



AUSTIN POLICE RETIREMENT SYSTEM

POLICY FOR THE

POST RETIREMENT OPTION PLAN (PROP)

A. PURPOSE and DESCRIPTION

The Post Retirement Option Plan (“**PROP**”) is an investment option for retired members of the Austin Police Retirement System (the "**System**") established by the System’s Board of Trustees (the “**Board**”). Members who are eligible to participate in the PROP may elect to defer all or a portion of the balance in their Retro or Forward Deferred Retirement Option Plan (“**DROP**”) account and/or their monthly service retirement annuity in order to allow the deferred benefits accumulate for later disbursement and later taxation.

Effective August 19, 2020, the Board hereby adopts this “Policy for the Post Retirement Option Plan (PROP)” (the “**Policy**”) to set forth specific rules and guidelines related to eligibility to participate in the PROP and the System’s administration of the PROP.

B. ELIGIBILITY

1. Any retired member of the System who is under the age of 71 (or for a member who attained age 70 ½ on or before December 31, 2019, is under the age of 69) is eligible to elect to participate in the PROP on or after the member’s effective date of retirement, *provided that* such member has not previously made an election to participate in the PROP as of such date. As used in this Policy, a member’s effective date of retirement is the last day of the month in which the member applies for a service retirement benefit from the System. A member who is participating in DROP may not elect to participate in the PROP until he or she terminates employment with the City of Austin, or the System, as applicable.
2. Members who previously elected to defer amounts into the PROP and have revoked such deferral election may not later elect to defer amounts into the PROP again.
3. Members who are eligible to participate in the PROP may elect to defer all or a portion of their DROP balance and/or (2) the member’s monthly service retirement annuity. Any amounts deferred into the PROP will be recorded in a bookkeeping account in the System under the member’s name (the “**PROP Account**”). Outside funds are not eligible to be rolled into a member’s PROP Account.

4. A member who is receiving a disability retirement annuity from the System may not elect to defer any portion of such disability retirement annuity into the PROP until the member reaches age 62 or is otherwise eligible to receive a normal service retirement annuity from the System.
5. An election to participate in the PROP must be made in writing on a form prescribed by the System. Making an election to defer amounts into the PROP, or amending or revoking that election, may have adverse tax consequences in some situations, especially if the member commenced his or her retirement benefit before the calendar year in which he or she attained age 50 (or age 55 if the member was an employee of the System). Therefore, the election should not be made until the member has discussed the matter with a professional financial planner or tax advisor who is knowledgeable about the tax treatment of distributions from tax qualified plans. **The System's administrative staff does not provide legal or tax advice. Each member is advised to consult with his or her professional advisors before making, revoking, or amending any election related to participation in the PROP.**
6. If a member elects to participate in the PROP but dies before receiving the entire PROP balance, only a spouse beneficiary will be eligible to continue participation in the PROP after the member's death in accordance with Section D below.
7. Neither a non-spouse beneficiary of a member nor an alternate payee named in a qualified domestic relations order (QDRO) will have the right to defer any payments into the PROP or continue participation in the PROP after the member's death.

C. GENERAL RULES

1. *Deferral of DROP Balance:* If a retired member elects to defer all or a portion of their DROP balance into the PROP, the portion of the DROP balance to be deferred into the PROP can be no less than \$2,500. The portion of the DROP balance that is deferred into the PROP must remain in the participant's PROP Account for a minimum of 90 days after such amount is deferred before the participant may request an elective PROP distribution.
2. *Deferral of Monthly Annuity:* A retired member may elect to defer all or a specified portion of his or her monthly service retirement annuity into the PROP. If the retired member elects to only defer a portion of each annuity payment into the PROP, the portion that is deferred may not be less than \$250 per month.
3. A retired member who elects to defer amounts into the PROP must provide a written statement with his or her election to participate in the PROP acknowledging that he or she has been advised to consult with a professional tax advisor of the member's own choosing with regard to the possible tax consequences of electing to defer such payments into the PROP and of electing to receive distributions from the member's PROP Account and understands that the System itself cannot provide tax or legal advice.

