

PLAN TRUST – DECLARATION



Local Government Entity

ARTICLE I - PURPOSE

Employer, which is a local government entity in Oregon and an “eligible employer” under Section 457(e)(1) of the Internal Revenue Code (IRC), 26 USC 457(e)(1), desires to establish an “eligible deferred compensation plan” (“the Plan”), as defined in Section 457(b) of the Internal Revenue Code, for employees performing services for Employer (“Employer” or “Plan Sponsor”). Employer is the Plan Administrator, and its governing body is the Plan Trustee. The Plan is a “local government deferred compensation plan” as defined in ORS 243.401(9) that is administered by the Public Employees Retirement System. A Third Party Administrator (TPA) may be contracted to offer administrative services.

ARTICLE II - ACCOUNTS HELD IN TRUST

All amounts of compensation deferred under the Plan, all property and rights purchased with such amounts and all income attributable to such amounts, property, or rights shall be held in trust for the exclusive benefit of Participants and their beneficiaries.

ARTICLE III - INVESTMENT

Employer shall offer a diversified investment program(s) for employees participating (“Participants”) in the Plan. All or any portion of each Participant’s Account may be, but shall not be required to be, invested by Employer in the options designated by Participant. Employer shall have absolute and uncontrolled discretion with respect to the option or options, in which the Account as defined in Article IV, shall be invested.

ARTICLE IV - DEFERRAL

The compensation that a Participant would otherwise receive for the pay period shall be reduced by the amount specified by the Participant enrollment form, or through instructions communicated via the PERS/OSGP website, telephone, or other approved method(s) prescribed by the Deferred Compensation Office. The amount of the reduction shall be contributed to Participant’s Deferred Compensation Account (the “Account”).

ARTICLE V - CHANGE IN AMOUNT OF DEFERRAL

The amount of compensation to be deferred under the Plan may be increased or decreased at any time in accordance with Plan procedures. Any such revision shall be effective for any calendar month by salary reduction only if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.

ARTICLE VI - MAXIMUM DEFERRAL

Except as provided in Article XIV, the following limitations shall apply: In no event shall the amount deferred for any Participant’s taxable year exceed the lesser of (i) the certain amount specified by the Internal Revenue Service or (ii) 100 percent of Participant’s includible compensation for the taxable year for services performed for Employer.

ARTICLE VII - TIMING OF DEFERRAL

Compensation may be deferred for any calendar month by salary reduction only if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.

ARTICLE VIII - EMPLOYER'S OBLIGATION; FEES AND CHARGES

Employer's sole obligation to the Participant at any time shall be equal to the value of the Account at such time. The Participant's Account shall be reduced by any charges or fees incurred in liquidating any investment in which the Account is invested, including any interest penalty for early withdrawal of amounts deposited in any financial institution. In addition, the Plan may charge each Participant an annual administrative fee of up to two (2) percent of the Account.

Loan: If employer chooses to participate in the Plan's loan program, participants may be eligible to borrow funds from their OSGP account.

ARTICLE IX - NON-ASSIGNMENT

Except as required by the terms of a domestic relations order as defined in IRS Private Letter Ruling 9145010, July 31, 1991, the Internal Revenue Code, as may be amended, and Plan provisions, Participant may not assign, anticipate, alienate, sell, transfer, pledge, or in any way encumber any of the rights Participant may have in the Employer's 457 Plan, as may be amended. Employer shall reject and refuse to honor any such purported action with respect to such rights. The interest of Participant or any beneficiary designated by Participant in Participant's Account or in any obligation established by this Plan-Trust Declaration shall not be subject to the claims of Participant's creditors or to legal process on behalf of Participant's creditors or be liable for the debts of any beneficiary.

ARTICLE X - AVAILABILITY OF DEFERRED FUNDS

In no event will any amount payable under this Plan be paid or made available to Participant before the Participant incurs a Severance from Employment or is approved for an Unforeseeable Emergency or De Minimis distribution which are defined below. In no event may a Participant's Beneficiary or alternate payee under a QDRO receive a De Minimis distribution or a distribution for an Unforeseeable Emergency.

Severance from Employment shall be determined in the manner prescribed by the Internal Revenue Service. For purposes of this Plan, Participant will have a Severance from Employment on ceasing to render services for the Plan Sponsor, including services as a temporary employee. If a Participant returns to work with the Plan Sponsor, the Participant is no longer eligible for distributions except as otherwise expressly allowed under the Plan and the Internal Revenue Code. "Unforeseeable Emergency shall mean severe financial hardship to Participant resulting from a sudden and unexpected illness or accident of Participant or of Participant's dependent (as defined in Section 152(a) of the Internal Revenue Code), loss of Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond Participant's control. The circumstances that will constitute an Unforeseeable Emergency will depend upon the facts of each case, but in any case, payment may not be made to the extent that such hardship is or may be relieved: (i) through reimbursement of compensation by insurance or otherwise, (ii) by liquidation of Participant's assets, to the extent the liquidation would not itself cause severe financial hardship, or (iii) by cessation of deferrals under the Plan."

