

**PORTLAND DEVELOPMENT COMMISSION**  
Portland, Oregon

**RESOLUTION NO. 6608**

**UPDATING DEFERRED COMPENSATION PLAN**

**WHEREAS**, the Portland Development Commission (“PDC”) is a local government or an agency or instrumentality of one or more units of a State or local government as described in Code Section(s) 414(d) and 457(e)(1)(A);

**WHEREAS**, PDC adopted a deferred compensation plan on February 20, 1979 pursuant to Section 457(b) of the Internal Revenue Code and has, on an ongoing basis, amended such 457 Plan to comply with applicable provisions of the Internal Revenue Code and Regulations (as amended, the “PDC 457 Plan”);

**WHEREAS**, PDC desires to amend the PDC 457 Plan and become a participating employer under the City of Portland Governmental 457(b) Plan set forth in Chapter 5.09 of the Portland City Code (the “COP Plan”);

**WHEREAS**, PDC understands and confirms that by adopting the COP Plan, all provisions and conditions of the COP Plan are adopted and constitute PDC’s deferred compensation plan, including the selection of ING Life Insurance and Annuity Company (“ING”) and Advantis Credit Union (“Advantis”) as the service providers providing record keeping and investment management services for the COP Plan;

**WHEREAS**, PDC also confirms its intent to eliminate Nationwide Retirement Solutions, ICMA Retirement Corporation and AIG VALIC (collectively, the “Prior Providers”) as authorized investment providers under the PDC 457Plan;

**WHEREAS**, by adopting the COP Plan, PDC will benefit from all of the same investments, administrative services and fees made available by ING and Advantis under the COP Plan; and

**WHEREAS**, PDC will be deemed to have appointed the City of Portland as its exclusive agent to exercise on its behalf all of the powers and authorities conferred under the COP Plan with respect to investments under the COP Plan, including all powers conferred under any annuity or other investment contract issued with respect to the COP Plan, except for those powers and authorities necessary for PDC to carry out its ongoing administrative responsibilities under the COP Plan of remitting compensation deferrals to ING and Advantis and supplying information to ING and Advantis necessary for ongoing COP Plan record keeping functions.

**NOW, THEREFORE, BE IT RESOLVED**, that effective July 1, 2008, the PDC 457 Plan be amended and restated, in the form attached hereto as Exhibit A;

**BE IT FURTHER RESOLVED**, that effective July 1, 2008, under the PDC 457 Plan, PDC and its employees will benefit from an ING fee reduction and enhanced rate on the fixed account;

**BE IT FURTHER RESOLVED**, that as soon as practical after July 1, 2008, PDC shall, by written notice to the City of Portland Treasurer, substantially in the form of Exhibit B, attached

hereto (the "Notice"), amend, restate and replace the PDC 457 Plan by adopting, as a participating employer, the COP Plan;

**BE IT FURTHER RESOLVED**, that the Human Resources Director, or his or her designee, is authorized to execute and deliver the Notice for and on behalf of PDC and the adoption shall be effective as of the date of the City of Portland's countersignature on the Notice;

**BE IT FURTHER RESOLVED**, that effective July 1, 2008, ongoing participant contributions to the Prior Providers will be discontinued;

**BE IT FURTHER RESOLVED**, that as soon as practical after July 1, 2008, any remaining PDC 457 Plan assets shall be transferred from the Prior Providers to ING;

**BE IT FURTHER RESOLVED**, that the PDC Human Resources Director, or his or her designee, is authorized to execute a letter of acceptance or other documents necessary or desirable to complete the transfer of PDC 457 Plan assets from the Prior Providers to ING;

**BE IT FURTHER RESOLVED**, that pursuant to this Resolution and effective on PDC's adoption of the COP Plan, all of the terms and provisions of the contract and service agreement entered into between the City of Portland and ING with respect to the COP Plan are hereby accepted by PDC, and PDC agrees to comply with all of the terms and provisions of such contract and service agreement as they may be modified by those parties;

**BE IT FURTHER RESOLVED**, that PDC acknowledges that any amendment of the COP Plan by the City of Portland which is required by law or permitted under the plan documents is effective and binding on PDC without requiring its consent;

