

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR TILLAMOOK COUNTY, OREGON

In the Matter of Amending the )  
Retirement Plan for Certain )  
Employees of Tillamook County, )  
Oregon ) ORDER  
#20-012

This matter came before the Tillamook County Board of Commissioners on April 15, 2020 at the request of Naomi Roundtree, Human Resources Director. The Board of Commissioners, being fully apprised of the representations of the above-named person, finds as follows:

1. The Retirement Plan for Certain Employees of Tillamook County, Oregon (the "Retirement Plan") was last restated January 20, 2016 (the "2015 Restatement") and has not been amended to date.
2. Under the Retirement Plan, if other requirements have been met, a Uniformed Member may request early retirement at age 50, while a non-Uniformed Member (referred to in the Retirement Plan as a Member other than a Uniformed Member) may make that request at age 55. The early retirement benefit is calculated using actuarial reduction factors listed in the table in Section 5.2.a. of the Retirement Plan, where Column (1) applies to benefits attributable to service as a public safety employee, and Column (2) applies to benefits attributable to service as a general service employee. Column (1) starts at age 50 because a Uniformed Member may retire early at age 50, and Column (2) starts at age 55 because a non-Uniformed Member may retire early at age 55.
3. There is currently a gap in the reduction factors. If a Uniformed Member requests early retirement after age 50 but before age 55, and that Member has previously provided services as a general service employee, there are currently no reduction factors in Column (2) to use to compute the portion of the benefit attributable to service as a general service employee. Furthermore, there is no past pattern or practice to apply in this situation.
4. The Board desires to amend the Retirement Plan to specify the actuarial reduction factors to apply in Column (2) for ages 50-54. The other table entries are unchanged. For clarity, the addition of factors in Column (2) below age 55 is not intended to, and will not be interpreted to:
  - (i) Alter the rule in the second sentence of Section 4.2.a. that a non-Uniformed Member is eligible for early retirement upon attaining age 55; or
  - (ii) Allow a non-Uniformed Member with prior service as a public safety employee to retire before 55.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

5. The table of applicable factors in Section 5.2.a. of the Retirement Plan is amended as set out below by adding factors in Column (2) for ages 50-54 (the other entries in the table are unchanged):

Age	(1)	(2)
50	60.0	40.0
51	68.0	44.0
52	76.0	48.0
53	84.0	52.0
54	92.0	56.0
55	100.0	60.0
56	100.0	68.0
57	100.0	76.0
58	100.0	100.0
59	100.0	100.0
60	100.0	100.0
61		100.0
62		100.0
63		100.0
64		100.0
65		100.0

DATED THIS 15<sup>th</sup> day of April, 2020.

THE BOARD OF COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON

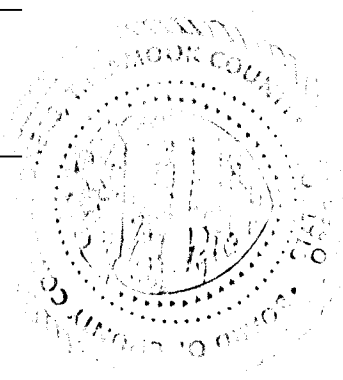
	Aye	Nay	Abstain/Absent
<u>Bill Baertlein</u> Bill Baertlein, Chair	✓	_____	_____/_____
<u>MFBell</u> Mary Faith Bell, Vice-Chair	✓	_____	_____/_____
<u>[Signature]</u> David Yamamoto, Commissioner	✓	_____	_____/_____

ATTEST: Tassi O'Neil  
County Clerk

By: [Signature]  
Special Deputy

APPROVED AS TO FORM:

[Signature]  
William K. Sargent, Interim County Counsel



# **Your Retirement Program**

2015 Restatement

Effective July 1, 2015

TILLAMOOK COUNTY, OREGON

**THE RETIREMENT PLAN FOR CERTAIN EMPLOYEES  
OF TILLAMOOK COUNTY, OREGON**

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# **The Retirement Plan for Certain Employees of Tillamook County, Oregon**

Effective July 1, 1967, Tillamook County, Oregon (the County), established The Retirement Plan for Employees of Tillamook County, Oregon (the 1967 Plan).

May 17, 1974, effective July 1, 1973, the County amended and restated the 1967 Plan, as amended, as The Retirement Plan for Certain Employees of Tillamook County, Oregon (the 1973 Restatement).

April 15, 1992, the County amended and restated the 1973 Restatement, as amended (the 1991 Restatement).

June 19, 2002, the County amended and restated the 1991 Restatement, as amended (the 2002 Restatement).

September 10, 2003, the County amended and restated the 2002 Restatement, as amended.

April 6, 2005, the County amended and restated the 2003 Restatement, as amended.

June 24, 2011, the County amended and restated the 2005 Restatement, as amended, except that the 2011 Restatement did not affect section 4. of Order #10-063.

This 2015 Restatement (the Plan) governs the rights of all persons in active employment after June 30, 1991, except as otherwise provided herein. This 2015 Restatement is effective July 1, 2015, except as otherwise provided herein. The rights of persons who remain former employees or retirees after June 30, 1991, will be governed by the terms of the appropriate prior plan, if any, except that any cost-of-living adjustments due will be calculated in accordance with Section 5.8. and Plan provisions implementing the Employee Retirement Income Security Act of 1974, the Tax Equity and Fiscal Responsibility Act of 1982, the Deficit Reduction Act of 1984, and the Retirement Equity Act of 1984, apply as required by such Acts to persons who were former employees or retirees as of July 1, 1991.

The following plans of the County are adopted as part of, and incorporated into, this Plan for the purpose of determining under ORS 237.620 whether the County provides retirement benefits to its Uniformed Members that are equal to or better than the benefits that would be provided to them under the Oregon Public Employees Retirement System:

- a. Death benefit plans and accidental death and dismemberment plans, including without limitation Life Insurance Benefits and Accidental Death and Dismemberment Benefits under the Oregon Teamsters Employers Trust Plan FW;
- b. Health benefit plans, including without limitation medical, dental, and vision plans;

- c. Plans to pay part or all of the premiums for health care coverage for retirees, to make health care coverage available to retirees, or to reimburse retirees for premiums for health care coverage, or health care expenses, for the retiree, Spouse, Domestic Partner, and dependents and children of any of them, including without limitation benefits under the VEBA Medical Expense Plan for Public Employees of the Northwest (MSA VEBA) and benefits under a collective bargaining agreement or personnel policies;
- d. Disability income plans, including without limitation Time Loss Benefits under the Oregon Teamsters Employers Trust Plan FW; and
- e. Plans to cash-out, or contribute to a retirement plan, in connection with termination of employment, all or part of the value of accrued sick leave, accrued vacation, or other accrued paid time off, including without limitation the Tillamook County Employee Retirement Special Pay Plan (in accordance with the provisions of the Bencor National Government Employee's Retirement Plan) and plans under a collective bargaining agreement or personnel policies.

No Member, Beneficiary, or other person shall acquire a right, contractual or otherwise, to the benefits provided by the above plans by reason of the above adoption and incorporation.

## ARTICLE 1. Definitions

### 1.1. Definitions

For purposes of this Plan, the following terms when capitalized will have the following meanings:

- a. **"Accounts"** means the Employer Contribution Account, the Required Contribution Account, the Voluntary Contribution Account, and the Unit Purchase Contribution Account, as appropriate.
- b.
  - i. With respect to Members whose benefit payments under this Plan first commence before July 31, 1998, **"Actuarially Equivalent"** benefits have equivalent present value based on the annuity purchase rate then in effect under Group Retirement Policy No. G-9305 issued to the Employer by Pacific Life Insurance Company.
  - ii. With respect to any Member whose benefit payments under this Plan first commence on or after July 31, 1998, and before August 2, 1998, **"Actuarially Equivalent"** benefits have equivalent present value based on the following interest rate and mortality table:  

Interest rate:	4.93%
Mortality table:	1983 Group Annuity Mortality Table projected to 1985 by Scale H, Males set back 3 years, Females set back 3 years
  - iii. With respect to Members whose benefit payments under this Plan first commence on or after August 2, 1998:
    - (1) **"Actuarially Equivalent"** benefits have equivalent present value based on the following interest rate and mortality table:  

Interest rate:	8%
Mortality table:	1983 Group Annuity Mortality Table as stated in Revenue Ruling 95-28
    - (2) Despite the other provisions of this Plan, where the monthly benefit payment to the Member would be determined (were it not for this Section 1.1.b.iii.(2)) using the interest rate and mortality table described in Section 1.1.b.iii.(1), the monthly payment to the Member (and any monthly payment to the Member's Beneficiary where the optional form described in Section 6.3.a.ii. or iii. is elected) shall not be less than the monthly payment that would have been made to the Member (or to the Member's Beneficiary, in the case of monthly payments to the Beneficiary) under the form of payment elected by the Member if (a) the Member had ceased being an Employee at the close of June 30, 1998, (b) the amount of each



of the Member's Accounts were the amount of such Account as of June 30, 1998, (c) monthly payments to the Member had commenced as of the date monthly payments to the Member actually commence, and (d) the interest rate and mortality table described in Section 1.1.b.ii. were used in lieu of the interest rate and mortality table described in Section 1.1.b.iii.(1). Any monthly death benefit under Section 5.6. shall be determined after applying this Section 1.1.b.iii.(2). The above provisions of this Section 1.1.b.iii.(2) do not apply to any monthly voluntary benefit under Section 5.7.a. Any adjustment under Section 5.8. shall be made after applying this Section 1.1.b.iii.(2), and this Section 1.1.b.iii.(2) shall be applied without regard to any adjustment under Section 5.8.

