution plan for purposes of IRC Section 415). Plan provisions implementing the Retirement Equity Act of 1984 are generally effective January 1, 1985. Any Plan provision for which this Plan provides a specific effective date is subject to the specific effective date.

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ARTICLE 1. DEFINITIONS

SECTION 1.01--THE PLAN AND PARTIES CONCERNED.

(a) "Plan" means the restated defined benefit retirement plan of the Employer as set forth herein and as amended from time to time.

(b) "Prior Plan" means the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN prior to the Effective Date.

(c) "Group Contract" means the group annuity contract or contracts which the Employer enters into with the Insurer for the purpose of payment of retirement income and other benefits in accordance with this Plan and for the purpose of investment of Contributions made under the Plan. All benefits payable under the Plan will be paid or provided for solely from the Group Contract, and the Employer assumes no liability or responsibility therefor.

(d) "Employer" means CITY OF NEWBERG, OREGON, and any successor by change of name or merger.

(e) "Insurer" means Principal Financial Group, Inc., or such other insurance company or companies as may, from time to time, be designated by the Employer.

(f) "Employee" means any natural person who is employed by the Employer. "Employee" excludes:

(1) Any person who would be treated as a leased employee of the Employer under IRC Section 414(n).

(2) An individual whose wages are paid by an agency or other business that provides individuals who perform services for the Employer and pays the individuals' wages.

(3) Persons not treated as an employee on the Employer's payroll records.

(g) Effective July 1, 2002, "Eligible Employee" means, except for purpose of Article 9., any full-time regular Employee employed in a position not eligible for membership in the Oregon Public Employees Retirement System under the Employer's agreements with the System and whose employment with the Employer is as follows:

(1) General Employee.

(2) Police Officer.

(3) Firefighter.

(4) City Attorney, effective July 1, 1992.

The City Attorney shall be eligible as a General Employee with five years employment with the Employer and shall be given credit for contributions as of July 1, 1988, through June 30, 1992. Pursuant to Resolution No. 92-1726, the City Attorney shall be classified with the Police Officer and Firefighter personnel instead of the General Employee classification, effective July 1, 1992.

(h) "Participant" means a person who is either an Active Participant or an Inactive Participant.

(i) "Active Participant" means an Eligible Employee who has become an Active Participant as provided in Section 2.01.

(j) "Inactive Participant" means a person who has become an Inactive Participant as provided in Section 2.02.

(k) "Beneficiary" means any person or persons designated by a Participant pursuant to Section 14.05 to receive any death benefit upon the death of the Participant.

(l) "Contingent Annuitant" means a natural person designated by the Participant to receive a lifetime benefit after the death of such Participant in accordance with the survivorship life annuity optional form of retirement benefit provided in Section 4.02.

SECTION 1.02--IMPORTANT DATES AND PERIODS.

(a) "Effective Date" means July 1, 1982.

(b) "Anniversary Date" means the Effective Date and the same day of each year thereafter.

(c) "Quarterly Date" means the effective date and every third Monthly Date thereafter.

(d) "Monthly Date" means the Effective Date and the same day of each month thereafter.

(e) "Eligibility Date" means, as to a Participant, the Eligibility Date as provided in Section 2.01.

(f) "Re-entry Date" means, for a Participant, the Re-entry Date as provided in Section 2.01.

(g) "Retirement Date" means, for a Participant, the date for commencement of monthly retirement benefit which will be his Early, Normal, or Late Retirement Date, whichever is applicable.

(h) "Normal Retirement Date" means, for a Participant, the first day of the month coinciding with (immediately following, if none coincides with) the date on which he attains age 60 (58 for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney).

(i) "Early Retirement Date" means the first day of the month selected by the Participant for beginning an early retirement benefit before his Normal Retirement Date which is on or after the later of the following:

(1) The date he ceases to be an Employee.

(2) The date he attains age 55 (50 for Police Officers, Firefighters, and the City Attorney).

(j) "Late Retirement Date" means, for a Participant who continues active work for the Employer after his Normal Retirement Date, the first day of the month selected by him for commencement of monthly retirement benefit which follows his Normal Retirement Date and is no later than the first day of the month coinciding with (immediately following, if none coincides with) the date of his Termination of Employment.

(k) "Service" means, as to an Employee, any service for which he is either (i) directly or indirectly compensated by the Employer or (ii) performing duties for the Employer. No interruption in Service (based on the regular work week for his job without overtime) will be deemed to have occurred during any approved periods of absence from the Employer by reason of

(1) temporary lay-off,

(2) leave of absence (not to exceed one year),

(3) a temporary absence on account of disability, illness, or injury, or

(4) pregnancy.

Any discretion of the Employer under the provisions of this definition will be exercised without discrimination in accordance with definitely established rules uniformly applicable to Participants whose approved periods of absence were occasioned by similar circumstances.

(l) "Years of Service" means, as to an Employee on any date of determination, unless indicated otherwise, the number of years (counting completed months as fractional parts of a year) of Service since his latest date of employment, but excluding any Service after the establishment of the Prior Plan during which he made no contributions, if contributions were required by him under said Prior Plan during any such period and he failed or refused to so contribute.

(m) "Plan Participation" means, as to a Participant, all periods of his employment with the Employer during which he has been an Active Participant.

(n) "Termination of Employment" means cessation of active work (resulting in an interruption in Service) with the Employer, other than by reason of retirement, death, or disability, due to

(1) voluntary or involuntary termination or separation of employment, or

(2) failure to return to work upon the expiration of any approved period of absence from the Employer, in which event cessation of active work shall be deemed to have occurred at the time such approved period of absence expired.

(o) "Plan Year" means a period commencing on an Anniversary Date and ending on the day immediately preceding the next Anniversary Date.

(p) "Compensation Year" means a one-year period ending on the June 30 immediately preceding a Participant's Eligibility Date and ending on the same month and day of each year thereafter on which he is an Active Participant.

SECTION 1.03--DEFINITIONS RELATING TO DETERMINATION OF BENEFITS.

(a) (1) This Section 1.03(a)(1) applies to Plan Years beginning before July 1, 1993.

"Average Compensation" means, for a Participant on any specified date, the monthly average of his total pay from the Employer for those three consecutive Compensation Years (all Compensation Years, if less than three) which give the highest average out of the 10 latest Compensation Years (all Compensation Years, if less than 10) occurring prior to such specified date.

Pay as used in this definition means the type of compensation subject to tax for Social Security benefits without regard to the dollar limitation on such compensation subject to FICA taxes.

However, for a Participant who was not employed by the Employer for at least one of the Compensation Years immediately preceding either his Eligibility Date or his Re-entry Date, his fixed rate of monthly pay from the

Employer on either such applicable date will be deemed to be his monthly average for such Compensation Year.

(2) This Section 1.03(a)(2) applies to Plan Years beginning on or after July 1, 1993.

(i) Average Compensation means 1/12th of the following (as such 1/12th is increased below):

(A) For an employee who has completed at least 10 Years of Service, the average of the person's Monthly Earnings for each month in a 36 consecutive month period during the last 120 months of employment preceding the date the benefit is being determined which produces the highest average of Monthly Earnings.

(B) For an employee who has completed at least three Years of Service, but less than 10 Years of Service, the average of the person's Monthly Earnings for each month in a 36 consecutive month period preceding the date the benefit is being determined which produced the highest average of Monthly Earnings.

(C) For an employee who has completed less than three Years of Service, the average of the person's Monthly Earnings for each month preceding the date of benefit is being determined.

"Monthly Earnings" means the base remuneration which the Employer pays to an Employee in a month before any payroll deduction for income taxes, social security, group insurance, deferred compensation, or any other purpose. The full amount of required employee contributions picked up, assumed, or paid by the Employer on behalf of its employees shall be considered Monthly Earnings under the provisions of this Plan.

(ii) The Average Compensation determined above shall be increased as follows:

(A) The Average Compensation determined above is divided by 173.33 to arrive at the average hourly rate of earnings.

(B) The number of unused sick leave hours is multiplied by the result in Section 1.03(a)(2)(ii)(A) above to arrive at the value of unused sick leave.

(C) One-half of the value of unused sick leave, divided by 36, shall be added to the Average Compensation determined above.

(b) ~~["Vesting Percentage" means, for a Participant]~~["Vested Accrued Benefit" means the following percentage of a Participant's Accrued Benefit:]

(1) prior to the date on which he has completed three years of Plan Participation, 0%, if employed prior to July 1, 1982, or prior to the date on which he has completed five years of Plan Participation, 0%, if employed after June 30, 1982.

(2) on or subsequent to the date in Section 1.03(b)(1) above, 100%.

In any event, ~~[a Participant's Vesting Percentage]~~ [the percentage] shall be 100% on or subsequent to the earlier of (i) the date on which he attains age 50 (45 for Police Officers, Firefighters, and the City Attorney) [while an Active Participant] or (ii) the date on which he becomes Totally and Permanently Disabled [while an Active Participant].

(c) "Contributions" means Employer Contributions, Required Participant Contributions, and Voluntary Contributions as set out in Article 3., unless the term as used refers to one of these only, in which event it means the one thus referred to.

(d) "Participant's Contribution Account" means, for a Participant as of any specified date, the aggregate value of the Required Participant Contributions (including any interest earnings thereon) made for or by him pursuant to the Prior Plan, under Section 3.02 of the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN, under Section 3.02 of the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN, or under Section 3.02 of this Plan, and which have not been previously paid or applied as to him. Such Participant's Contribution Account will be zero upon the earliest to occur of (1), (2), or (3) below:

(1) The date a death benefit is paid on account of his death pursuant to Section 7.01.

(2) The date a cash termination benefit is paid to him pursuant to Article 8.

(3) His Retirement Date.

A Participant's Contribution Account will be credited with interest at the rate of 7.5% (8% for periods beginning on or after July 1, 1990) compounded annually.

(e) "Normal Form" means a straight life annuity with five year certain period pursuant to Section 4.02(b).

(f) "Totally and Permanently Disabled" means, as to a Participant, that he is disabled, as a result of sickness or injury to the extent that he is prevented from engaging in any occupation for wage or profit and is entitled to a disability benefit under Title II of the Federal Social Security Act, as determined by the Employer and reported to the Insurer.

(g) "Voluntary Account" means the value of a Participant's Voluntary Contributions which have been made as provided in Article 10.

A Participant's Voluntary Account will be credited with interest at a rate of not less than the rate credited to his Participant's Contribution Account.

A Participant's Voluntary Account will be reduced by any distribution therefrom made under the Plan.

(h) "Voluntary Contributions" means Voluntary Contributions as set out in Section 10.01.

(i) "Actuarial Equivalent" means:

(1) Police Officers and Firefighters: 7.5% and 1971 GAM for pre-retirement; and 7.5% and UP-84 Unisex for post-retirement.

(2) For General Employees and the City Attorney:

(i) For Retirement Dates and other annuity starting dates before September 1, 2002: 7.5% and 1971 GAM for pre-retirement; and 7.5% and UP-84 Unisex for post-retirement.

(ii) For Retirement Dates and other annuity starting dates after August 31, 2002: 7.5% and the table prescribed in Revenue Ruling 2001-62. However, in no circumstance will the amount of a General Employee's or the City Attorney's benefit as of a Retirement Date or other annuity starting date be less than the amount determined using (A) the factors in Section 1.03(i)(2)(i) above, (B) the Participant's Accrued Benefit earned as of June 30, 2002, based on Average Compensation and Years of Service as of June 30, 2002, and (C) the amount of the Participant's Contribution Account as of June 30, 2002.

The cost of living adjustment provided in Article 6. shall not be considered in determining Actuarial Equivalent benefits.

SECTION 1.04--ADDITIONAL DEFINITIONS.

(a) "IRC" means the Internal Revenue Code of 1986, as amended.

(b) "ORS" means Oregon Revised Statutes, as amended.

SECTION 1.05--ACCRUED BENEFIT.

An Active Participant's monthly Accrued Benefit as of any specified date will be an amount equal to the product of a Participant's Average Compensation, times 1.67% (2% for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney), times his total Years of Service.

In no event will a Participant's Accrued Benefit be less than his Accrued Benefit on July 1, 1982.

ARTICLE 2. PARTICIPATION

SECTION 2.01--ACTIVE PARTICIPANT.

(a) An Eligible Employee ~~[may]~~ [will] first become an Active Participant under the Plan on his employment commencement date or, if later, the date he becomes an Eligible Employee.

(b) A Participant who became an Inactive Participant pursuant to Section 2.02 ~~[may]~~ [will] again become an Active Participant on the date on which he again becomes an Eligible Employee by reason of re-employment or otherwise. Such date is his Re-entry Date.

(c) A former Participant who ceased to be a Participant pursuant to Section 2.03 ~~[may]~~ [will] again become an Active Participant on the date on which he again becomes an Eligible Employee by reason of re-employment or otherwise. Such date is his Re-entry Date.

SECTION 2.02--INACTIVE PARTICIPANT.

An Active Participant will become an Inactive Participant on the earliest of the following:

(a) The date following the date on which a monthly income is provided as to him under this Plan.

(b) The date he ceases to be an Eligible Employee by reason of Termination of Employment or otherwise, occurring one month or more prior to his Retirement Date.

(c) The date he ceases to be an Eligible Employee by reason of partial termination of the Plan pursuant to Article 11.

(d) The effective date of complete termination of the Plan pursuant to Article 11.

SECTION 2.03--CESSATION OF PARTICIPATION.

A Participant will cease to be a Participant on the earlier of the following:

(a) His death.

(b) The date he receives a single sum distribution which is in lieu of all other benefits under the Plan as to him.

SECTION 2.04–TRANSFERRED EMPLOYEES.

Despite any contrary provision of the Plan, the Plan shall be applied to transferred employees who are subject to ORS 236.605 to 236.640 as the Employer determines appropriate in the Employer's discretion to implement ORS 236.605 to 236.640.

ARTICLE 3. CONTRIBUTIONS

SECTION 3.01--EMPLOYER CONTRIBUTIONS.

The Employer will make contributions at such times and in such amounts as will be determined based upon periodic actuarial valuations and recommendations as to the amount or amounts required to fund retirement benefits and other benefits payable in accordance with this Plan.

Any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution, but only if the Employer makes timely written demand therefor. Such returned contributions will not include attributable earnings but will be reduced by attributable losses.

Dividends declared under the Group Contract or any forfeitures resulting from a Participant's Termination of Employment or death will be applied to reduce future Employer Contributions.

SECTION 3.02--REQUIRED PARTICIPANT CONTRIBUTIONS.

Monthly required contributions will be made under this Plan on behalf of each Active Participant. The amount of each such Required Participant Contribution will be equal to 6% of such Participant's monthly earnings.

For purposes of this Section 3.02, monthly earnings shall include all forms of compensation received by an Employee during such month, including bonuses and overtime. However, effective July 1, 2002, monthly earnings excludes, for General Employees and the City Attorney, overtime, longevity pay, and pager pay.

~~[Required Participant Contributions are]~~ [A Participant's Contribution Account is] fully vested and nonforfeitable as to each Participant at all times.

Effective January 1, 1995, or as required by state law, the Employer shall not make the Required Participant Contributions for Employees.

SECTION 3.03--MANDATORY EMPLOYEE CONTRIBUTIONS.

Effective January 1, 1995, or as required by state law, the Employer shall pick-up and pay on behalf of all Active Participants a 6% mandatory contribution of monthly earnings as defined in Section 3.02. Such picked-up mandatory contributions shall be made pursuant to the provisions of IRC Section 414(h).

SECTION 3.04--INVESTMENT OF CONTRIBUTIONS.

All Contributions made under the Plan will be deposited with the Insurer and invested in accordance with the provisions of the Group Contract. To the extent not prohibited by State law, the Employer may specify whether all or any portion of an Employer Contribution deposited under the Group Contract is to be invested in any of the separate accounts of the Insurer in which the Group Contract participates.

ARTICLE 4. RETIREMENT BENEFITS

SECTION 4.01--AMOUNT OF MONTHLY RETIREMENT BENEFIT.

The amount of monthly retirement benefit for an Active Participant on his Retirement Date in accordance with the provisions of Section 4.02 will be determined as follows.

(a) At Normal Retirement Date, the amount of monthly retirement benefit for an Active Participant on his Normal Retirement Date will be equal to his [Vested] Accrued Benefit as of such date.

(b) At Early Retirement Date, an Active Participant's retirement benefit on his Early Retirement Date will be equal to his [Vested] Accrued Benefit on such specified date, multiplied by the factor shown below corresponding to the number of years his Early Retirement Date is before his Normal Retirement Date.

Number of Years Early Retirement Date is Before Normal Retirement Date	Factor
1	.92
2	.84
3	.76
4	.68
5	.60

However, in lieu of the above table the following table applies to Police Officers and Firefighters and, effective July 1, 1992, the City Attorney:

Number of Years Early Retirement Date is Before Normal Retirement Date	Factor
1	1.0
2	1.0
3	1.0
4	.92
5	.84
6	.76
7	.68
8	.60

Provided, however, no reduction will apply to the [Vested] Accrued Benefit of an Active Participant who retires on his Early Retirement Date with 30 (25 for Police Officers and Firefighters and, effective July 1, 1992, the City Attorney) Years of Service.

The above factors will be adjusted proportionately [(based on linear interpolation)] for fractional parts of a year (counting a partial month as a complete month).

(c) At Late Retirement Date, the amount of monthly retirement benefit for an Active Participant on his Late Retirement Date will be equal to his [Vested] Accrued Benefit as of his Late Retirement Date.

SECTION 4.02--OPTIONAL FORMS OF MONTHLY RETIREMENT BENEFIT.

The monthly retirement benefit for a Participant on his Retirement Date may be paid in accordance with any one of the optional methods of payment under the Group Contract, which will be limited to the following Actuarial Equivalent optional forms.

(a) Straight life annuity; for the lifetime of the Participant, without death benefits.

(b) Life annuity with certain period [of five years or ten years]; for the lifetime of the Participant and, if the death of the Participant occurs prior to the end of the certain period, the balance of the remaining certain period payments to his Beneficiary.

(c) Survivorship life annuity; for the lifetime of the Participant and, upon his death, ~~[a percentage]~~ [50% or 100%] of such annuity for the lifetime of his named Contingent Annuitant.

(d) Life annuity with modified cash refund; for the lifetime of the Participant and upon his death, a single sum payment will be made to his Beneficiary of the excess, if any, of his initial death benefit over the monthly annuity payments made to the Participant. The Participant may change his Beneficiary at any time.

A Participant's initial death benefit is an amount equal to the sum of (1) his Participant's Contribution Account plus (2) his Voluntary Account, if any, both determined on his Retirement Date.

The amount of each payment to a Participant under any of the optional forms of benefit in Section 4.02(a), 4.02(b), 4.02(c), or 4.02(d) above (other than the Normal Form) will be the amount required for the optional form to be the Actuarial Equivalent of the Normal Form.

The Participant may elect in writing the method of payment of any one of the optional forms above within 90 days prior to his Retirement Date.

In no event will an "interest-only" optional form be available. The Participant will name any certain period or any survivorship percentage and Contingent Annuitant prior to his Retirement Date.

If no optional form has been elected by the Participant, payment will be made to him under the Normal Form.

SECTION 4.03--ADDITIONAL MONTHLY INCOME.