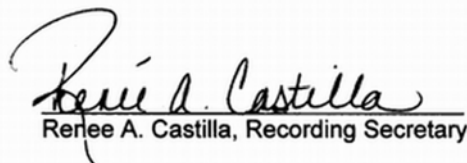
**BE IT FURTHER RESOLVED**, that effective on PDC's adoption of the COP Plan, PDC will carry out its ongoing administrative responsibilities under the COP Plan of remitting compensation deferrals to ING and Advantis and supplying information to ING and Advantis necessary for ongoing COP Plan record keeping functions;

**BE IT FURTHER RESOLVED**, that the City of Portland and PDC agree to work collaboratively to administer all programs and benefits under the COP Plan;

**BE IT FURTHER RESOLVED**, that if an issue arises under the COP Plan that either the City of Portland or PDC believes cannot be resolved, after consultation with the other party, then either the City of Portland or PDC may terminate PDC's participation in the COP Plan by advance written notice to the other of at least ninety (90) days, or such shorter notice as the other party accepts; and

**BE IT FURTHER RESOLVED**, that this resolution shall become effective immediately upon its adoption.

**Adopted by the Portland Development Commission on June 25, 2008.**

  
Renee A. Castilla, Recording Secretary

## DEFERRED COMPENSATION PLAN

### Sections:

1.05	Title
1.10	Definitions.
1.20	Purpose.
1.30	Administration.
1.35	Education.
1.40	Participation in the Plan.
1.50	Compensation Deferral.
1.55	Catch-up Provisions.
1.56	Excess Deferrals.
1.60	Deferred Compensation Records.
1.70	Payment Options.
1.80	Distributions of Benefits Generally.
1.90	Qualified Domestic Relations Orders (QDRO).
1.100	Determination of Benefits Upon Death.
1.120	Unforeseeable Emergency.
1.130	Non-Assignability.
1.140	Amendment and Termination.
1.150	Transfers from other Code Section 457(b) Plans.
1.155	Rollovers to Plan.
1.157	Purchase of service credits.
1.160	Unclaimed Assets.
1.170	Disclaimers.

### **1.05 Title**

- A.** Portland Development Commission, (PDC) maintains a deferred compensation plan authorized by Section 457 of the Internal Revenue Code that was adopted by the Board of Commissioners on February 20, 1979.
- B. Name of Plan:** This Plan shall be known as the Portland Development Commission Governmental 457(b) Plan.
- C. Effective Date.** The effective date of this plan, as amended, shall be July 1, 2008.
- D. Investment Providers.** As of July 1, 2008, the investment providers offered by the Plan are:
  - 1. ING Life Insurance and Annuity Company
  - 2. Advantis Credit Union

### **1.10 Definitions.**

As used in this Policy, 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. Account also includes appropriate roller accounts under 1.155 that must be segregated.
- B. **“Acknowledgement”** a document PDC may require, which may highlight some of the terms of the Plan and obtain the Participant’s acknowledgment 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. **“Director of Human Resources”** means the PDC officer designated in writing by the Executive Director of PDC.
- F. **“Committee”** means the Deferred Compensation Advisory Committee.
- G. **“Compensation”** means the total annual remuneration for employment payable by PDC that would be included in the Federal gross income in 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 PDC mutually agree shall be deferred in accordance with the provisions of the Plan.
- I. **“Employee”** means a full-time or part-time PDC Employee who is eligible for benefits offered by PDC. Workers who are classified by PDC as independent contractors and leased employees are not eligible, even if they are later reclassified as employees.

- J.** “**Includable Compensation**” means the remuneration for service preformed for PDC, which is currently includable in gross income (such amount will not include any amounts excluded from gross income pursuant this Policy). Severance pay, vacation payoffs, sick leave payoffs are excluded.
- K.** “**Investment Providers**” means the financial institutions that have contracts with PDC to provide investment services to Participants consistent with the terms of the Plan.
- L.** “**Normal Retirement Age**” means age 70½ 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 1.55. Once a Participant has to any extent utilized the “catch up” provisions of Section 1.55 A, the Participant’s Normal Retirement Age may not be changed. As an alternative to age 70½ a Participant may at any time prior to Severance from Employment or prior to utilization of the “catch up” provisions of Section 1.55 A, 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 ; and
    - b. Not later than the date the Participant attains age 70½, or
  2. For a Participant who continues in the service of PDC after attaining age 70½ 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 PDC.
- M.** “**Participant**” means any Employee who fulfills the eligibility and enrollment requirements of this Policy
- N.** “**Participant Agreement**” means an agreement between PDC and a Participant, on a form prescribed by PDC that provides for the deferral of Compensation due a Participant to a future date for service currently rendered by the Participant to

PDC.