- iv. The cost-of-living adjustment provided in Section 5.8. shall not be considered in determining Actuarially Equivalent benefits.
- c. **"Beneficiary"** means a person designated in a written and signed election to the Employer by the Member, with the right of the Member to change the designation at any time, or if the Member does not designate a person or if the designated person does not survive the Member, then to the Member's estate. For purposes of determining a Member's Beneficiary:
- i. A Beneficiary does not include an individual, even if designated by the Member, who does not survive the Member or who is treated under Oregon law as not surviving the Member. For this purpose (1) the Member 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.
  - ii. 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 Member resides in Oregon.
- d. **"Board"** means the Board of County Commissioners for Tillamook County, Oregon.
- e. **"Custodian"** means the insurance company or trustee selected by the Employer to have custody of the Fund.
- f. **"Disabled"** means totally and permanently disabled as a result of sickness or injury to the extent that the Member is completely prevented from performing any

occupation for which the Member is qualified. The Employer's determination of Disabled will be final and conclusive.

- g. **"Domestic Partner"** means the individual whom Section 8.10. requires be treated the same as the Member's or alternate payee's Spouse.
- h. **"Employee"** means any person employed by the Employer on a regular and full-time basis. **"Employee"** excludes any person who would be treated as a leased employee of the Employer under IRC Section 414(n). For this purpose, (1) **"on a regular . . . basis"** excludes any person classified by the Employer's personnel policies as a temporary employee, for example, any person classified by the Employer's personnel policies as a temporary employee who works for the Employer on a permanent basis; (2) **"on a . . . full-time basis"** means at least 20 hours per week; and (3) **"hours"** means all hours determined under the following rules:
  - i. Each hour for which a person is paid, or entitled to payment, by the Employer for the performance of duties for the Employer.
  - ii. Each hour for which a person is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (but only while the employment relationship continues) due to vacation, holiday, illness, incapacity (including disability), or jury duty. For this purpose, a payment is deemed to be made by or due from the Employer only if the payment is made by or due from the Employer directly. A payment made or due under a plan or an insurance policy maintained by the Employer for the purpose of complying with the Oregon Workers' Compensation Law (currently ORS chapter 656) or under a disability insurance policy shall not be deemed to be made by or due from the Employer.
  - iii. Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service will not be credited both under Section 1.1.h.i. or ii., as the case may be, and under this Section 1.1.h.iii. These hours will be credited for the week or weeks to which the award or agreement pertains rather than the week in which the award, agreement, or payment is made.
  - iv. Each hour (1) for which the person would have been scheduled to work for the Employer but does not work for the Employer, and is not compensated by the Employer, by reason of a compensable injury arising out of and in the course of the person's employment with the Employer and (2) that occurs while the employment relationship continues and during any period for which the person receives compensation under the Oregon Workers' Compensation Law (currently ORS chapter 656) for loss of wages resulting from the injury.

- v. A person who is absent from work for unpaid FMLA leave from the Employer while the Employer is subject to the federal Family and Medical Leave Act and who returns from FMLA leave, or who is absent from work for unpaid family leave from the Employer while the Employer is subject to the Oregon family leave law (ORS 659A.150 to 659A.186) and who returns from family leave, will be credited with the hours that would otherwise have been credited to the person but for such absence, or if such hours cannot be determined, eight hours per day of such absence.
- i. **“Employer”** means Tillamook County, Oregon, and its divisions, affiliates and subsidiaries, which are making contributions to the Fund.
- j. **“Final Average Monthly Earnings”** means the highest average of the Member’s Monthly Earnings in effect on July 1 of each of 3 consecutive years during the last 10 Years of Service.
- k. **“Fund”** means the fund established by payments made by the Employer as provided in Article 3.
- l. **“IRC”** means the Internal Revenue Code of 1986, as amended.
- m. **“Married”** means, effective as of June 26, 2013, participating in a lawful marriage (as defined under the law of the state in which the marriage occurred) between two people of the same or opposite sex.
- n. **“Member”** means any Employee eligible for membership in the Plan as provided in Article 2.
- o. **“Monthly Earnings”** for a particular Plan Year means the Member’s basic monthly earnings (excluding bonuses, overtime pay, and special allowances or compensation) as of July 1 of that Plan Year, or the date Plan coverage commences if later. Thus, for example, promotions mid-Plan Year do not change Monthly Earnings for that Plan Year.
- p. **“Oregon Public Employees Retirement System”** means the retirement system under ORS chapter 238 and excludes the Oregon Public Service Retirement Plan; except that for purposes of the reference thereto on page iv above “Oregon Public Employees Retirement System” means the retirement system under ORS chapter 238 and the Oregon Public Service Retirement Plan.
- q. **“Oregon Public Service Retirement Plan”** means the pension program under ORS chapter 238A and the individual account program under ORS chapter 238A or either.
- r. **“ORS”** means Oregon Revised Statutes, as amended.
- s. **“Plan Year”** means the 12 month period beginning each July 1.

- t. **“Spouse”** means, effective as of June 26, 2013, a person to whom the Member or alternate payee is Married.
- u. **“Uniformed Member”** means any Member employed by the Employer as a police officer or fireman, or other public safety position as designated by the Board.
- v. **“Years of Service”** means years and completed months of service as an Employee from the Member’s most recent date of hire to the actual date of retirement or termination, except as provided below in this Section 1.1.v.
  - i. Years of Service do not include periods or months described in any of the following:
    - (1) Periods of authorized leave of absence, i.e. periods described in Section 1.1.h.iv. (about periods for which compensation is received under the Oregon Workers’ Compensation Law for loss of wages resulting from a compensable injury) or Section 1.1.h.v. (about unpaid FMLA leave and unpaid family leave);
    - (2) Months on any day of which the Employee is employed by the Employer in a position eligible for membership in the Oregon Public Employees Retirement System or the Oregon Public Service Retirement Plan, determined without regard to the 600 hours requirement for membership and the six month waiting period for membership; and
    - (3) Months for any part of which the Employee has been provided, for service with the Employer, (a) creditable service, or contributions to the Employee’s member account, under the Oregon Public Employees Retirement System or (b) retirement credit, or contributions to the Employee’s employee account, under the Oregon Public Service Retirement Plan, including periods for which such creditable service, retirement credit, or contributions are not provided because of the 600 hours requirement for membership or the six-month waiting period for membership.
  - ii. Years of Service prior to July 1, 1980, will be recognized only if the Member made the required contributions for that period. Members receiving refunds of such required contributions will forfeit service in accordance with the provisions of the 1973 Restatement as in effect June 30, 1991, unless the amount distributed is repaid at least 2 years prior to the Member’s retirement or termination of employment. The repayment must include interest on the amount distributed from the date of distribution to the date of repayment at the rate or rates (including applicable compounding) credited to Accounts from the date of distribution to the date of repayment.

- iii. Employees who elected to terminate membership as of July 1, 1981, or earlier in conjunction with a contribution refund may again become a Member only on the first day of a Plan Year and will not be credited with Years of Service, except for purposes of determining Final Average Monthly Earnings, for service from such termination to the date of again becoming a Member; once the Employee again becomes a Member the Employee will remain a Member until termination of employment.
- iv. Beginning July 1, 2002, the Plan will accept a repayment in the form of the following rollovers, contributions, and transfers made after December 31, 2001, from the types of plans and contracts described below:
  - (1) A Direct Rollover of an Eligible Rollover Distribution from, or a participant contribution of an Eligible Rollover Distribution from:
    - (a) A qualified plan described in IRC Section 401(a) or 403(a);
    - (b) An annuity contract described in IRC Section 403(b); or
    - (c) 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 (within the meaning of IRC Section 402(c)(8)(B)) 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).

For purposes of this Section 1.1.v.iv.:

- (1) A Direct Rollover is a payment to the Plan, as a result of the Member's specification of the Plan to receive the payment, by a plan or contract described Section 1.1.v.iv.(1).
- (2) An Eligible Rollover Distribution is as defined in Section 8.3(e), except that, in applying Section 8.3(e) to this Section 1.1.v.iv., the Distributee is the Member and the plan administrator is, with respect to a plan described in Section 1.1.v.iv.(1), the plan administrator

thereof, and, with respect to a contract described in Section 1.1.v.iv.(1), the payor of the payment.

1.2. **Gender and Number**

The masculine pronoun whenever used herein will include the feminine gender and the singular number as used herein will include the plural and the plural the singular unless the context clearly indicates a different meaning.

## **ARTICLE 2. Membership**

### **2.1. Eligibility for Membership**

- a. Every participant under the 1973 Restatement as in effect June 30, 1991, who is actively employed by the Employer on July 1, 1991, will become a Member of this Plan on such date.
- b. Every other Employee in the service of an Employer on July 1, 1991, and every Employee employed by the Employer thereafter will become a Member on the first of the calendar month next following the completion of 6 full calendar months of service as an Employee. For this purpose, service as an Employee on the first working day of a calendar month is treated as service as an employee during the preceding days of the calendar month. However, an Employee will not be eligible to become a Member if the Employee is covered by a collective bargaining agreement which does not provide for participation in this Plan or is employed by the Employer in a position eligible for membership in the Oregon Public Employees Retirement System or the Oregon Public Service Retirement Plan, determined without regard to the 600 hours requirement for membership and the six month waiting period for membership.

### **2.2. Termination of Membership**

Termination of membership will occur when the Member ceases to be actively employed with the Employer, except if the Member is granted a leave of absence not to exceed 24 months, the Employer may consider the Member as still employed for the purposes of this Plan. The 24 month restriction will not apply to leaves of absence for service with the Armed Forces of the United States. Leaves of absence will be granted on a nondiscriminatory basis.

Despite the preceding provisions of this Section 2.2, termination of membership will occur when the Member is employed by the Employer in a position eligible for membership in the Oregon Public Employees Retirement System or the Oregon Public Service Retirement Plan, determined without regard to the 600 hours requirement for membership and the six month waiting period for membership.

### **2.3. Rehired Employee**

If a person whose employment has terminated for any reason other than disability is later rehired by the Employer, the person will be treated as a new Employee for every purpose of this Plan, and must meet all eligibility requirements after the person's date of rehire to become a Member. There will be no duplication of benefits for Members with more than one period of coverage under the Plan. A Member's benefits for any period of coverage or employment before the Member is rehired by the Employer shall be determined as if the Member has not been rehired, and the Member's benefits for any period of coverage or employment after being rehired shall be determined as if the Member has not previously been covered by the Plan or employed by the Employer.