De Minimis Distribution. If a Participant's account has less than \$5,000 and the Participant has not contributed to the Plan for a minimum of two years, the Participant may request that the account balance be distributed to the Participant. A Participant may elect this option only once.

Unforeseeable Emergency. Upon the occurrence of an Unforeseeable Emergency, as defined above, Participant may request an Unforeseeable Emergency Withdrawal in a manner prescribed on a form supplied by the Deferred Compensation Office. If the Deferred Compensation manager, or the manager's designee, approves the request, a distribution will be made in an amount consistent with the terms of this Plan and Agreement and reasonably needed to satisfy the emergency need.

Loan. If employer chooses to participate in the Loan Program, participants may be eligible to borrow funds from their OSGP account.

Distribution After Severance from Employment. Upon Participant's Severance from Employment, as defined above, Employer shall direct the record keeper to pay Participant the value of Participant's Account in the manner specified in Article XII.

ARTICLE XI - PAYMENT UNDER THE PLAN

- (a) Upon Participant's Severance from Employment, as defined in Article X, Employer shall authorize payment to the Participant in accordance with Plan procedures; or
- (b) Upon the occurrence of an Unforeseeable Emergency, as defined in Article X. Participant may submit an Unforeseen Emergency Withdrawal Request on a form supplied by the Employer or TPA. The request, if approved, will be for only the amount of payment as is consistent with the terms of this Plan document and reasonably needed to satisfy the emergency need.

ARTICLE XII - DISTRIBUTIONS

The distribution form, which must be completed by a Participant upon severance of employment when the Participant requests a distribution from the Plan, provides for the time and manner in which the value of the Participant's Account is to be paid following Severance from Employment. The Participant may make or change an election regarding the manner in which payments are to be made by completing and executing the "Manner of Payment" portion of the distribution form and delivering by mail or in person to the OSGP office at least 30 days before the payment commencement date. The "Payment Commencement Date" portion and the "Manner of Payment" portion of the distribution form shall become effective when executed by both Participant and Employer. The payment commencement date must be at least 30 days after the termination date. If the Participant turned 70½ in 2019 or earlier and still has a balance in the Plan, they are required to take a Required Minimum Distribution (RMD) by April 1st of the calendar year following the calendar year in which they reached 70½. Beginning in 2020 or later, if the Participant has a balance in the Plan, they are required to take a Required Minimum Distribution (RMD) by April 1st of the calendar year following the calendar year in which they reach 72, or when they separate from service, whichever is later. The manner of payment selected must satisfy the requirements of Section 401(a)(9) of the Internal Revenue Code. If a Participant fails to elect a payment commencement date by the required beginning date as defined in OAR 459-050-0080, payments shall be made in accordance with IRC 401(a)(9). Account balances of less than \$1,000 shall be distributed as a lump sum within one year after the termination date.

ARTICLE XIII - DISTRIBUTION TO BENEFICIARIES

If the Participant dies after having begun to receive distributions, the distribution of benefits must continue to the designated beneficiary at least as rapidly as under the schedule of payments elected by Participant. If Participant dies before having begun to receive distributions, Participant's entire Account must be distributed by December 31 of the calendar year that contains the fifth anniversary of Participant's death, unless the designated beneficiary elects within 60 days after the date the Deferred Compensation Office is notified of the Participant's death to have one of the following special rules apply:

- (a) **IF THE BENEFICIARY IS PARTICIPANT'S SURVIVING SPOUSE:** If the beneficiary is a surviving spouse, distributions must begin no later than December 31 of the year in which the Participant would have reached age 72, or the year that contains the first anniversary of the Participant's death, whichever is later. The entire account must be paid over a period that does not exceed the surviving spouse's life expectancy.
- (b) **IF THE BENEFICIARY IS A PERSON OTHER THAN THE SURVIVING SPOUSE:** If the beneficiary was designated by the Participant, distributions must begin no later than December 31 of the year that contains the first anniversary of Participant's death. The entire Account must be paid over a period which does not exceed the beneficiary's life expectancy.
- (c) **IF THE BENEFICIARY WAS NOT DESIGNATED BY THE PARTICIPANT:** As defined in section 401(a)(9) of the Internal Revenue Code, the Participant's entire interest must be distributed to the Estate.