The monthly retirement benefit determined for a Participant under Section 4.01 may be increased, as determined in accordance with the following provisions:

(a) For a Participant hired prior to July 1, 1993, and also for Police Officers, Firefighters, and the City Attorney, that portion of a Participant's Contribution Account derived from Required Participant Contributions made on or after July 1, 1979, shall be applied as of the Participant's Retirement Date to provide him an amount of monthly retirement income in addition to that provided under Section 4.01(a), 4.01(b), or 4.01(c), whichever is applicable.

(b) A Participant described in Section 4.03(a) above may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement Date. Payment of his Participant's Contribution Account derived from Required Participant Contributions made on or after July 1, 1979, is in lieu of any additional monthly income that otherwise would be provided under this Section 4.03. Payment of his Participant's Contribution Account derived from Required Participant Contributions made prior to July 1, 1979, is in lieu of the Actuarially Equivalent Monthly Benefit of that portion of his Accrued Benefit (Section 1.05) attributable to such Required Participant Contributions.

(c) Effective on and after July 1, 1993, a Participant who is not described in Section 4.03(a) above may elect to receive all of his Participant's Contribution Account in a single sum cash payment on his Retirement Date. Lump Sum payment of his Participant's Contribution Account will reduce his Accrued Benefit (Section 1.05) by the monthly benefit that is the Actuarial equivalent of the lump sum.

SECTION 4.04–MINIMUM DISTRIBUTION.

In no event will a Participant ~~[who is]~~[whose Accrued Benefit is 100%] vested on the date of his Termination of Employment receive a distribution less than the Actuarial Equivalent of his Participant's Contribution Account on such date. [A Participant's Accrued Benefit is 100% vested on the date of his Termination of Employment only if the Participant is an Active Participant on or subsequent to either the date in Section 1.03(b)(1) or the earlier of (a) the date on which he attains age 50 (45 for Police Officers, Firefighters, and the City Attorney) or (b) the date on which he becomes Totally and Permanently Disabled.

ARTICLE 5. DISABILITY PAYMENTS

SECTION 5.01--ELIGIBILITY.

An Active Participant will become eligible for monthly disability payments under this Article 5. in the event (i) he becomes Totally and Permanently Disabled while in the actual performance of his duties for the Employer or (ii) he becomes Totally and Permanently Disabled on or after the date he completes 10 or more Years of Service and while he is an Employee but before his Retirement Date (Normal Retirement Date, if earlier).

Such Participant will become an Inactive Participant as of the date he becomes Totally and Permanently Disabled.

For purposes of this Article 5. Termination of Employment is deemed not to have occurred as to such Participant because of his disability, until and unless his employment is otherwise terminated; provided, however, that any periods of absence due to his disability under this Article 5. will not be counted wherever in this Plan Service is a determining factor.

SECTION 5.02--AMOUNT OF PAYMENTS.

(a) This Section 5.02(a) is effective before July 1, 1990, for all Participants and is effective on and after July 1, 1990, for Participants other than Police Officers, Firefighters, and the City Attorney.

The amount of monthly disability payment for a Participant is equal to his [Vested] Accrued Benefit determined as of the first day of the month coinciding with (immediately following, if none coincides with) the date on which he is disabled.

In no event, however, will the amount of each disability payment for any Participant be less than $100.

(b) This Section 5.02(b) is effective on and after July 1, 1990, for Police Officers, Firefighters, and the City Attorney.

The amount of monthly disability payment for a Participant is equal to his [Vested] Accrued Benefit determined as of the first day of the month coinciding with or immediately following the date on which he is disabled, based on Average Compensation as of the date of disability and Years of Service as of the disability date or projected to age 55, if later. Benefits determined under Section 4.03 will be paid in addition to these amounts.

In no event, however, will the amount of each disability payment for any Participant be less than $100 nor greater than 75% of the Participant's Average Compensation.

SECTION 5.03--DURATION OF PAYMENTS.

Monthly disability payments will commence on the first day of the month coinciding with (immediately following, if none coincides with) the date such Participant becomes Totally and Permanently Disabled and will continue thereafter through the first day of the month preceding the earliest of the following dates:

(a) His Normal Retirement Date.

(b) The date of his death.

(c) The effective date of termination of Plan.

(d) The date he is no longer Totally and Permanently Disabled.

If such payments continue through the first day of the month preceding such Participant's Normal Retirement Date, monthly retirement benefits will be provided for him on his Normal Retirement Date in accordance with the provisions of Article 4. in like manner as for an Active Participant, with Accrued Benefit equal to the amount of monthly disability payment paid to him pursuant to Section 5.02. If, prior to such Participant's Normal Retirement Date, he recovers and returns to active work for the Employer within one month of the date he is no longer Totally and Permanently Disabled, such payments will stop and he will again become an Active Participant pursuant to Section 2.01. If, prior to such Participant's Normal Retirement Date, he recovers and does not return to active work for the Employer within one month of his recovery, such payments will stop and his Termination of Employment will be deemed to have occurred as of the date he became Totally and Permanently Disabled and his benefits will be redetermined pursuant to Article 8.

If the Participant dies while receiving monthly disability payments and he meets the requirements pursuant to Section 7.01(a), death benefits will be paid in accordance with the provisions of said Section 7.01(a).

ARTICLE 6. COST OF LIVING ADJUSTMENT

SECTION 6.01--IMPORTANT TERMS.

For the purpose of determining the cost of living adjustment of benefits, the following terms are defined here:

ADJUSTMENT DATE means each Anniversary Date on and after the Effective Date on which the Price Index has changed from the Price Index on the last preceding Anniversary Date as of which the monthly retirement benefit payments under this Plan were changed in accordance with this Article 6. (on the Effective Date if no prior changes have been made).

ADJUSTMENT FACTOR means, as of any Adjustment Date, the quotient of (a) divided by (b):

(a) The Price Index as of such Adjustment Date.

(b) The Price Index as of the last previous Adjustment Date.

In no event, however, will the Adjustment Factor exceed 1.02. Prior to July 1, 1982, the Adjustment Factor will not exceed 1.04.

ANNUITANT means either an Inactive Participant whose Retirement Date has occurred and who is entitled to monthly retirement benefit payments under this Plan, an alternate payee, or the Beneficiary or Contingent Annuitant of such Participant, if any, who is entitled to monthly retirement benefit payments under this Plan as the result of such Participant's death.

PRICE INDEX means, as of any Anniversary Date, the Consumer Price Index (Portland area-all items) as published by the Bureau of Labor Statistics of the United States Department of Labor in the City of Portland, Oregon, or a comparable index as determined by the Employer if such index ceases to be published.

SECTION 6.02--CHANGE IN MONTHLY RETIREMENT BENEFIT.

As of each Adjustment Date, the monthly retirement benefit payments payable to an Annuitant will be changed to the amount determined by multiplying such payments by the Adjustment Factor as of such Adjustment Date, subject to the following provisions:

(a) If such change results in an increase in the amount of monthly retirement benefit payments to an Annuitant, an amount of monthly retirement benefit will be provided for him under the Group Contract in the amount of such increase with payments consistent with the payments being made as to the monthly retirement annuity provided under the Group Contract on the Participant's Retirement Date.

(b) If such change results in a decrease in the amount of the monthly retirement benefit payments to an Annuitant, an amount or amounts of monthly retirement benefit previously provided for him under the Group Contract will be cancelled as of such Adjustment Date so that the total amount of monthly retirement benefit remaining will be only the reduced amount to which he is then entitled.

In no event will any decrease become effective which would reduce the monthly retirement benefit payments for an Annuitant to an amount which would be less than the amount he would have received had the provisions of this Article 6. not been in effect.

(c) On and after the effective date of termination of Plan pursuant to Article 11., no further changes in monthly retirement benefit payments will be made in accordance with this Article 6.

SECTION 6.03--MINIMUM ADJUSTMENT FOR RETIREMENTS AFTER JULY 1, 1990.

Effective on and after July 1, 1990, for Police Officers, Firefighters, and the City Attorney, monthly payments for such Participants retiring on or after July 1, 1990, will be increased annually to a level that is no less than that which would have been in effect had the initial monthly benefits been payable from the Oregon Public Employees Retirement System, determined without including any payments under ORS 238.375 to 238.387 or any other tax remedy payments.

ARTICLE 7. DEATH BENEFITS

SECTION 7.01--DEATH BENEFIT BEFORE RETIREMENT.

(a) Death Benefit before Retirement Date (Normal Retirement Date, if earlier): If the death of a Participant occurs prior to his Retirement Date (Normal Retirement Date, if earlier), a single sum death benefit equal to the sum of (i) two [(effective July 1, 1990, two and two-tenths (2.2))] times his Participant's Contribution Account as of the date of his death, and (ii) his Voluntary Account as of the date of his death will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section 4.02 for the benefit of such Beneficiary.

~~[Effective July 1, 1990, for Participants other than Police Officers, Firefighters, and the City Attorney, "two and two-tenths (2.2) times" shall replace "two times" where "two times" appears in the above paragraph.]~~

In no event, however, will such death benefit be less than the death benefit that would have been payable upon the death of such Participant under the Prior Plan on the day before the Effective Date.

(b) Deferred Retirement Death Benefit: If the death of an Active Participant occurs on or after his Normal Retirement Date and prior to his Retirement Date, and

(1) If the straight life annuity optional form under Section 4.02 is in effect for him on the date of his death, there are no death benefits payable under this Article 7.

(2) If the life annuity with certain period optional form under Section 4.02 is in effect for him on the date of his death, there will be provided for his Beneficiary, beginning on the Monthly Date following his death, a certain period benefit payable monthly for the certain period applicable under said option. The amount of the monthly payments to such Beneficiary will be equal to the amount that would have been payable monthly to such Participant had his Retirement Date occurred on the Monthly Date coinciding with (immediately preceding, if none coincides with) the date of his death.

(3) If the survivorship life annuity optional form under Section 4.02 is in effect for him on the date of his death, there will be provided for his designated Contingent Annuitant, beginning on the Monthly Date coinciding with (immediately following, if none coincides with) the date of his death, a retirement benefit payable monthly in like manner as if such Contingent Annuitant were a Participant with Retirement Date beginning on such

Monthly Date if and so long as such Contingent Annuitant lives. The amount of such monthly retirement benefit will be equal to the amount that would have been payable to such Participant had his Retirement Date occurred on the Monthly Date coinciding with (immediately preceding, if none coincides with) the date of his death, multiplied by the percentage in effect under such optional form.

(4) If the life annuity with modified cash refund optional form under Section 4.02 is in effect for him on the date of his death, there will be provided for his Beneficiary, a single sum payment equal to his Participant's Contribution Account.

(5) If none of the above optional forms is in effect for him on the date of his death, a single sum death benefit equal to the amount provided in Section 7.01(a) (determined as if Section 7.01(a) applied) will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section 4.02 for the benefit of such Beneficiary.

There are no death benefits under this Plan before retirement, except as may be provided under Article 10.

SECTION 7.02--DEATH BENEFIT AFTER RETIREMENT.

Any death benefit after retirement will be in accordance with the form of retirement benefit in effect on a Participant's Retirement Date and will be payable in accordance with the provisions under Article 4.

ARTICLE 8. TERMINATION OF BENEFITS

SECTION 8.01--TERMINATION BENEFITS.

An Employee who becomes an Inactive Participant one month or more prior to his Retirement Date shall be entitled to one of the following benefits:

(a) Deferred Payment. If an Inactive Participant so elects, he will receive a deferred monthly retirement benefit to commence on his Normal Retirement Date. The amount of such deferred monthly retirement benefit, in accordance with the Normal Form, shall be equal to the following:

(1) Effective on and after July 1, 1993, for an Inactive Participant hired on or after July 1, 1993, other than an Inactive Participant who was a Police Officer, Firefighter, or the City Attorney:

An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant. The amount may not exceed 100% of his Average Compensation, but in no event shall be less than the monthly benefit provided by the Actuarial Equivalent of his Participant's Contribution Account.

(2) For an Inactive Participant hired prior to July 1, 1993, and for an Inactive Participant who was a Police Officer, Firefighter, or the City Attorney, an amount equal to the sum of (i) and (ii) below:

(i) An amount equal to the amount of monthly retirement benefit which could be provided on his Normal Retirement Date by that portion of his Participant's Contribution Account made on or after July 1, 1979; and

(ii) An amount equal to his Vested Accrued Benefit on the day before he became an Inactive Participant,

provided that the sum of (i) and (ii) do not exceed 100% of his Average Compensation, but in no event shall be less than the monthly benefit provided by the Actuarial Equivalent of his Participant's Contribution Account.

(b) An Inactive Participant may elect to have his deferred monthly retirement benefit commence on his Early Retirement Date. The amount of such deferred monthly retirement benefit shall be equal to the amount of deferred benefit determined in Section 8.01(a) above multiplied by the factor shown in Section 4.01(b) corresponding to the number of years his Early Retirement Date precedes his Normal Retirement Date.

Payment of the deferred monthly retirement benefit will be in the form of retirement benefit in effect on a Participant's Retirement Date as provided under Section 4.02.

(c) Immediate Payment. In lieu of any benefits otherwise available under this Article 8., a Participant may elect to receive his Participant's Contribution Account in a single sum payment.

If the Inactive Participant elects to receive his Participant's Contribution Account in a single sum payment, he shall receive his payment 90 days after the date he ceases to be an Employee and before his Retirement Date. Any such payment will be a voluntary cash-out, in lieu of a part of the deferred retirement benefit otherwise available to him on his Retirement Date. Payment of his Participant's Contribution Account cancels the part of his benefit determined under Section 8.01(a) above.

If, upon the date a Participant ceases to be an Employee, the present value of his deferred retirement benefit is less than $1,750, it will, unless otherwise directed by the Employer, be paid as an involuntary cash-out in a single sum in full settlement of all benefits otherwise payable to him. This value will be determined under the provisions of the Group Contract.

SECTION 8.02--REPAYMENT OF SINGLE SUM PAYMENT.

(a) A Participant

(1) who received a single sum payment under this Plan of less than the present value of his Accrued Benefit on the date of payment, and

(2) who again performs Service as an Eligible Employee

may make repayment to the Plan no longer than the earlier of

(3) the last day of the two-year period which begins on the date he again performs Service as an Eligible Employee, or

(4) the last day of the five-year period which begins on the date the single sum payment is made.

The amount which must be repaid is the full amount of the single sum payment he received with interest at the rate of 8% per annum compounded annually, on such payment compounded annually from the date the payment was made to the date he repaid the full amount. If repayment is made, the Participant's Accrued Benefit will not be reduced for the single sum payment.

(b) Beginning July 1, 2002, the Plan will accept a Participant's repayment in the form of the following rollovers, contributions, and transfers made after December 31, 2001, from the types of plans described below:

(1) A direct rollover of an eligible rollover distribution from, or a participant contribution of an eligible rollover distribution from:

(i) A qualified plan described in IRC Section 401(a) or 403(a);

(ii) An annuity contract described in IRC Section 403(b); or

(iii) An eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A),

but only if the Plan is an eligible retirement plan with respect to the direct rollover or participant contribution.

(2) A participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in IRC Section 408(a) or 408(b) that is eligible to be rolled over and would otherwise be includible in gross income.

(3) A direct trustee-to-trustee transfer authorized by IRC Section 457(e)(17) from an eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A).

The definitions in Section 13.03 apply for purposes of this Section 8.02(b).

ARTICLE 9. ADDITIONAL BENEFITS FOR PERS BENEFIT INCREASES

SECTION 9.01--PURPOSE.

This Article 9. implements the requirement that the Employer provide increases in benefits for certain Public Safety Employees that are equal to or the actuarial equivalent of certain increases in benefits under the Oregon Public Employees Retirement System granted in 1991 and 1995 to certain police officers and firefighters. That requirement and those increases are provided in ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

SECTION 9.02--INCREASE IN DISTRIBUTION.

Upon distribution of an Eligible Employee's [Vested] Accrued Benefit in a calendar year in which distributions under this Plan are not exempt from Oregon personal income taxation, the amount of the distribution shall be increased by the greater of the following amounts:

(a) The amount determined by multiplying the Eligible Payments of the Eligible Portion of the Employee's [Vested] Accrued Benefit by the following percentage:

If the Employee's Years of PSE Service at the Employee's last Severance of Employment are:	*The percentage is:*
Less than 10	0%
At least 10 but not 20	1%
At least 20 but not 25	$2^1/_2$%
25 or more	4%

(b) The amount determined by multiplying the Eligible Payments of the Eligible Portion of the Employee's [Vested] Accrued Benefit by the percentage determined under the following formula:

$$\left(\frac{1}{.91} - 1\right) [x] \left(\frac{\text{the Employee's Years of PSE Service before October 1, 1991}}{\text{the Employee's Years of PSE Service}}\right)$$

The amount of such increase shall be allocated among the components of the Employee's [Vested] Accrued Benefit in proportion to the Actuarial Equivalent value of each. The increase allocated to each component shall be paid in the same form as the component is paid.

SECTION 9.03--ALTERNATE PAYEES.

Despite Section 9.02 above, (1) the amount by which the distribution to an alternate payee is to be increased shall not be determined or paid before the participant's Severance of Employment, (2) no increase shall be paid (even after the participant's Severance of Employment) with respect to a lump

sum distribution (including a direct rollover) made to an alternate payee before the participant's Severance of Employment, and (3) the amount of the increase in the distribution to the alternate payee with respect to distributions previously made shall be distributed in the following forms, without interest for delayed payment:

(a) In a lump sum distribution if the benefit is attributable to monthly payments previously made under an annuity.

(b) As a supplement to the annuity if the increase is attributable to monthly payments to be made in the future under a previously started annuity.

SECTION 9.04--DEFINITIONS; CHANGE IN TAX RATE.

For purposes of this Article 9.:

(a) An "Eligible Employee" is any Employee who before July 14, 1995, was a Public Safety Member and whose last Severance of Employment occurred or occurs while the Employee is a Public Safety Employee and either occurred before January 1, 1991, for a reason other than the Employee's death or occurred or occurs after December 31, 1990, for any reason.

(b) "Public Safety Member" means an Active Participant employed by the Employer as a firefighter or police officer as those terms are defined in ORS 237.610.

(c) "Public Safety Employee" means an Employee employed by the Employer as a firefighter or police officer as those terms are defined in ORS 237.610.

(d) "Accrued Benefit" means the participant's Accrued Benefit as defined in Section 1.05, but specifically excluding the cost of living adjustment provided in Article 6., the benefit provided in this Article 9., and the benefit attributable to the participant's Voluntary Account.

(e) ["Vested Accrued Benefit" means the participant's Accrued Benefit as defined in Section 9.04(d) above multiplied by the percentage determined under Section 1.03(b) with respect to the participant's Accrued Benefit.

(f)] "Eligible Payments" are all payments made after December 31, 1990, other than:

(1) Payments that would have been made before January 1, 1991, ~~[but for the Employee's election to defer distribution, as determined in the discretion of the Employer.]~~ [if the Employee had elected to start benefit payments on the Employee's first possible Retirement Date on or next after the Employee's Severance of Employment.]

(2) Payments with respect to an Eligible Employee whose last Severance of Employment occurred before January 1, 1991, other than periodic payments made under an annuity.

~~[Whether a payment is periodic shall be determined in the discretion of the Employer.~~

~~(f)~~[(g)] The "Eligible Portion" is the part of the [Vested] Accrued Benefit attributable to Plan Participation as a Public Safety Member.

