EXHIBIT A

Chapter 5.09 DEFERRED COMPENSATION PLAN

5.09.005 Title.

A. The City of Portland, Oregon (City), maintains a deferred compensation plan authorized by Section 457 of the Internal Revenue Code that was originally adopted by City Council on December 17, 1981 and became effective January 1, 1982.

B. **Name of Plan**. This Plan shall be known as the City of Portland Section 457 Plan.

C. **Effective Date.** The effective date of this Plan, as amended, shall be January 1, 2002.

D. **Investment Providers.** As of January 1, 2002, the investment providers offered by the Plan are:

1. ING AETNA Financial Services
2. The Hartford
3. ICMA Retirement Corporation
4. PACE Credit Union

5. Nationwide Retirement Solutions (formerly PEPSCO)

5.09.010 Definitions.

As used in this Chapter, unless the context otherwise requires:

A. **"Account"** means the bookkeeping account **or accounts** maintained for each Participant reflecting the cumulative amount of the Participant's Deferred Compensation, including any income, gains or losses attributable to the investment of the Participant's Deferred Compensation, and further reflecting any distributions to the Participant or the Participant's Beneficiary and any fees or expense charged against such Participant's Deferred Compensation, which are maintained by the Participant's Investment Providers.

B. **"Acknowledgement"** means the document that highlights some of the terms of the Plan and contains the Participant's acknowledgement and understanding of the terms of the Plan.

C. **"Beneficiary"** means the person(s) designated by the Participant to receive any benefits payable under the plan in the event of the Participant's death. The term Beneficiary includes the Participant's estate.

D. **"Beneficiary Designation"** means a document specifying the Beneficiary/Beneficiaries who is/are to receive any part of the Participant's Account in the event of the Participant's death.

E. **"City Treasurer"** means the City employee that manages the Treasury Division of the Bureau of Financial Management;

F. **"Committee"** means the Deferred Compensation Advisory Committee;

G. **"Compensation"** means the total annual remuneration for employment payable by the City that would be included in the Federal gross income of the Participant but for the Participant's election to participate in the Plan.

H. **"Deferred Compensation"** means the amount of Compensation otherwise payable to the Participant that the Participant and the City mutually agree shall be deferred in accordance with the provisions of the Plan.

I. **"Employee"** means an elected official of the City, or a full-time or part-time City Employee who is eligible for benefits offered by the City;

J. **"Includable Compensation"** means the remuneration for service performed for the City which is currently includable in gross income (such amount will not include any amounts excluded from gross income pursuant to this Chapter);

K. **"Investment Providers"** means the financial institutions that have contracts with the City to provide investment services to Participants consistent with the terms of the Plan.

L. **"Normal Retirement Age"** means age 70-1/2 or that age selected in writing by a Participant in accordance with this Subsection. A Participant's Normal Retirement Age determines the period during which a Participant may defer those amounts described in Section 5.09.050 C. Once a Participant has to any extent utilized the "catch up" provisions of Section 5.09.050 C, the Participant's Normal Retirement Age may not be changed. As an alternative to age 70-1/2, a Participant may, at any time prior to Severance from Employment or prior to utilization of the "catch up" provisions of Section 5.09.050 C, designate his or her Normal Retirement Age to be any of the following:

1. Any age which is:

a. Not earlier than the earliest age at which the Participant has the right to retire and receive immediate and unreduced retirement benefits from the pension plan of which the Participant is a member (i.e., the Fire and Police Disability, Retirement and Death Benefit Plan for fire fighters and police officers who are members of that Plan and the Public Employee's Retirement System (PERS) for all other Participants); and

b. Not later than the date the Participant attains age 70-1/2, or

2. For a Participant who continues in the service of the City after attaining age 70-1/2 not having previously elected an alternate Participant's Normal Retirement Age pursuant to 1, above, the Normal Retirement Age shall not be later than the Participant's mandatory retirement age, if any, or the age at which the Participant actually severs from employment with the City.

M. **"Participant"** means any Employee who fulfills the eligibility and enrollment requirements of this Chapter;

N. **"Participation Agreement"** means an agreement between the City and a Participant, on a form prescribed by the City, that provides for the deferral of Compensation due a Participant to a future date for service currently rendered by the Participant to the City;

O. **"Plan"** means the program established by this Chapter which has as its purposes the deferral of Compensation to Participants and the deferral of income taxation on the Deferred Compensation;

P. **"Plan Year"** means a calendar year;

Q. "**Records"** means the materials and forms maintained in files for each Participant in the Deferred Compensation Plan.