- O.** “**Plan**” means the program established by this Policy, which has as its purposes the deferral of Compensation by Participants and the deferral of income taxation on the Deferred Compensation.
- P.** “**Plan Administrator**” means the **Director of Human Resources**, or his or her designee, who prepares and provides documents, materials and support services required to administer the Plan.
- Q.** “**Plan Year**” means a calendar year.
- R.** “**Records**” means the materials and forms maintained in files for each Participant in the Deferred Compensation Plan.
- S.** “**Settlement and Payment Election Agreement**” means an agreement between PDC and a Participant on a form prescribed by PDC that allows the Participant to elect and change the manner in which the value of the Participant’s Account is paid.
- T.** “**Severance from Employment**” means the severance of the Participant’s employment with PDC. A Participant shall be deemed to have severed employment with PDC when, in accordance with the established practices of PDC, the employment relationship is considered by PDC to be terminated.
- U.** “**Unforeseeable Emergency**” means severe financial hardship to the Participant resulting from

  1. A sudden and unexpected illness or accident of the Participant or of a dependent (as defined in Section 152(a) of the Internal Revenue Code) of the Participant.
  2. Loss of the Participant’s property due to casualty,
  3. The need to pay for the funeral expenses of the participant’s spouse or dependent (defined in code section 152(a), or
  4. 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 a hardship is or may be relived:

- Through reimbursement or compensation by insurance or otherwise;
- By liquidation of the Participant's assets to the extent the liquidation of such assets would not itself cause severe financial hardship; or
- By cessation of deferrals under this Policy.

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.

**1.20 Purpose.**

The purpose of this Policy is to establish a program that has as its purpose the deferral of Compensation by eligible Employees and the deferral of income taxation on the Deferred Compensation. The program established by this Policy is limited to the terms contained in the Policy, 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, except with respect to assets held by Nationwide Retirement Solutions, for which this Plan shall be subordinate to the plan document specific to that vendor.

**1.30 Administration.**

This Policy shall be administered by a Deferred Compensation Advisory Committee (the Committee) with the assistance of the Human Resources Department. The Committee membership shall be established by the Executive Director. 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 PDC. The Committee shall have authority to devise specifications for deferred compensation plan vendors, advertise for responses and bids, and analyze responses. All contracts, including contracts with Investment Providers must be approved by the Commission. The terms of any contract with the Plan may authorize the assessment of fees to be charged against Investment Providers or other contractors that may be necessary to fund the administration of the Plan. The Director of Human Resources, or his or her designee, at the direction of the Committee, is further authorized to prepare and provide any other documents, materials and support services that may be required to administer the Plan. 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.

**1.35 Education**

The Committee shall review, approve and implement the marketing and education of employees about the Plan. All promotional PDC sponsored employee marketing and education efforts relation to the Plan may be coordinated with other similar efforts

sponsored by the Employee Benefits Division. The Committee shall not offer investment advice to employees or plan Participants.

#### **1.40 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 of the month following their date of hire. A Participant who terminates his or her employment with PDC and then returns to PDC 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 PDC. 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 1.70, 1.80, 1.90, and 1.120.
- 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 Human Resources Department. Compensation will be deferred for each pay period ending within a calendar month pursuant to an eligible employee's Participation Agreement if PDC's Human Resources Department has received the employee's Participation Agreement before the start of the month and within sufficient time to implement the Agreement.
- C.** The Participation Agreement shall be on a form provided by PDC, which shall include the following:
1. The Participant's name and Social Security number;
  2. The dollar amount or percent 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 Policy
- 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 Human Resources Department. A change of Beneficiary Designation shall become effective on the date received by the Human Resources Department.