~~[(g)]~~[(h)] "Years of PSE Service" are Years of Service during which the Eligible Employee was a Public Safety Employee, which Years of Service shall be determined by counting only completed months of Service during which the Employee was at all times a Public Safety Employee.

~~[(h)]~~[(i)] "Severance of Employment" means permanent termination of employment with the Employer for any cause.

~~[(i)]~~[(j)] The decimal .91 in the formula in Section 9.02(b) above shall automatically be adjusted as provided in this Section ~~[9.04(i)]~~ [9.04(j)] to reflect changes in the maximum Oregon personal income tax rate imposed upon individuals who are full-year residents of Oregon. An increase in such rate by x percentage points shall cause such decimal to be reduced by x 100ths, and a reduction in such rate by x percentage points shall cause such decimal to be increased by x 100ths. For example, following are the decimals that correspond to particular rates:

If the rate is:	*The decimal is:*
7%	.93
8%	.92
9%	.91
10%	.90
11%	.89

Any such change in the decimal shall be effective only for distributions made on or after the effective date of the change in such rate. No amount distributed to an Eligible Employee, Beneficiary, Contingent Annuitant, or alternate payee before the change is implemented may be recovered from any person or offset against any undistributed benefit of any person to account for any such change.

SECTION 9.05--PRIOR DISTRIBUTIONS.

The Employer shall as soon as administratively feasible cause to be distributed to Eligible Employees (and where applicable their Beneficiaries, Contingent Annuitants, and alternate payees) without interest any benefits provided in this Article 9. or Article 6. attributable to distributions

previously made and shall appropriately adjust the cost of living adjustment provided in Article 6. for payments to be made in the future. Such benefits shall be distributed in the following forms:

(a) In a lump sum distribution if the benefit is attributable to:

(1) A lump sum distribution (including a direct rollover); or

(2) Monthly payments previously made under an annuity.

(b) As a supplement to the annuity if the benefit is attributable to monthly payments to be made in the future under a previously started annuity.

SECTION 9.06--LIMITATIONS.

The benefits provided in this Article 9.:

(a) Shall not be paid with respect to any portion of an Eligible Employee's Accrued Benefit that is transferred to the Oregon Public Employees Retirement System or the payment of which is assumed or made by the Oregon Public Employees Retirement System.

(b) May by amendment of this Plan be reduced, eliminated, or changed for all or some Employees with respect to service performed before or after the amendment:

(1) To the extent a court of competent jurisdiction or the Employer determines that the Employer is not required to implement one or more of the provisions of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569 that by their terms apply to the Employer.

(2) To the extent a court of competent jurisdiction or the Employer determines that any of the benefits, or the aggregate benefits, provided in this Article 9. are more than is required to implement the provisions of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

(3) As the Employer determines appropriate to respond to any law modifying any requirement of ORS 237.635 and 237.637, 1991 Oregon Laws chapter 796, and 1995 Oregon Laws chapter 569.

(4) As the Employer in the Employer's absolute discretion deems appropriate, even though none of the events described above in this Section 9.06(b), and no like event, has occurred.

Any such benefits that are reduced, eliminated, or changed after they have been distributed may not be recovered from any person or offset against any undistributed benefit of any person to account for any such reduction, elimination, or change.

SECTION 9.07--NO CONTRACT RIGHTS.

No Eligible Employee, Beneficiary, Contingent Annuitant, or alternate payee shall acquire a right, contractual or otherwise, to the increased benefits provided by this Article 9.

ARTICLE 10. VOLUNTARY CONTRIBUTIONS

SECTION 10.01--VOLUNTARY CONTRIBUTIONS.

An Active Participant may make Voluntary Contributions. These Contributions may be made during any period in which he is an Active Participant. Voluntary Contributions will be made in accordance with procedures set up by the Employer.

A Participant's Voluntary Contributions, including any voluntary contributions he has made under any other qualified plan of the Employer or predecessor of the Employer, may not, in the aggregate, exceed 10% of his aggregate earnings from the Employer and predecessor for the period of time that he has actively participated under this and such other plan or plans.

An Active Participant may begin to make Voluntary Contributions on any Quarterly Date.

An Active Participant may change the amount of future Voluntary Contributions on any Quarterly Date.

An Active Participant may stop making his Voluntary Contributions on any Quarterly Date. He may then resume making Voluntary Contributions on any Quarterly Date.

Before the date he ceases to be an Employee, a Participant may withdraw any part of his Voluntary Account resulting from his Voluntary Contributions in a single sum, but not more than the original amount of those Contributions. A withdrawal may occur only once in a Plan Year.

Stopping, changing, or withdrawing Voluntary Contributions will not affect a Participant's participation in the Plan. No portion of his Voluntary Account resulting from any other Contributions will be forfeited solely because of such withdrawal. An Active Participant's request to begin, change, stop, or withdraw his Voluntary Contributions will be in writing on a form furnished for that purpose. This form will include any necessary authorization for payroll deduction and will be delivered to the Employer before the date Contributions are to begin, change, stop, or be withdrawn.

No Voluntary Contributions will be made by a Participant after the second calendar month preceding his Retirement Date.

Voluntary Contributions will be credited to the Participant's Voluntary Account as they are made and will be forwarded to the Insurer at least quarterly.

[Participants'] Voluntary ~~[Contributions]~~ [Accounts] are fully vested and nonforfeitable.

SECTION 10.02--INVESTMENT OF VOLUNTARY CONTRIBUTIONS.

All Voluntary Contributions made by or on behalf of an Active Participant will be forwarded by the Employer to the Insurer to be deposited under the Group Contract and invested according to its provisions.

However, no Voluntary Contributions may be invested in any of the separate accounts of the Insurer in which the Group Contract participates.

SECTION 10.03--RETIREMENT BENEFITS.

On a Participant's Retirement Date, his Voluntary Account will be used to purchase additional benefits for him as provided in Section 4.03.

SECTION 10.04--DEATH BENEFITS.

If the death of the Participant occurs before his Retirement Date, a distribution of his Voluntary Account will be made to his Beneficiary as provided in this Article 10. A Participant's Voluntary Account will not be distributed to his Beneficiary under this Article 10. if a death benefit is paid under Section 7.01(a) or 7.01(b)(5) on account of the Participant's death.

SECTION 10.05--VESTED BENEFITS.

The Participant's Voluntary Account will be held for him until the earlier of his Retirement Date or death and will then be applied as provided in Section 10.03 or Section 10.04, unless he receives earlier distribution under this Section 10.05.

An Inactive Participant may elect to have his Voluntary Account distributed under one or more of the methods described in Section 4.02 before his Retirement Date or death. The distribution may be in the form of an immediate annuity only if the amount which would be applied to purchase the annuity under the Group Contract is $1,750 or more. Benefit payments may begin at the time after the Participant ceases to be an Employee but not later than his Normal Retirement Date.

Any election by a Participant to receive a distribution of all or part of his Voluntary Account must be made before he again becomes an Employee.

If, on the date he ceases to be an Employee, a Participant's Voluntary Account is less than $1,750, it will, unless otherwise directed by the Employer be paid to him in a single sum as an involuntary cash-out.

ARTICLE 11. TERMINATION OF PLAN

SECTION 11.01--TERMINATION OF PLAN.

The Employer expects to continue the Plan indefinitely but reserves the right to terminate the Plan in whole or in part at any time by giving written notice to all parties concerned.

SECTION 11.02--VESTING ON TERMINATION.

Upon termination or partial termination of the Plan or complete discontinuance of contributions under the Plan, the rights of all affected employees to benefits accrued to the date of such termination, to the extent then funded, shall become nonforfeitable.

SECTION 11.03--PROCEDURES UPON TERMINATION OF PLAN.

Upon termination of Plan, the following provisions shall apply:

(a) No further Employees shall become Participants and no further contributions shall be made.

(b) Each Participant's account shall be held under the Group Contract and applied as heretofore provided in this Plan upon such Participant's death, Termination of Employment, or Retirement Date.

In lieu of a portion of his deferred monthly retirement income under this Section 11.03(b), such Participant may elect to receive his Participant's Contribution Account in a single sum payment at any time on or subsequent to his Termination of Employment and prior to his Retirement Date.

(c) All disability payments will cease and the Plan assets, other than those arising from Section 11.03(b) held by the Insurer under the Group Contract as to those Participants whose Retirement Dates have not yet occurred shall be allocated and applied to the extent they are sufficient to purchase benefits for all Participants who had not reached their Retirement Dates prior to the effective date of termination of Plan, in accordance with the following classifications and order of precedence.

(1) First, to purchase immediate monthly retirement benefits for those Participants whose Normal Retirement Dates occurred on or prior to the effective date of termination of Plan, but who had not retired, and for those Participants who were receiving disability benefits pursuant to Article 5. on the effective date of termination of Plan.

(2) Second, to purchase deferred monthly retirement benefits for such Participants who have attained age 60 or older on the effective date of termination of Plan and who are not included in Section 11.03(c)(1) above.

(3) Third, to purchase deferred monthly retirement benefits for such Participants who have attained age 55 or older on the effective date of termination of Plan and who are not included in Section 11.03(c)(1) or 11.03(c)(2) above.

(4) Fourth, to purchase deferred monthly retirement benefits for all other Participants.

The monthly retirement benefit to be purchased for each such Participant shall be payable in accordance with the Normal Form beginning on his Normal Retirement Date (on the effective date of termination of Plan, if later) and the amount shall be equal to (i) his Accrued Benefit (or disability benefit, if applicable) on the effective date of termination of Plan; provided, however, that if the Plan assets are insufficient to purchase such monthly retirement benefits in full for any class, the monthly retirement benefits for all in such class shall be reduced, as determined by the Insurer, to such fraction as the amount available will provide.

In any event, that portion of the Plan assets attributable to each Participant's Voluntary Account, if any, will be applied on the effective date of termination of Plan to provide for him an amount of deferred monthly retirement income benefit before the allocation and application of assets determined according to the classification and order of precedence in Section 11.03(c).

No part of the assets of the Plan shall be paid or distributed to such Employer at any time except as provided in Section 3.01 (about returned contributions) and except that, after satisfaction of all liabilities under such Plan, any overpayments made by such Employer as a result of erroneous actuarial computations shall be repaid to such Employer.

ARTICLE 12. ADMINISTRATION OF PLAN

SECTION 12.01--ADMINISTRATION.

The Employer will have complete control of the administration of the Plan, subject to the provisions hereof, with all powers necessary to enable it properly to carry out its duties in that respect. Not in limitation, but in amplification of the foregoing, it will have the discretionary power to construe the Plan and to determine all questions that may arise hereunder, including all questions relating to the eligibility of Employees to participate in the Plan and the amount of benefit to which any Participant, Beneficiary, Contingent Annuitant, or alternate payee may become entitled hereunder. Its decision upon all matters within the scope of its authority will be final.

The Employer will establish rules and procedures to be followed by Participants, Beneficiaries, Contingent Annuitants, and alternate payees in filing applications for benefits, in furnishing and verifying proofs necessary to determine age, and in any other matters required to administer the Plan. It may delegate to any person or firm such recordkeeping and other duties necessary to assist the Employer with the administration of the Plan not otherwise set out in the Plan or the Group Contract, as specifically agreed to by such person or firm.

The Employer will receive all applications for benefits and will determine all facts necessary to establish the right of the applicant to benefits under the provisions of the Plan and the amount thereof as herein provided.

The Employer will be entitled to rely upon all tables, valuations, certificates, and reports furnished by the consultant or actuary appointed by the Employer and upon all opinions given by any counsel selected or approved by it.

SECTION 12.02--RECORDS.

All acts and determinations of the Employer will be duly recorded and all such records, together with such other documents as may be necessary for the administration of the Plan, will be preserved in its custody.

SECTION 12.03--DELEGATION OF AUTHORITY.

The administrative duties and responsibilities set forth in Section 12.01 may be delegated by the Employer to a retirement committee consisting of such persons as it selects. The Employer shall notify the Insurer in writing of the authority conferred upon the retirement committee and of the membership of the retirement committee and any changes therein as they occur from time to time. The Insurer shall be entitled to rely on the last such notification received, until written notification to the contrary has been received from the Employer. The members of the retirement committee shall be free from all liability, joint or several, for their acts, omissions, and conduct, and for the acts, omissions, and conduct of their duly constituted agents, in the administration of the Plan, and the

Employer shall indemnify and save each of them harmless from effects and consequences of their acts, omissions, and conduct in their official capacity, except to the extent that such effects and consequences shall result from their own willful misconduct or gross negligence.

Members of the retirement committee shall serve without compensation for services as such, but all expenses incurred by it shall be paid by the Employer or by the Plan, upon written authorization of the Employer provided to the Insurer. Such expenses shall include any expenses incident to the functioning of the retirement committee including, but not limited to, fees of accountants, counsel, and other specialists related directly to the administration and operation of the Plan. All other expenses of the Plan or the Group Contract, unless paid by the Employer, shall be paid by the Plan upon written authorization of the Employer provided to the Insurer.

The Employer will have the power to appoint or remove any person to manage (including the power to acquire and dispose of) any assets of the Plan. It may appoint or remove any person or persons to serve in more than one fiduciary capacity with respect to the Plan (including service both as trustee and administrator).

The Employer will have the power to appoint or remove the Insurer.

SECTION 12.04--INFORMATION AVAILABLE.

Any Participant or alternate payee or any Beneficiary or Contingent Annuitant receiving benefits under the Plan may examine copies of this Plan, the Group Contract, or any other instrument under which the Plan was established or is operated. The Employer will maintain all of the items listed in this Section 12.04 in its office, or in such place or places as it may designate from time to time, for examination during reasonable business hours. Upon written request of a Participant or alternate payee or Beneficiary or Contingent Annuitant receiving benefits under the Plan, the Employer will furnish him with a copy of any item listed in this Section 12.04. The Employer may make a reasonable charge to the requesting person for the copy so furnished.

SECTION 12.05--CLAIMS.

Upon the request of a participant or beneficiary (including an alternate payee), or by action of the Employer, the Employer shall provide claim forms to any participant or his beneficiary who becomes entitled to benefits under the Plan. Such claim form shall be completed and submitted to the Employer no later than 30 days after it is received by the participant or beneficiary. Upon receipt of the claim form, the Employer shall review the appropriateness of the claim and if the Employer determines that the claim should not be allowed, the Employer shall respond in writing within 30 days of the receipt of the claim to the participant or beneficiary. The response 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, need be supplied by the participant or beneficiary 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 30 days of receipt by the Employer, the claim shall be deemed denied.

Within 60 days after receipt of notice of denial of the claim or when the claim is deemed to have been denied, the participant or beneficiary (or representative) may respond to the denial by requesting, in writing, a review of the decision and a review of pertinent documents. If the participant or beneficiary (or representative) 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 60 days from the Employer's receipt of the request for review, respond to said request. In modification of the foregoing, if the Employer, in the Employer's sole discretion, determines that special circumstances warrant the holding of a hearing, it shall promptly be held and a decision shall be rendered within 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.

ARTICLE 13. REQUIRED PROVISIONS

SECTION 13.01--REQUIRED STARTING DATE.

(a) The entire interest of each participant in the Plan:

(1) Will be distributed to the participant no later than the Required Starting Date; or

(2) Will be distributed, starting not later than the Required Starting Date, in accordance with Treasury regulations, over the life of the participant or over the lives of the participant and a Designated Beneficiary (or over a period not extending beyond the life expectancy of the participant or the life expectancy of the participant and a Designated Beneficiary).

(b) If the distribution of the participant's interest has begun in accordance with Section 13.01(a)(2) above and the participant dies before the participant's entire interest has been distributed to the participant, the remaining portion of the participant's interest will be distributed at least as rapidly as under the method of distributions being made under Section 13.01(a)(2) above as of the date of the participant's death.

(c) If a participant dies before the distribution of the participant's interest has begun in accordance with Section 13.01(a)(2) above, the entire interest of the participant will be distributed within five years after the death of the participant. However, the five-year rule does not apply to any portion of the participant's interest payable to (or for the benefit of) a Designated Beneficiary; and not later than one year after the date of the participant's death or such later date as may be prescribed by Treasury regulations distributions (in accordance with Treasury regulations) of such portion will start over the life of the Designated Beneficiary (or over a period not extending beyond the life expectancy of the Designated Beneficiary).

(d) With respect to a Designated Beneficiary who is the participant's surviving spouse:

(1) The date on which the distributions are required to start for purposes of the exception to the five-year rule in Section 13.01(c) above will not be earlier than the date on which the participant would have attained age 70½; and

(2) If the surviving spouse dies before the distributions to the spouse start, Section 13.01(b) and 13.01(c) above will be applied as if the spouse were the participant.

(e) For purposes of this Section 13.01.:

(1) "Required Starting Date" means April 1 of the calendar year following the later of (a) the calendar year in which the participant attains age 70½ or (b) the calendar year in which the participant retires.

(2) "Designated Beneficiary" means any individual designated as a beneficiary by the participant.

(3) "Spouse" and "surviving spouse" include an alternate payee who is the participant's former spouse.

(4) In accordance with Treasury regulations, any amount paid to a child will be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse upon such child reaching majority (or other designated event permitted under Treasury regulations).

(5) Any distribution required under the incidental death benefit requirements of IRC Section 401(a) will be treated as a distribution required under this Section 13.01.

(f) Despite any contrary provision of the Plan, the Plan will apply the minimum distribution requirements of IRC Section 401(a)(9) in accordance with the following proposed, final, and temporary Treasury regulations:

(1) With respect to distributions made for calendar years beginning before January 1, 2001, the regulations under IRC Section 401(a)(9) that were proposed in 1987, including Proposed Treasury Regulation Section 1.401(a)(9)-2.

(2) With respect to distributions made for the calendar year beginning on January 1, 2001, the regulations under IRC Section 401(a)(9) that were proposed on January 17, 2001.

(3) With respect to distributions made for calendar years beginning on or after January 1, 2002, Treasury Regulation Sections 1.401(a)(9)-1 through 1.401(a)(9)-9, and also Treasury Regulation Section 1.401(a)(9)-6T for the period it applies.

(g) This Section 13.01.:

(1) Applies only to the extent this Section 13.01 requires a distribution to be made earlier than otherwise required under the Plan.

(2) Overrides any distribution options in the Plan inconsistent with IRC Section 401(a)(9).

(3) Applies to Plan Years beginning after December 31, 1986, or such later date provided in Public Law No. 98-369, Section 521(d)(5) (about collective bargaining agreements).

SECTION 13.02--ANNUAL COMPENSATION LIMIT.

Except for purposes of Sections 13.05, 13.06, and 13.07, the annual compensation taken into account for each participant in determining plan allocations and benefit accruals under the Plan for any Plan Year is limited to the annual compensation limit under IRC Section 401(a)(17)(A) ($150,000 for Plan Years beginning before January 1, 2002, and $200,000 for Plan Years beginning after December 31, 2001), as adjusted for increases in the cost of living in accordance with IRC Section 401(a)(17)(B). For Plan Years beginning before January 1, 1997, in determining the compensation of a participant the rules of IRC Section 414(q)(6) shall apply, except that in applying such rules the term "family" shall include only the spouse of the participant and any lineal descendants of the participant who have not attained age 19 before the close of the Plan Year. The requirements of IRC Section 401(a)(17) and the Treasury regulations thereunder are incorporated into the Plan by this reference. This Section 13.02 applies to Plan Years beginning after December 31, 1995.