2.4. **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. Financing

#### 3.1. Fund

The funding of the Plan and payment of the benefits thereunder will be provided for through funds held by a Custodian appointed by the Board. The name(s) of the current Custodian(s) is (are) available from the Tillamook County Human Resources Director. The contributions of the Employer and Members to the fund, together with any income, gains, or profits, less distributions and losses, will constitute the Fund. All contributions by the Employer to the Plan will be made to the Fund. All benefits payable under the Plan will be paid or provided for solely from the Fund, and the Employer assumes no liability or responsibility therefor.

#### 3.2. Employer Contributions

- a. The Employer will maintain an Employer Contribution Account for each Member, and will make a contribution to this account for each month the Member is covered by the Plan and actively employed by the Employer as an Employee. However, the Employer will not make a contribution to the Employer Contribution Account for any Member for any month on any day of which the Member is employed by the Employer in a position eligible for membership in the Oregon Public Employees Retirement System or the Oregon Public Service Retirement Plan, determined without regard to the 600 hours requirement for membership and the six-month waiting period for membership. The contribution will be calculated as follows:

<u>If the Member's Monthly Earnings are</u>	<u>The contribution will be</u>
Less than \$1,500	6% of Monthly Earnings
\$1,500 or more	7% of Monthly Earnings

A Member's Employer Contribution Account shall be reduced by the amount of any contributions (and attributable interest) allocated to the Account for months not included in the Member's Years of Service by reason of Section 1.1.v.i.(2) or (3).

A Member's Employer Contribution Account is always 100% vested but may be forfeited as provided in Section 6.5. (about forfeiture for moral turpitude).

- b. It is the intention of the Employer to make from time to time additional voluntary contributions to the Fund. These contributions are intended to fund Plan benefits not provided by the Accounts, and will be determined by an independent actuary. Expenses of the Plan and the Fund, unless paid by the Employer, will be paid out of the assets of the Fund. Any forfeiture arising from an Employee's termination of employment or death, or for any other reason before the termination of the Plan, will be used to reduce Employer contributions and will not increase any benefits otherwise payable hereunder.

### 3.3. Member Contributions

- a. Members were required to contribute to the Plan before July 1, 1980. The Employer will continue to maintain a Required Contribution Account for Members who made such contributions. A Member's Required Contribution Account is always 100% vested.
- b. Members are permitted to make voluntary contributions to the Plan in whole dollar amounts of not less than \$10 per month nor more than 10% of Monthly Earnings. However, a Member may not make voluntary contributions to the Plan for any month on any day of which the Member is employed by the Employer in a position eligible for membership in the Oregon Public Employees Retirement System or the Oregon Public Service Retirement Plan, determined without regard to the 600 hours requirement for membership and the six-month waiting period for membership. The Employer will maintain a Voluntary Contribution Account for each Member who makes such contributions. A Member's Voluntary Contribution Account is always 100% vested. Contributions will be withheld from the Member's Monthly Earnings each month commencing on the first day of the month following the date the Member files a written election to contribute. Members may change the amount of contribution no more than once each Plan Year, except that if the Member's Monthly Earnings decrease to the extent that the contribution exceeds 10% of Monthly Earnings, the Member must file a written election appropriately decreasing contributions within 30 days. A member may elect to cease voluntary contributions at anytime, but will not be allowed to resume contributions until the following July 1.
- c. Subject to the terms of this Section 3.3.c., Uniformed Members are permitted to designate all or a portion of their voluntary contributions as unit contributions. The monthly contribution will be set according to rates prescribed by the Plan's actuary; current rates are shown in Appendix A. The Member may elect to contribute any multiple (up to 8) of the appropriate rate in Appendix A. The Employer will maintain a Unit Purchase Contribution Account for each Uniformed Member who makes such contributions, which will be credited with each such contribution plus, for each such contribution, a matching amount to be funded by the Employer that equals the contribution and is credited as of the date the contribution is credited. A Member's Unit Purchase Contribution Account is always 100% vested.
- d. Interest on all Accounts will be credited at 8%, compounded annually, effective July 1, 1991.

### 3.4. Irrevocability

No part of the Fund will revert to the Employer, except that:

- a. 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.

- b. After satisfaction of all liabilities of the Plan as set forth in Section 7.2., such amount remaining as the result of an erroneous actuarial calculation shall revert to the Employer.

## ARTICLE 4. Eligibility for Benefits

### 4.1. Normal Retirement

A Member's Normal Retirement Date is the first day of the month coincident with or following the Member's completion of 5 Years of Service and attainment of the appropriate age: Age 60 for Uniformed Members and age 65 for other Members.

### 4.2. Early Retirement

a. This Section 4.2.a. applies only to Members who on or after July 1, 1998, are Employees and whose benefit payments under this Plan first commence on or after July 1, 1998. A Member will be eligible for early retirement on the first day of any month coincident with or following the Member's completion of 5 Years of Service and attainment of the appropriate age: Age 50 for Uniformed Members and age 55 for other Members. A Member other than a Uniformed Member will also be eligible for early retirement on the first day of any month on or after July 1, 2009, that is coincident with or following the Member's completion of 30 Years of Service.

b. This Section 4.2.b. applies to any Member who (1) at no time on or after July 1, 1998, is an Employee or (2) on or after July 1, 1998, is an Employee but whose benefit payments under this Plan first commenced before July 1, 1998. A Member will be eligible for early retirement on the first day of any month coincident with or following the Member's completion of 5 Years of Service and attainment of the appropriate age:

Age 50 for Uniformed Members excluded from a bargaining unit

Age 55 for:

Other Members excluded from a bargaining unit

Uniformed Members included in a bargaining unit

Other Members included in a bargaining unit on or after July 1, 1992

Age 60 for other Members included in a bargaining unit before July 1, 1992

### 4.3. Late Retirement

A Member may remain employed by the Employer after the Member's Normal Retirement Date.

### 4.4. Disability

a. A Disabled Uniformed Member is eligible for disability benefits under Section 5.4.a. if the Member becomes Disabled while an Employee and while not employed by the Employer in a position eligible for membership in the Oregon Public Employees Retirement System or the Oregon Public Service Retirement Plan, determined without regard to the 600 hours requirement for membership and the six-month waiting period for membership, and (i) the disability is service-connected with the Member's employment with the Employer, or (ii) if the

disability is not service-connected and the Member has completed 10 Years of Service.

- b. Other Disabled Members (including Disabled Uniformed Members with non-service-connected disabilities and less than 10 Years of Service) are eligible for disability benefits under Section 5.4.b. when they become Disabled.

#### 4.5. **Termination of Employment**

A Member whose employment terminates after completion of 5 Years of Service will be eligible for benefits under Section 5.5. A Member whose employment terminates before completion of 5 Years of Service will receive a lump sum payment of the Member's Accounts and will not be entitled to other benefits under the Plan.

#### 4.6. **Death Before Retirement**

For a Member not receiving disability payments who dies while covered by this Plan or while in the deferred period prior to commencing monthly payments, the Member's Beneficiary will receive a lump sum payment of the Member's Accounts and will not be entitled to other benefits under the Plan.

#### 4.7. **Death While Retired or Disabled**

For a Uniformed Member who dies while receiving monthly retirement, disability, or termination benefits:

- a. The Member's surviving Spouse will be eligible for benefits under Section 5.6.
- b. If there is no surviving Spouse, the Member's surviving Domestic Partner will be eligible for benefits under Section 5.6.
- c. If there is no surviving Spouse and no surviving Domestic Partner, the Member's surviving children under age 18 will be eligible for benefits under Section 5.6., divided into equal shares.

Benefits payable under this Section 4.7. are in addition to any death benefits based on the elected form of benefit payment or derived from the Member's Accounts and otherwise payable under the Plan. If no Spouse, Domestic Partner, or child under 18 survives, no benefits are payable under this Section 4.7.

#### 4.8. **Voluntary Account Benefits**

- a. Benefits derived from a Member's Voluntary Contribution Account and Unit Purchase Contribution Account, if any, are in addition to the other benefits provided under this Plan.

- b.
  - i. If a Uniformed Member retires from active uniformed employment prior to age 65, the Employer will provide a monthly benefit from the Plan equal to the unit purchase benefit payable under Section 5.7.b.
  - ii. If a Uniformed Member is granted a leave of absence, employee contributions are not permitted during the leave of absence and the benefit payable under Section 5.7.b. will be actuarially reduced. The Employer matching benefit will be calculated as of the earlier of the Member's Normal Retirement Date or actual retirement date.
  - iii. A Disabled Uniformed Member may elect to leave the Member's contributions in the Fund in order to provide an actuarially reduced monthly benefit commencing at age 60, in which case the Employer will provide an equal monthly benefit from the Plan, or the Disabled Uniformed Member may elect a lump sum payment of the Member's Unit Purchase Contribution Account, in which case the Employer matching benefit is forfeited.
  - iv. A Uniformed Member who is transferred to non-uniformed status will have the Member's Unit Purchase Contribution Account transferred to a Voluntary Contribution Account and forfeit the Employer matching benefit.
  - v. A Uniformed Member's Unit Purchase Contribution Account shall be reduced by the amount of any contributions (and attributable interest) allocated to the Account for months not included in the Member's Years of Service by reason of Section 1.1.v.i.(2) or (3). The benefit payable under Section 5.7.b. shall be actuarially reduced to reflect the reduction of the Unit Purchase Contribution Account. The Uniformed Member's Voluntary Contribution Account shall be increased by the amount of the reduction of the Unit Purchase Contribution Account.
  - vi. The Employer matching benefit will be forfeited and a lump sum payment of the Unit Purchase Contribution Account will be made (as indicated below) if the Uniformed Member terminates prior to attaining age 55 or retires on or after attaining age 65 (payment to the Member) or dies prior to age 60 (payment to the Member's Beneficiary).
  - vii. If the Uniformed Member retires at an age other than age 60, the monthly benefits will be adjusted according to the following table (using linear interpolation), except that a Uniformed Member retiring before age 60 may elect to contribute within the 60-day period preceding the Member's retirement the remainder of the total unit purchase contributions which the Member would have made had the Member remained employed until age 60, in which case (1) the lump sum contribution will be added to the Unit Purchase Contribution Account for purposes of determining the Member's unit purchase benefit, (2) the Employer matching benefit will be similarly adjusted, and (3) a matching amount, to be funded by the Employer, equal to such lump sum contribution will be added to the Unit

Purchase Contribution Account as of the date the lump sum contribution is added.