- E.** PDC, 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. PDC 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. Any modification as to the amount of Compensation to be deferred by a Participant must be made in writing, and received by the Human Resources Department. The change will be given effect as soon as practicable after the month in which PDC's Human Resources Department has received the revised Participation Agreement. .
- 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 Human Resources Department. This Participation Agreement will be revoked as soon as administratively practicable, following the date 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.

#### **1.50 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:

<b>For the Year:</b>	<b>The lesser of:</b>
<b>1982-1997</b>	\$7,500 or 33.33% of Participant's Includable Compensation
<b>1998-2000</b>	\$8,000 or 33.33% of Participant's Includable Compensation
<b>2001</b>	\$8,500 or 33.33% of Participant's Includable Compensation
<b>2002</b>	\$11,000 or 100% of Participant's Includable Compensation
<b>2003</b>	\$12,000 or 100% of Participant's Includable Compensation
<b>2004</b>	\$13,000 or 100 of Participant's Includable Compensation
<b>2005</b>	\$14,000 or 100% of Participant's Includable Compensation
<b>2006</b>	\$15,000 or 100% of Participant's Includable Compensation
<b>2007</b>	\$15,500 or 100% of Participant's Includable Compensation
<b>2008 thereafter:</b>	Amount shall be administered to reflect changes in accordance with sections 457(e)(15) and 415(d) of the Internal Revenue Code

**1.55 Catch-up Provisions**

**A. Three Year catch-up provisions:** Notwithstanding the language of Section 1.50 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:

<b>For the Year:</b>	<b>The lesser of:</b>
<b>2002</b>	\$22,000
<b>2003</b>	\$24,000
<b>2004</b>	\$26,000
<b>2005</b>	\$28,000
<b>2006</b>	\$30,000
<b>2007</b>	\$31,000 or the sum of the maximum allowed under Section 1.50 A.2. for the current taxable year plus so much of the maximum established purposes of Section 1.50 A.2. for prior taxable years as has not previously been deferred under Section 1.50 A.2.
<b>2008 thereafter</b>	\$31,000 or the sum of the maximum allowed under Section 1.50 A.2. for the current taxable year plus so much of the maximum established purposes of Section 1.50 A.2. for prior taxable years as has not previously been deferred under Section 1.50 A.2.

For purposes of this section, a prior year shall be taken into account only if such year began after December 31, 1978, and the participant was eligible to participate in the plan during all or a portion of the year. Participants may only

make this election once with respect to any section 457(b) deferred compensation plan of PDC.

**B. Age 50 catch-up provisions:** All Participants who are eligible to make elective deferrals under the Plan and who will 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 Section 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 provisions provided for in Section 1.55 A. of the Plan. Age 50 catch-up contributions will not be taken into account for purposes of determining a participant’s underutilized amounts under the three-year catch-up provision.

Schedule A

<b>For the Year:</b>	<b>Maximum age-50 catch-up contribution:</b>
<b>2002</b>	\$1,000
<b>2003</b>	\$2,000
<b>2004</b>	\$3,000
<b>2005</b>	\$4,000
<b>2006</b>	\$5,000
<b>2007</b>	\$5,000
<b>2008</b>	\$5,000
<b>2009 and later</b>	\$5,000, adjusted for cost-of-living after 2008 to the extent provided under IRC Section 415(d).

**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 1.50, as adjusted by the Secretary of the Treasury (subject to modification by the catch-up limitations described in Section 1.55), which also shall apply to all IRC Section Governmental 457(b) Plans. 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 plans(s) and excluded from the Participant’s gross income in any taxable year under such plan(s) shall not reduce the limitations in Section 1.50 of this Section and the catch-up limitation described in Section 1.55.

**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 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.

**1.56 Excess Deferrals**

A Participant who participates in the Plan and another 457 Plan of another employer shall be responsible for complying with the deferral limits. In the event of an excess amount, the Participant shall notify the Committee so that the excess, plus related earnings may be distributed as soon as practicable after the Committee determines that the amount is an excess deferral.