SECTION 13.03--DIRECT ROLLOVERS.

Despite any contrary provision of the Plan that would otherwise limit a distributee's election under this Section 13.03, a distributee may elect, at the time and in the manner prescribed by the Employer, to have any portion of an eligible rollover distribution made after December 31, 1992, paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions shall apply to this Section 13.03 and Section 8.02(b).:

(a) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, but not including:

(1) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;

(2) Any distribution to the extent such distribution is required under IRC Section 401(a)(9);

(3) For distributions made before January 1, 2002, the portion of any distribution that is not includable in gross income;

(4) For distributions made after December 31, 2001, any distribution that is made upon hardship of the employee; and

(5) Unless the Employer affirmatively elects to the contrary, any minimum amount permitted by IRC Section 401(a)(31) and Treasury regulations issued thereunder that is permitted to be excluded from the definition of eligible rollover distribution.

(b) Eligible retirement plan: An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution:

(1) An individual retirement account or annuity described in IRC Section 408(a) or 408(b);

(2) A qualified plan described in IRC Section 401(a) or 403(a);

(3) For distributions made after December 31, 2001, an annuity contract described in IRC Section 403(b); or

(4) For distributions made after December 31, 2001, an eligible deferred compensation plan described in IRC Section 457(b) maintained by an eligible employer described in IRC Section 457(e)(1)(A) and that agrees to separately account for amounts transferred into such plan from the Plan.

However:

(5) In the case of an eligible rollover distribution to the surviving spouse in a distribution made before January 1, 2002, an eligible retirement plan is only an individual retirement account described in IRC Section 408(a) or individual retirement annuity described in IRC Section 408(b).

(6) In the case of a direct rollover of an amount that is not includable in gross income in a distribution made after December 31, 2001, an eligible retirement plan is only (a) a qualified defined contribution plan described in IRC Section 401(a) or 403(a) that agrees to separately account for amounts transferred in the direct rollover, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable, (b) an individual retirement plan described in IRC Section 408(a), or (c) an individual retirement annuity described in IRC Section 408(b).

(c) Distributee: A distributee includes a participant. In addition, the participant's surviving spouse and the participant's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

(d) Direct rollover: A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

Such distribution may begin less than 30 days after the required special tax notice is given to the distributee if (1) the Employer clearly informs the distributee that the distributee has a right to a period of at least 30 days after receiving the notice to consider the decision whether to elect a particular distribution option and (2) the distributee, after receiving the notice, affirmatively elects a distribution.

SECTION 13.04--BENEFITS FOR MILITARY SERVICE.

Effective for reemployments initiated on or after December 12, 1994, and despite any contrary provision of the Plan, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with IRC Section 414(u).

SECTION 13.05--LIMIT ON BENEFITS.

For limitation years beginning after December 31, 1983, and despite any contrary provision of the Plan a participant's annual benefit under the Plan during any limitation year may not exceed the limitations of IRC Section 415 as provided in this Section 13.05.

(a) A participant's annual benefit under the Plan during any limitation year may not exceed the dollar limitation under IRC Section 415(b)(1)(A) for the limitation year and, for limitation years beginning before January 1, 1995, also may not exceed 100% of the participant's average compensation (as defined in Section 13.09) for the participant's high three years.

(b) The dollar limitation and the compensation limitation in Section 13.05(a) above and in IRC Section 415(b)(1)(A) and (B) will be annually adjusted for increases in the cost of living in accordance with Treasury regulations, including for participants who have separated from service. Without limiting the foregoing:

(1) As of January 1 of each calendar year the dollar limitation will be automatically adjusted to the new dollar limitation determined by the Commissioner of Internal Revenue for that calendar year. The new dollar limitation will apply to limitation years ending within the calendar year of the date of the adjustment.

(2) In the case of a participant who has separated from service, the participant's average compensation for the participant's high three years will be automatically adjusted by multiplying such average compensation by the cost of living adjustment factor prescribed by the Secretary of the Treasury under IRC Section 415(d) in such manner as the Secretary shall prescribe. Such adjusted average compensation will apply to limitation years ending within the calendar year of the date of adjustment.

(c) A participant's high three years will be determined based on calendar years.

(d) If a participant's annual benefit during a limitation year (payable in the normal form or in any optional form subject to adjustment under IRC Section 415(b)(2)(B)) would exceed the amount provided in Section 13.05(a) above, the participant's annual benefit during such limitation year will be reduced to the amount provided in Section 13.05(a).

(e) Except as provided in IRC Section 415(f)(3) (about multiemployer plans), which is effective for limitation years beginning after December 31, 2001, in the case of any participant in another defined benefit plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), (1) all such plans will be treated as one plan and (2) the annual benefit that may be provided to the participant under the Plan as provided in Section 13.05(a) above will be reduced by the amount of the aggregate of the annual benefits provided to the participant under such other plans.

(f) The limitations in this Section 13.05 will be applied according to the adjustments described in and the provisions of IRC Section 415 (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into the Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(b)(2)(B) (about benefits payable in other than the normal form), 415(b)(2)(C) and (D) (about benefits commencing before or after a stated age or stated ages), 415(b)(2)(F) (about plans maintained by governments), 415(b)(2)(G) and (H) (about police and firefighters), 415(b)(2)(I) (about disability and survivor benefits under governmental plans), 415(b)(4) (about total annual benefits not exceeding $10,000), 415(b)(5) (about employees with less than 10 years of participation or service), and 415(n) (about purchase of permissive service credit).

(g) The adjustments described in IRC Section 415(b)(2)(B), (C), and (D) will be made by ignoring mortality decrement to the extent a forfeiture does not occur upon death and as follows:

(1) The adjustment described in IRC Section 415(b)(2)(B) will be made using (i) the interest rate and applicable mortality table specified in Section 1.03(i) or (ii) 5% interest and the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v), whichever produces the greater annual benefit.

(2) The adjustments described in IRC Section 415(b)(2)(C) and (D) will be made using (i) the interest rate and applicable mortality table specified in Section 1.03(i) or (ii) 5% interest and the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v), whichever produces the lesser annual benefit.

For limitation years beginning before January 1, 2000, the above provisions of this Section 13.05(g) shall be applied by substituting "the applicable mortality table specified in Section 1.03(i)" for "the mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v)" wherever such latter phrase appears. The mortality table prescribed pursuant to IRC Section 415(b)(2)(E)(v) is, for distributions with annuity starting dates before ~~[January 1]~~ [December 31], 2002, the table prescribed in Revenue Ruling 95-6 and, for distributions with annuity starting dates on or after December 31, 2002, the table prescribed in Revenue Ruling 2001-62.

(h) For purposes of the adjustment in IRC Section 415(b)(5):

(1) A year of participation is a Plan Year for which the participant is a participant;

(2) A year of service is a Plan Year for which the participant is employed by the Employer; and

(3) A participant who is permanently and totally disabled (as defined in IRC Section 22(e)(3)) for a Plan Year will be credited with a year of participation and a year of service for that year.

SECTION 13.06--LIMIT ON ANNUAL ADDITIONS.

(a) For limitation years beginning after December 31, 1983, and despite any contrary provision of the Plan, the annual additions to any participant's accounts under the Plan may not exceed the lesser of the dollar limitation in IRC Section 415(c)(1)(A) or 25% (100% for limitation years beginning after December 31, 2001) of the participant's compensation (as defined in Section 13.09). The dollar limit in this Section 13.06(a) will be adjusted as follows:

(1) For increases in the cost of living in accordance with IRC Section 415(d).

(2) For limitation years beginning after December 31, 1986, and before January 1, 1995, the dollar limit will be adjusted to, if greater, one-quarter of the dollar limitation in effect under IRC Section 415(b)(1)(A).

(b) In the case of any participant in another defined contribution plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), all such plans will be treated as one plan, and the maximum annual addition to the participant's accounts as provided above will be reduced by the aggregate of the amount of the annual additions to the participant's accounts under such other plans. For this purpose a defined contribution plan includes a welfare benefit fund (within the meaning of IRC Section 419(e)), an individual medical benefit account (within the meaning of IRC Section 415(l)(2)), and a simplified employee pension (within the meaning of IRC Section 408(k)).

(c) If as a result of a reasonable error in estimating a participant's compensation or such other reason as is permitted under Treasury Regulation Section 1.415-6(b)(6) a participant's annual addition would exceed the limitations in this Section 13.06, determined after applying Section 13.07, the participant's contributions to the participant's accounts together with any allocable earnings will be distributed to the participant as soon as administratively feasible to the extent required to eliminate such excess.

(d) The limitations in this Section 13.06 will be applied according to adjustments described in and the provisions of IRC Sections 415 and 419A(d) (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(c)(2) (defining "annual addition"), 415(d) (about COLAs), 415(l) (about individual medical benefit accounts), and 419A(d)(2) (about medical benefit accounts for key employees in a welfare benefit fund).

SECTION 13.07--COMBINED LIMIT ON BENEFITS AND ANNUAL ADDITIONS.

For limitation years beginning after December 31, 1983, and before January 1, 2000, and despite any contrary provision of the Plan:

(a) The sum of a participant's defined benefit plan fraction (within the meaning of IRC Section 415(e)) for the Plan and the participant's defined contribution plan fraction (within the meaning of IRC Section 415(e)) for the Plan for any year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under the Plan will be reduced to the extent necessary for such sum not to exceed 1.0.

(b) If a participant is a participant in another defined contribution or defined benefit plan of the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)), all defined benefit plans of the employer will be treated as one plan, and all defined contribution plans of the employer will be treated as one plan, and the sum of the participant's defined benefit plan fraction (within the meaning of IRC Section 415(e)) for such aggregate defined benefit plans and the participant's defined contribution plan fraction (within the meaning of IRC Section 415(e)) for such aggregate defined contribution plans for any year may not exceed 1.0. If such sum would otherwise exceed 1.0, the participant's projected annual benefit under the Plan will be reduced to the extent necessary for such sum not to exceed 1.0. For this purpose a defined contribution plan includes a welfare benefit fund (within the meaning of IRC Section 419(e)), an individual medical benefit account (within the meaning of IRC Section 415(l)(2)), and a simplified employee pension (within the meaning of IRC Section 408(k)).

(c) The limitations in this Section 13.07 will be applied according to adjustments described in and the provisions of IRC Section 415 (including the effective dates of such adjustments and provisions), as interpreted in Treasury regulations and guidance by the Internal Revenue Service, which adjustments and provisions are incorporated into this Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(e) (about limitation in the case of a defined benefit plan and a defined contribution plan for the same employee).

(l) At the election of the Employer, in applying the provisions of this Section 13.07 with respect to the defined contribution plan fraction the amount taken into account for the denominator for each participant for all Plan Years ending before January 1, 1983, shall be an equal to the product of (1) the amount of the denominator determined under Section 4.05(k) of the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN for Plan Years ending before January 1, 1982, multiplied by (2) the "transition fraction," which is a fraction (i) the numerator of which is the lesser of (A) $51,875 or (B) 1.4 multiplied by 25% of the participant's compensation for the Plan Year ending in 1981, and (ii) the denominator of which is the lesser of (A) $41,500 or (B) 25% of the participant's compensation for the Plan Year ending in 1981.

SECTION 13.08--LIMITATION YEAR.

The limitation year shall be the Plan Year.

SECTION 13.09--COMPENSATION FOR PURPOSES OF LIMITS.

For purposes of Sections 13.05, 13.06, and 13.07, "compensation" means wages within the meaning of IRC Section 3401(a) (for the purposes of income tax withholding at the source) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC Section 3401(a)(2)).

(a) For limitation years beginning after December 31, 1997, "compensation" includes any elective deferral (as defined in IRC Section 402(g)(3)) contributed by the employer and any amount contributed or deferred by the employer at the election of the participant and not includable in the gross income of the participant by reason of IRC Section 125 or 457.

(b) For limitation years beginning after December 31, 2000, "compensation" includes any amount contributed or deferred by the employer at the election of the participant and not includable in the gross income of the participant by reason of IRC Section 132(f)(4).

(c) Effective January 1, 2002, "compensation" includes any additional elective deferral under IRC Section 414(v) contributed by the employer.

(d) For purposes of Sections 13.05, 13.06, and 13.07, the amounts included in a participant's compensation under this Section 13.09 will be based on such amounts from the employer (within the meaning of IRC Section 414(b), (c), (m), and (o) [effective July 18, 1984], after applying IRC Section 415(h)).

SECTION 13.10--ANNUITY CONTRACTS.

Benefits may be paid by distributing an annuity contract purchased by the Employer for the Participant, alternate payee, or Beneficiary (the payee).

(a) Delivery of any such contract will be in full satisfaction of the rights under the Plan of the payee and the payee's Contingent Annuitant, Beneficiary, and estate, and upon the delivery thereof such persons will have no further interest under the Plan or in the Group Contract with respect to the benefits to be paid under the contract and must look solely to the insurer issuing the contract for the payment of such benefits.

(b) Any refund or credit under any such contract (on account of dividends, earnings, or other experience rating credits, or surrender or cancellation credits) in excess of the benefits under the Plan to be paid under the contract, and any proceeds from demutualization of the issuer of the contract or the issuer's successor, will be paid to the Plan for addition to the Group Contract.

(c) Any such contract must be nontransferable.

(d) The terms of the Plan control in the event of any conflict between the terms of the Plan and the terms of any such contract.

ARTICLE 14. GENERAL PROVISIONS

SECTION 14.01--AMENDMENT OF PLAN.

The Employer, acting through its City Council or City Manager, may amend this Plan at any time, including any remedial retroactive changes (within the specified period of time as may be determined by Treasury regulations or Internal Revenue Service guidance from time to time) to comply with the requirements of any law or regulation issued by any governmental agency to which the Employer is subject. However, the City Manager may amend this Plan only to clarify this Plan, facilitate the administration of this Plan, or make changes adapting this Plan to the requirements of law, changes in law, or the terms of a collective bargaining agreement, all as determined in the discretion of the City Manager.

SECTION 14.02--EXCLUSIVE BENEFIT.

Except as provided in Section 3.01 (about return of contributions) or Article 11. (about termination of the Plan), no asset of the Plan or Group Contract may be used for or diverted to any purpose other than for the exclusive benefit of participants or their beneficiaries and defraying reasonable expenses of administering the Plan and Group Contract; and no amendment or termination of the Plan, or merger or consolidation with, or transfer of assets or liabilities to, any other plan, shall operate to allow any asset of the Plan or Group Contract to be used for or diverted to any such prohibited purpose.

SECTION 14.03--PROVISIONS RELATING TO THE INSURER.

The Insurer is not a party to the Plan, nor will it be bound in any way by the provisions of the Plan, nor will it be required to look to the terms of this Plan, nor to determine whether the Employer has the authority to act in any particular manner or to make any contract or agreement.

SECTION 14.04--EMPLOYMENT STATUS.

Nothing contained in this Plan will be deemed to give any Employee the right to be retained in the employ of the Employer or to interfere with the rights of the Employer to discharge any Employee at any time.

Any final payment or distribution to any Participant or his legal representative or to any Beneficiaries, Contingent Annuitant, or alternate payee of such Participant in accordance with the provisions herein will be in full satisfaction of all claims against the Plan, the Insurer, and the Employer arising under or by virtue of the Plan.

SECTION 14.05--BENEFICIARY.

Each Participant may name a Beneficiary to receive any death benefit (other than any monthly income payable to a Contingent Annuitant) which may arise out of his participation in the Plan and may change such Beneficiary from time to time without the consent of such Beneficiary. It will be the responsibility of the Participant to give written notice to the Insurer of the name of his Beneficiary on a form furnished for that purpose.

In modification of the above, the Employer may maintain records of Beneficiary designations as to Participants prior to their Retirement Dates, in which event the written designations made by Participants will be filed with the Employer and in the event of a Participant's death prior to his Retirement Date, the Employer will certify to the Insurer the Beneficiary designation on its records as to such Participant.

If, at the death of a Participant, there is no Beneficiary named or surviving, the death benefit, if any, under the Plan will be paid to the Participant's estate.

For purposes of determining a Participant's Beneficiary:

(a) A Beneficiary does not include an individual, even if designated by the Participant, who does not survive the Participant or who is treated under Oregon law as not surviving the Participant. For this purpose (1) the Participant and the individual will be treated as residing in Oregon and (2) Oregon law includes without limitation the Uniform Simultaneous Death Act (ORS 112.570 to ORS 112.590) or its successor and the Uniform Disclaimer of Property Interests Act, ORS 105.623 to 105.649, or its successor but does not include Oregon law regarding conflicts of laws.

(b) ORS 112.175 to 112.195, about adoption, or successor Oregon statutes, apply to determine relationships. ORS 112.105, about paternity, or successor Oregon statutes, and other comparable state laws apply without regard to any limitation therein regarding intestate succession. ORS 112.455 to 112.555, regarding certain deaths caused by an individual, or successor Oregon statutes, apply without regard to whether the death occurs or the individual or Participant resides in Oregon.

SECTION 14.06--SPENDTHRIFT CLAUSE.

Except as provided in Section 14.14 (about domestic relations orders), no benefit under the Plan or Group Contract may be voluntarily or involuntarily or revocably or irrevocably alienated, transferred, assigned (either at law or in equity), anticipated, mortgaged, or otherwise encumbered, or be subject to garnishment attachment, levy, seizure, execution, sequestration, or other legal or equitable process for the payment of debts, judgments, alimony, separate maintenance, or other amounts or claims, or be transferred by operation of law in the event of bankruptcy, insolvency, or otherwise.

SECTION 14.07--FACILITY OF PAYMENT.

If any person to whom a Plan benefit is payable is a minor or (as determined in the Employer's discretion) incompetent by reason of physical or mental disability, the Employer may direct the

Insurer to make the payments becoming due to such person to another for such person's benefit without responsibility for the Employer or the Insurer to see to the application of such payments, including without limitation to a custodian for the person, selected by the Employer or the Insurer without liability for the selection made, under the Oregon Uniform Transfers to Minors Act or under any other comparable state law. Any payment made pursuant to such power will as to such payment operate as a complete discharge of the Employer and the Insurer.

SECTION 14.08--CONSTRUCTION.

The Plan will be construed according to the laws of the State of Oregon and will be interpreted and administered consistent with the applicable requirements of the IRC for the Plan to be qualified under IRC Section 401(a). Any provision of the Plan that is based on a provision of the IRC, including one not necessary for the Plan to be qualified, will be interpreted and administered consistent with such provision of the IRC and the interpretive authorities thereunder.

The Plan includes provisions adopted in good faith to comply with the Economic Growth and Tax Relief Reconciliation Act of 2001. Such provisions shall be interpreted and administered consistent with Treasury regulations and Internal Revenue Service guidance regarding such Act, even where such regulations and guidance are inconsistent with the literal interpretation of such provisions.

In case any provision of this Plan will be held illegal or invalid for any reason, such determination will not affect the remaining provisions of this Plan, but the Plan will be construed and enforced as if said illegal or invalid provision had never been included.

SECTION 14.09--LEGAL ACTIONS.