R. **"Settlement and Payment Election Agreement"** means an agreement between the City and a Participant on a form prescribed by the City that allows the

Participant to elect and change the manner in which the value of the Participant's Account is paid.

S. **"Severance from Employment"** means the severance of the Participant's employment with the City. A Participant shall be deemed to have severed his employment with the City when, in accordance with the established practices of the City, the employment relationship is considered to be terminated.

T. **"Unforeseeable Emergency"** means severe financial hardship to the Participant resulting from a sudden and unexpected illness or accident of the Participant or of a dependent (as defined in Section 152a of the Internal Revenue Code) of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. 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;

1. Through reimbursement or compensation by insurance or otherwise;

2. By liquidation of the Participant's assets to the extent the liquidation of such assets would not itself cause severe financial hardship; or

3. By cessation of deferrals under this Chapter.

Examples of what are not considered to be unforeseeable emergencies include the need to send a Participant's child to college or the desire to purchase a home.

5.09.020 Purpose.

The purpose of this Chapter is to establish a program that has as its purpose the deferral of Compensation to eligible Employees and the deferral of income taxation on the Deferred Compensation. The program established by this Chapter is limited to the terms contained in the Chapter, and as such no other plan provisions are to be implied or assumed, even if such provisions would be permissible under the Internal Revenue Code. Except as specifically set forth otherwise, in the event the terms or provisions of any Component Plan, summary or description of this Plan or of any other instrument are interpreted as being in conflict with the provisions of this Plan, the provisions of this Plan shall be controlling.

5.09.030 Administration.

This Chapter shall be administered by a Deferred Compensation Advisory Committee (the Committee) with the assistance of the Bureau of Financial Management. The Committee shall consist of the Chief Administrative Officer of the Office of Management and Finance or his or her designee, the City Treasurer, and the Director of the Bureau of Financial Management. The City Treasurer shall serve as Chairperson. The Committee shall study all matters connected with providing a deferred compensation plan on the best basis possible with relation both to the welfare of the Participants and the City. The Committee shall have authority to devise specifications for deferred compensation plans, advertise for responses and bids, and analyze responses. The City Treasurer, or his or her designee, at the direction of the Committee, is authorized to execute all contracts as well as any other documents required to administer the Plan, on behalf of the City. The Committee members may participate in the Plan established herein if otherwise eligible, but shall not be entitled to participate in decisions relating solely to their own participation.

5.09.035 Education.

The Committee shall review, approve and implement the marketing and education of employees about the Plan. All promotional and City sponsored employee marketing and education efforts relating to the Plan may be coordinated with other similar efforts sponsored by the Employee Benefits Division of the Bureau of Human Resources. The Committee shall not offer investment advice to employees or plan Participants.

5.09.040 Participation in the Plan.

A. Eligibility. Employees shall be eligible to enroll as Participants in the Plan, as provided in this Section, on the first day of the month following the month in which they will have completed 30 days in a paid status. A Participant who terminates his or her employment with the City and then returns to City employment after the expiration of 12 calendar months following said termination date must comply with the eligibility waiting period applicable to such person upon his or her return before being eligible to participate in the Plan again. A Participant's right to participate and to have his or her salary reduced in connection with the Plan shall cease in the event the Participant takes a leave of absence without pay, but any such Participant may continue full participation in the Plan upon returning to pay status with the City. A Participant's right to participate and to have his or her salary reduced in connection with the Plan shall cease while the Participant is receiving distributions in accordance with, and subject to, the restrictions of sections 5.09.070, 5.09.080, 5.09.090, and 5.09.110. Participants who request and are granted a hardship withdrawal from their deferred compensation account may not have their salaries reduced under the terms of this Chapter for a period of 6 months following such hardship withdrawal.

B. Enrollment in the Plan. An eligible Employee may become a Participant and defer Compensation not yet earned by executing a written Participation Agreement, and delivering it to the Bureau of Financial Management, Treasury Division. Compensation will be deferred for any calendar month only if a Participation Agreement providing for such deferral has been entered into at least 2 weeks before the beginning of such month.