Unit Benefit Adjustment Factor

Age	Percentage
55	56.98
56	61.77
57	67.74
58	75.43
59	85.67
60	100.00
61	121.48
62	157.26
63	228.74
64	442.75

(Based on PM '65 with a 5.00% interest assumption.)

- viii. Unit purchase contribution rates may be changed periodically by the Plan actuary, but the rates for benefit increments already being funded will remain unchanged if the rate is increased.
  
- c. A Member's Voluntary Contribution Account will be paid to the Member in a lump sum as soon as administratively feasible after the Member terminates employment with the Employer if the termination is (1) after November 8, 2004, (2) other than by reason of death, (3) after completion of 5 Years of Service, and (4) before the Member's Normal Retirement Date. However, the Member may elect the monthly *voluntary benefit under Section 5.7.a.* in lieu of the lump sum if payment of the Member's normal retirement benefit, early retirement benefit, or disability benefit is to commence on the first day of the month coincident with or next following the date the Member terminates employment with the Employer. If a Member whose Voluntary Contribution Account is to be paid in a lump sum under this Section 4.8.c. rather than as the monthly voluntary benefit under Section 5.7.a. dies before the Account is paid, the Account shall be paid to the Member's Beneficiary in a lump sum as soon as administratively feasible after the Member dies.

## ARTICLE 5. Computation of Benefits

### 5.1. Normal Retirement Benefit

The monthly normal retirement benefit will be the sum of a. and b., below:

- a. The Member's accrued benefit under the Plan as in effect June 30, 1973.
- b. The product of i. times ii. times iii., below:
  - i. For Uniformed Members, 2.40%; for other Members, 2.25%.
  - ii. The Member's Final Average Monthly Earnings.
  - iii. The Member's Years of Service after July 1, 1973.

If a Member who elected to receive a refund of the Member's required contributions balance as of June 30, 1980, (1) had as of June 30, 1980, been covered under the 1967 Plan or the 1973 Restatement for at least 5 years and (2) did not repay the amount distributed, plus interest thereon from the date of distribution to the date of repayment at the rate or rates (including applicable compounding) credited to Accounts from the date of distribution to the date of repayment, at least 2 years prior to the Member's retirement or termination of employment, the Member's normal retirement benefit under this Section 5.1.b. for service prior to July 1, 1980, will be a Life Annuity Actuarially Equivalent to iv. minus v., below, but not less than zero:

- iv. The Actuarially Equivalent lump sum value (as of the benefit commencement date) of a monthly normal retirement benefit equal to the product of i. times ii. times iii. above, based on the Member's Final Average Monthly Earnings and Years of Service after July 1, 1973, both determined as of June 30, 1980, as if the Member had then terminated employment with the Employer, and payable on the benefit commencement date in the form provided in 6.1.a. and the first sentence of Section 6.1.c.
- v. The amount distributed in refund of the Member's required contributions balance as of June 30, 1980, plus interest thereon from the date of distribution to the benefit commencement date provided in Section 6.1.a. at the rate or rates (including applicable compounding) credited to Accounts from the date of distribution to such benefit commencement date.

For this purpose, a Life Annuity means equal monthly payments to the Member commencing on the benefit commencement date provided in Section 6.1.a. and continuing until the last monthly payment before the Member's death, with no benefits payable to the Member's Beneficiary.



**5.2. Early Retirement Benefit**

- a. This Section 5.2.a. applies only to Members who on or after July 1, 1998, are Employees and whose benefit payments under this Plan first commence on or after July 1, 1998. The monthly early retirement benefit will be calculated as in Section 5.1., adjusted for early commencement based on the Member's age in years and months by multiplying by the applicable factor below. If such age is not an exact number of years, a linear interpolation will be made:

Uniformed Members:

Less than 25 Years of Service: Column (1)

25 or more Years of Service: Factor is 100%

Other Members:

Less than 30 Years of Service: Column (2)

30 or more Years of Service: Factor is 100%

Age	(1)	(2)
50	60.0	
51	68.0	
52	76.0	
53	84.0	
54	92.0	
55	100.0	60.0
56	100.0	68.0
57	100.0	76.0
58	100.0	100.0
59	100.0	100.0
60	100.0	100.0
61		100.0
62		100.0
63		100.0
64		100.0
65		100.0

- b. This Section 5.2.b. applies to any Member who (1) at no time on or after July 1, 1998, is an Employee or (2) on or after July 1, 1998, is an Employee but whose benefit payments under this Plan first commenced before July 1, 1998. The monthly early retirement benefit will be calculated as in Section 5.1., adjusted for early commencement based on the Member's age in years and months by multiplying by the applicable factor below. If such age is not an exact number of years, a linear interpolation will be made:

**Section 5.1.a.:** Members Included in a Bargaining Unit: Column (1)  
 Members Excluded from a Bargaining Unit: Applicable Factor from Section 5.1.b.

**Section 5.1.b.:** Uniformed Members Included in a Bargaining Unit: Column (2)

Other Members Included in a Bargaining Unit:

Prior to July 1, 1992: Column (3)

On or after July 1, 1992: Same as Other Members Excluded from a Bargaining Unit

Uniformed Members Excluded from a Bargaining Unit:

Less than 25 Years of Service: Column (4)

25 or more Years of Service: Factor is 100%

Other Members Excluded from a Bargaining Unit:

Less than 30 Years of Service: Column (5)

30 or more Years of Service: Factor is 100%

Age	(1)	(2)	(3)	(4)	(5)
50				60.0	
51				68.0	
52				76.0	
53				84.0	
54				92.0	
55	46.0	64.0		100.0	60.0
56	49.6	71.2		100.0	68.0
57	53.2	78.4		100.0	76.0
58	56.8	85.6		100.0	100.0
59	60.4	92.8		100.0	100.0
60	64.0	100.0	64.0	100.0	100.0
61	71.2		71.2		100.0
62	78.4		78.4		100.0
63	85.6		85.6		100.0
64	92.8		92.8		100.0
65	100.0		100.0		100.0

### 5.3. Late Retirement Benefit

The monthly late retirement benefit will be calculated as in Section 5.1., based on service and salary history up to the Member's actual retirement date. However, the Member's benefit under this Section 5.3. will not be less than the Member's accrued benefit at the Member's 65th birthday, adjusted for late commencement based on the Member's age in years and months by multiplying by the applicable factor below. If such age is not an exact number of years, a linear interpretation will be made:

**Section 5.1.a.:** Factor is 100%

**Section 5.1.b.:** For Uniformed Members retiring before age 65, the factor is 100%.  
For all Members retiring after age 65:

Age	Factor
65	100.0%
66	107.2
67	114.4
68	121.6
69	128.8
70	136.0

(For each additional year after age 70, add 3.6% to the age 70 factor).

### 5.4. Disability Benefit

- a. The monthly disability benefit will be calculated as in Section 5.1., except that the benefit under Section 5.1.a. is payable without reduction and the benefit under Section 5.1.b. is to be calculated as the early retirement benefit for which the Member is eligible. If the Member is not yet eligible for early retirement, the calculation under Section 5.1.b. will assume that the Member retired at earliest eligibility and had continued to complete Years of Service until that date at the Member's current rate of Monthly Earnings. If the monthly benefit (excluding benefits attributable to the Member's Voluntary Contribution Account) is less than \$100, the monthly payment will equal \$100. However, a Member whose disability is service-connected may, in lieu of the above benefits, elect a monthly benefit of 40% of the Member's most recent Monthly Earnings reduced by any benefits the Member is receiving for the month under the Oregon Workers' Compensation Law (currently ORS chapter 656) on account of any type of disability. The amount of the monthly reduction shall be determined by the Employer in its discretion. If the Member receives a lump sum settlement of a disability award under the Oregon Workers' Compensation Law, the reduction on account of the award shall be based on the benefits the Member would have received for the month if the Member had not received the lump sum, as determined by the Employer in its discretion.

- b. The monthly benefit will be calculated as in Section 5.1., except that the benefit under Section 5.1.a. is payable without reduction and the benefit under Section 5.1.b. will be Actuarially Equivalent to the normal retirement benefit.

**5.5. Termination Benefit**

- a. The monthly termination benefit payable commencing on the Member's Normal Retirement Date will be calculated as provided in Section 5.1., based on the Member's Final Average Monthly Earnings and Years of Service at termination.
- b. The Member may instead elect to receive a monthly early retirement benefit as provided in Section 5.2. prior to the Member's Normal Retirement Date, but no earlier than the Member's early retirement age as defined in Section 4.2.
- c. In lieu of all monthly benefits, the Member may elect to receive the Member's Accounts in a lump sum upon termination, thereby forfeiting any benefits attributable to additional Employer contributions on the Member's behalf.

**5.6. Death Benefit for Retired or Disabled Uniformed Members**

The monthly death benefit will be 25% of the life annuity Actuarially Equivalent to the monthly benefit payable to the Member immediately before the Member's death.

**5.7. Voluntary Account Benefits**

- a. The monthly voluntary benefit will be Actuarially Equivalent to the Member's Voluntary Contribution Account.
- b. The monthly unit purchase benefit will be \$10 times the number of the elected contribution units.

**5.8. Cost-of-Living Adjustment**

- a. Each July 1, monthly benefits which have been in pay status since at least the prior July 1 will be increased by the applicable Cost-of-Living Change Factor. This adjustment does not apply to Voluntary Contribution Account and Unit Purchase Contribution Account Benefits and any Employer matching benefits.
- b. On any July 1, the Cost-of-Living Change Factor equals the percentage difference between the two Consumer Price Index averages for the two preceding calendar years subject to a maximum annual increase of 1.50%, with carryover allowed to subsequent years of any increase in excess of 1.50% or any decrease. Both positive and negative changes will be included in the carryover factor, but no decrease in a monthly benefit amount will ever occur.
- c. The Consumer Price Index refers to the Regional Consumer Price Index for the Portland, Oregon, area, published by the Bureau of Labor Statistics of the United States Department of Labor (or a comparable index as determined by the Employer

if such index ceases to be published). If the Consumer Price Index is revised, the Cost-of-Living Change Factor will be equitably adjusted.