To any action or proceeding involving the assets held with respect to the Plan or the administration thereof, the Plan and the Employer will be the necessary parties and no person employed by the Employer, Participant, former Participant or their Beneficiaries or any other person having or claiming to have an interest in the Plan will be entitled to any notice or process. Any final judgment which is appealed or appealable that may be entered in any such action or proceeding will be binding and conclusive on all persons having or claiming to have any interest in the Plan.

SECTION 14.10--MODIFICATION IN MODE OF PAYMENT.

If the present value of the initial monthly amount of retirement benefit payable to any Participant on his Retirement Date, to a Participant's Beneficiary or Contingent Annuitant due to such Participant's death, or to an alternate payee, is less than $1,750, such value may, at the discretion of the Employer, be paid in a single sum in full settlement of all benefits otherwise payable. Such value will be determined on the basis of the annuity purchase rates in the Group Contract.

SECTION 14.11--INTEREST.

Interest will not be paid on any amount of benefit paid after the date as of which it is to be paid under the Plan if the amount is paid as soon as administratively feasible after such date, taking into account

any delay caused by the person entitled to the payment, any inability to locate such person, and any uncertainty regarding the identity of such person or the amount to be paid. Where interest is payable, it will be paid at the rate specified in Section 1.03(i).

SECTION 14.12--PRONOUNS.

Masculine pronouns as used in this Plan will include both masculine and feminine gender unless the context indicates otherwise.

SECTION 14.13--CAPTIONS.

The captions are for convenience only and have no substantive effect.

SECTION 14.14--DISTRIBUTION OF BENEFITS TO ALTERNATE PAYEE.

Despite any contrary provision of the Plan except Section 13.01 (about required starting date), to the extent required by and subject to the restrictions of ORS 237.600, a participant's benefit will be paid, in whole or in part, to an alternate payee (and not to the participant or other beneficiary) 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. Payment to the alternate payee may be made before the participant's Termination of Employment with the Employer if provided or allowed by the decree, order, or agreement.

(a) The Plan will apply ORS 237.600 to decrees, orders, or agreements whenever entered or modified, including those entered or last modified before January 1, 1994.

(b) No benefit under the Plan will 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 satisfy the Employer:

(1) That the copy is a true copy of the Order.

(2) That the Order is, within the meaning of ORS 237.600, 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.

(3) Of the extent to which the terms of the Order expressly provide for payment of a benefit under the Plan to an alternate payee.

(4) Of any other fact or matter required for the Employer to:

(i) Determine the application of ORS 237.600 to the Order or the extent to which the Order applies to the Plan.

(ii) Comply with the Order or with ORS 237.600.

(iii) Administer the Plan under the terms of the Order.

(c) Neither Employer nor the Plan will charge or collect out of the benefits payable to the participant or the alternate payee any administrative expenses or related costs incurred by Employer or the Plan in obtaining data or making calculations necessary by reason of ORS 237.600.

(d) For periods beginning before a participant's Termination of Employment with the Employer, the amounts payable to the participant's alternate payee will be determined using the interest rate and mortality table specified in Section 1.03(i), not the factors specified in Section 4.01(b) or the provision in Section 4.01(b) for no reduction.

SECTION 14.15--MERGER.

This Plan is funded by Group Contracts issued by the Insurer to fund benefits for participants and their beneficiaries in the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN for general employees of the City and in the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN, which plans are restated in this Plan. Effective as of a date to be determined by the Employer's Finance Director, the Employer shall cause the Insurer to modify or combine the Group Contracts so that all of the assets of the Group Contracts are available to pay benefits to all employees who are covered by this Plan and their beneficiaries. Until that date, the part of this Plan resulting from the CITY OF NEWBERG GENERAL EMPLOYEES RETIREMENT PLAN may continue to be known by such name, and the part of this Plan resulting from the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN may continue to be known by such name.

DATED ~~[June 26, 2002]~~[_____, 2003].

CITY OF NEWBERG

By _____
City Manager

FIRST AMENDMENT TO THE 2002 RESTATEMENT OF THE
CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN

The last sentence of Section 13.05(g) of the 2002 Restatement of the CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN dated June 26, 2002, is amended to change "January 1, 2002" in that sentence to "December 31, 2002".

DATED this December 16, 2002.

CITY OF NEWBERG

By _____
City Manager

SECOND AMENDMENT TO THE 2002 RESTATEMENT OF THE CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN

The 2002 Restatement of the CITY OF NEWBERG EMPLOYEES RETIREMENT PLAN dated June 26, 2002, and amended December 16, 2002, is amended by amending Section 7.01(a) to read as follows, effective as if included in the 2002 Restatement:

> "(a) Death Benefit before Retirement Date (Normal Retirement Date, if earlier): If the death of a Participant occurs prior to his Retirement Date (Normal Retirement Date, if earlier), a single sum death benefit equal to the sum of (i) two (effective July 1, 1990, two and two-tenths (2.2)) times his Participant's Contribution Account as of the date of his death, and (ii) his Voluntary Account as of the date of his death will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section 4.02 for the benefit of such Beneficiary.
>
> "In no event, however, will such death benefit be less than the death benefit that would have been payable upon the death of such Participant under the Prior Plan on the day before the Effective Date."

The above amendment corrects a drafting error in Section 7.01(a) of the 2002 Restatement, which did not include the change made to Section 7.01(a) in Amendment No. 3 to the CITY OF NEWBERG POLICEMEN AND FIREMEN RETIREMENT PLAN (then numbered as Section 5.01(a)).

DATED this April 7, 2003.

CITY OF NEWBERG

By _____
City Manager

Post-it™ brand fax transmittal memo 7671 | # of pages ▸

To Everette Mallard	From Kathy Lee
Co.	Co. Newberg
Dept.	Phone #
Fax # 541-344-2075	Fax #

CITY OF NEWBERG
POLICEMEN AND FIREMEN
RETIREMENT PLAN

Amendment No. 3

WHEREAS, the City of Newberg (the "Employer") restated the Plan effective July 1, 1982, to consolidate previous amendments to its Plan and to make additional changes to the Plan so as to improve its general benefits; and

WHEREAS, the Employer desires to modify the Plan in such a manner as to improve the annual interest credit and provide greater death, disability and retiree cost-of-living benefits.

NOW THEREFORE, effective July 1, 1990, in accordance with the provisions of the Plan pertaining to amendments thereof, the City of Newberg hereby amends the Plan as follows:

The last sentence of **Section 1.03(d)** is changed to read as follows:

> A Participant's Contribution Account will be credited with interest at the rate of 8% compounded annually.

Section 4A.02 shall be changed to read as follows:

> The amount of monthly disability payment for a Participant is equal to his Accrued Benefit determined as of the first day of the month coinciding with or immediately following the date on which he is disabled, based on Average Compensation as of the date of disability and Years of Service as of the disability date or projected to age 55, if later. Benefits determined under Section 4.03 will be paid in addition to these amounts.
>
> In no event, however, will the amount of each disability payment for any Participant be less than $100 nor greater than 75% of the Participant's Average Compensation.

Section 4B.03 shall be added to read as follows:

> Section 4B.03-- MINIMUM ADJUSTMENT FOR RETIREMENTS AFTER JULY 1, 1990.
>
> Monthly payments for Participants retiring on or after July 1, 1990, will be increased annually to a level that is no less than that which would have been in effect had the initial monthly benefits been payable from the Oregon Public Employes Retirement System.

Section 5.01(a) shall be changed to read as follows:

> Death Benefit before Retirement Date (Normal Retirement Date, if earlier): If the death of a Participant occurs prior to his Retirement Date (Normal Retirement Date, if earlier), a single sum death benefit equal to the sum of (i) two and two-tenths (2.2) times his Participant's Contribution Account as of the date of his death, and (ii) his Voluntary Account as of the date of his death will be paid to his Beneficiary. All or any portion of such single sum death benefit may be applied under one of the optional forms in Section 4.03 for the benefit of such Beneficiary.
>
> In no event, however, will such death benefit be less than the death benefit that would have been payable upon the death of such Participant under the Prior Plan on the day before the Effective Date.

IN WITNESS WHEREOF, this Employer has caused this Plan to be executed by its duly appointed officers this 6th day of May, 1991.

CITY OF NEWBERG

By Duane R. Cole

City Manager
Title

CITY OF NEWBERG

GENERAL EMPLOYEES RETIREMENT PLAN

Amendment No. 2

WHEREAS, the City of Newberg (hereinafter referred to as the "Employer") heretofore adopted the City of Newberg General Employees Retirement Plan (hereinafter referred to as the "Plan") effective July 1, 1964; and

WHEREAS, the Plan was amended and restated in its entirety effective July 1, 1982; and

WHEREAS, the Employer desires to amend the Plan;

NOW, THEREFORE, effective July 1, 1988, the Employer, in accordance with the provisions of the Plan pertaining to amendments thereof, hereby amend the Plan as follows:

I.

Section 9.11 shall be added to the Plan and shall read as follows:

9.11 Distribution of Benefits to Former Spouse

Notwithstanding any other provision contained in this Plan, the Administrator shall make an immediate distribution of a Participant's Required Participant Contributions to a former spouse of the Participant if the Administrator receives a Domestic Relations Order ordering that such payment shall be made. The distribution shall be limited to the lesser of the amount necessary to satisfy the Domestic Relations Order or the amount which is in the Participant's Contribution Account on the date the Order is issued. The distribution to the former spouse shall be in the form of a single sum payment, the value of which shall be determined under the provisions of the Group Contract, consistent with the provisions of Section 6.01(c) of the Plan.

II.

In all other respects, the City of Newberg General Employees Retirement Plan shall remain unchanged.

IN WITNESS WHEREOF, this Amendment is executed as of this 27th day of January, 1989.

Signed, sealed, and delivered in the presence of:

CITY OF NEWBERG

Doug Richmond
WITNESS AS TO EMPLOYER

BY: _____
CITY MANAGER (Acting)

Signed, sealed, and delivered in the presence of:

Janie Remillard
Notary Public
My Commission Expires: 8/1/89

RESOLUTION NO. 2002-2374

A RESOLUTION AUTHORIZING THE CITY MANAGER TO COMBINE THE CITY OF NEWBERG GENERAL EMPLOYEE RETIREMENT PLAN AND POLICEMEN & FIREMEN RETIREMENT PLAN INTO ONE SINGLE PLAN EFFECTIVE JULY 1, 2002.

RECITALS:

1. The City of Newberg maintains two retirement plans for its employees: General Employee Retirement Plan and Policemen and Firemen Retirement Plan.

2. It is appropriate to merge the two plans at this time.

3. The new plan needs to be certified by the Internal Revenue Service.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City shall combine the City of Newberg General Employee Retirement Plan and Policemen & Firemen Retirement Plan into one single plan effective July 1, 2002.

2. The City shall update the plans to comply with Federal and Oregon state law changes since 1982.

3. The City Manager is authorized to initiate minor changes, such as adapting the plan to meet legal requirements and collective bargaining agreements.

➢ **EFFECTIVE DATE** of this resolution is the day after the adoption date which is: June 18, 2002.

ADOPTED by the City Council of the City of Newberg, Oregon, this 17th day of June, 2002.

James H. Bennett, City Recorder

ATTEST by the Mayor this 21 day of June, 2002.

OFFICE OF CITY RECORDER
CITY OF NEWBERG

I certify that I have compared this copy with the original document now in my possession and it is a true and correct copy of the original.

By _____ 6/24/02
James H. Bennett, City Recorder Date

Charles Cox, Mayor

LEGISLATIVE HISTORY

Discussed by the Finance Committee at numerous meetings.

FACSIMILE TRANSMISSION

Department of the Treasury - Internal Revenue Service
Tax Exempt and Government Entities
9350 Flair Drive, 2nd Floor
El Monte, CA 91731

Deliver to: **Hershner Hunter Andrews Neill & Smith**		From:	
Name of Recipient: **Everett Moreland**		Name of Sender: **Vickie Walker, EP Voluntary Compliance Agent**	
Division/Branch/Section/Unit:	Office:	Division/Branch/Section/Unit: **TE/GE**	Office: **El Monte**
Room Number (if any):	Stop Number:	Room Number (if any):	Stop Number: **T:EP:RA:VC:7554:VW**
Phone Number: (541) 686-8511	Fax Number: (541) 344-2025	Phone Number: **(626) 312-3628 Ext. 5503**	Fax Number: **(626) 312-5061**
Subject: **City of Newberg General Employees Retirement Plans #001 & 002 Case #1778 & 1779**			Page ___1__ of __7__
Hard Copy: ____ Will follow by mail ___X__ Will not follow by mail		Please call me to confirm receipt of this fax? ____Yes ___X__ No	
Date: **June 25, 2003**	Response Date: **July 10, 2003**	Response by: [ ] Fax [X] Mail [ ] Phone	Signature: V. Walker

CONFIDENTIALITY NOTICE

This communication is intended for the sole use of the individual to whom it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this communication is NOT the intended recipient (or the employee or agent for delivering the communication to the intended recipient), you are hereby notified that any dissemination, distribution, or copying of this communication may be strictly prohibited. **If you have received this communication in error, please notify the sender immediately by telephone (collect, if necessary), and return the communication to the address above via the U.S. Postal Service. Thank you.**

Comments:

INTERNAL REVENUE SERVICE
Tax Exempt & Government Entities Division
9350 Flair Dr., 2nd Floor
El Monte, CA 91731-2885

Date: June 25, 2003

Person to Contact:
Vickie Walker, ID# 95-06329
Telephone Number:
Voice (626) 312-3628 Ext. 5503
Fax (626) 312-5061
Plan Name(s): City of Newberg Policemen and Firemen Retirement Plan
Plan Number(s): 001

Hershner Hunter Andrews Neill & Smith LLP
Everett R. Moreland
P.O. Box 1475
Eugene, OR 97440

Taxpayer Identification Number(s): 93-600221

Year(s) Ending: 6/30/83 through 6/30/2003

Refer Reply To:
T:EP:RA:VC:7554:VW
Response Date: July 10, 2003

Dear Sir or Madam:

I have prepared a draft of the compliance statement for the plan identified above. Please review the draft carefully. If you notice any errors or inaccuracies, please let me know. In addition, if there are any blanks within the body of the draft compliance statement, please provide the data needed to accurately complete such blanks.

Please submit your written comments regarding the draft compliance statement to me (via mail or fax) by the response date listed above.

NOTES TO REMEMBER:

1.) This is not the final version of the compliance statement, so it should not be signed by the Employer (or any other parties) to the compliance statement.

2.) This is not the appropriate time to submit the payment referenced in paragraph #1 of the compliance statement. I will specifically notify you when it is time to submit the payment to the Service.

3.) I cannot issue the final version of your compliance statement request until I receive your comments regarding the draft in writing.

If you have any questions, please call me at the phone number listed above.

Sincerely yours,

Vickie D Walker

Employee Plans Voluntary Compliance Agent

Enclosures
Draft of compliance statement

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DRAFT

VOLUNTARY CORRECTION PROGRAM - GENERAL PROCEDURES COMPLIANCE STATEMENT

Re: City of Newberg Police and Firemen Retirement Plan
Plan No. 001
T:EP:RA:VC Control #1779
Employer Identification Number: 93-6002221

I. APPLICANT'S DESCRIPTION OF QUALIFICATION FAILURE(S)

City of Newberg ("Applicant") sponsors the City of Newberg Policemen and Firemen County Retirement Plan (the "Plan") and has submitted a request under the Voluntary Correction Program for a Compliance Statement relating to qualification failures identified and described by the Applicant.

The Plan was not timely amended to comply with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), the Deficit Reduction Act of 1984 (DEFRA), and the Retirement Equity Act of 1984 (REA).

II. APPLICANT'S PROPOSED CORRECTION

The Applicant has proposed to correct the qualification failure by adopting a Plan restatement, with various effective dates to comply with the requirements of TEFRA, DEFRA, and REA.

III. APPLICANT'S PROPOSED REVISION OF ADMINISTRATIVE PROCEDURES

To prevent the qualification failure(s) from recurring, the Applicant has retained an attorney to advise the Applicant when the Plan needs to be amended for law changes.

DRAFT

IV. APPLICANT'S PAYMENT AMOUNT

The total amount due to the United States Treasury under this Compliance Statement is seven hundred fifty dollars ($750). The Applicant shall remit this amount to the United States Treasury contemporaneously with the execution of this Compliance Statement by the Applicant or its duly authorized representative. The Applicant will neither attempt to nor otherwise amortize, deduct, or recover from the Internal Revenue Service any portion of the payment described above or to receive any Federal tax benefit on account of such payment.

V. ENFORCEMENT RESOLUTION

The Internal Revenue Service will not pursue the sanction of plan disqualification on account of the qualification failure(s) described in Part I above provided that the Applicant completes the corrective actions described in Parts II and III above within one hundred fifty (150) days of _____.
[to be completed by IRS]

This Compliance Statement considers only the acceptability of the correction method(s) and the revision(s) to administrative procedures described in the submission and does not express an opinion as to the accuracy or acceptability of any calculations or other material submitted with the application.

By signing this Compliance Statement, the Applicant hereby agrees to its terms.

City of Newberg

By: _____

Title: _____

Date: _____

Recommended: _____
Vickie Walker, ID# 95-06329
Voluntary Compliance Agent

Date: _____

Approved: _____
John M. Sechini
Manager, Employee Plans Voluntary Compliance
Group 7554

Date: _____

INTERNAL REVENUE SERVICE
Tax Exempt & Government Entities Division
9350 Flair Dr., 2nd Floor
El Monte, CA 91731-2885

Date: June 25, 2003

Person to Contact:
Vickie Walker, ID# 95-06329
Telephone Number:
Voice (626) 312-3628 Ext. 5503
Fax (626) 312-5061
Plan Name(s): City of Newberg General Employees Retirement Plan
Plan Number(s): 002

Hershner Hunter Andrews Neill & Smith LLP
Everett R. Moreland
P.O. Box 1475
Eugene, OR 97440

Taxpayer Identification Number(s): 93-600221

Year(s) Ending: 6/30/83 through 6/30/2003

Refer Reply To:
T:EP:RA:VC:7554:VW
Response Date: July 10, 2003

Dear Sir or Madam:

I have prepared a draft of the compliance statement for the plan identified above. Please review the draft carefully. If you notice any errors or inaccuracies, please let me know. In addition, if there are any blanks within the body of the draft compliance statement, please provide the data needed to accurately complete such blanks.

Please submit your written comments regarding the draft compliance statement to me (via mail or fax) by the response date listed above.

NOTES TO REMEMBER:

1.) This is not the final version of the compliance statement, so it should not be signed by the Employer (or any other parties) to the compliance statement.
2.) This is not the appropriate time to submit the payment referenced in paragraph #1 of the compliance statement. I will specifically notify you when it is time to submit the payment to the Service.
3.) I cannot issue the final version of your compliance statement request until I receive your comments regarding the draft in writing.

If you have any questions, please call me at the phone number listed above.

Sincerely yours,

Vickie Walker

Employee Plans Voluntary Compliance Agent

Enclosures
Draft of compliance statement

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DRAFT

VOLUNTARY CORRECTION PROGRAM - GENERAL PROCEDURES COMPLIANCE STATEMENT

Re: City of Newberg General Employees Retirement Plan
Plan No. 002
T:EP:RA:VC Control #1778
Employer Identification Number: 93-6002221

I. APPLICANT'S DESCRIPTION OF QUALIFICATION FAILURE(S)

City of Newberg ("Applicant") sponsors the City of Newberg General Employees Retirement Plan (the "Plan") and has submitted a request under the Voluntary Correction Program for a Compliance Statement relating to qualification failures identified and described by the Applicant.