C. The Participation Agreement shall be on a form provided by the City, which shall include the following:

1. The Participant's name and Social Security number;

2. The amount of Compensation to be deferred;

3. The investment or deposit preference;

4. Other relevant statements necessary and appropriate for carrying out the purposes of this Chapter.

D. When an eligible Employee executes a Participation Agreement, an Acknowledgement and a Beneficiary Designation shall also be completed. A Participant may change the Beneficiary Designation at any time by completing a new Beneficiary Designation and delivering it to the Bureau of Financial Management, Treasury Division. A change of Beneficiary Designation shall become effective on the date received by the Bureau of Financial Management, Treasury Division.

E. The City, upon written request of an eligible Employee, will reduce each pay period the salary of the eligible Employee by an amount of money designated by that Employee in the Employee's Participation Agreement. The City may pay that amount to the Investment Provider designated in the Employee's Participation Agreement.

F. Once per month, a Participant may modify his or her Participation Agreement as to the amount of Compensation not yet earned to be deferred during each Plan Year, and also may modify said agreement as to investment or deposit option once per month during each Plan Year. Any modification as to the amount of Compensation to be deferred by a Participant must be made in writing, and received by the Bureau of Financial Management, Treasury Division, at least 2 weeks prior to the month in which said modification is to become effective.

G. A Participant may revoke the Participation Agreement at any time with respect to any pay period by written notification, which must be received by the Bureau of Financial Management, Treasury Division, at least 2 weeks prior to the date upon which the Participant desires the revocation to be effective.

H. A Participant who has severed his or her employment or who has revoked the Participation Agreement may again participate in the Plan, provided that he or she is eligible, by executing a new Participation Agreement.

I. For purposes of Plan administration, a revocation of a Participation Agreement will be considered a Participation Agreement modification. The most recent Participation Agreement shall be controlling with respect to all accounts, including amounts deferred under prior agreements.

5.09.050 Compensation Deferral.

A. The amount of Compensation which may be deferred by a Participant shall be subject to the following limits:

1. The minimum amount deferred shall be $10 per pay period;

2. The maximum amount of Compensation which may be deferred during a plan year shall be in accordance with the following schedule:

For the Year:	The lesser of:
1982-1997	$7,500 or 33.33% of Participant's Includable Compensation
1998-2000	$8,000 or 33.33% of Participant's Includable Compensation
2001	$8,500 or 33.33% of Participant's Includable Compensation
2002	$11,000 or 100% of Participant's Includable Compensation
2003	$12,000 or 100% of Participant's Includable Compensation
2004	$13,000 or 100% of Participant's Includable Compensation
2005	$14,000 or 100% of Participant's Includable Compensation
2006	$15,000 or 100% of Participant's Includable Compensation
2007 thereafter:	Amount shall be administered to reflect changes in accordance with sections 457(e)(15) and 415(d) of the Internal Revenue Code

5.09.055 Catch-up Provisions

A. **Three year catch-up provision:** Notwithstanding the language of Section 5.09.050 A. 2, during each of a Participant's last 3 taxable years ending before the Participant attains Normal Retirement Age, the maximum amount deferred shall be in accordance with the following schedule:

For the Year:	The lesser of:
2002	$22,000
2003	$24,000
2004	$26,000
2005	$28,000
2006	$30,000
	or the sum of the maximum allowed under Section 5.09.050 A. 2. for the current taxable year plus so much of the maximum established for purposes of Section 5.09.050 A. 2. for prior taxable years as has not previously been deferred under Section 5.09.050 A. 2.

B. **Age 50 catch-up provision:** All Participants who are eligible to make elective deferrals under the Plan and who have attained age 50 before the close of the calendar year shall be eligible to make catch-up contributions in accordance with Schedule A, and subject to the limitations of Sections 414(v) and 414(v)(6)(c) of the Code. Additional deferrals under this section of the Plan may be made except during the three years prior to normal retirement age while utilizing the catch-up provision provided for in Section 5.09.055 (A) of the Plan.

