


# August Benefits and Services Committee Meeting


**Schedule** Thursday, August 31, 2023 10:00 AM — 11:00 AM CDT  
**Venue** 6850 Austin Center Blvd., Suite 320, Austin, TX 78731  
**Organizer** Sarah McCleary

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# **1. Call roll of Committee members**

Presented by Committee Chair Thomas



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### AGENDA ITEM 1: Call roll of Committee members

#### AGENDA ITEM OBJECTIVE

The objective of the agenda item is to determine for the record which Trustees are present at the start of the meeting.

Each Trustee should respond to the roll call, and it will be noted which Trustees are present in person and which Trustees have joined via video conference.

## 2. Review order of business and establish meeting objectives

Presented by Committee Chair Thomas



## COMMITTEE MEETING Agenda Item Information Sheet

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### AGENDA ITEM 2:

Review order of business and establish meeting objectives

#### AGENDA ITEM OBJECTIVE

This agenda item provides Trustees the opportunity to review the order of business and to express a desire to take an agenda item out of order, and to discuss the key objectives of the meeting.

#### RELEVANCE TO STRATEGIC PLAN

This agenda item meets **COAERS Strategic Plan Goal 4: Identify and implement leading practices in board governance, pension administration, and investment management**. It is an industry best practice to establish meeting objectives and review them at the outset of each meeting.

#### MEETING OBJECTIVES

1. The Committee will consider approval of disability applications #2305, #2306, and #2307, and referral to the Board of the Committee's recommendation.
2. The Committee will consider proposed revisions to the Benefits Administration Operating Procedures considering the passage of COAERS legislation during the 88<sup>th</sup> Legislative Session, as well as recent federal enactment of the SECURE Act 2.0.
3. The Committee will consider referring to the Board a resolution related to compliance with IRS plan regulations.
4. In its oversight capacity, the Committee will review the performance, working relationship, and engagement with COAERS' actuarial consultant.

**3. Consider approval of the June 15, 2023  
Benefits and Services Committee minutes**  
Presented by Committee Chair Thomas





## COMMITTEE MEETING Agenda Item Information Sheet

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### AGENDA ITEM 3:

Consider approval of the June 15, 2023 Benefits and Services Committee minutes

#### AGENDA ITEM OBJECTIVE

This standing agenda item seeks approval of the minutes from the prior Benefits and Services Committee meetings.

#### RELEVANCE TO STRATEGIC PLAN

This agenda item meets the core competency established in the **COAERS Strategic Plan** “*Transparency: Complying with open meeting and public information laws to ensure the decision-making process is clear to members and the public.*”

#### RECOMMENDATION FOR COMMITTEE ACTION

Staff recommends approval of the minutes of the June 15, 2023 Benefits and Services Committee meetings.

#### ATTACHMENT

1. Draft minutes of June 15, 2023 Benefits and Services Committee meeting



## MINUTES

### Benefits and Services Committee

Public Meeting held in-person and telephonically on June 15, 2023 at 1:00 p.m. CT  
Pursuant to Texas Govt. Code 551.127

#### Committee Members Present/(Absent)

Diana Thomas, Committee  
Chair  
Chris Noak†  
Leslie Pool  
Anthony Ross  
Brad Sinclair

#### Other Board Trustees Present/(Absent)

(Mike Benson)  
Kelly Crook  
(Michael Granof)  
(Dick Lavine)  
(Yuejiao Liu)  
Amy Hunter†

#### Others Present

Staff:  
Christopher Hanson  
Sarah McCleary  
Jenni Bonds  
Mehrin Rahman  
David Kushner  
Yun Quintanilla  
Teresa Cantu  
Amy Kelley\*

#### Guests:

Paige Saenz, General Counsel\*  
Dr. Harold Skaggs  
Lewis Ward, GRS\*  
Brad Oxford, Clark Hill\*  
Robin Keyes\*  
Austin EMS Association\*

\*Present telephonically

† present via videoconference

### 1 Call roll of Committee members

Committee Chair Diana Thomas called the meeting to order at 1:01 p.m. The following Committee members were present in person: Thomas, Ross, Sinclair, and Pool.

### 2 Review order of business and establish meeting objectives

Committee Chair Thomas reviewed the order of business and meeting objectives with the Committee. Ms. Thomas asked if there were any members of the public who wished to speak, either now or during an agenda item. There were no comments.

*Mr. Chris Noak arrived at 1:03 p.m.*

**3 Consider approval of the March 9, 2023 and March 30, 2023 Benefits and Services Committee minutes**

Committee Chair Thomas asked the committee to review the Benefits and Services Committee minutes from March 9 and March 30. Ms. Leslie Pool moved approval of the March 9 and March 30, 2023 minutes as presented. Mr. Anthony Ross seconded, and the motion passed unanimously.

**4 Discuss and consider Risk Sharing Valuation Study**

Mr. Lewis Ward of GRS presented a report on the Risk Sharing Valuation Study (RSVS). He noted that this year it is a standalone report, but in future years it will be included as part of the annual actuarial valuation. The RSVS establishes several actuarial metrics tied to the recently passed legislation, including the schedule of Legacy Liability payments; the corridor midpoint, maximum, and minimum; the amortization payment of gain and loss layers; and the actual City Contribution to be made in addition to the Legacy Liability payment. The RSVS identified that the corridor maximum was not reached, and no additional employee contributions are required for 2023 under the new contribution policy.

Mr. Brad Sinclair moved to recommend that the Board approve the December 31, 2022 Risk Sharing Valuation Study Report. Ms. Pool seconded, and the motion passed unanimously.