The Plan was not timely amended to comply with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), the Deficit Reduction Act of 1984 (DEFRA), and the Retirement Equity Act of 1984 (REA).

II. APPLICANT'S PROPOSED CORRECTION

The Applicant has proposed to correct the qualification failure by adopting a Plan restatement, with various effective dates to comply with the requirements of TEFRA, DEFRA, and REA.

III. APPLICANT'S PROPOSED REVISION OF ADMINISTRATIVE PROCEDURES

To prevent the qualification failure(s) from recurring, the Applicant has retained an attorney to advise the Applicant when the Plan needs to be amended for law changes.

IV. APPLICANT'S PAYMENT AMOUNT

DRAFT

The total amount due to the United States Treasury under this Compliance Statement is two thousand five hundred dollars ($2,500). The Applicant shall remit this amount to the United States Treasury contemporaneously with the execution of this Compliance Statement by the Applicant or its duly authorized representative. The Applicant will neither attempt to nor otherwise amortize, deduct, or recover from the Internal Revenue Service any portion of the payment described above or to receive any Federal tax benefit on account of such payment.

V. ENFORCEMENT RESOLUTION

The Internal Revenue Service will not pursue the sanction of plan disqualification on account of the qualification failure(s) described in Part I above provided that the Applicant completes the corrective actions described in Parts II and III above within one hundred fifty (150) days of _____.
[to be completed by IRS]

This Compliance Statement considers only the acceptability of the correction method(s) and the revision(s) to administrative procedures described in the submission and does not express an opinion as to the accuracy or acceptability of any calculations or other material submitted with the application.

By signing this Compliance Statement, the Applicant hereby agrees to its terms.

City of Newberg

By: _____

Title: _____

Date: _____

Recommended: _____
Vickie Walker, ID# 95-06329
Voluntary Compliance Agent

Date: _____

Approved: _____
John M. Sechini
Manager, Employee Plans Voluntary Compliance
Group 7554

Date: _____

HERSHNER, HUNTER, ANDREWS, NEILL & SMITH, LLP
LAW OFFICES

180 East 11th Avenue
P.O. Box 1475
Eugene, Oregon 97440
Telecopy (541) 344-2025
Telephone (541) 686-8511

July 1, 2003

Internal Revenue Service
TE/GE Division
Attn: Vickie Walker
T:EP:RA:VC:7554:VW
9350 Flair Drive, 2d Floor
El Monte, California 91731-2885

RE: City of Newberg General Employees Retirement Plan, Plan # 002, Case # 1778
City of Newberg Policemen and Firemen Retirement Plan, Plan # 001, Case # 1779
Employer identification number: 93-6002221

Dear Ms. Walker:

The draft Compliance Statements accompanying your June 25, 2003, letters are fine.

Very truly yours,

/s/ Everett R. Moreland

EVERETT R. MORELAND

ERM:em

cc: Ms. Katherine L. Tri

FILE COPY

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUL 0 6 2003

Hershner Hunter Andrews Neill & Smith LLP
Everett R. Moreland
P.O. Box 1475
Eugene, OR 97440

Local contact address:
Internal Revenue Service
T:EP:RA:VC:7554
9350 Flair Dr.
El Monte, CA 91731-2885

Re: Compliance Statement for: City of Newberg General Employees Retirement Plan
Control Number: 1778
Employer Identification Number: 93-6002221

Dear Mr. Moreland:

The enclosed documents are sent to you under the provisions of a power of attorney currently on file with the Internal Revenue Service.

If you have any questions, please contact me by phone at (626)312-3628, ext. 5503 or by fax at (626)312-5061.

Sincerely,

Vickie Walker
Voluntary Compliance Agent

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Local contact address:
Internal Revenue Service
T:EP:RA:VC:7554
9350 Flair Dr., 2nd Floor
El Monte, CA 91731-2885

Date: JUL 0 8 2003

City of Newberg
401 E. Third Street
Newberg, OR 97132

Re: Compliance Statement for: City of Newberg General Employees Retirement Plan
Control Number: 1778
Employer Identification Number: 93-6002221

Dear Applicant:

By letter dated June 29, 2002, your authorized representative requested, under the Voluntary Correction Program set forth in Revenue Procedure 2002-47, a Compliance Statement for the plan(s) identified above. Enclosed are two unsigned Compliance Statements describing the Internal Revenue Service's enforcement resolution in this matter.

Within 30 calendar days of the date of this letter, please sign and date both Compliance Statements. Your signature will certify agreement to the terms of the Compliance Statement. Please return both signed Compliance Statements (along with a certified or cashier's check made payable to the U.S. Treasury for the compliance fee of $2,500) to:

Vickie Walker
T:EP:RA:VC:7554
Internal Revenue Service
9350 Flair Dr., 2nd Floor
El Monte, CA 91731-2885

After the Service executes the Compliance Statement, it will be returned to you. You will have one hundred and fifty (150) days from the date the Compliance Statement is issued to complete the corrective actions described in the Compliance Statement.

A copy of the Compliance Statement has been sent to your authorized representative in accordance with a power of attorney on file in this office. If you have any questions, please contact Vickie Walker, ID# 95-06329, by phone at (626) 312-3628, ext. 5503 or by fax at (626) 312-3949.

Sincerely yours,

Vickie Walker
Voluntary Compliance Agent

Enclosures:
Two Unsigned Compliance Statements

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

VOLUNTARY CORRECTION PROGRAM - GENERAL PROCEDURES COMPLIANCE STATEMENT

Re: City of Newberg General Employees Retirement Plan
Plan No. 002
T:EP:RA:VC Control #1778
Employer Identification Number: 93-6002221

I. APPLICANT'S DESCRIPTION OF QUALIFICATION FAILURE(S)

City of Newberg ("Applicant") sponsors the City of Newberg General Employees Retirement Plan (the "Plan") and has submitted a request under the Voluntary Correction Program for a Compliance Statement relating to qualification failures identified and described by the Applicant.

The Plan was not timely amended to comply with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), the Deficit Reduction Act of 1984 (DEFRA), and the Retirement Equity Act of 1984 (REA).

II. APPLICANT'S PROPOSED CORRECTION

The Applicant has proposed to correct the qualification failure by adopting a Plan restatement, with various effective dates to comply with the requirements of TEFRA, DEFRA, and REA.

III. APPLICANT'S PROPOSED REVISION OF ADMINISTRATIVE PROCEDURES

To prevent the qualification failure(s) from recurring, the Applicant has retained an attorney to advise the Applicant when the Plan needs to be amended for law changes.

IV. APPLICANT'S PAYMENT AMOUNT

The total amount due to the United States Treasury under this Compliance Statement is two thousand five hundred dollars ($2,500). The Applicant shall remit this amount to the United States Treasury contemporaneously with the execution of this Compliance Statement by the Applicant or its duly authorized representative. The Applicant will neither attempt to nor otherwise amortize, deduct, or recover from the Internal Revenue Service any portion of the payment described above or to receive any Federal tax benefit on account of such payment.

V. ENFORCEMENT RESOLUTION

The Internal Revenue Service will not pursue the sanction of plan disqualification on account of the qualification failure(s) described in Part I above provided that the Applicant completes the corrective actions described in Parts II and III above within one hundred fifty (150) days of _____.
[to be completed by IRS]

This Compliance Statement considers only the acceptability of the correction method(s) and the revision(s) to administrative procedures described in the submission and does not express an opinion as to the accuracy or acceptability of any calculations or other material submitted with the application.

By signing this Compliance Statement, the Applicant hereby agrees to its terms.

City of Newberg

By: _____

Title: _____

Date: _____

Recommended: _____
Vickie Walker, ID# 95-06329
Voluntary Compliance Agent

Date: _____

Approved: _____
John M. Sechini
Manager, Employee Plans Voluntary Compliance
Group 7554

Date: _____

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

JUL 08 2003

Hershner Hunter Andrews Neill & Smith LLP
Everett R. Moreland
P.O. Box 1475
Eugene, OR 97440

Local contact address:
Internal Revenue Service
T:EP:RA:VC:7554
9350 Flair Dr.
El Monte, CA 91731-2885

Re: Compliance Statement for: City of Newberg Policemen and Firemen Retirement Plan
Control Number: 1779
Employer Identification Number: 93-6002221

RECEIVED
JUL 11 2003
Hershner, Hunter, Andrews,
Neill & Smith, LLP

Dear Mr. Moreland:

The enclosed documents are sent to you under the provisions of a power of attorney currently on file with the Internal Revenue Service.

If you have any questions, please contact me by phone at (626)312-3628, ext. 5503 or by fax at (626)312-5061.

Sincerely,

Vickie Walker
Voluntary Compliance Agent

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Local contact address:
Internal Revenue Service
T:EP:RA:VC:7554
9350 Flair Dr., 2nd Floor
El Monte, CA 91731-2885

Date: JUL 0 8 2003

City of Newberg
401 E. Third Street
Newberg, OR 97132

Re: **Compliance Statement for: City of Newberg Policemen and Firemen Retirement Plan**
Control Number: 1779
Employer Identification Number: 93-6002221

Dear Applicant:

By letter dated June 29, 2002, your authorized representative requested, under the Voluntary Correction Program set forth in Revenue Procedure 2002-47, a Compliance Statement for the plan(s) identified above. Enclosed are two unsigned Compliance Statements describing the Internal Revenue Service's enforcement resolution in this matter.

Within 30 calendar days of the date of this letter, please sign and date both Compliance Statements. Your signature will certify agreement to the terms of the Compliance Statement. Please return both signed Compliance Statements (along with a certified or cashier's check made payable to the U.S. Treasury for the compliance fee of $750) to:

Vickie Walker
T:EP:RA:VC:7554
Internal Revenue Service
9350 Flair Dr., 2nd Floor
El Monte, CA 91731-2885

After the Service executes the Compliance Statement, it will be returned to you. You will have one hundred and fifty (150) days from the date the Compliance Statement is issued to complete the corrective actions described in the Compliance Statement.

A copy of the Compliance Statement has been sent to your authorized representative in accordance with a power of attorney on file in this office. If you have any questions, please contact Vickie Walker, ID# 95-06329, by phone at (626) 312-3628, ext. 5503 or by fax at (626) 312-3949.

Sincerely yours,

Vickie Walker
Voluntary Compliance Agent

Enclosures:
Two Unsigned Compliance Statements

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

VOLUNTARY CORRECTION PROGRAM - GENERAL PROCEDURES COMPLIANCE STATEMENT

Re: City of Newberg Police and Firemen Retirement Plan
Plan No. 001
T:EP:RA:VC Control #1779
Employer Identification Number: 93-6002221

I. APPLICANT'S DESCRIPTION OF QUALIFICATION FAILURE(S)

City of Newberg ("Applicant") sponsors the City of Newberg Policemen and Firemen County Retirement Plan (the "Plan") and has submitted a request under the Voluntary Correction Program for a Compliance Statement relating to qualification failures identified and described by the Applicant.

The Plan was not timely amended to comply with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), the Deficit Reduction Act of 1984 (DEFRA), and the Retirement Equity Act of 1984 (REA).

II. APPLICANT'S PROPOSED CORRECTION

The Applicant has proposed to correct the qualification failure by adopting a Plan restatement, with various effective dates to comply with the requirements of TEFRA, DEFRA, and REA.

III. APPLICANT'S PROPOSED REVISION OF ADMINISTRATIVE PROCEDURES

To prevent the qualification failure(s) from recurring, the Applicant has retained an attorney to advise the Applicant when the Plan needs to be amended for law changes.

IV. APPLICANT'S PAYMENT AMOUNT

The total amount due to the United States Treasury under this Compliance Statement is seven hundred fifty dollars ($750). The Applicant shall remit this amount to the United States Treasury contemporaneously with the execution of this Compliance Statement by the Applicant or its duly authorized representative. The Applicant will neither attempt to nor otherwise amortize, deduct, or recover from the Internal Revenue Service any portion of the payment described above or to receive any Federal tax benefit on account of such payment.

V. ENFORCEMENT RESOLUTION

The Internal Revenue Service will not pursue the sanction of plan disqualification on account of the qualification failure(s) described in Part I above provided that the Applicant completes the corrective actions described in Parts II and III above within one hundred fifty (150) days of _____.
[to be completed by IRS]

This Compliance Statement considers only the acceptability of the correction method(s) and the revision(s) to administrative procedures described in the submission and does not express an opinion as to the accuracy or acceptability of any calculations or other material submitted with the application.

By signing this Compliance Statement, the Applicant hereby agrees to its terms.

City of Newberg

By: _____

Title: _____

Date: _____

Recommended: _____
Vickie Walker, ID# 95-06329
Voluntary Compliance Agent

Date: _____

Approved: _____
John M. Sechini
Manager, Employee Plans Voluntary Compliance
Group 7554

Date: _____

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

AUG 0 8 2003

RECEIVED
AUG 11 2003
Hershner, Hunter, Andrews,
Neill & Smith, LLP

Hershner Hunter Andrews Neill & Smith LLP
Everett R. Moreland
P.O. Box 1475
Eugene, OR 97440

Local contact address:
Internal Revenue Service
T:EP:RA:VC:7554
9350 Flair Dr.
El Monte, CA 91731-2885

Re: Compliance Statement for: City of Newberg General Employees Retirement Plan
Control Number: 1778
Employer Identification Number: 93-6002221

Dear Mr. Moreland:

The enclosed documents are sent to you under the provisions of a power of attorney currently on file with the Internal Revenue Service.

If you have any questions, please contact Vickie Walker by phone at (626)312-3628, ext. 5503 or by fax at (626)312-5061.

Sincerely,

John M. Sechini
Manager, Employee Plans
Voluntary Compliance Group 7554

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

AUG 0 8 2003

Local contact address:
Internal Revenue Service
T:EP:RA:VC:7554
9350 Flair Dr.
El Monte, CA 91731-2885

City of Newberg
401 E. Third Street
Newberg, OR 97132

Re: Compliance Statement for: City of Newberg General Employees Retirement Plan
Control Number: 1778
Employer Identification Number: 93-6002221

Dear Plan Sponsor:

Enclosed is your compliance statement. A compliance statement constitutes an enforcement resolution solely with respect to certain failures of an employee retirement plan that is intended to satisfy the requirements of the Internal Revenue Code. It does not constitute a ruling letter within the meaning of Revenue Procedure 2002-4, 2002-1 I.R.B. 127, or a determination letter within the meaning of Revenue Procedure 2002-6, 2002-1 I.R.B. 203. The compliance statement should not be construed as affecting the rights of any party under any other law, including Title I of the Employee Retirement Income Security Act of 1974.

At a later date, you may be required to verify that the correction of the failures and any modification of administrative procedures (upon which your enforcement resolution is conditioned) have been timely made.

A copy of this compliance statement and of this letter have been sent to your authorized representative in accordance with a power of attorney on file in this office. If you have any questions, please contact Vickie Walker by phone at (626)312-3628, ext. 5503 or by fax at (626)312-5061.

Sincerely,

John M. Sechini
Manager, Employee Plans
Voluntary Compliance Group 7554

Enclosure

rev. 03/03

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

VOLUNTARY CORRECTION PROGRAM - GENERAL PROCEDURES COMPLIANCE STATEMENT

Re: City of Newberg General Employees Retirement Plan
Plan No. 002
T:EP:RA:VC Control #1778
Employer Identification Number: 93-6002221

I. APPLICANT'S DESCRIPTION OF QUALIFICATION FAILURE(S)

City of Newberg ("Applicant") sponsors the City of Newberg General Employees Retirement Plan (the "Plan") and has submitted a request under the Voluntary Correction Program for a Compliance Statement relating to qualification failures identified and described by the Applicant.

The Plan was not timely amended to comply with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), the Deficit Reduction Act of 1984 (DEFRA), and the Retirement Equity Act of 1984 (REA).

II. APPLICANT'S PROPOSED CORRECTION

The Applicant has proposed to correct the qualification failure by adopting a Plan restatement, with various effective dates to comply with the requirements of TEFRA, DEFRA, and REA.

III. APPLICANT'S PROPOSED REVISION OF ADMINISTRATIVE PROCEDURES

To prevent the qualification failure(s) from recurring, the Applicant has retained an attorney to advise the Applicant when the Plan needs to be amended for law changes.

IV. APPLICANT'S PAYMENT AMOUNT

The total amount due to the United States Treasury under this Compliance Statement is two thousand five hundred dollars ($2,500). The Applicant shall remit this amount to the United States Treasury contemporaneously with the execution of this Compliance Statement by the Applicant or its duly authorized representative. The Applicant will neither attempt to nor otherwise amortize, deduct, or recover from the Internal Revenue Service any portion of the payment described above or to receive any Federal tax benefit on account of such payment.

V. ENFORCEMENT RESOLUTION

The Internal Revenue Service will not pursue the sanction of plan disqualification on account of the qualification failure(s) described in Part I above provided that the Applicant completes the corrective actions described in Parts II and III above within one hundred fifty (150) days of AUG 0 8 2003.
[to be completed by IRS]

This Compliance Statement considers only the acceptability of the correction method(s) and the revision(s) to administrative procedures described in the submission and does not express an opinion as to the accuracy or acceptability of any calculations or other material submitted with the application.

By signing this Compliance Statement, the Applicant hereby agrees to its terms.

City of Newberg

By: _____

Title: City Manager

Date: July 29, 2003

Recommended: _____
Vickie Walker, ID# 95-06329
Voluntary Compliance Agent

Date: August 7, 2003

Approved: _____
John M. Sechini
Manager, Employee Plans Voluntary Compliance
Group 7554

Date: AUG 0 8 2003

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: AUG 0 8 2003

CITY OF NEWBERG
C/O EVERETT MORELAND
HERSHNER HUNTER ANDREWS NEILL & SMI
180 EAST 11TH AVENUE
EUGENE, OR 97440

Employer Identification Number:
93-6002221
DLN:
602199089
Person to Contact:
VICKIE WALKER ID# 95053
Contact Telephone Number:
(877) 829-5500
Plan Name:
CITY OF NEWBERG
GENERAL EMPLOYEES RETIREMENT PLAN
Plan Number: 002

Dear Applicant:

We have made a favorable determination on the plan identified above based on the information you have supplied. Please keep this letter, the application forms submitted to request this letter and all correspondence with the Internal Revenue Service regarding your application for a determination letter in your permanent records. You must retain this information to preserve your reliance on this letter.

Continued qualification of the plan under its present form will depend on its effect in operation. See section 1.401-1(b)(3) of the Income Tax Regulations. We will review the status of the plan in operation periodically.

The enclosed Publication 794 explains the significance and the scope of this favorable determination letter based on the determination requests selected on your application forms. Publication 794 describes the information that must be retained to have reliance on this favorable determination letter. The publication also provide examples of the effect of a plan's operation on its qualified status and discusses the reporting requirements for qualified plans. Please read Publication 794.

This letter relates only to the status of your plan under the Internal Revenue Code. It is not a determination regarding the effect of other federal or local statutes.

This letter considers the changes in qualification requirements made by the Uruguay Round Agreements Act, Pub. L. 103-465, the Small Business Job Protection Act of 1996, Pub. L. 104-188, the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. 103-353, the Taxpayer Relief Act of 1997, Pub. L. 105-34, the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, and the Community Renewal Tax Relief Act of 2000, Pub. L. 106-554.