ARTICLE XIV - CATCH-UP ELECTION

Participants nearing normal retirement age may make up some or all of any deferrals they did not make during previous years of eligibility. For purposes of this Article, "normal retirement age" shall have the meaning given to that term under the retirement system of the plan sponsor. A Participant may elect to make additional catch-up contributions using either of the options listed below. These options may not be exercised simultaneously.

- (a)** The earliest a Participant may exercise this catch-up option is three years before the Participant reaches normal retirement age. Within one to three years prior to the Participant's normal retirement, the Participant may make additional contributions, such that the sum of normal contributions and catch-up contributions does not exceed the lesser of:
 - (i) twice the dollar amount in effect under Internal Revenue Code section 457(b)(2)(A) or
 - (ii) the sum of the maximum contribution level available to the employee plus so much of the maximum contribution level as was not previously used.

- (b)** A Participant who has attained age fifty (50) before the close of the pay year may defer an amount in addition to the maximum contribution level, not to exceed the lesser of:
 - (i) the dollar amount stated by the Internal Revenue Service; or
 - (ii) compensation as defined in IRC 415(c) less any other elective deferrals for the year.

ARTICLE XV - PLAN-TO-PLAN TRANSFERS OUT OF THE PLAN

If Participant has a Severance from Employment under this Plan, and becomes employed by another Employer that sponsors a plan that accepts eligible rollover distributions under the Internal Revenue Code, including but not limited to an "eligible deferred compensation plan" under Section 457, Participant may request a transfer of his or her Account to the new Employer's plan. Such a transfer is subject to the terms and conditions of the plan receiving the funds.

ARTICLE XVI - ACCEPTANCE OF DEFERRALS FROM ANOTHER PLAN

Compensation deferred by a Participant pursuant to another eligible plan, including but not limited to plans established under sections 401(k) and 403(b) of the Internal Revenue Code, IRAs, and a governmental employer's "eligible deferred compensation plan" within the meaning of Section 457 of the Internal Revenue Code, may be accepted by this Plan. Such amounts shall be credited to the Participant's Account established pursuant to this Plan-Trust Declaration and shall be subject to all the terms and provisions of the Plan, Oregon Revised Statutes, and the Oregon Administrative Rules, as they may be amended from time to time.

ARTICLE XVII - REVOCATION

Participant may revoke participation in the Plan by providing telephonic instructions, by issuing instructions via the PERS/OSGP Internet site, or any other method that is in accordance with Plan procedures. Any revocation shall be effective only for compensation earned after the last day of the calendar month in which the revocation is submitted. Revocation of participation in the Plan will not accelerate payment of amounts deferred. Payment will occur only upon the occurrence of one of the specific events detailed in this Plan document.

ARTICLE XVIII - DOMESTIC RELATIONS ORDER

The Plan will comply with domestic relation orders as defined in IRS Private Letter Ruling 9145010, July 31, 1991, and as required under Plan provisions, Oregon law, the Internal Revenue Code, rules and regulations, as they may be amended from time to time.

ARTICLE XIX - COMPLIANCE WITH INTERNAL REVENUE CODE SECTION 457

This Plan document is intended to comply with and to be administered in a manner consistent with Section 457 of the Internal Revenue Code. The provisions of this Plan documents shall be interpreted in accordance with this intent. If requested by the Employer, the Participant agrees to cooperate in correcting any inconsistency in the administration of the Plan and Agreement under Section 457 of the Internal Revenue Code. The Plan shall be administered in accordance with Oregon law, the Internal Revenue Code, and applicable rules and regulations, as they may be amended from time to time.

ARTICLE XX - AMENDMENT OF PLAN-TRUST DECLARATION

Subject to the requirements of ORS 243.474 through 243.478, the Employer may amend this Plan-Trust Declaration at any time and without the consent of any other person. Any amendment must be in writing, and may be required if necessary to maintain compliance with Oregon law, the Internal Revenue Code, rules and regulations, as they may be amended from time to time. However, any amendment that would diminish the protection of Article II, "Account Held in Trust" is absolutely void.

NOW THEREFORE, in recognition of the premises recited above, and in consideration of the provisions stated by this Plan-Trust Declaration, and intending to be legally bound by this written Plan-Trust Declaration, the Employer as the Plan Administrator and the Plan-Trustee signed below.

Employer's Signature (Do not print)

Plan Trustee's Signature (Do not print)

Printed Name

Printed Name

Title

Title

Date

Date