- d. Uniformed Members retiring on or after July 1, 1990, will receive ad hoc increases equal to 50% of the increases granted under ORS 237.209 (1991 Replacement Part, as in effect before being amended by 1991 Oregon Laws chapter 796, section 3) in addition to the adjustment described under Section 5.8.a.

**5.9. Additional Benefits for PERS Benefit Increases**

- a. This Section 5.9. 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.
- b. Upon distribution of any part (the "Distributed Part") 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:
  - i. Zero if Section 5.9.c.i. provides that the amount in this Section 5.9.b. for the distribution is zero; otherwise, the amount determined by multiplying the Eligible Payments of the Eligible Portion of the Distributed Part of the Employee's Accrued Benefit by the following percentage:

<i>If the Employee's Years of PSE Service at the Employee's last Severance of Employment are:</i>	<i>The percentage is:</i>
Less than 10	0 percent
At least 10 but not 20	1 percent
At least 20 but not 25	2½ percent
25 or more	4 percent

- ii. Zero if Section 5.9.c.i. provides that the amount in this Section 5.9.b. for the distribution is zero; otherwise, the amount determined by multiplying the Eligible Payments of the Eligible Portion of the Distributed Part 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 increase shall be paid in the same form as the Accrued Benefit is paid.

- c.
  - i. The amount in Section 5.9.b. for a distribution is zero if the distribution is made after May 5, 2013, and will not be subject to Oregon personal income tax under ORS 316.127(9).
  - ii. The County, acting through the Tillamook County Human Resources Director, will establish, and may from time to time amend, procedures to determine whether a distribution will be subject to Oregon personal income tax under ORS 316.127(9). For purposes of this Section 5.9.c., a distribution will be treated as subject to Oregon personal income tax unless the County, acting through the Tillamook County Human Resources Director, determines, or is deemed to have determined, under those procedures that the distribution will not be subject to Oregon personal income tax under ORS 316.127(9).
  - iii. On June 1, 2013, ORS 316.127(9) stated:
    - “(9)(a) Retirement income received by a nonresident does not constitute income derived from sources within this state unless the individual is domiciled in this state.
    - “(b) As used in this section, ‘retirement income’ means retirement income as that term is defined in 4 U.S.C. 114, as amended and in effect for the tax period.”
  - iv. On June 1, 2013, 4 U.S.C. 114 stated in relevant part:
    - “**§ 114. Limitation on State income taxation of certain pension income**
    - “(a) No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).
    - “(b) For purposes of this section--
      - “(1) The term ‘retirement income’ means any income from--
        - “(A) a qualified trust under section 401(a) of the Internal Revenue Code of 1986 that is exempt under section 501(a) from taxation;
        - “\* \* \* \*
        - “(G) a governmental plan (as defined in section 414(d) of such Code) . . . .”
- d.
  - i. In the case of any lump sum payment under Section 6.1.c. to a Member, (1) the reduction thereunder of the monthly benefit payment by an amount Actuarially Equivalent to the lump sum shall be made before applying Section 5.9.b., and (2) Section 5.9.b. shall then apply separately to the monthly benefit payment and the lump sum payment.

- ii. To determine the amount of any lump sum payment under Section 6.1.c. to a Member's Beneficiary, Section 5.9.b. shall apply to the sum of the Member's Employer Contribution Account plus the Member's Required Contribution Account as of benefit commencement.
- e. Despite Section 5.9.b., (a) 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, (b) 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 (c) the amount of the increase in the distribution to an alternate payee with respect to distributions previously made shall be distributed in the following forms, without interest for delayed payment:
  - i. In a lump sum distribution if the benefit is attributable to monthly payments previously made under an annuity.
  - ii. 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.
- f. For purposes of this Section 5.9.:
  - i. 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.
  - ii. "Public Safety Member" means a Member employed by the Employer as a firefighter or police officer as those terms are defined in ORS 237.610.
  - iii. "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.
  - iv. "Accrued Benefit" means the participant's accrued benefit under the Plan but specifically excluding:
    - (1) The cost-of-living adjustment provided in Section 5.8.;
    - (2) The benefit provided in this Section 5.9.;
    - (3) The benefits attributable to the participant's Voluntary Contribution Account or Unit Purchase Contribution Account (including any Employer matching benefit); and
    - (4) The death benefit provided in Sections 4.7. and 5.6., but for purposes of determining the amount of the death benefit provided in Sections 4.7. and 5.6., the monthly benefit payable to the Member

immediately before the Member's death shall include any increase thereto provided in this Section 5.9.

- v. "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.
- vi. The "Eligible Portion" is the part of the Accrued Benefit attributable to membership in the Plan as a Public Safety Member.
- vii. "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. For purposes of applying Section 5.9.b. to a lump sum payment of a Required Contribution Account or of an Employer Contribution Account, and for purposes of applying Section 5.9.b. to the sum of the Member's Employer Contribution Account plus the Member's Required Contribution Account as provided in Section 5.9.d.ii., Years of PSE Service do not include any waiting period or periods under Section 2.1.b. or 2.3. (or under any prior plan described in the preamble to the Plan) to become a Member of the Plan (or to become covered by any such prior plan).
- viii. "Severance of Employment" means permanent termination of employment with the Employer for any cause.
- g. The Employer shall as soon as administratively feasible cause to be distributed to Eligible Employees (and where applicable their Beneficiaries, surviving Spouses, and alternate payees) without interest any benefits provided in this Section 5.9. or Section 5.8. attributable to distributions previously made and shall appropriately adjust the cost-of-living adjustment provided in Section 5.8. for payments to be made in the future. Such benefits shall be distributed in the following forms:
  - i. 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.



- ii. 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.
- h. The benefits provided in this Section 5.9.:
  - i. 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.
  - ii. 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 Section 5.9. 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 in Section 5.9.h.ii.(1)-(3), 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.

- i. No Eligible Employee, Beneficiary, surviving Spouse, surviving Domestic Partner, or alternate payee shall acquire a right, contractual or otherwise, to the increased benefits provided by this Section 5.9.

## ARTICLE 6. Payment of Benefits

### 6.1. Payment Period

- a. Except as otherwise provided below, all benefits will be payable monthly, commencing on the first day of the month coincident with or next following actual retirement date, death, or elected benefit commencement date, and continuing until the last monthly payment before the death of the payee. Benefits will commence no later than the April 1 following the later of the calendar year in which a Member attains age 70½ or retires.
- b. Retirement, disability, or termination benefits calculated under Section 5.1.a. are payable in accordance with the plan provisions in effect on June 30, 1973.
- c. For retirement, disability, or termination benefits calculated under Section 5.1.b., on the Member's death, the excess, if any, of the sum of the Member's Employer Contribution Account plus the Member's Required Contribution Account as of benefit commencement over the aggregate of monthly payments will be paid in a lump sum to the Member's Beneficiary. Alternatively, the Member may elect to receive a lump sum payment of the Member's Employer Contribution Account and the Member's Required Contribution Account as of the date the benefit is determined, in which case the monthly benefit payment will be reduced by an amount Actuarially Equivalent to the lump sum and no benefits will be payable to the Beneficiary.
- d. Benefits calculated under Section 5.4. are payable until the earlier of the Member's Normal Retirement Date, death, return to work, or the date the Member is no longer disabled (as determined by the Employer). For purposes of this Section 6.1.d., a Member's Normal Retirement Date is the first day of the month coincident with or following the attainment of age 60 for Uniformed Members and age 65 for other Members. If benefits cease due to attainment of the Member's Normal Retirement Date, the Member will then receive a monthly normal retirement benefit equal to this monthly disability payment and payable in accordance with the other provisions of this Section 6.1. For the purpose of any death benefits payable on behalf of the Member under this Plan, or for the calculation of the Member's account balances on the Member's return to work, benefits paid under this Section 6.1. are deemed to be paid in order from the Member's Required Contribution Account, Employer Contribution Account, and additional contributions made by the Employer on behalf of the Member. The Voluntary Contribution Account benefit, if any, is in addition to the other benefits payable under this Section 6.1.
- e. Benefits calculated under Section 5.6. are payable to the surviving Spouse for life or, if there is no surviving Spouse, to the surviving Domestic Partner for life. If there is no surviving Spouse and no surviving Domestic Partner, or the surviving Spouse or the surviving Domestic Partner dies, the monthly benefit becomes payable in equal shares to the surviving children under 18. If a surviving child dies

or reaches 18, the benefit is reapportioned among the remaining surviving children under 18, if any. Payments cease when there is no surviving Spouse, surviving Domestic Partner, or surviving child under 18.

- f. For benefits calculated under Section 5.7.a., on the Member's death, the excess, if any, of the Member's Voluntary Contribution Account over the aggregate of monthly payments will be paid to the Member's Beneficiary.
- g. Benefits calculated under Section 5.7.b. are payable until the earlier of the Member's death or attainment of age 65. On the Member's death before age 65, the excess, if any, of the Member's Unit Purchase Contribution Account over the aggregate of payments made (including the Employer matching benefit), if any, will be paid in a lump sum to the Member's Beneficiary. A Member may elect an optional form of payment with benefits payable until the earlier of the Member's death or attainment of age 62; the monthly payment under this form will be 2.25 times the monthly payment under the normal form of benefit.

## 6.2. Facility of Payment

If the Board finds that any person to whom a benefit is payable from the Fund is unable to care for his or her affairs because of illness or accident, any payment due may be paid to the Spouse or Domestic Partner, a child, a parent, or any person deemed by the Board to have incurred expense for such person otherwise entitled to payment, unless a prior claim therefor has been made by a duly appointed guardian, committee or other legal representative. Any such payments will be a complete discharge of any liability under the Plan therefor.