This letter may not be relied on with respect to whether the plan satisfies the requirements of section 401(a) of the Code, as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub L. 107-16.

The requirement for employee benefits plans to file summary plan descriptions (SPD) with the U.S. Department of Labor was eliminated effective August 5, 1997. For more details, call 1-800-998-7542 for a free copy of the SPD card.

The information on the enclosed addendum is an integral part of this determination. Please be sure to read and keep it with this letter.

We have sent a copy of this letter to your representative as indicated in the power of attorney.

If you have questions concerning this matter, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Paul T. Shultz

Paul T. Shultz
Director,
Employee Plans Rulings & Agreements

Enclosures:
Publication 794
Addendum

This determination is conditioned upon your adoption of the proposed restated plan as submitted with your or your representative's letter dated June 6, 2003. The proposed plan should be adopted on or before the date prescribed by the regulations under Code section 401(b).

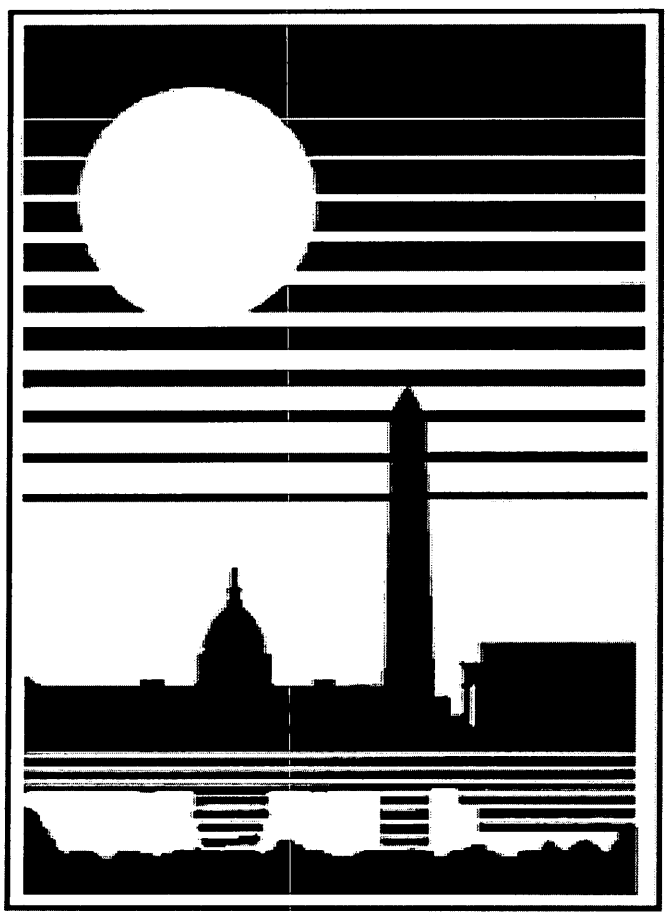
This determination letter acknowledges receipt of your amendment(s) intended to satisfy the requirements of section 401(a) of the Code, as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16.

This determination letter is also applicable to the amendments adopted on January 27, 1989, May 6, 1991, April 4, 1994, August 7, 1995, December 16, 2002 and April 7, 2003.

Department of the Treasury Internal Revenue Service

Publication 794
(Rev. July 2001)
Catalog Number 20630M

Favorable Determination Letter



Introduction

This publication explains the significance of your favorable determination letter, points out some features that may affect the qualified status of your employee retirement plan and nullify your determination letter without specific notice from us, and provides general information on the reporting requirements for your plan.

Significance of a Favorable Determination Letter

An employee retirement plan qualified under Internal Revenue Code (IRC) section 401(a) (qualified plan) is entitled to favorable tax treatment. For example, contributions made in accordance with the plan document are generally currently deductible. However, participants will not include these contributions into income until the time they receive a distribution from the plan, at which time special income averaging rates for lump sum distributions may serve to reduce the tax liability. In some cases, taxation may be further deferred by rollover to another qualified plan or individual retirement arrangement. (See Publication 575, Pension and Annuity Income, for further details.) Finally, plan earnings may accumulate free of tax. Employee retirement plans that fail to satisfy the requirements under IRC section 401(a) are not entitled to favorable tax treatment. Therefore, many employers desire advance assurance that the terms of their plans satisfy the qualification requirements.

The Internal Revenue Service provides such advance assurance by means of the determination letter program. A favorable determination letter indicates that, in the opinion of the Service, the terms of the plan conform to the requirements of IRC section 401(a). A favorable determination letter expresses the Service's opinion regarding the form of the plan document. However, to be a qualified plan under IRC section 401(a) entitled to favorable tax treatment, a plan must satisfy, in both form and operation, the requirements of IRC section 401(a), including nondiscrimination and coverage requirements. A favorable determination letter may also provide assurance, on the basis of information and demonstrations provided in your application, that the plan satisfies certain of these nondiscrimination and coverage requirements in form or operation.
See the following topic, Limitations and Scope of a Favorable Determination Letter, for more details.

Limitations and Scope of a Favorable Determination Letter

A favorable determination letter is limited in scope. A determination letter generally applies to qualification requirements regarding the form of the plan. A determination letter may also apply to certain operational (non-form) requirements

Generally, a favorable determination letter does not consider, and may not be relied on with regard to:
• certain requirements under IRC section 401(a)(4), including the requirement that the plan be nondiscriminatory in the amounts of contributions or benefits for highly compensated and nonhighly compensated employees;
• the coverage requirements under IRC sections 410(b) and 401(a)(26); and
• the definition of compensation under IRC section 414(s).

However, if you requested one or more of the optional nondiscrimination and coverage determinations offered on the determination letter application forms (Form 5300, Form 5307, Schedule Q), your favorable determination letter considers, and may be relied on, with regard to the specific determination(s) you requested, provided you satisfy the following requirement: you must retain copies of the application forms, any required demonstrations, and all correspondence with the Internal Revenue Service related to the application for a favorable determination letter. **A favorable determination letter cannot be relied on with regard to any optional determination request unless all of the required information is retained.**

In addition, the following apply generally to all determination letters:

• If you maintain two or more retirement plans, some of which were either not submitted to the Service for determination or not disclosed on each application, certain limitations and requirements will not have been considered on an aggregate basis. Therefore, you may not rely on the determination letter regarding the plans when considered as a total package.

• A determination letter for a defined benefit plan may be relied on regarding the requirements of IRC section 401(a)(26) if the application requested a determination regarding section 410(b)).

• A determination letter does not consider the special requirements relating to: (a) affiliated service groups, (b) leased employees, or (c) plan assets or liabilities involved in a merger, consolidation, spin-off or transfer of assets with another plan unless the letter includes a statement that the requirements of IRC section 414(m) (affiliated service groups), or 414(n) (leased employees) or 414(l) (mergers, consolidations, spin-offs, or transfers) have been considered.

• No determination letter may be relied on with respect to the effective availability of benefits, rights, or features under the plan. (See section 1.401(a)(4)-4(c) of the Income Tax Regulations.) Reliance on whether benefits, rights, or features are currently available to a non-discriminatory group of employees is provided to the extent requested in the application.

• A determination letter does not consider whether actuarial assumptions are reasonable for funding or deduction purposes or whether a specific contribution is deductible.

• A determination letter does not consider, and may not be relied on with respect to, certain other matters described in section 5.07 of Rev. Proc. 2001-6, 2001-1 I.R.B. 194 (i.e., whether a plan amendment is part of a pattern of amendments that significantly discriminates in favor of highly compensated employees; the use of the substantiation guidelines contained in Rev. Proc. 93-42, 1993-31 I.R.B. 32; and certain qualified separate lines of business requirements of IRC section 414(r)).

• The determination letter applies only to the employer and its participants on whose behalf the determination letter was issued.

• A determination letter does not express an opinion whether disability benefits or medical care benefits are acceptable as accident or health plan benefits deductible under IRC section 105 or 106.

• A determination letter may not be relied on with respect to whether a plan's exclusion classifications, if any, violate the minimum age or service requirements of IRC section 410 by indirectly imposing an impermissible age or service requirement.

You should become familiar with the terms of the determination letter. Please call the contact person listed on the determination letter if you do not understand any terms in your determination letter.

Retention of Information. Whether a plan meets the qualification requirements is determined from the information in the written plan document, the application form and the supporting information submitted by the employer. **Therefore, you must retain copies of any demonstrations or other information submitted with your application. Such demonstrations determine the extent of reliance provided by your determination letter. Failure to retain such information may limit the scope of reliance on issues for which demonstrations were provided.**

Other Conditions for Reliance. We have not verified the information submitted with your application. The determination letter will not provide reliance if:

(1) there has been a misstatement or omission of material facts, (for example, the application indicated that the plan was a governmental plan and it was not a governmental plan);

(2) the facts subsequently developed are materially different than the facts on which the determination was made; or

(3) there is a change in applicable law.

Law changes affecting the plan. In general, a determination letter is issued based on the law in effect at the time the application is received. For terminating plans, a determination letter is based on the law in effect at the time of the plan's termination. However, your letter may include a statement indicating an exception to this rule.

Amendments to the plan. A favorable determination letter may no longer apply if there is a change in a statute, regulation, or revenue ruling applicable to the qualification of the plan. However, the determination letter will continue to apply for years before the effective date of the statute, regulation, or revenue

ruling. If the letter no longer applies to the plan, the plan must be amended to comply with the new requirements to maintain its qualified status. Generally, if a regulation changes, the amendment must be adopted by the end of the first plan year beginning after the adoption date of the regulation. Generally, if a revenue ruling changes, the amendment must be adopted by the end of the first plan year beginning after the publication date of the revenue ruling. Generally, these amendments must be effective not later than the first day of such plan year.

Plan Must Qualify in Operation

Generally, a plan qualifies in operation if it continues to satisfy the coverage and non-discrimination requirements and is maintained according to the terms on which the favorable determination letter was issued. Changes in facts and other bases on which the determination letter was issued may mean that the determination letter may no longer be relied upon.

Some examples of the effect of a plan's operation on a favorable determination are:

Not meeting nondiscrimination in amount requirement. If the determination letter application requested a determination that the plan satisfies the nondiscrimination in amount requirement of section 1.401(a)(4)-1(b)(2) of the regulations on the basis of a design-based safe harbor, the plan will generally continue to satisfy this requirement in operation if the plan is maintained according to its terms. If the determination letter application requested a determination that the plan satisfies the nondiscrimination in amount requirement on the basis of a nondesign-based safe harbor or a general test, and the plan subsequently fails to meet this requirement in operation, the favorable determination letter may no longer be relied upon with respect to this requirement.

Not meeting minimum coverage requirements. If the determination letter application includes a request for a determination regarding the ratio percentage test of IRC section 410(b) and the plan subsequently fails to satisfy the ratio-percentage test in operation, the letter may no longer be relied upon with respect to the coverage requirements. Likewise, if the determination letter application requests a determination regarding the average benefit test, the letter may no longer be relied on with respect to the coverage requirements once the plan fails to satisfy the average benefit test in operation.

Changes in testing methods. If the determination letter is based in part on a demonstration that a coverage or nondiscrimination requirement is satisfied, and, in the operation of the plan, the method used to test that this requirement continues to be satisfied is changed (or is required to be changed because the facts have changed) from the method employed in the demonstration, the letter may no longer be relied upon with respect to this requirement.

Contributions or benefits in excess of the limitations under IRC section 415. A retirement plan may not provide retirement benefits or, in the case of a defined contribution plan, contributions and other additions, that exceed the limitations specified in IRC section 415. Your plan contains provisions designed to provide benefits within these limitations. Please become familiar with these limitations, for your plan will be disqualified if these limitations are exceeded.

Top heavy minimums. If this plan primarily benefits employees who are highly compensated, it may be a top heavy plan and must provide certain minimum benefits and vesting for lower compensated employees. If your plan provides the accelerated benefits and vesting only for years during which the plan is top heavy, failure to identify such years and to provide the accelerated vesting and benefits will disqualify the plan.

Actual deferral percentage or contribution percentage tests. If this plan provides for cash or deferred arrangements, employer matching contributions, or employee contributions, the determination letter does not consider whether special discrimination tests described in IRC section 401(k)(3) or 401(m)(2) have been satisfied in operation. However, the letter considers whether the terms of the plan satisfy the section 401(k)(3) or 401(m)(2) requirements specified in IRC section 401(k)(3) or 401(m)(2).

Reporting Requirements

Most plan administrators or employers who maintain an employee benefit plan must file an annual return/report. The following is a general discussion of the forms to be used for this purpose. See the instructions to each form for specific information:

Form 5500-EZ, Annual Return of One-Participant (Owners and their Spouses) Pension Benefit Plans - generally for a "One-participant Plan", which is a plan that covers only:
(1) an individual, or an individual and his or her spouse who wholly own a business, whether incorporated or not; or
(2) partner(s) in a partnership or the partner(s) and the partner's spouse.

If Form 5500-EZ cannot be used, the one-participant plan should use Form 5500, Annual Return/Report of Employee Benefit Plan.

Note. A "one-participant" plan that has no more than $100,000 in assets at the end of the plan year is not required to file a return. However, Form 5500-EZ must be filed for any subsequent year in which plan assets exceed $100,000. (This amount may have increased after publication of this document.) If two or more one-participant plans have more than $100,000 in assets, a separate Form 5500-EZ must be filed for each plan.

A "Final" Form 5500-EZ must be filed if the plan is terminated or if assets drop below $100,000 and you wish to stop filing Form 5500-EZ.

Form 5500, Annual Return/Report of Employee Benefit Plan - for a pension benefit plan that is not eligible to file Form 5500-EZ.

Note. Keogh (H.R. 10) plans having over $100,000 in assets are required to file an annual return even if the only participants are owner-employees. The term "owner-employee" includes a partner who owns more than 10% interest in either the capital or profits of the partnership. This applies to both defined contribution and defined benefit plans.

Form 5330 for prohibited transactions Transactions between a plan and someone having a relationship to the plan (disqualified person) are prohibited, unless specifically exempted from this requirement. A few examples are loans, sales and exchanges of property, leasing of property, furnishing goods or services, and use of plan assets by the disqualified person. Disqualified persons who engage in a prohibited transaction for which there is no exception must file Form 5330 by the last day of the seventh month after the end of the tax year of the disqualified person.

Form 5330 for tax on nondeductible employer contributions to qualified plans - If contributions are made to this plan in excess of the amount deductible, a tax may be imposed upon the excess contribution. Form 5330 must be filed by the last day of the seventh month after the end of the employer's tax year.

Form 5330 for tax on excess contributions to cash or deferred arrangements or excess employee contributions or employer matching contributions - If a plan includes a cash or deferred arrangement (IRC section 401(k)) or provides for employee contributions or employer matching contributions (IRC section 401(m)), then excess contributions that would cause the plan to fail the actual deferral percentage or the actual contribution percentage test are subject to a tax unless the excess is eliminated within 2½ months after the end of the plan year. Form 5330 must be filed by the due date of the employer's tax return for the plan year in which the tax was incurred.

Form 5330 for tax on reversions of plan assets - Under IRC section 4980, a tax is payable on the amount of almost any employer reversion of plan assets. Form 5330 must be filed by the last day of the month following the month in which the reversion occurred.

Form 5310-A for certain transactions - Under IRC section 6058(b), an actuarial statement is required at least 30 days before a merger, consolidation, or transfer (including spin-off) of assets to another plan. This statement is required for all plans. However, penalties for non-filing will not apply to defined contribution plans for which:

(1) The sum of the account balances in each plan equals the fair market value of all plan assets,
(2) The assets of each plan are combined to form the assets of the plan as merged,
(3) Immediately after a merger, the account balance of each participant is equal to the sum of the account balances of the participant immediately before the merger, and
(4) The plans must not have an unamortized waiver or unallocated suspense account.

Penalties will also not apply if the assets transferred are less than three percent of the assets of the plan involved in the transfer (spinoff), and the transaction is not one of a series of two or more transfers (spinoff transactions) that are, in substance, one transaction.

The purpose of the above discussions is to illustrate some of the principal filing requirements that apply to pension plans. This is not an exclusive listing of all returns and schedules that must be filed.

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

AUG 0 8 2003

Hershner Hunter Andrews Neill & Smith LLP
Everett R. Moreland
P.O. Box 1475
Eugene, OR 97440

Local contact address:
Internal Revenue Service
T:EP:RA:VC:7554
9350 Flair Dr.
El Monte, CA 91731-2885

Re: Compliance Statement for: City of Newberg Policemen and Firemen Retirement Plan
Control Number: 1779
Employer Identification Number: 93-6002221

Dear Mr. Moreland:

The enclosed documents are sent to you under the provisions of a power of attorney currently on file with the Internal Revenue Service.

If you have any questions, please contact Vickie Walker by phone at (626)312-3628, ext. 5503 or by fax at (626)312-5061.

Sincerely,

John M. Sechini
Manager, Employee Plans
Voluntary Compliance Group 7554

Enclosure

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

AUG 0 8 2003

Local contact address:
Internal Revenue Service
T:EP:RA:VC:7554
9350 Flair Dr.
El Monte, CA 91731-2885

City of Newberg
401 E. Third Street
Newberg, OR 97132

Re: Compliance Statement for: City of Newberg Policemen and Firemen Retirement Plan
Control Number: 1779
Employer Identification Number: 93-6002221

Dear Plan Sponsor:

Enclosed is your compliance statement. A compliance statement constitutes an enforcement resolution solely with respect to certain failures of an employee retirement plan that is intended to satisfy the requirements of the Internal Revenue Code. It does not constitute a ruling letter within the meaning of Revenue Procedure 2002-4, 2002-1 I.R.B. 127, or a determination letter within the meaning of Revenue Procedure 2002-6, 2002-1 I.R.B. 203. The compliance statement should not be construed as affecting the rights of any party under any other law, including Title I of the Employee Retirement Income Security Act of 1974.

At a later date, you may be required to verify that the correction of the failures and any modification of administrative procedures (upon which your enforcement resolution is conditioned) have been timely made.

A copy of this compliance statement and of this letter have been sent to your authorized representative in accordance with a power of attorney on file in this office. If you have any questions, please contact Vickie Walker by phone at (626)312-3628, ext. 5503 or by fax at (626)312-5061.

Sincerely,

John M. Sechini
Manager, Employee Plans
Voluntary Compliance Group 7554

Enclosure

rev. 03/03

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

VOLUNTARY CORRECTION PROGRAM - GENERAL PROCEDURES COMPLIANCE STATEMENT

Re: City of Newberg Police and Firemen Retirement Plan
Plan No. 001
T:EP:RA:VC Control #1779
Employer Identification Number: 93-6002221

I. APPLICANT'S DESCRIPTION OF QUALIFICATION FAILURE(S)

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The Plan was not timely amended to comply with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), the Deficit Reduction Act of 1984 (DEFRA), and the Retirement Equity Act of 1984 (REA).

II. APPLICANT'S PROPOSED CORRECTION

The Applicant has proposed to correct the qualification failure by adopting a Plan restatement, with various effective dates to comply with the requirements of TEFRA, DEFRA, and REA.

III. APPLICANT'S PROPOSED REVISION OF ADMINISTRATIVE PROCEDURES

To prevent the qualification failure(s) from recurring, the Applicant has retained an attorney to advise the Applicant when the Plan needs to be amended for law changes.