**1.60 Deferred Compensation Records**

- A. PDC shall maintain records necessary and appropriate to the efficient administration of this Policy, and such records shall be maintained by PDC 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 Policy, 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 PDC. Such amounts shall be transferred to the trust, custodial account or contract within a period that is not longer than is reasonable for the proper administration of the accounts of Participants.
- 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, and or rights shall be held in trust for the exclusive benefits 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.

- 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 described in section 401(f) of the Internal Revenue Code.
- 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.
- 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 PDC.

#### **1.70 Payment Options**

- A. Subject to the restrictions on the distribution of benefit payments appearing in Sections 1.80, 1.90, 1.100 and 1.120, 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 installments 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 Participant chooses, and is authorized by this Plan.

**1.80 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 1, 2001, notwithstanding any provisions 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) of the Internal Revenue Code of 1986, as amended.
- D. A minimum amount shall be distributed during each calendar year consistent with the requirements of the final regulations issued pursuant to section 401(a)(9) of the IRC.
- 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 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.** Distributions 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 1.80(J), distributions of a Participant's Account shall cease if the Participant is re-employed by PDC, unless an annuity had been purchased for the Participant, in which case payments shall continue as scheduled.
- 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 elect changes to existing irrevocable election dates and/or payment amounts, except for selections made pursuant to Section 1.70 A.5. Participants may elect changes to election dates and/or payment amounts, except for selections made pursuant to Section 1.70 A.5.
- K.** Voluntary In-Service Distribution: Notwithstanding anything in this Policy to the contrary, a Participant who is an active employee of PDC 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 1.80 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.

**1.90 Qualified Domestic Relations Orders (QDRO).**

- A.** Effective January 1, 2002, court ordered distributions in the form of QDROs are recognized and allowed by the Plan. The Plan administrator shall adopt reasonable procedures to determine the qualified status of domestic relations orders and to administer the distributions hereunder. If administered by the PDC, QDROs must be submitted in a form acceptable to PDC, and may order Participant Plan assets be divided into a separate account for the benefit of an Alternate Payee. Distribution of those assets may be allowed as provided in 1.90 B and C. All state and federal taxes on distributions from the Alternate Payee's account will be the responsibility of the Alternate Payee and not the Plan Participant. The Alternate Payee's account shall be subject to the Internal Revenue Code and Regulations, state law, and the PDC Plan.
- B.** If administered by PDC, the responsibility for the fees provided for under ORS 243.507 shall be apportioned to the Participant and the Alternate Payee based on the fraction of the plan assets received by the Participant and the Alternate Payee at the time the Alternate Payee's interest in the Plan is established. The apportioned fees shall be immediately paid to PDC, out of the distributions to the Participant and out of the distributions to the Alternate Payee until their respective obligations are paid.
- C.** Any QDRO submitted to and accepted by PDC Plan may provide that an Alternate



Payee may take an immediate distribution election from the payout options available to Plan Participants, or may elect to leave the separate account in the Plan, in which case, the Alternate Payee shall have the same rights as a beneficiary under the Plan.

#### **1.100 Determination of Benefits Upon Death**

- A.** Upon the death of a Participant, Former Participant or Alternate Payee, the Plan Administrator shall direct that the deceased Participant's, Former Participant's or Alternate Payee's Participant Account, be distributed to the Beneficiary in accordance with the provision of this Section 1.100.
- B.** The designation of a Beneficiary shall be made on a form satisfactory to the Plan Administrator. A Participant, Former Participant, or Alternate Payee may at any time revoke his designation of a Beneficiary or change his Beneficiary by filling written notice of such revocation or change with the Plan Administrator. In the event no valid designation of Beneficiary exists at the time of the Participant's, Former Participant's or Alternate Payee's death, the death benefit shall be payable to the Participant's Former Participant's or Alternate Payee's estate. If the Participant was married or a member of a domestic partnership when the Participant designated a Beneficiary and the Participant designated the spouse or domestic partner as a Beneficiary, such designation of the spouse or domestic partner as Beneficiary shall be void if the marriage or domestic partnership is dissolved or legally separated, except to the extent the Participant, after the dissolution or legal separation of the marriage or domestic partnership, redesignates the former spouse or domestic partner as a Beneficiary in the manner prescribed above or a Qualified Domestic Relations Order designates the former spouse or domestic partner as a Beneficiary.
- C.** The Plan Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the Participant Account of a deceased Participant, Former Participant, Alternate Payee or Beneficiary, as the Plan Administrator may deem appropriate. The Plan Administrator's determination of death and of the right of any person to receive payment shall be conclusive.
- D.** Death benefits payable to a Beneficiary shall be made in a form as selected by the Beneficiary in accordance with the available options. If an annuity had been purchased for the Participant, payment shall be made in accordance with the terms