## 6.3. Form of Payment

- a. This Section 6.3.a. applies only to Members whose benefit payments under this Plan first commence on or after August 2, 1998. Members entitled to monthly retirement benefits may elect to receive any of the following optional forms of payment. However, the optional form of payment for unit purchase benefits or Employer matching benefits is described under Section 6.1.g.
  - i. Life annuity. This form provides for equal monthly payments to be made to the Member commencing on the date provided in Section 6.1.a. and continuing until the last monthly payment before the death of the Member.
  - ii. Life annuity with payments for a period certain. This form provides for equal monthly payments to be made to the Member commencing on the date provided in Section 6.1.a. and continuing until the last monthly payment before the death of the Member, and in the event of the death of the Member before 120 payments have been made to the Member, such payments shall continue to the Member's Beneficiary until the total elected number of payments has been made.

- iii. Joint and survivor annuity. This form provides for equal monthly payments to be made to the Member commencing on the date provided in Section 6.1.a. and continuing until the last monthly payment before the death of the Member and, if the Member's Beneficiary survives the Member, then continuing after the death of the Member in equal monthly payments to be made to the Member's Beneficiary until the last monthly payment before the death of the Member's Beneficiary. The amount of each equal monthly payment to the Member's Beneficiary shall be 50%, 75%, or 100% of the amount of each equal monthly payment to the Member, as elected by the Member as provided in Section 6.4. The Member's Beneficiary for purposes of this form shall be elected by the Member as provided in Section 6.4. and, despite Section 1.1.c., may not be changed after payments to the Member commence.
- b. This Section 6.3.b. applies to any Member whose benefit payments under this Plan first commence before August 2, 1998. Members entitled to monthly retirement benefits may elect to receive any optional form of payment which the Custodian provides under this Plan. However, the optional form of payment for unit purchase benefits or Employer matching benefits is described under Section 6.1.g.
- c. Each of the optional forms of payment provided in this Section 6.3. (but not the optional form of payment for unit purchase benefits or Employer matching benefits described under Section 6.1.g.) shall be Actuarially Equivalent to the applicable form of payment described in Section 6.1.

#### **6.4. Election of Benefits**

A person entitled to benefits under this Plan must file a written and signed election satisfactory to the Custodian or the Employer before any payments are made.

#### **6.5. Forfeiture for Moral Turpitude**

Prior to Plan termination or the discontinuance of Employer contributions, any Member convicted of any act of fraud or dishonesty or involving moral turpitude related directly or indirectly to employment with the Employer will forfeit all Plan benefits funded by Employer contributions.

#### **6.6. Withdrawals from Voluntary Contribution Account**

- a. Subject to the last sentence of this Section 6.6.a.:
  - i. A Member may withdraw all or a portion of the Member's voluntary contributions once each Plan Year.
  - ii. Interest in the Voluntary Contribution Account may be withdrawn upon a showing of financial hardship resulting from uninsured, extraordinary medical expenses; complete or partial disability of the Member, the Member's Spouse or Domestic Partner, or the Member's dependent(s);

educational expenses; expense for adequate family housing; or other unusual financial necessity deemed by the Board to be financial hardship.

A Member may not withdraw under this Section 6.6.a. any amount of the Member's Voluntary Contribution Account that is attributable to a transfer to the Account under Section 4.8.b.iv. or an increase in the Account under Section 4.8.b.v. to the extent the transfer or increase is attributable to an Employer-funded matching amount under Section 3.3.c. or 4.8.b.vii.; and for this purpose, an attributable amount includes interest under Section 3.3.d. on such amount and on such interest.

- b. If a Member makes any withdrawal, the Member may not resume voluntary contributions until the following July 1.

## **ARTICLE 7. Amendment, Duration, and Termination**

### **7.1. Amendment and Duration of the Plan**

The Employer hopes and expects to continue the Plan, but necessarily reserves the right to amend or terminate the Plan at any time. Amendments and termination will be made by appropriate actions of the Board, subject to any relevant collective bargaining agreement. Amendments may also be made by written documents signed by the Tillamook County Human Resources Director, subject to any relevant collective bargaining agreement. However, the Human Resources Director may amend the Plan only to (1) clarify the Plan; (2) facilitate the administration of the Plan; or (3) make changes adapting the 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 Human Resources Director. Except as provided in Section 3.4. or 7.2., no such action will operate to recapture for the Employer any part of the Fund previously contributed to the Custodian under the Plan, cause or permit any property of the Fund or property held subject to the Plan to 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 the Fund, nor, except to the extent necessary to meet the requirements of the Internal Revenue Service or any other governmental authority, to adversely affect the pensions of Members already retired or the Fund securing such pensions.

### **7.2. Termination of the Plan**

If the Employer terminates or partially terminates the Plan in accordance with Section 7.1., the assets of the Fund will be allocated, subject to provision for expense of administration of liquidation, for the following pension purposes and in the following manner and order, to the extent of the sufficiency of such assets:

- a. First, among Accounts and the benefits derived there from;
- b. Second, among benefits of Members who elected a benefit prior to Plan termination but for whom an annuity had not yet been purchased;
- c. Third, among benefits of Members entitled to elect a monthly benefit commencing immediately on the date of Plan termination;
- d. Fourth, among the Employer matching benefits for Uniformed Members between the ages of 60 and 65;
- e. Fifth, among benefits of Members entitled to elect benefits if they had terminated employment on the date of Plan termination;
- f. Sixth, among all remaining accrued benefits under the Plan.

If the assets available for allocation under any priority category are insufficient to satisfy in full the benefits of all individuals, the assets will be allocated pro rata among such individuals on the basis of the present value of their respective benefits as of the date of

the Plan's termination. To the extent funded, the rights of all Members to benefits accrued as of the date of termination or partial termination are nonforfeitable. Any residual assets of the Plan remaining after the above allocation will be distributed to the Employer provided all liabilities of the Plan to Members and their Beneficiaries have been satisfied.

## ARTICLE 8. Required Provisions

### 8.1. Required Starting Date

- a. The entire interest of each participant in the Plan:
  - i. Will be distributed to the participant no later than the Required Starting Date; or
  - ii. 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 8.1.a.ii. 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 8.1.a.ii. 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 8.1.a.ii., 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:
  - i. The date on which the distributions are required to start for purposes of the exception to the five-year rule in Section 8.1.c. will not be earlier than the date on which the participant would have attained age 70½; and
  - ii. If the surviving Spouse dies before the distributions to the Spouse start, Sections 8.1.b. and c. will be applied as if the Spouse were the participant.
- e. For purposes of this Section 8.1.:
  - i. "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.
  - ii. "Designated Beneficiary" means any individual designated as a beneficiary by the participant.



- iii. "Spouse" and "surviving Spouse" include an alternate payee who is the participant's former Spouse.
  - iv. 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).
  - v. Any distribution required under the incidental death benefit requirements of IRC Section 401(a) will be treated as a distribution required under this Section 8.1.
- 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:
- i. 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.
  - ii. 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.
  - iii. 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.
  - iv. With respect to distributions made for any calendar year, the provision in Treasury Regulation Section 1.401(a)(9)-1 Q&A-2(d), as published in 74 Fed. Reg. 45993 (September 8, 2009), treating a governmental plan (within the meaning of IRC Section 414(d)) as having complied with IRC Section 401(a)(9) for all years to which IRC Section 401(a)(9) applies to the plan if the plan complies with a reasonable and good faith interpretation of IRC Section 401(a)(9).
- g. This Section 8.1.:
- i. Applies only to the extent this Section 8.1. requires a distribution to be made earlier than otherwise required under the Plan.
  - ii. Overrides any distribution options in the Plan inconsistent with IRC Section 401(a)(9).

- iii. 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).

## 8.2. Annual Compensation Limit

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) (\$200,000), as adjusted for increases in the cost of living in accordance with IRC Section 401(a)(17)(B). The requirements of IRC Section 401(a)(17) and the Treasury regulations thereunder are incorporated into the Plan by this reference. In determining each participant's benefit accruals under the Plan for any Plan Year ending after December 31, 2001, the annual compensation limit for any Plan Year ending before January 1, 2002, is \$200,000.

## 8.3. Direct Rollovers

Despite any contrary provision of the Plan, a Distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover. The following definitions shall apply to this Section 8.3.:

- a. Direct Rollover: A Direct Rollover is a payment by the Plan to an Eligible Retirement Plan specified by the Distributee.
- b. Distributee: A Distributee includes any of the following:
  - i. An employee or former employee.
  - ii. An employee's or former employee's surviving Spouse.
  - iii. An employee's or former employee's Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC Section 414(p).
  - iv. Effective for distributions made after December 31, 2009, a Designated Beneficiary.
- c. Designated Beneficiary: A Designated Beneficiary is an employee's or former employee's beneficiary meeting either of the following requirements:
  - i. The beneficiary:
    - (1) Is an individual and a designated beneficiary (as defined in IRC Section 401(a)(9)(E)) of the employee or former employee;
    - (2) Is not the employee's or former employee's surviving Spouse; and

- (3) Is not an alternate payee under a qualified domestic relations order, as defined in IRC Section 414(p), who is the employee's or former employee's Spouse or former Spouse; or
    - ii. The beneficiary is a trust maintained for the benefit of one or more designated beneficiaries (as defined in IRC Section 401(a)(9)(E)) of the employee or former employee.
  - d. Eligible Retirement Plan:
    - i. Except as provided in Section 8.3.d.ii. and Section 8.3.d.iii., an Eligible Retirement Plan is any of the following specified by the Distributee that accepts the Eligible Rollover Distribution:
      - (1) An individual retirement plan described in IRC Section 7701(a)(37) (other than an endowment contract), including, for distributions made after December 31, 2007, a Roth IRA described in IRC Section 408A, except that, for taxable years beginning before January 1, 2010, an individual retirement plan does not include a Roth IRA if, for the taxable year of the distribution to which the Direct Rollover relates, (a) the taxpayer's adjusted gross income (as determined under IRC Section 408A(c)(3)) exceeds \$100,000 or (b) the taxpayer is a Married individual filing a separate return.
      - (2) A qualified trust described in IRC Section 401(a).
      - (3) An annuity plan described in IRC Section 403(a).
      - (4) An annuity contract described in IRC Section 403(b).
      - (5) An eligible deferred compensation plan under IRC Section 457(b) which is maintained by an eligible employer described in IRC Section 457(c)(1)(A) and that agrees to separately account for amounts transferred into such plan from the Plan.
    - ii. In the case of a Direct Rollover on behalf of a Designated Beneficiary, an Eligible Retirement Plan is an individual retirement plan described in IRC Section 7701(a)(37) (other than an endowment contract), including a Roth IRA described in IRC Section 408A, that:
      - (1) Is specified by the Designated Beneficiary;
      - (2) Accepts the Direct Rollover;
      - (3) Is established for the purpose of receiving the distribution on behalf of the Designated Beneficiary; and

- (4) Will be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of IRC Section 408(d)(3)(C)) pursuant to IRC Section 402(c)(11),

except that, for taxable years beginning before January 1, 2010, an individual retirement plan does not include a Roth IRA if, for the taxable year of the distribution to which the Direct Rollover relates, (a) the taxpayer's adjusted gross income (as determined under IRC Section 408A(c)(3)) exceeds \$100,000 or (b) the taxpayer is a Married individual filing a separate return.