4. Each participant's PROP Account will be credited with interest at an annual rate established by the Board prior to September 1st of each year. In establishing such rate, the Board will consider all information it considers relevant (e.g., the market value rate of return of the System's assets for recent plan years as well as for recent calendar quarters, the recent and current investment environment, and the additional administrative expenses associated with PROP). The rate will be effective for the 12 month period beginning on September 1st of the calendar year in which the rate is adopted and ending on the following August 31st for all PROP Accounts established or maintained during such 12-month period.
 - a. Interest will be credited at the end of each month, beginning with the first full calendar month immediately following the member's election to participate in the PROP, based on the member's PROP Account balance at the beginning of each month using a compound monthly rate equivalent to the adopted annual rate for such year.
5. A PROP participant must designate a beneficiary for PROP benefits by filing a completed PROP beneficiary form with the System. The beneficiary for PROP benefits may be different from the beneficiary for the member's monthly service retirement benefits. If a PROP participant desires to change his or her designated beneficiary for PROP benefits, the participant must execute and file with the System a revised PROP beneficiary form. A participant may designate a contingent beneficiary who will receive the PROP benefits in the event the first beneficiary dies prior to or within 72 hours after the death of the member.
6. The System will provide members with their December 31st PROP Account balances by February 28th of each following year. The System will also respond to balance inquiries during the year from a PROP participant, the designated beneficiary of such PROP participant, the spouse of such PROP participant, or the legal representative of any of the above.

D. REVOCATION OR AMENDMENT OF PROP DEFERRAL

1. A member who elects to defer all or a portion of his or her annuity payments into the PROP and has deferred at least one payment into the PROP may revoke or amend such election for any future deferrals at any time before the end of the calendar year in which the member attains age 72, *provided that* if the member attained age 70 ½ on or before December 31, 2019, such election must be made before the end of the calendar year in which the member attained age 70 ½. A member may not amend an election under this Policy more than twice in any calendar year.
2. A member may revoke his or her election to defer amounts into the PROP, and thereby cease all future deferrals to the PROP, by filing a revocation form with the System. A member who revokes his or her PROP deferral election will begin receiving a monthly annuity on the last day of the calendar month following the effective date of such revocation as provided in

Section D(4) below in an amount equal to the amount he or she would have been entitled to receive on the effective date of the revocation if the election to defer into the PROP had not been made. Once a member's revocation form is accepted and the revocation is effective, the member may not make a second election to defer all or a portion of his or her monthly annuity into the PROP.

3. A member may amend his or her deferral election to change the amount to be deferred into the PROP by filing an amendment form with the System up to twice per calendar year. A member who amends his or her PROP deferral election will begin receiving a monthly annuity on the last day of the calendar month following the effective date of such amendment as provided in Section D(4) below in an amount equal to the amount he or she would have been entitled to receive on the effective date of the amendment if the election to defer into the PROP had not been made, reduced by the amount to be deferred, as amended.
4. Monthly annuity payments are made only on the last day of a calendar month. A revocation form or amendment form will take effect at the end of the month in which the form is received if such form is received by the System on or before the 15th day of that month, or such later date specified by the participant on the revocation or amendment form. If the form is received after the 15th day of the month, the form will take effect on the last day of the following month, or such later date specified by the participant on the revocation or amendment form.
5. Filing an amendment or revocation form that is effective before the member attains age 59½ may result in additional federal income taxes. **The System's administrative staff does not provide legal or tax advice. Each member is advised to consult with his or her professional advisors before making, revoking, or amending any election related to participation in the PROP.**
6. In the event the PROP participant dies while all or a portion of his or her monthly annuity is being deferred into the PROP and if the member's spouse is the designated beneficiary of both the monthly annuity and of the PROP Account, the spouse will have the option to continue participation in the PROP in place of the deceased participant. The spouse of a deceased PROP participant must provide a written statement to the System with his or her election to participate in the PROP and beneficiary designation form within 30 days of the date the member's death is reported to the System. Failure to file such a statement within 30 days shall constitute a revocation of the election to defer amounts in the PROP Account. The designated beneficiary of a surviving spouse may not continue participation in the PROP after the surviving spouse's death.
7. In the event the PROP participant dies while all or a portion of his or her monthly annuity is being deferred into the PROP and if the member's spouse is not the designated beneficiary of both the monthly annuity and of the PROP Account, the receipt of notification of the

member's death by the System shall constitute a revocation of the election to defer amounts into the PROP Account.

8. In order to comply with Section 401(a)(9) of the Internal Revenue Code (“Code”), if a member (or spouse beneficiary after the member's death) is still deferring all or a portion of his or her monthly annuity into the PROP at the end of the calendar year in which the participant attains, or would have attained, age 72 (or for a member who attained (or would have attained) age 70 ½ on or before December 31, 2019, age 70 ½), such participant (or spouse) will be deemed to have revoked his or her election to participate in the PROP effective as of December 31st of such year.