of the contract, unless payment had not begun pursuant to the contract and the Committee is able to cancel the contract on terms it approves. In the event a Beneficiary fails to make an election as to a benefit distribution option, any benefit payable to such Beneficiary shall be distributed in a lump sum payment in accordance with Code Section 401(a)(9). The terms of any annuity contract purchased and distributed by the Plan to a Beneficiary shall comply with the requirements of the Plan.

- E.** Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant or Former Participant, shall be made in accordance with the following requirements and shall otherwise comply with Code Section 401(a)(9) and the Regulations thereunder.
- F.** In accordance with the Beneficiary's election, if minimum payments under Code Section 401(a)(9) have not begun upon the death of a Participant or Former Participant, and the designated Beneficiary is not the Participant's surviving spouse, death benefit payments must:

  - 1. begin to be distributed to the designated Beneficiary no later than the December 31 of the calendar year immediately following the calendar year of the Participant's or Former Participant's death payable over a period not to exceed the life expectancy of the Beneficiary; or
  - 2. be distributed no later than the December 31 of the calendar year containing the fifth anniversary of the Participant's or Former Participant's death.
- G.** In accordance with the Beneficiary's election, if the designated Beneficiary is the Participant's or Former Participant's surviving spouse and minimum payments under Code Section 401(a)(9) have not begun upon the death of a Participant or Former Participant, minimum payments to the surviving spouse as the designated Beneficiary must begin by the later of the:

  - 1. December 31 of the calendar year immediately following the calendar year in which the Participant or Former Participant dies, or
  - 2. December 31 of the calendar year in which the Participant or Former Participant would have attained 70 1/2.

The payments to the surviving spouse as the designated Beneficiary must be made over a period not to exceed the surviving spouse's life expectancy. Notwithstanding the foregoing, for purposes of this subsection, an Alternate Payee who is a spouse or former spouse will be treated as a Participant's or Former Participant's surviving spouse.

- H. If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's or Former Participant's death, the Participant's or Former Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's or Former Participant's death.
- I. If the Participant or Former Participant dies on or after the date distributions begin and there is a designated Beneficiary, distributions shall be based on the longer of the remaining life expectancy of the Participant or Former Participant or the remaining life expectancy of the Participant's or Former Participant's designated Beneficiary.
- J. Life expectancies calculations will be computed using the factors in the Single Life Table set forth in Section 1.401(a)(9)-9, A-1 of Regulations, as follows:
  - 1. The Participant's or Former Participant's remaining life expectancy is calculated using the age of the Participant or Former Participant in the year of death, reduced by one for each subsequent year.
  - 2. If the Participant's or Former Participant's surviving spouse is the Participant's or Former Participant's sole, primary designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's or Former Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
  - 3. If the Participant's or Former Participant's surviving spouse is not the Participant's or Former Participant's sole, primary designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
  - 4. If the Participant or Former Participant dies on or after the date

distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's or Former Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's or Former Participant's death is the quotient obtained by dividing the Participant Account by the Participant's or Former Participant's remaining life expectancy calculated using the age of the Participant or Former Participant in the year of death, reduced by one for each subsequent year.

**1.120 Unforeseeable Emergency**

A Participant may apply on a form supplied by the Director of Human Resources, or his or her designee, for payment prior to Severance from Employment or Retirement from PDC employment but such application may be granted only if the Participant is experiencing an Unforeseeable Emergency which would cause undue hardship if payment were denied. If the Director of Human Resources, 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 Unforeseeable Emergency be made to the Participant. Payment will be made within 90 days of the date of such approval. 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 Policy for a period of 6 months following such hardship withdrawal. If the Director of Human Resources, 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 Director of Human Resources 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 Director of Human Resources. Any decision of the Committee is final.