IV. APPLICANT'S PAYMENT AMOUNT

The total amount due to the United States Treasury under this Compliance Statement is seven hundred fifty dollars ($750). The Applicant shall remit this amount to the United States Treasury contemporaneously with the execution of this Compliance Statement by the Applicant or its duly authorized representative. The Applicant will neither attempt to nor otherwise amortize, deduct, or recover from the Internal Revenue Service any portion of the payment described above or to receive any Federal tax benefit on account of such payment.

V. ENFORCEMENT RESOLUTION

The Internal Revenue Service will not pursue the sanction of plan disqualification on account of the qualification failure(s) described in Part I above provided that the Applicant completes the corrective actions described in Parts II and III above within one hundred fifty (150) days of AUG 0 8 2003
[to be completed by IRS]

This Compliance Statement considers only the acceptability of the correction method(s) and the revision(s) to administrative procedures described in the submission and does not express an opinion as to the accuracy or acceptability of any calculations or other material submitted with the application.

By signing this Compliance Statement, the Applicant hereby agrees to its terms.

City of Newberg

By: JW Bennett

Title: City Manager

Date: July 29, 2003

Recommended: Vickie Walker

Vickie Walker, ID# 95-06329
Voluntary Compliance Agent

Date: August 7, 2003

Approved: _____

John M. Sechini
Manager, Employee Plans Voluntary Compliance
Group 7554

Date: AUG 0 8 2003

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: AUG 08 2003

CITY OF NEWBERG
C/O EVERETT MORELAND
HERSHNER HUNTER ANDREWS NEILL & SMI
180 EAST 11TH AVENUE
EUGENE, OR 97440

Employer Identification Number:
93-6002221
DLN:
602199088
Person to Contact:
VICKIE WALKER ID# 95053
Contact Telephone Number:
(877) 829-5500
Plan Name:
CITY OF NEWBERG POLICE
AND FIRE MEN RETIREMENT PLAN
Plan Number: 001

Dear Applicant:

We have made a favorable determination on the plan identified above based on the information you have supplied. Please keep this letter, the application forms submitted to request this letter and all correspondence with the Internal Revenue Service regarding your application for a determination letter in your permanent records. You must retain this information to preserve your reliance on this letter.

Continued qualification of the plan under its present form will depend on its effect in operation. See section 1.401-1(b)(3) of the Income Tax Regulations. We will review the status of the plan in operation periodically.

The enclosed Publication 794 explains the significance and the scope of this favorable determination letter based on the determination requests selected on your application forms. Publication 794 describes the information that must be retained to have reliance on this favorable determination letter. The publication also provide examples of the effect of a plan's operation on its qualified status and discusses the reporting requirements for qualified plans. Please read Publication 794.

This letter relates only to the status of your plan under the Internal Revenue Code. It is not a determination regarding the effect of other federal or local statutes.

This letter considers the changes in qualification requirements made by the Uruguay Round Agreements Act, Pub. L. 103-465, the Small Business Job Protection Act of 1996, Pub. L. 104-188, the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. 103-353, the Taxpayer Relief Act of 1997, Pub. L. 105-34, the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, and the Community Renewal Tax Relief Act of 2000, Pub. L. 106-554.

This letter may not be relied on with respect to whether the plan satisfies the requirements of section 401(a) of the Code, as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub L. 107-16.

CITY OF NEWBERG

The requirement for employee benefits plans to file summary plan descriptions (SPD) with the U.S. Department of Labor was eliminated effective August 5, 1997. For more details, call 1-800-998-7542 for a free copy of the SPD card.

The information on the enclosed addendum is an integral part of this determination. Please be sure to read and keep it with this letter.

We have sent a copy of this letter to your representative as indicated in the power of attorney.

If you have questions concerning this matter, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Paul T. Shultz

Paul T. Shultz
Director,
Employee Plans Rulings & Agreements

Enclosures:
Publication 794
Addendum

This determination is conditioned upon your adoption of the proposed restated plan as submitted with your or your representative's letter dated June 6, 2003. The proposed plan should be adopted on or before the date prescribed by the regulations under Code section 401(b).

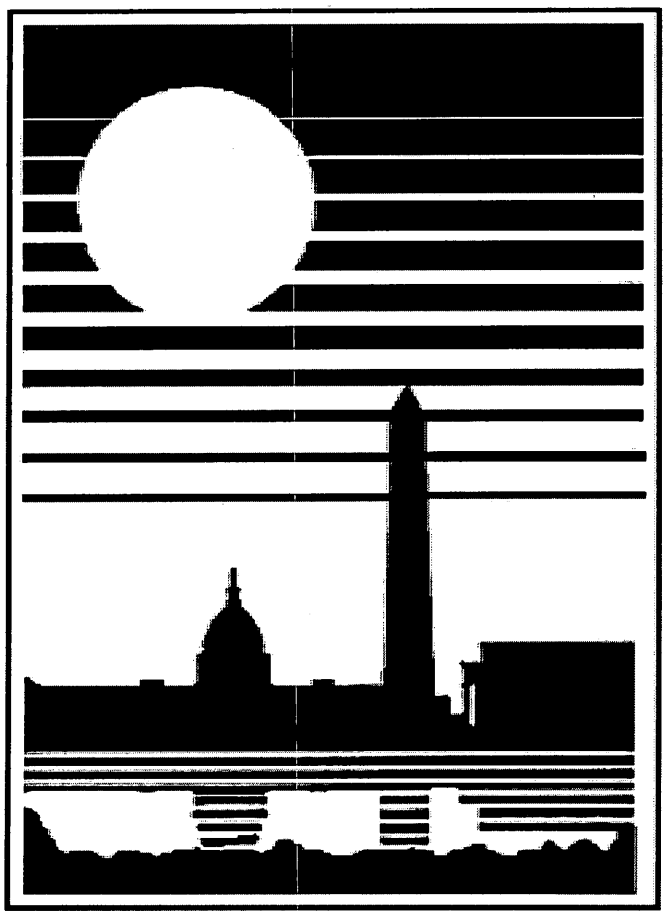
This determination letter acknowledges receipt of your amendment(s) intended to satisfy the requirements of section 401(a) of the Code, as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16.

This determination letter also applies to the amendments adopted on June 23, 1983, May 6, 1991, April 4, 1994, August 7, 1995, December 16, 2002, and April 4, 2003.

Department of the Treasury Internal Revenue Service

Publication 794
(Rev. July 2001)
Catalog Number 20630M

Favorable Determination Letter



Introduction

This publication explains the significance of your favorable determination letter, points out some features that may affect the qualified status of your employee retirement plan and nullify your determination letter without specific notice from us, and provides general information on the reporting requirements for your plan.

Significance of a Favorable Determination Letter

An employee retirement plan qualified under Internal Revenue Code (IRC) section 401(a) (qualified plan) is entitled to favorable tax treatment. For example, contributions made in accordance with the plan document are generally currently deductible. However, participants will not include these contributions into income until the time they receive a distribution from the plan, at which time special income averaging rates for lump sum distributions may serve to reduce the tax liability. In some cases, taxation may be further deferred by rollover to another qualified plan or individual retirement arrangement. (See Publication 575, Pension and Annuity Income, for further details.) Finally, plan earnings may accumulate free of tax. Employee retirement plans that fail to satisfy the requirements under IRC section 401(a) are not entitled to favorable tax treatment. Therefore, many employers desire advance assurance that the terms of their plans satisfy the qualification requirements.

The Internal Revenue Service provides such advance assurance by means of the determination letter program. A favorable determination letter indicates that, in the opinion of the Service, the terms of the plan conform to the requirements of IRC section 401(a). A favorable determination letter expresses the Service's opinion regarding the form of the plan document. However, to be a qualified plan under IRC section 401(a) entitled to favorable tax treatment, a plan must satisfy, in both form and operation, the requirements of IRC section 401(a), including nondiscrimination and coverage requirements. A favorable determination letter may also provide assurance, on the basis of information and demonstrations provided in your application, that the plan satisfies certain of these nondiscrimination and coverage requirements in form or operation.
See the following topic, Limitations and Scope of a Favorable Determination Letter, for more details.

Limitations and Scope of a Favorable Determination Letter

A favorable determination letter is limited in scope. A determination letter generally applies to qualification requirements regarding the form of the plan. A determination letter may also apply to certain operational (non-form) requirements

Generally, a favorable determination letter does not consider, and may not be relied on with regard to:
• certain requirements under IRC section 401(a)(4), including the requirement that the plan be nondiscriminatory in the amounts of contributions or benefits for highly compensated and nonhighly compensated employees;
• the coverage requirements under IRC sections 410(b) and 401(a)(26); and
• the definition of compensation under IRC section 414(s).

However, if you requested one or more of the optional nondiscrimination and coverage determinations offered on the determination letter application forms (Form 5300, Form 5307, Schedule Q), your favorable determination letter considers, and may be relied on, with regard to the specific determination(s) you requested, provided you satisfy the following requirement: you must retain copies of the application forms, any required demonstrations, and all correspondence with the Internal Revenue Service related to the application for a favorable determination letter. **A favorable determination letter cannot be relied on with regard to any optional determination request unless all of the required information is retained.**

In addition, the following apply generally to all determination letters:

• If you maintain two or more retirement plans, some of which were either not submitted to the Service for determination or not disclosed on each application, certain limitations and requirements will not have been considered on an aggregate basis. Therefore, you may not rely on the determination letter regarding the plans when considered as a total package.

• A determination letter for a defined benefit plan may be relied on regarding the requirements of IRC section 401(a)(26) if the application requested a determination regarding section 410(b)).

• A determination letter does not consider the special requirements relating to: (a) affiliated service groups, (b) leased employees, or (c) plan assets or liabilities involved in a merger, consolidation, spin-off or transfer of assets with another plan unless the letter includes a statement that the requirements of IRC section 414(m) (affiliated service groups), or 414(n) (leased employees) or 414(l) (mergers, consolidations, spin-offs, or transfers) have been considered.

• No determination letter may be relied on with respect to the effective availability of benefits, rights, or features under the plan. (See section 1.401(a)(4)-4(c) of the Income Tax Regulations.) Reliance on whether benefits, rights, or features are currently available to a non-discriminatory group of employees is provided to the extent requested in the application.

• A determination letter does not consider whether actuarial assumptions are reasonable for funding or deduction purposes or whether a specific contribution is deductible.

• A determination letter does not consider, and may not be relied on with respect to, certain other matters described in section 5.07 of Rev. Proc. 2001-6, 2001-1 I.R.B. 194 (i.e., whether a plan amendment is part of a pattern of amendments that significantly discriminates in favor of highly compensated employees; the use of the substantiation guidelines contained in Rev. Proc. 93-42, 1993-31 I.R.B. 32; and certain qualified separate lines of business requirements of IRC section 414(r)).

• The determination letter applies only to the employer and its participants on whose behalf the determination letter was issued.

• A determination letter does not express an opinion whether disability benefits or medical care benefits are acceptable as accident or health plan benefits deductible under IRC section 105 or 106.

• A determination letter may not be relied on with respect to whether a plan's exclusion classifications, if any, violate the minimum age or service requirements of IRC section 410 by indirectly imposing an impermissible age or service requirement.

You should become familiar with the terms of the determination letter. Please call the contact person listed on the determination letter if you do not understand any terms in your determination letter.

Retention of Information. Whether a plan meets the qualification requirements is determined from the information in the written plan document, the application form and the supporting information submitted by the employer. **Therefore, you must retain copies of any demonstrations or other information submitted with your application. Such demonstrations determine the extent of reliance provided by your determination letter. Failure to retain such information may limit the scope of reliance on issues for which demonstrations were provided.**

Other Conditions for Reliance. We have not verified the information submitted with your application. The determination letter will not provide reliance if:

(1) there has been a misstatement or omission of material facts, (for example, the application indicated that the plan was a governmental plan and it was not a governmental plan);

(2) the facts subsequently developed are materially different than the facts on which the determination was made; or

(3) there is a change in applicable law.

Law changes affecting the plan. In general, a determination letter is issued based on the law in effect at the time the application is received. For terminating plans, a determination letter is based on the law in effect at the time of the plan's termination. However, your letter may include a statement indicating an exception to this rule.

Amendments to the plan. A favorable determination letter may no longer apply if there is a change in a statute, regulation, or revenue ruling applicable to the qualification of the plan. However, the determination letter will continue to apply for years before the effective date of the statute, regulation, or revenue

ruling. If the letter no longer applies to the plan, the plan must be amended to comply with the new requirements to maintain its qualified status. Generally, if a regulation changes, the amendment must be adopted by the end of the first plan year beginning after the adoption date of the regulation. Generally, if a revenue ruling changes, the amendment must be adopted by the end of the first plan year beginning after the publication date of the revenue ruling. Generally, these amendments must be effective not later than the first day of such plan year.

Plan Must Qualify in Operation

Generally, a plan qualifies in operation if it continues to satisfy the coverage and non-discrimination requirements and is maintained according to the terms on which the favorable determination letter was issued. Changes in facts and other bases on which the determination letter was issued may mean that the determination letter may no longer be relied upon.

Some examples of the effect of a plan's operation on a favorable determination are:

Not meeting nondiscrimination in amount requirement. If the determination letter application requested a determination that the plan satisfies the nondiscrimination in amount requirement of section 1.401(a)(4)-1(b)(2) of the regulations on the basis of a design-based safe harbor, the plan will generally continue to satisfy this requirement in operation if the plan is maintained according to its terms. If the determination letter application requested a determination that the plan satisfies the nondiscrimination in amount requirement on the basis of a nondesign-based safe harbor or a general test, and the plan subsequently fails to meet this requirement in operation, the favorable determination letter may no longer be relied upon with respect to this requirement.

Not meeting minimum coverage requirements. If the determination letter application includes a request for a determination regarding the ratio percentage test of IRC section 410(b) and the plan subsequently fails to satisfy the ratio-percentage test in operation, the letter may no longer be relied upon with respect to the coverage requirements. Likewise, if the determination letter application requests a determination regarding the average benefit test, the letter may no longer be relied on with respect to the coverage requirements once the plan fails to satisfy the average benefit test in operation.

Changes in testing methods. If the determination letter is based in part on a demonstration that a coverage or nondiscrimination requirement is satisfied, and, in the operation of the plan, the method used to test that this requirement continues to be satisfied is changed (or is required to be changed because the facts have changed) from the method employed in the demonstration, the letter may no longer be relied upon with respect to this requirement.

Contributions or benefits in excess of the limitations under IRC section 415. A retirement plan may not provide retirement benefits or, in the case of a defined contribution plan, contributions and other additions, that exceed the limitations specified in IRC section 415. Your plan contains provisions designed to provide benefits within these limitations. Please become familiar with these limitations, for your plan will be disqualified if these limitations are exceeded.

Top heavy minimums. If this plan primarily benefits employees who are highly compensated, it may be a top heavy plan and must provide certain minimum benefits and vesting for lower compensated employees. If your plan provides the accelerated benefits and vesting only for years during which the plan is top heavy, failure to identify such years and to provide the accelerated vesting and benefits will disqualify the plan.

Actual deferral percentage or contribution percentage tests. If this plan provides for cash or deferred arrangements, employer matching contributions, or employee contributions, the determination letter does not consider whether special discrimination tests described in IRC section 401(k)(3) or 401(m)(2) have been satisfied in operation. However, the letter considers whether the terms of the plan satisfy the section 401(k)(3) or 401(m)(2) requirements specified in IRC section 401(k)(3) or 401(m)(2).

Reporting Requirements

Most plan administrators or employers who maintain an employee benefit plan must file an annual return/report. The following is a general discussion of the forms to be used for this purpose. See the instructions to each form for specific information:

Form 5500-EZ, Annual Return of One-Participant (Owners and their Spouses) Pension Benefit Plans - generally for a "One-participant Plan", which is a plan that covers only:
(1) an individual, or an individual and his or her spouse who wholly own a business, whether incorporated or not; or
(2) partner(s) in a partnership or the partner(s) and the partner's spouse.

If Form 5500-EZ cannot be used, the one-participant plan should use Form 5500, Annual Return/Report of Employee Benefit Plan.

Note. A "one-participant" plan that has no more than $100,000 in assets at the end of the plan year is not required to file a return. However, Form 5500-EZ must be filed for any subsequent year in which plan assets exceed $100,000. (This amount may have increased after publication of this document.) If two or more one-participant plans have more than $100,000 in assets, a separate Form 5500-EZ must be filed for each plan.

A "Final" Form 5500-EZ must be filed if the plan is terminated or if assets drop below $100,000 and you wish to stop filing Form 5500-EZ.

Form 5500, Annual Return/Report of Employee Benefit Plan - for a pension benefit plan that is not eligible to file Form 5500-EZ.

Note. Keogh (H.R. 10) plans having over $100,000 in assets are required to file an annual return even if the only participants are owner-employees. The term "owner-employee" includes a partner who owns more than 10% interest in either the capital or profits of the partnership. This applies to both defined contribution and defined benefit plans.

Form 5330 for prohibited transactions Transactions between a plan and someone having a relationship to the plan (disqualified person) are prohibited, unless specifically exempted from this requirement. A few examples are loans, sales and exchanges of property, leasing of property, furnishing goods or services, and use of plan assets by the disqualified person. Disqualified persons who engage in a prohibited transaction for which there is no exception must file Form 5330 by the last day of the seventh month after the end of the tax year of the disqualified person.

Form 5330 for tax on nondeductible employer contributions to qualified plans - If contributions are made to this plan in excess of the amount deductible, a tax may be imposed upon the excess contribution. Form 5330 must be filed by the last day of the seventh month after the end of the employer's tax year.

Form 5330 for tax on excess contributions to cash or deferred arrangements or excess employee contributions or employer matching contributions - If a plan includes a cash or deferred arrangement (IRC section 401(k)) or provides for employee contributions or employer matching contributions (IRC section 401(m)), then excess contributions that would cause the plan to fail the actual deferral percentage or the actual contribution percentage test are subject to a tax unless the excess is eliminated within 2½ months after the end of the plan year. Form 5330 must be filed by the due date of the employer's tax return for the plan year in which the tax was incurred.

Form 5330 for tax on reversions of plan assets - Under IRC section 4980, a tax is payable on the amount of almost any employer reversion of plan assets. Form 5330 must be filed by the last day of the month following the month in which the reversion occurred.

Form 5310-A for certain transactions - Under IRC section 6058(b), an actuarial statement is required at least 30 days before a merger, consolidation, or transfer (including spin-off) of assets to another plan. This statement is required for all plans. However, penalties for non-filing will not apply to defined contribution plans for which:

(1) The sum of the account balances in each plan equals the fair market value of all plan assets,
(2) The assets of each plan are combined to form the assets of the plan as merged,
(3) Immediately after a merger, the account balance of each participant is equal to the sum of the account balances of the participant immediately before the merger, and
(4) The plans must not have an unamortized waiver or unallocated suspense account.

Penalties will also not apply if the assets transferred are less than three percent of the assets of the plan involved in the transfer (spinoff), and the transaction is not one of a series of two or more transfers (spinoff transactions) that are, in substance, one transaction.

The purpose of the above discussions is to illustrate some of the principal filing requirements that apply to pension plans. This is not an exclusive listing of all returns and schedules that must be filed.