E. DISTRIBUTIONS FROM PROP ACCOUNT

1. A PROP participant may close his or her PROP Account at any time by requesting a full distribution of such PROP Account. A participant may request a partial payment from his or her PROP Account up to twice during each calendar year. To request a distribution from a PROP Account, either full or partial, the participant must file a completed distribution form with the System. If the distribution form is received by the System by the 15th day of the month and is approved and accepted by the System, the distribution will occur on the last day of the month in which the form was received, or such later date specified by the participant on the distribution form. If the form is received after the 15th day of the month and is approved and accepted by the System, the distribution will occur on the last day of the month following the month in which the form was received, or such later date specified by the participant on the distribution form.
2. Distributions from a PROP Account will be made only on the last day of a calendar month.
3. No partial distribution may be requested in an amount less than \$2,500.
4. No PROP distribution shall be made directly to any participant who has not attained age 59½ at the time of the distribution unless either:
 - a. The member commenced his or her retirement benefit before the calendar year in which he or she attained at least age 50 (or, if the member was an employee of the System, had attained at least age 55); OR
 - b. The distribution is made in the form of a rollover to an Individual Retirement Account or Individual Retirement Annuity (“IRA”) or another eligible retirement plan.
5. Any distribution from a PROP Account is subject to a mandatory twenty percent (20%) withholding for federal income tax, unless the distribution is transferred directly by the System to an IRA or another eligible retirement plan as a rollover.

6. In the event of the death of the PROP participant before the date the PROP Account is completely distributed, the PROP Account balance (including accrued interest) shall be paid (a) to the participant's designated beneficiary in accordance with a properly filed distribution form from such beneficiary, or (b) if no designated beneficiary exists, to the participant's estate on the last day of the first full month after the member's death has been properly reported to the System; *provided that* if the participant's spouse is the designated beneficiary, the surviving spouse may elect to continue participation in the PROP in place of the deceased participant in accordance with Section D above.
7. Failure to satisfy the minimum distribution requirements of Section 401(a)(9) of the Code could jeopardize the tax qualification status of the System and may subject the participant to a tax of 50% of the amount that should have been paid to the participant during the year but was not. In order for the System and the participant to comply with Section 401(a)(9) of the Code, if a participant (or spouse) has a balance in his or her PROP Account on the last day of the calendar year in which the participant attains (or would have attained) age 72 (or for a participant who attained (or would have attained) age 70 ½ on or before December 31, 2019, age 70 ½), the following steps must be taken:
 - a. By February 1st of the year following the year in which the participant attains (or would have attained) age 72 (or age 70½, as applicable), the participant (or surviving spouse) must file a new distribution form with the System, and, if the participant (or spouse) does not request a full distribution of the balance of his or her PROP Account prior to March 31st of such year, a statement from a professional tax advisor of the participant's (or spouse's) own choosing with an explanation of how he or she will comply with Section 401(a)(9) of the Code without requesting a distribution of the entire PROP Account balance.
 - b. The System will review to determine whether it deems the distribution form and the tax advisor's written statement to be acceptable.
 - c. If the System does not deem the distribution form or tax advisor's written statement to be acceptable, the System will ask the participant (or spouse) to submit a revised statement or distribution form that will ensure compliance with Section 401(a)(9) of the Code.
 - d. If the participant (or spouse) does not revise the written statement or distribution form to the satisfaction of the System before March 5th of the year following the year in which the participant attained (or would have attained) age 72 (or age 70½, as applicable), then the participant (or spouse) shall be deemed to have elected to receive his or her entire PROP Account balance on March 31st of that year.
 - e. If the System accepts the distribution form and written statement, the participant's (or spouse's) distribution election becomes irrevocable on March 31st of the year following the year in which the participant attained (or would have attained) age 72

(or age 70½, as applicable), except the participant (or spouse) may override that request at any time by filing a newly completed distribution form requesting a single payment of the remaining PROP Account balance. The System may request additional written statements on an annual basis as needed to ensure compliance with Section 401(a)(9).

8. Should the participant (or spouse) fail to file a written statement or distribution form before March 5th of the year following the year in which the participant attains (or would have attained) age 72 (or 70½, as applicable), such participant (or spouse) shall be deemed to have elected to receive his or her entire PROP Account balance on March 31st of that year.

F. MODIFICATION OR ELIMINATION OF PROGRAM

1. The Board may modify or eliminate the PROP at any time by the adoption of Board rules or by amending this Policy.



Tyler Link, Chair
Board of Trustees