



**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 to accumulate for later disbursement and later taxation.

Effective on the date of approval of this policy, the Board hereby adopts this amended and restated “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 has not yet attained the age which is one (1) year prior to the applicable age triggering required minimum distributions as provided under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended (the “**Code**”) (such applicable age, the “**RMD Age**”) 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 (1) 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

Mailing Address:
P.O. Box 40609
Austin, TX 78704

Physical Address:
2520 S. IH-35, Suite 100,
Austin, TX 78704

Phone: (512) 416-7672
Fax: (512) 416-7138
www.ausprs.org

funds and non-taxable funds that were previously contributed to the System 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 a distribution of the member's entire PROP balance and the member's spouse at the time of death was named as, or is deemed to be, the member's PROP Beneficiary (as defined in Section E below), the spousal PROP Beneficiary will be eligible to continue participation in the PROP after the member's death in accordance with Section E below and the terms of this Policy.
7. In no event will a non-spouse PROP Beneficiary or an alternate payee named in a qualified domestic relations order (QDRO) have the right to participate in the PROP in any manner, including, without limitation, the right to defer any payments into the PROP.

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, provided that no portion of the member's DROP account which is attributable to non-taxable funds may be deferred into the PROP. 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, provided that no portion of the member's annuity which is attributable to non-taxable funds may be deferred 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 and may not be more than the member's net payment amount after deductions.

3. *Election to Participate:* 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. *Crediting of Interest:* Each participant's PROP Account will be credited with interest at an annual rate as set forth below.
 - a. The PROP interest rate for a given year will be effective beginning on January 1st of such year. Such interest rate shall apply to all PROP Accounts established or maintained during such calendar year.
 - b. Except as provided under subsection (c) below, the PROP interest rate will be determined by the System's actuary on an annual basis to be the rate that is equal to the average yield of 10-Year Treasury Constant Maturities (Nominal), as published by the Federal Reserve in Statistical Release H.15, during the 12-month period ending on October 31 of the calendar year immediately preceding the year in which the rate will be effective. For example, the PROP interest rate for calendar year 2023 will be based on the average yield of 10-Year Treasury Constant Maturities (Nominal) during the 12-month period beginning on November 1, 2021 and ending on October 31, 2022.
 - c. In no event will the PROP interest rate be
 - (i) greater than the rate which is three percent (3%) less than the System's assumed rate of return for the applicable calendar year as established by the Board or
 - (ii) less than zero percent (0%) (i.e., no negative interest).
 - d. Interest will be credited to a participant's PROP Account at the end of each month, beginning with the first full calendar month immediately following the participant's election to participate in the PROP, based on the participant's PROP Account balance at the beginning of each month using a compound monthly rate equivalent to the annual rate for such year.
5. *Annual Statements:* 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 PROP

Beneficiary (as defined in Section E below), the spouse of such PROP participant (if there is no PROP Beneficiary), or the legal representative of any of the above.

D. REVOCAION OR AMENDMENT OF PROP DEFERRAL

1. A PROP participant who elects to defer all or a portion of his or her monthly 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 (or would have attained) the RMD Age. A PROP participant may not amend an election under this Policy more than twice in any calendar year.
2. A PROP participant 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 PROP participant 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 PROP participant's revocation form is accepted and the revocation is effective, the PROP participant may not make a second election to defer all or a portion of his or her monthly annuity into the PROP.
3. A PROP participant 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 PROP participant 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. In the event the PROP participant dies while all or a portion of his or her monthly annuity is being deferred into the PROP, the monthly annuity that would have been payable on the last day of the month in which the PROP participant's death occurred will be deposited into the participant's PROP Account. The PROP participant's election to participate in the PROP will be automatically revoked beginning with the first day of the month following the month in which the PROP participant died.

6. Filing an amendment or revocation form that is effective before the PROP participant attains age 59½ may result in additional federal income taxes. **The System's administrative staff does not provide legal or tax advice. Each PROP participant is advised to consult with his or her professional advisors before making, revoking, or amending any election related to participation in the PROP.**
7. In order to comply with Section 401(a)(9) of the Code, if a participant (or spousal PROP Beneficiary) 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, the RMD Age, such participant (or spousal PROP Beneficiary) will be deemed to have revoked his or her election to participate in the PROP effective as of December 31st of such year, and no further deferrals will be made to the PROP after such date.