- iii. In the case of a Direct Rollover made in a tax year beginning after December 31, 2006, that is not on behalf of a Designated Beneficiary and includes an amount that is not includable in gross income, an Eligible Retirement Plan is any of the following that is specified by the Distributee and accepts the Direct Rollover:

- (1) A qualified trust described in IRC Section 401(a) or an annuity contract described in IRC Section 403(b) which trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable; or

- (2) An individual retirement plan as described in Section 8.3.d.i.(1).

- e. Eligible Rollover Distribution: An Eligible Rollover Distribution is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include any of the following:

- i. 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 (within the meaning of IRC Section 402(c)(4)(A)(i)), or for a specified period of ten years or more.
- ii. Any distribution to the extent such distribution is required under IRC Section 401(a)(9). The determination of any distribution required under IRC Section 401(a)(9) for a Designated Beneficiary will be made in accordance with Q&A-17 and -18 of Internal Revenue Service Notice 2007-7, 2007-5 I.R.B. 395, or later guidance by the Internal Revenue Service or in Treasury regulations.
- iii. Unless the plan administrator affirmatively elects to the contrary, any minimum amount permitted by IRC Section 401(a)(31) and regulations issued thereunder that is permitted to be excluded from the definition of Eligible Rollover Distribution.

- iv. Any distribution made upon hardship (within the meaning of IRC Section 402(c)(4)(C)) of the Distributee.
- v. Any other distribution designated in Treasury regulations, or by the Commissioner of Internal Revenue Service pursuant to Treasury regulations, as not an eligible rollover distribution within the meaning of IRC Section 402(c)(4).

#### 8.4. Automatic Rollovers

Despite any contrary provision of the Plan, the plan administrator will cause any Eligible Rollover Distribution described in this Section 8.4. to be paid in a Direct Rollover to an individual retirement plan designated by the plan administrator and will notify the participant in writing (either separately or as part of the notice under IRC Section 402(f)) that the distribution may be transferred to another individual retirement plan. An Eligible Rollover Distribution is described in this Section 8.4. if:

- a. The distribution:
  - i. Is more than \$1,000;
  - ii. Is made with respect to a participant before the later of the participant's 62d birthday or the participant's normal retirement age; and
  - iii. May be made without the participant's consent; and
- b. The participant does not elect to have the distribution paid directly to an Eligible Retirement Plan specified by the participant in a Direct Rollover or to receive the distribution directly.

The definitions in Section 8.3. (about Direct Rollovers) apply to this Section 8.4, except that the individual retirement plan is designated by the plan administrator, not specified by the participant. An individual retirement plan is an individual retirement plan described in IRC Section 7701(a)(37) but does not include a Roth IRA.

#### 8.5. Benefits for Military Service

Despite any contrary provision of the Plan:

- a. Effective for reemployments initiated on or after December 12, 1994, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with IRC Section 414(u).
- b. However, effective for deaths and disabilities occurring on or after January 1, 2007, the Plan will not apply IRC Section 414(u)(9) (about treatment in the case of death or disability resulting from active military service) as added by section 104(b) of Public Law No. 110-245, the Heroes Earnings Assistance and Relief Tax Act of 2008; and therefore, for benefit accrual purposes, the Plan will not treat an

individual who dies or becomes disabled while performing qualified military service with respect to the employer maintaining the Plan as if the individual has resumed employment in accordance with the individual's reemployment rights under chapter 43 of title 38, United States Code, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

- c. In the case of a participant who dies after December 31, 2006, while performing qualified military service (as defined in IRC Section 414(u)), the survivors of the participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the participant resumed and then terminated employment on account of death.
- d. Only to the extent required by IRC Section 414(u)(12)(A):
  - i. An individual receiving a differential wage payment in a year beginning after December 31, 2008, will be treated as an employee of the employer making the payment; and
  - ii. The differential wage payment will be treated as compensation.

A differential wage payment is any payment that:

- i. Is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) while on active duty for a period of more than 30 days; and
- ii. Represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.

This Section 8.5.d. does not entitle any individual to a differential wage payment.

#### 8.6. **Limit on Benefits**

Despite any contrary provision of the Plan, a participant's annual benefit payable under the Plan during any limitation year may not exceed the limitations of IRC Section 415 as provided in this Section 8.6.

- a. A participant's annual benefit payable under the Plan during any limitation year may not exceed the dollar limitation under IRC Section 415(b)(1)(A) for the limitation year.
- b. The dollar limitation in Section 8.6.a. and in IRC Section 415(b)(1)(A) will be annually adjusted pursuant to IRC Section 415(d). Without limiting the foregoing:

- i. For participants who have incurred a severance from employment (as defined in Treasury Regulation Section 1.415(a)-1(f)(5)) with the employer maintaining the Plan or commenced receiving benefits, the annual adjustments to the dollar limitation in Section 8.6.a. and in IRC Section 415(b)(1)(A) pursuant to IRC Section 415(d) that are effective after such severance or, if earlier, after the annuity starting date with respect to the commenced benefits, will apply to the participants.
  - ii. Adjustments of the dollar limitation in Section 8.6.a. and in IRC Section 415(b)(1)(A) will apply to participants who have not commenced benefits before the effective date of the adjustment.
  - iii. With respect to distributions that commenced before the effective date of an adjustment of the dollar limitation in Section 8.6.a. and in IRC Section 415(b)(1)(A), the adjustment will apply to the distributions, but only to the extent that benefits have not been paid.
- c. If a participant's annual benefit payable under the Plan during a limitation year would exceed the amount provided in Section 8.6.a., the participant's annual benefit payable under the Plan during such limitation year will be reduced to the amount provided in Section 8.6.a.
- d. In the case of any participant in more than one 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 paid to the participant under the Plan during a limitation year as provided in Section 8.6.a. will be reduced, to the extent required to comply with IRC Section 415, by the amount of the aggregate of the annual benefits payable to the participant under such other plans during such limitation year.
- e. The limitations in this Section 8.6. will be applied according to the adjustments described in and the provisions of IRC Section 415 and Treasury regulations and guidance by the Internal Revenue Service under IRC Section 415 (including the effective dates of such adjustments and provisions), which 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 any form other than a form described in IRC Section 415(b)(2)(A), or where employees contribute to the Plan or make rollover contributions), 415(b)(2)(C) and (D) (about benefits beginning 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), 415(d) (about COLAs), 415(k)(3) (about repayments of cashouts under governmental plan), and 415(n) (about purchase of permissive service credit) and in Treasury Regulation Section 1.415(a)-1(g)(4) (April 5, 2007) (regarding grandfather rule for preexisting benefits). As provided in Treasury Regulation

Section 1.415(a)-1(d)(3)(ii) (April 5, 2007), the Plan will be applied according to the default rules under IRC Section 415 except where the Plan specifies a permitted optional manner in which IRC Section 415 is to be applied in variance from the default rule.

- f. The adjustments described in IRC Section 415(b)(2)(B), (C), and (D) will be made as follows:
  - i. The adjustment described in IRC Section 415(b)(2)(B) for any form of benefit not subject to IRC Section 417(e)(3) will be made using whichever of the following produces the straight life annuity with the greater annual amount:
    - (1) The annual amount of the straight life annuity (if any) payable to the participant under the Plan commencing at the same annuity starting date as the form of benefit payable to the participant; or
    - (2) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the participant, computed using 5% interest and the mortality table described in IRC Section 415(b)(2)(E)(v).
  - ii. The adjustment described in IRC Section 415(b)(2)(B) for any form of benefit subject to IRC Section 417(e)(3) will be made using whichever of the following produces the straight life annuity with the greatest annual amount:
    - (1) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the applicable interest rate and the applicable mortality table described in Section 1.1.b. (which include, if applicable under Section 1.1.b., the interest rate and mortality table used to determine the annuity purchase rate for the benefit under Group Retirement Policy No. G-9305 issued to the Employer by Pacific Life Insurance Company);
    - (2) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using 5.5% interest and the mortality table described in IRC Section 415(b)(2)(E)(v); or
    - (3) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation



Section 1.417(e)-1(d)(3) and the mortality table described in IRC Section 415(b)(2)(E)(v)), divided by 1.05.

iii. The adjustments described in IRC Section 415(b)(2)(C) and in IRC Section 415(b)(2)(D) will be made as follows:

(1) No adjustment will be made to reflect the probability of a participant's death between the annuity starting date and age 62, or between age 65 and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the participant before the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment will be made.

(2) If the Plan does not have an immediately commencing straight life annuity payable both at age 62 (age 65 if the adjustment is described in IRC Section 415(b)(2)(D)) and the age of benefit commencement, the adjustments will be made using 5% interest and the mortality table described in IRC Section 415(b)(2)(E)(v) (and expressing the participant's age based on completed calendar months as of the annuity starting date).