Schedule A

For the Year:	Additional deferral amount:
2002	$1,000
2003	$2,000
2004	$3,000
2005	$4,000
2006	$5,000

C. **Coordination with other plans.** If a Participant participates in more than one deferred compensation plan authorized under Section 457 of the Internal Revenue Code (IRC), the maximum deferral under all such plans shall not exceed the applicable deferral limits described in Section 5.09.050, as adjusted by the Secretary of the Treasury (subject to modification by the catch-up limitations described in Section 5.09.055), which also shall apply to all IRC Section 457 plans in which the Participant participates. If a Participant participates in a plan described in Section 403 (b), 401 (k), 408 (k) or 501 C (18) of the IRC, amounts deferred by the Participant to such plan(s) and excluded from the Participant's gross income in any taxable year under such plan(s) shall not reduce the limitation described in Section 5.09.050 of this Section and the catch-up limitation described in Section 5.09.055.

D. **Uniform Service Provision.** This Plan shall be administered in accordance with Section 414(u) of the Internal Revenue Code of 1986, as amended, for employees who return to work after absences from employment due to military service. Accordingly, notwithstanding the provisions of this section limiting the amount of compensation which may be deferred under the Plan, a Participant who is entitled to reemployment pursuant to the terms of the Uniformed Services Employment and Reemployment Act of 1994 (USERRA) may defer an additional amount under the Plan as provided in that Act for the years of his or her service in the uniformed services (as defined in USERRA). Any such deferrals will not be subject to the annual limits on deferrals set forth in this section in the year in which deferred, but shall be subject to the limits for the year to which such deferrals relate. This subsection shall apply retroactively to December 12, 1994.

5.09.060 Deferred Compensation Records.

A. The City shall maintain records necessary and appropriate to the efficient administration of this Chapter, and such records shall be maintained by the City until a Participant or his or her designated Beneficiaries have received the payment of such amounts as they are entitled to receive under the terms of the applicable Settlement and Payment Election Agreement.

B. All amounts of Compensation deferred pursuant to this Chapter, shall be held in a trust, custodial account or contract described in Internal Revenue Code Section 457(g). Any change in the net value of the assets of a Participant invested under the Plan shall result in a commensurate change in the total amount distributable to the Participant or the Beneficiary of the Participant and shall not result in any increase or decrease in the net worth of the City.

C. As to those amounts held in trusts, notwithstanding any contrary provision of the Plan, in accordance with section 457(g) of the Internal Revenue Code, all amounts of compensation deferred pursuant to 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 Beneficiaries under the Plan. Any trust under the Plan shall be established pursuant to a written agreement that constitutes a valid trust under the law of the State of Oregon. All amounts of compensation deferred under the Plan shall be transferred to a trust established under the Plan within a period that is not longer than is reasonable for the proper administration of the accounts of Participants.

D. As to those amounts held in annuity contracts, notwithstanding any contrary provision of the Plan, including any annuity contract issued under the plan, in accordance with section 457(g) of the Internal Revenue Code, all amounts of compensation deferred pursuant to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held in one or more annuity contracts, as defined in section 401(g) of such Code, issued by an insurance company qualified to do business in the State of Oregon, for the exclusive benefit of Participants and Beneficiaries under the Plan. For this purpose, the term "annuity contract" does not include a life, health or accident, property, casualty, or liability insurance contract. All amounts of compensation deferred under the Plan shall be transferred to an annuity contract described in section 401(f) of the Internal Revenue Code within a period that is not longer than is reasonable for the proper administration of the accounts of Participants.

E. As to those amounts held in custodial accounts, notwithstanding any contrary provision of the Plan, in accordance with section 457(g) of the Internal Revenue Code, all amounts of compensation deferred pursuant to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held in one or more custodial accounts for the exclusive benefit of Participants and Beneficiaries under the Plan. For purposes of this paragraph, the custodian of any custodial account created pursuant to the Plan must be a bank as described in section 408(n) of the Internal Revenue Code, or a person who meets the nonbank trustee requirements of paragraphs (2)-(6) of section 1.408-2(e) of the Income Tax Regulations relating to the use of nonbank trustees. All amounts of compensation deferred under the Plan shall be transferred to a custodial account described in section 401(f) of the Internal Revenue Code within a period that is not longer than is reasonable for the proper administration of the accounts of Participants.