E. PROP BENEFICIARY

1. A PROP participant must designate a beneficiary for his or her PROP Account by filing a completed PROP beneficiary form with the System at the time the participant elects to participate in the PROP (the "**PROP Beneficiary**"). The PROP Beneficiary may be different from the beneficiary that the member names for survivor benefits from the System (if any) (the "**Survivor**") or for any other death benefits that may become payable from the System. If a PROP participant desires to change his or her PROP Beneficiary, the participant must execute and file with the System a revised PROP Beneficiary form. A participant may designate a contingent PROP Beneficiary who will receive the PROP benefits in the event the first PROP Beneficiary dies prior to or within 72 hours after the death of the PROP participant.
2. If there is no PROP Beneficiary on file for the PROP participant at his or her death (or if the named PROP Beneficiary has pre-deceased the PROP participant and there is no contingent PROP Beneficiary), the PROP Beneficiary shall be deemed to be (i) the PROP participant's spouse, if he or she was married at the time of death, or (ii) the PROP participant's estate, if he or she was not married at the time of death.
3. In the event the member dies while all or a portion of his or her monthly annuity is being deferred into the PROP and the member's spouse is both the PROP Beneficiary and the Survivor, the member's spouse will have the option to (i) leave the balance of the PROP Account in the PROP until such amounts are required to be distributed pursuant to Section F below and (ii) begin deferring all or a portion of such spouse's monthly annuity into the PROP in place of the deceased member, provided that no portion of the spouse's annuity which is attributable to non-taxable funds may be deferred into the PROP. If the spousal PROP Beneficiary 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 and may not be more than the spousal PROP Beneficiary's net payment amount after deductions.
4. In the event the member dies while all or a portion of his or her monthly annuity is being deferred into the PROP and the member's spouse is not both the PROP

Beneficiary and the Survivor, the member's spouse will have the option to leave the balance of the PROP Account in the PROP until such amounts are required to be distributed pursuant to Section F below, but the member's spouse shall have no right to defer additional amounts in the PROP Account.

5. A spouse who is eligible to continue participation in/ making deferrals into the PROP pursuant to Section E(3) above must make an affirmative election to continue such participation/deferrals within 30 days of the date the member's death is reported to the System by providing a written statement to the System of his or her election (along with the amount of such deferral) and a PROP Beneficiary designation form. Failure to file such a statement within 30 days shall constitute a waiver of the spouse's right to continue participation/defer amounts in the PROP. The PROP Beneficiary of a surviving spouse may not continue participation in the PROP after the surviving spouse's death.

F. 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 during 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 through the last day of the month in which the member died) shall be paid (a) to the PROP Beneficiary in accordance with a properly filed distribution form from such PROP Beneficiary, or (b) if no PROP Beneficiary exists, to the participant's estate, in each case, as soon as administratively practicable after the death of the member ; *provided that* if the participant's spouse is the PROP Beneficiary, the surviving spouse may elect to continue participation in the PROP in place of the deceased participant in accordance with Section E above. Except in the event of a spousal PROP Beneficiary who elects to continue to participate in the PROP after the member's death, interest on the PROP Account shall cease to accrue on the last day of the month in which the member died.
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 to comply with Section 401(a)(9) of the Code, if a participant (or spousal PROP Beneficiary) 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) the RMD Age, the participant (or spousal PROP Beneficiary) shall be distributed the required minimum distribution as determined by the System in its sole discretion in accordance with Section 401(a)(9) of the Code by March 31st of the following calendar year, and such distribution shall be in accordance with this Policy and procedures established by the System. After the initial required distribution date, subsequent distributions shall be paid to the participant (or spousal PROP Beneficiary) in accordance with the dates required under Section 401(a)(9) of the Code. Notwithstanding the above, for any participant who attained the applicable RMD Age prior to January 1, 2023, the policies of the System as in effect prior to such date that relate to the minimum distribution requirements of Section 401(a)(9) of the Code will remain in effect for required minimum distributions made through 2022.

G. MODIFICATION OR ELIMINATION OF PROGRAM

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



Sheldon Askew, Chair
Board of Trustees