**1.30 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 non-assignable and nontransferable. Nor shall any amounts deferred pursuant to this Policy 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 Qualified Domestic Relations Orders as set forth in 1.90 which may be issued pursuant to a 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 separation which is determined by the Director of Human Resources or his or her designee to satisfy the requirements of ORS 243.507. The Director of Human Resources 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.

**1.140 Amendment and Termination**

- A. PDC may terminate the Plan provided for in this Policy 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 PDC 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. In the event PDC terminates the Plan, the value of all Accounts shall either be distributed to the Participants or their Beneficiaries at that time or distributed in accordance with the method of payment designated by the Participant or Beneficiary on a Settlement and Payment Election Agreement, as determined by PDC in its discretion.
- B. PDC 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.

**1.150 Transfers from other code section 457(b) Plans**

This Plan shall accept for transfer of 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.

**1.155 Rollovers to the Plan**

- A. On or after July, 1, 2002, Participants may elect to roll over assets to the Plan from a traditional IRA or qualified retirement plan pursuant to Sections 401(a), 403(b), 401(k), and 457(b) of the Internal Revenue Code. The Investment Providers shall hold and segregate all rollover assets within the Participant's account in accordance with the provisions of the Internal Revenue Code. A Participant may choose to receive a distribution from his or her 457(b) transfer account and non-Governmental 457(b) rollover account prior to a distributable event.
- B. Notwithstanding any other provisions of this Policy relative to the commencement of benefits upon Severance from Employment, if a Participant severs from PDC employment or becomes employed by or performs services for another employer which maintains a qualified retirement plan pursuant to Sections 401(a), 401(k), 403(b), and 457(b) 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 rolled over directly from this Plan to such other qualified retirement or deferred compensation plan, provided such other qualified plan will accept the transferred amount and obligation.

**1.157 Purchase of Service Credits**

- A. 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.

**1.160 Unclaimed Assets**

In the event that 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.

**1.170 Disclaimers.**

- A. Neither the PDC nor the Committee shall be liable for the investment decisions made by the Participants.
- B. Neither the PDC nor the Committee manages the Participants' Accounts, and is therefore not responsible or liable for the performance and accuracy of Participant's Accounts.

[Date]

David Thurman  
Treasurer  
City of Portland  
1221 SW 4<sup>th</sup> Ave Room 120  
Portland, OR 97204

Re: Notice of PDC Adoption of City of Portland's Governmental 457(b) Plan

Dear Mr. Thurman:

In accordance with Resolution No. 6608 adopted by the Portland Development Commission (PDC) Board of Commissioners on June 25, 2008, PDC is hereby notifying you of its adoption of the City of Portland's Governmental 457(b) Plan (COP Plan), as a participating employer thereunder, and the simultaneous amendment, restatement and replacement of its existing Governmental 457(b) Plan with the COP Plan.

To complete this action, please countersign the enclosed copy of the letter and return it to the undersigned.

This action is effective as of the date of the City of Portland's countersignature on this letter.

Sincerely,

Sandy Reina  
Director of Human Resources

Adoption accepted by the City of Portland

By: \_\_\_\_\_  
David Thurman, City of Portland Treasurer

Date: \_\_\_\_\_

# PDC

PORTLAND DEVELOPMENT COMMISSION

## Resolution Number 6608

Title: **UPDATING DEFERRED COMPENSATION PLAN**

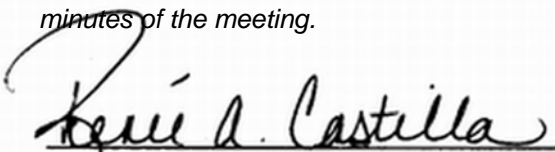
Adopted by the Portland Development Commission on June 25, 2008.

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Mark Rosenbaum, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Sal Kadri	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Bertha Ferrán	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Charles Wilhoite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	John Mohlis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Consent Agenda		<input type="checkbox"/> Regular Agenda		

### Certification

The undersigned hereby certifies that:

*The attached resolution is a true and correct copy of the resolution as finally adopted at a Board Meeting of the Portland Development Commission and duly recorded in the official minutes of the meeting.*

  
Renee A. Castilla, Recording Secretary

Date: June 26, 2008