F. When a Participant agrees to participate in the Plan, the Participant may indicate his or her preference with respect to the investment or deposit option to be used in investing or depositing the Participant's deferred income hereunder, but the Participant's choice shall not be binding on the City.

5.09.070 Payment Options.

A. Subject to the restrictions on the distribution of benefit payments appearing in Sections 5.09.080, 5.09.090, 5.09.100 and 5.09.110, the options available to a Participant or Beneficiary for distributing the value of the Participant's Account are:

1. Lump Sum

2. Substantially equal monthly, quarterly, semi- annual or annual installments until the Account is exhausted.

3. Substantially equal monthly, quarterly, semi- annual or annual payments for a designated period.

4. Periodic payments for the life of the Participant with continuation of the payments or a percentage of the payments for the lifetime of the Participant's spouse.

5. Payments equal to payments made by the issuer of a retirement annuity policy.

6. Such other option as the Participant chooses, and as authorized by this Plan.

B. A Participant or Beneficiary must select a payment option at least 30 days before the payment of benefits is to commence.

5.09.080 Distribution of Benefits Generally.

A. With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2002, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code in accordance with the regulations under section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

B. Distribution of a Participant's Account to a Participant or a Beneficiary shall be made in accordance with the manner and method of payments selected in the Settlement and Payment Election Agreement, which election may be changed by a Participant or Beneficiary, subject to the restrictions of the Plan.

C. At the time distribution to a Participant commences, such distribution shall be made in a manner in which the Participant will receive a minimum portion of the amount payable with respect to the Participant during the life expectancy of the Participant (as determined as of the commencement of the distribution). Therefore, distributions to a Participant must be made in accordance with the distribution tables promulgated by the Secretary of the Treasury pursuant to

Section 457(d)(2)(B)(i)(I) of the Internal Revenue Code of 1986, as amended.

D. A minimum amount shall be distributed during each calendar year. The required minimum distribution for each calendar year shall be determined by dividing the Account balance (as determined under Section 1.104(a)(9)-1, Q&A F-5 of the proposed Federal income tax regulations or any successor to such regulations) by the lesser of the applicable life expectancy (as determined under Q&A F-1A(d) of Section 1.104(a)(9)-1 of the proposed Federal income tax regulations or any successor to such regulations) or the applicable divisor (as determined under Q&A-4 of Section 1.104(a)(9)-2 of the proposed Federal income tax regulations or any successor to such regulations).

E. Notwithstanding the provisions of subsection (D), distribution of a Participant's Account may be made through an annuity contract that is purchased from an insurance company, with funds from the Participant's Account. Any annuity contract so purchased must satisfy the applicable minimum distribution requirements of Section 1.401(a)(9)-1 of the proposed Federal income tax regulations (and any successor regulations) and the applicable minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the proposed Federal income tax regulations (and any successor regulations). In the event such an annuity contract is purchased, the amount of the annuity payments shall be determined under the annuity contract.

F. In no event shall the distribution of a Participant's Account commence earlier than:

1. the calendar year in which the Participant attains age 70-1/2,

2. the Participant's Severance from Employment, or

3. when the Committee approves a distribution pursuant to an Unforeseeable Emergency of a Participant.

G. Distribution of a Participant's Account to a Participant may commence no later than April 1 of the calendar year following the calendar year in which the Participant attains age 70-1/2 or actually severs from employment.

H. Notwithstanding Section 5.09.080(J), distributions of a Participant's Account shall cease if the Participant is re-employed by the City.

I. All distributions hereunder shall be made in accordance with the regulations under Section 401(a)(9) of the Internal Revenue Code of 1986 (IRC), as amended, including Section 1.401(a)(9)-2 of the Federal income tax regulations and such other provisions as are prescribed by the Commissioner of Internal Revenue. Accordingly, no distribution shall be made under any option that does not satisfy IRC Section 401(a)(9), including Section 401(a)(9)(G).

J. Participants may request changes to existing irrevocable election dates and/or payment amounts up to 4 times per calendar year, limited to one per quarter per Participant. Participants may request changes to election dates and/or payment amounts up to 4 times per calendar year, limited to one per quarter per Participant, except for selections made pursuant to Section 5.09.070 A. 5. In order to change payment election, Participants must complete a Settlement and Payment Election Agreement 30 days prior to the beginning of the quarter in which the change is to occur (March 1, June 1, September 1, December 1).