(3) If the Plan has an immediately commencing straight life annuity payable both at age 62 (age 65 if the adjustment is described in IRC Section 415(b)(2)(D)) and the age of benefit commencement, the adjustments will be made using whichever of the following produces the straight life annuity with the lesser annual amount:

(a) The applicable interest rate and the applicable mortality table described in Section 1.1.b. (which include, if applicable under Section 1.1.b., the interest rate and mortality table used to determine the annuity purchase rate for the benefit under Group Retirement Policy No. G-9305 issued to the Employer by Pacific Life Insurance Company), or (if applicable) the applicable factor specified in Section 5.2. (about Early Retirement Benefit) or 5.3. (about Late Retirement Benefit); or

(b) 5% interest and the mortality table described in IRC Section 415(b)(2)(E)(v) (and expressing the participant's age based on completed calendar months as of the annuity starting date).

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

i. A year of participation will be determined as provided in Treasury Regulation Section 1.415(b)-1(g)(1)(ii);

- ii. A year of service is a Plan Year for which the participant accrues a benefit under the Plan or for which participant's employment with the employer maintaining the Plan would be sufficient to accrue a benefit under the Plan if the participant had met the other requirements for such accrual; and
- iii. A participant who is permanently and totally disabled (as defined in IRC Section 22(c)(3)) for a Plan Year will be credited with a year of participation and a year of service for that year.

#### **8.7. Limit on Annual Additions**

- a. Despite any contrary provision of the Plan, the annual additions credited to any participant's accounts under the Plan for any limitation year may not exceed the lesser of the dollar limitation in IRC Section 415(c)(1)(A) or 100% of the participant's compensation (as defined in Section 8.8., about compensation for purposes of limit on annual additions). The dollar limit in this Section 8.7.a. will be annually adjusted pursuant to IRC Section 415(d).
- b. In the case of any participant in more than one 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 under the Plan as provided above will be reduced, to the extent required to comply with IRC Section 415, by the aggregate of the amount of the annual additions to the participant's accounts under such other plans.
- c. The limitations in this Section 8.7. will be applied according to adjustments described in and the provisions of IRC Sections 415 and 419A(d) and Treasury regulations and guidance by the Internal Revenue Service under IRC Sections 415 and 419A(d) (including the effective dates of such adjustments and provisions), which are incorporated into the Plan by this reference, including without limitation the adjustments described in and the provisions of IRC Sections 415(c) (about limitation for defined contribution plans), 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). As provided in Treasury Regulation Section 1.415(a)-1(d)(3)(ii) (April 5, 2007), the Plan will be applied according to the default rules under IRC Section 415 except where the Plan specifies a permitted optional manner in which IRC Section 415 is to be applied in variance from the default rule.

#### **8.8. Compensation for Purposes of Limit on Annual Additions**

For purposes of Section 8.7. (about limit on annual additions), "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)). For purposes of Section 8.7.:

- a. Compensation includes any elective deferral (as defined in IRC Section 402(g)(3)), or additional elective deferral under IRC Section 414(v), 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, 132(f)(4), or 457.
- b. IRC Section 415(c)(3)(C) (about special rules for permanent and total disability) and Treasury Regulation Section 1.415(c)-2(g)(4) (about permanent and total disability of defined contribution plan participant) will apply to with respect to all participants.
- c. The amounts included in a participant's compensation under this Section 8.8. will be based on such amounts from the employer (within the meaning of IRC Section 414(b), (c), (m), and (o), after applying IRC Section 415(h)).
- d. Compensation will be limited as provided in Section 8.2. (about annual compensation limit).
- e. Compensation for any limitation year is the compensation (as defined in the above provisions of this Section 8.8.) actually paid or made available to the participant (or, if earlier, includable in the gross income of the participant) during such year. For purposes of this Section 8.8.e.:
  - i. Compensation is treated as paid on a date if it is actually paid on that date or it would have been paid on that date but for an election described in Section 8.8.a. (about elective deferrals).
  - ii. Compensation includes only those amounts described in the above provisions of this Section 8.8. that are:
    - (1) Paid or treated as paid to the employee (in accordance with the above provisions of this Section 8.8.e.) before the employee's severance from employment (as defined in Treasury Regulation Section 1.415(a)-1(f)(5)) with the employer; or
    - (2) Paid after such severance and by the later of 2½ months after such severance or the end of the limitation year that includes the date of such severance and which:
      - (a) Are regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

- (b) Would have been paid to the employee prior to a severance from employment if the employee had continued in employment with the employer.

Thus compensation does not include severance pay if paid after such severance.

- iii. Payments awarded by an administrative agency or court or pursuant to a bona fide agreement by employer to compensate an employee for lost wages are compensation for the limitation year to which the back pay relates, but only to the extent such payments represent wages and compensation that would otherwise be included in compensation under this Section 8.8. This Section 8.8.e.iii. applies only to back pay that this Section 8.8.e.iii. would allocate to a limitation year beginning after June 30, 2007.

#### **8.9. Annuity Contracts**

Benefits may be paid by distributing an annuity contract purchased by the Custodian 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 joint annuitant, beneficiary, and estate, and upon the delivery thereof such persons will have no further interest under the Plan or in the Fund 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 Fund.
- c. Any such contract must be nontransferable and may not pay benefits that exceed the limitations of Section 8.6. (about limit on benefits) or Section 8.7. (about limit on annual additions).
- 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.

#### **8.10. Oregon Family Fairness Act**

The Plan will be administered to comply with the Oregon Family Fairness Act, ORS 106.300 to 106.340.

## ARTICLE 9. Miscellaneous

### 9.1. Inalienability of Benefits

The Custodian will make benefit payments only to Members, Beneficiaries, surviving Spouses, Domestic Partners, or alternate payees entitled to benefits under the Plan or persons designated under Section 6.2. No benefit under the Plan or Fund 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. However, benefits may be paid in accordance with qualified domestic relations orders as provided in Section 9.2. under rules established by the Board.

### 9.2. Qualified Domestic Relations Orders

Despite any contrary provision of the Plan except Section 8.1. (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 severance of employment with the Employer if provided or allowed by the decree, order, or agreement. However, the Plan may not distribute a benefit to a participant's Domestic Partner or former Domestic Partner (or other person with respect to whom the distribution does not satisfy the requirements of IRC Section 414(p)(11)) if participant has not attained age 62 or separated from employment with the Employer and all employers aggregated with the Employer pursuant to any of IRC Section 414(b), (c), (m) and (o).

- 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:
  - i. That the copy is a true copy of the Order.
  - ii. 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.

- iii. Of the extent to which the terms of the Order expressly provide for payment of a benefit under the Plan to an alternate payee.
- iv. Of any other fact or matter required for the Employer to:
  - (1) Determine the application of ORS 237.600 to the Order or the extent to which the Order applies to the Plan.
  - (2) Comply with the Order or with ORS 237.600.
  - (3) 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 severance of employment with the Employer, the amounts payable to the participant's alternate payee will be determined using the applicable interest rate and mortality table in Section 1.1.b. (applied by substituting the alternate payee for the Member), not the reduction factors in Section 5.2.

### 9.3. Claims

- a. 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 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.
- b. 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.

**9.4. Rights of Members**

Nothing herein contained will be deemed to give any Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge such Employee at any time, nor will it be deemed to give the Employer the right to require the Employee to remain in its service, nor will it interfere with the Employee's right to terminate the Employee's service at any time.

**9.5. Availability of Document**

An executed copy of the Plan will be available for inspection by any Employee or any person entitled to benefits under the Plan during business hours at the office of the Employer.

**9.6. Interpretation**

The provisions of this 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 or for the Fund to be exempt, will be interpreted and administered consistent with such provision the IRC and the interpretive authorities thereunder.

The Plan includes provisions adopted in good faith to comply with the Tax Increase Prevention and Reconciliation Act of 2005, the Pension Protection Act of 2006, the Heroes Earnings Assistance and Relief Tax Act of 2008, and the Worker, Retiree, and Employer Recovery Act of 2008. Such provisions shall be interpreted and administered consistent with Treasury regulations and Internal Revenue Service guidance regarding such Acts, even where such regulations and guidance are inconsistent with the literal interpretation of such provisions.

**9.7. Employer's Discretion**

The Employer has discretionary authority to construe and interpret the Plan and to determine all questions that arise under the Plan. The decision of the Employer made in good faith is final and binding upon all parties including participants and beneficiaries.

9.8. **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 applicable interest rate specified in Section 1.1.b.

9.9. **Captions**

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

TILLAMOOK COUNTY

By: Mona L. Hamblen  
Mona Hamblen, Human Resources Director  
Signed this 20<sup>th</sup> of January, 2016 (MH)



Appendix A

Unit Purchase Contribution Rates

Applicable Prior to July 1, 1992  
(Originally Effective July 1, 1973)

Rates are monthly contributions required for each 10 unit of monthly income based upon age at commencement of contributions and payable to age 60.

<u>AGE</u>	<u>MONTHLY RATE</u>	<u>AGE</u>	<u>MONTHLY RATE</u>
18	0.24	38	0.96
19	0.25	39	1.04
20	0.27	40	1.13
21	0.29	41	1.23
22	0.31	42	1.35
23	0.33	43	1.48
24	0.35	44	1.62
25	0.37	45	1.79
26	0.40	46	1.98
27	0.43	47	2.21
28	0.46	48	2.47
29	0.49	49	2.78
30	0.53	50	3.16
31	0.57	51	3.62
32	0.61	52	4.21
33	0.65	53	4.96
34	0.70	54	5.97
35	0.76	55	7.39
36	0.82	56	9.52
37	0.89	57	13.08
		58	20.22
		59	41.65

Appendix A

Unit Purchase Contribution Rates

Applicable On and After July 1, 1992

<u>AGE</u>	<u>MONTHLY RATE</u>	<u>AGE</u>	<u>MONTHLY RATE</u>
18	0.13	38	0.72
19	0.14	39	0.79
20	0.15	40	0.87
21	0.17	41	0.96
22	0.18	42	1.07
23	0.20	43	1.18
24	0.21	44	1.32
25	0.23	45	1.47
26	0.25	46	1.65
27	0.27	47	1.86
28	0.30	48	2.10
29	0.32	49	2.40
30	0.35	50	2.76
31	0.38	51	3.20
32	0.42	52	3.75
33	0.46	53	4.47
34	0.50	54	5.44
35	0.55	55	6.81
36	0.60	56	8.86
37	0.66	57	12.30
		58	19.20
		59	39.93