K. Voluntary In-Service Distribution: Notwithstanding anything in this chapter to the contrary, a Participant who is an active employee of the City shall receive a distribution of the total amount payable to the Participant under the Plan if the following requirements are met:

1. the total amount payable to the Participant under the Plan does not exceed $5,000 (or the dollar limit under section 411(a)(11) of the Internal Revenue Code, if greater),

2. the Participant has not previously received an in-service distribution of the total amount payable to the Participant under the Plan pursuant to Section 5.09.080 I.

3. no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution; and

4. the Participant elects to receive the distribution.

5.09.090 Benefits Upon Severance from Employment; Election Upon Severance from Employment

If a Severance from Employment occurs prior to attainment of age 70-1/2, distribution of a Participant's Account shall commence no earlier than thirty-one (31) days and no later than ninety (90) days following such Severance from Employment.

5.09.100 Distribution Commencing Before Death of Participant.

A. If the Participant should die at any time after distribution of the Participant's Account has commenced, any amounts not distributed to the Participant shall be distributed to the Participant's Beneficiary commencing no earlier than 31 days following the Participant's death and no later than 90 days following the Participant's death. Such distribution shall be made according to the manner and method selected by the Participant unless the Beneficiary selects a different manner and method of payment within 90 days of the Participant's death.

B. Any amount not distributed to the Participant during the Participant's life will be distributed to the Participant's Beneficiary at least as rapidly as it would have been distributed to the Participant under the method of distribution being used as of the date of the Participant's death over a period not to exceed the life of the

Beneficiary.-

C. If no Beneficiary has been designated by the Participant or if no Beneficiary survives the Participant for a period of 30 days, then the commuted value of any remaining payments shall be distributed to the estate of the Participant in a single lump sum payment. If the designated Beneficiary survives the Participant for a period of 30 days, but does not continue to live for the remaining period during which such payments to the Beneficiary were to be made, then the commuted value of any remaining payments due to such Beneficiary shall be paid to the estate of the Beneficiary in a single lump sum payment.

5.09.110 Distribution Commencing After Death of Participant.

A. If the Participant should die at any time before the distribution of Participant's Account has commenced, the value of the Participant's Account shall be distributed to the Participant's Beneficiary commencing no earlier than 31 days following the Participant's death and no later than 90 days following the Participant's death. If no previous election by the Participant has been made, then_ the Beneficiary may select a manner and method of payment more than 31 days prior to the commencement of such payments.

B. The Beneficiary may elect, within the 90-day period subsequent to the Participant's death, to defer the beginning of such payments as follows:

1. If the Beneficiary is the Participant's surviving spouse, the Beneficiary may defer the beginning of such payments to a date not later than the later of (i) December 31 of the calendar year immediately following the calendar year in which the Participant died and (ii) December 31 of the calendar year in which the Participant would have attained age 70-1/2.

2. If the Beneficiary is not the Participant's surviving spouse, the Beneficiary may defer the beginning of such payments to a date not later than December 31 of the calendar year immediately following the calendar year in which the Participant died. In such case, the Beneficiary may also elect to change the manner and method of distribution if such election is made more than 30 days prior to the date when such distribution is to commence.

C. Any distribution to a Beneficiary under this section must occur over a period not to exceed the life of the Beneficiary.

D. If no Beneficiary has been designated by the Participant or if no Beneficiary survives the Participant for a period of 30 days, then the commuted value of the Participant's Account shall be paid in a single lump sum payment to the estate of the Participant. If the designated Beneficiary survives the Participant for a period of 30 days, but does not continue to live for the remaining period during which payments to the Beneficiary are to be made, then the commuted value of any remaining payments due to such Beneficiary shall be paid to the estate of the

Beneficiary in a single lump sum payment.

5.09.120 Unforeseeable Emergency.

A. A Participant may apply on a form supplied by the City Treasurer, or his or her designee, for payment prior to Severance from Employment or Retirement from City employment but such applications may be granted only if the Participant is experiencing an Unforeseeable Emergency which would cause undue hardship if payment were denied. If the City Treasurer, or his or her designee, finds that a Participant is experiencing an Unforeseeable Emergency, he or she may approve an amount reasonably needed to satisfy the unforeseen emergency be made to the Participant. Payment will be made within 90 days of the date of such approval. If the City Treasurer, or his or her designee, denies the application for payment, said denial shall be in writing. A Participant may appeal the decision to the Committee. An appeal must be in writing and received by the City Treasurer within 30 days of the date of denial. The committee shall issue a written decision within 90 days of receipt of the appeal by the City Treasurer. Any decision of the Committee is final.

5.09.130 Non-Assignability.

Neither the Participant, nor the Participant's Beneficiary shall have any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payment which may be due the Participant under the plan, which payments and rights thereto are expressly declared to be nonassignable and nontransferable. Nor shall any amounts deferred pursuant to this Chapter be subject to attachment, garnishment, or execution or be transferable by operation of law in the event of bankruptcy or insolvency unless otherwise required by law. The preceding paragraph prohibiting the assignment or alienation of benefits shall not apply to 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 which is determined by the City Treasurer or his or her designee satisfy the requirements of ORS 243.507. The City Treasurer or his or her designee shall establish written procedures to determine whether the above described decrees or the property settlement agreements incident to such decrees satisfy ORS 243.507 and to administer distributions under such orders.

5.09.140 Amendment and Termination.

A. The City may terminate the Plan provided for in this Chapter at any time. Upon such termination, the Participants in the Plan will be deemed to have withdrawn from the Plan as of the date of such termination and their full Compensation on a non-deferred basis will be thereupon restored. In the event the City terminates the plan, the value of all Accounts shall be distributed to the Participants or their Beneficiaries in accordance with the method of payment designated by the Participant on a Settlement and Payment Election Agreement.

B. The City may amend the provisions of this Plan at any time, provided, however, that all amendments are in compliance with the Internal Revenue Code and that_ no amendment shall affect the rights of any Participant or Beneficiary to the receipt of benefits accrued under the Plan prior to such amendment.

5.09.150 Plan to Plan Transfers.

A. This Plan shall accept for transfer those amounts of compensation previously deferred by a Participant pursuant to another eligible plan of deferred compensation maintained under Section 457 of the Internal Revenue Code of 1986, as amended, by another employer.

B. Notwithstanding any other provisions of this Chapter relative to the commencement of benefits upon Severance from Employment, if a Participant severs from City employment or becomes employed by or performs services for another employer which maintains an eligible retirement plan pursuant to Sections 401(a), 401(k), 403(B) and 457 of the Internal Revenue Code, or any qualified individual retirement account (IRA), all or any portion of the Participant's Account and his or her assets in this Plan shall, at the Participant's election, be transferred directly from this Plan to such other eligible retirement or deferred compensation plan, provided such other eligible plan will accept the transferred amount and obligation.

C. Prior to Severance from Employment, a Participant may elect to allow the Plan to transfer assets from the Participant's account with the Plan to a designated government defined benefit plan for the purchase of permissible service credits pursuant to Section 457(e) (17), provided, however, that the designated defined benefit plan will accept such a transfer of assets.

D. On or after July 1, 2002, and subject to approval by the Committee, Participants may elect to transfer assets to the Plan from an IRA or an eligible retirement plan pursuant to Sections 401(a), 403(b), and 401(k) of the Internal Revenue Code. The Investment Providers shall hold and segregate all transferred assets within the Participant's Account in accordance with the provisions of the Internal Revenue Code.

5.09.160 Unclaimed Assets.

In the event the Plan has assets of Participants or their Beneficiaries who, after the Participants' Severance from Employment, cannot be located so as to properly distribute assets to the Participant or Beneficiary under the terms of the Plan, the Plan Administrator shall make all reasonable efforts to locate said Participants and Beneficiaries. If after such efforts, the Participant or Beneficiary cannot be located, the Plan Administrator shall designate such assets as unclaimed property, and thereby abandoned, and shall transfer said assets to the State of Oregon according to the Uniform Disposition of Unclaimed Property pursuant to ORS 98.302, *et seq*., as amended, if such assets remain unclaimed for two years after said designation.

5.09.170 Disclaimers.

A. Neither the City nor the Committee shall be liable for the investment decisions made by Participants.

B. Neither the City nor the Committee manages the Participants' Accounts, and is therefore not responsible or liable for the performance and accuracy of Participant's Accounts.