**5 Discuss and consider COAERS Funding Policy**

Mr. Christopher Hanson sought direction from the Committee on updating the Funding Policy. The recently passed legislation made it necessary to revisit several components. According to the amended Texas Government Code, the policy must be agreed to jointly with the City and detail a plan for achieving a funded ratio equal to or greater than 100%.

The Committee directed Staff to work with City staff to draft a joint funding policy, reporting back to the committee on any significant issues that require committee feedback or direction. The Funding Policy will first be presented to this Committee, then to the Board for approval; City Staff will work their process to receive the approval of the City Council.

**6 Discuss and consider Benefits Policy and Benefits Operating Procedures**

Mr. Hanson reminded Trustees that during the process of enacting legislation, COAERS had several Members leave feedback about not being able to purchase Supplementary Service time except upon retirement. To address the concern about the legislation's interruption of some member's plans, Staff drafted but has not finalized a proposed operating procedure to allow COAERS members the ability to purchase Supplementary service under the current policy provisions, for instance before they decided to retire, for

a specific time-period beginning January 1, 2024. Mr. Hanson noted that Staff need additional time to work with COAERS actuary on this proposal and he anticipated Staff would bring it back to the Committee in August.

*Ms. Kelly Crook left the meeting at 1:42 p.m.*

## **7 Receive report on annual IRS compliance**

Mr. Hanson presented a report from Clark Hill outlining the results of the annual plan review considering federal legislative changes. He reported certain provisions of the SECURE 2.0 Act are mandatory, and Staff will work with Mr. Oxford to draft a Resolution for Committee review and Board approval at a future date in 2023.

## **8 Discuss and consider disability retirement application – Christopher Hanson**

### **A. Convene into Executive Session pursuant to sec. 13, art. 6243n, and sec. 551.0785 Texas Government Code, to review disability retirement application #2304**

**B. Reconvene from Executive Session pursuant to sec. 13, art. 6243n, and sec. 551.0785 Texas Government Code, to make recommendations as determined appropriate by the Committee on disability retirement application #2304**

Trustees convened into Executive Session at 1:45 p.m.

Trustees reconvened into Public Session at 2:11 p.m.

Mr. Anthony Ross moved to approve Disability retirement application #2304 conditioned upon understanding and making accommodations for certain aspects of the member's COAERS account. This motion died for lack of a second. Ms. Pool moved to approve Disability retirement application #2304. Mr. Sinclair seconded, and the motion passed unanimously. Staff indicated that they would follow all applicable procedures.

## **9 Review key meeting takeaways and call for future agenda items**

Committee Chair Thomas summarized the actions taken and the information discussed during the meeting and asked for any future agenda items.

As there were no other items to address, the meeting adjourned at 2:13 p.m.

4. Discuss and consider disability retirement applications

a. Convene into Executive Session pursuant to Sec. 13, Art. 6243n, Tex. Rev. Civ. Stat. and Sec. 551.0785 Texas Government Code to deliberate on disability retirement applications ref. #2305, #2306, and #2307

b. Reconvene into public session and make recommendations as determined appropriate by the Committee regarding disability retirement applications ref. #2305, #2306, and #2307

Presented by Committee Chair Thomas



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### AGENDA ITEM 4:

Discuss and consider disability retirement applications

- A. Convene into Executive Session pursuant to Sec. 13, Art. 6243n, Tex. Rev. Civ. Stat. and Sec. 551.0785 Texas Government Code to deliberate on disability retirement applications ref. #2305, #2306 and #2307
- B. Reconvene into public session and make recommendations as determined appropriate by the Committee regarding disability retirement applications ref. #2305, #2306 and #2307

### AGENDA ITEM OBJECTIVE

The objective of this agenda item is designed to provide a hearing for three COAERS members' initial applications for disability retirement benefits.

### RELEVANCE TO STRATEGIC PLAN

This agenda item meets with the core competency established in the **COAERS Strategic Plan** "Dependable operations: Managing the financial and operational commitments of the system within appropriate measurable standards" as this item fulfills the Trustee's statutory duty to hear initial applications for disability retirement benefits.

### RECOMMENDATION FOR COMMITTEE ACTION

No action is allowed while in Executive Session; action may be considered upon reconvening into public session. The Medical Consultant opinion is included in confidential packet material.

### ATTACHMENTS

1. Medical opinions and selected disability application information (CONFIDENTIAL) #2305
2. Medical opinions and selected disability application information (CONFIDENTIAL) #2306
3. Medical opinions and selected disability application information (CONFIDENTIAL) #2307

**5. Discuss and consider Benefits**  
**Administration Operating Procedures**  
Presented by Russell Nash



## COMMITTEE MEETING Agenda Item Information Sheet

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### AGENDA ITEM 5:

Discuss and consider Benefits Administration Operating Procedures

#### AGENDA ITEM OBJECTIVE

This agenda item is intended for the Committee to review proposed changes to the Benefits Administration Operating Procedures. COAERS' Board Benefits policy directs the Executive Director to create and maintain Benefits Administration Operating Procedures (the Procedures) to guide the administration of benefits and for publication to the COAERS membership.

#### RELEVANCE TO STRATEGIC PLAN

This agenda item meets **COAERS Strategic Plan Goal 4: Identify and implement leading practices in board governance, pension administration, and investment management**. It is an industry best practice to regularly review policies to ensure COAERS is enhancing its operational effectiveness.

#### RECOMMENDATION FOR COMMITTEE ACTION

Staff recommends the Committee refer to the Board approval of the proposed changes to the Benefits Administration Operating Procedures.

#### DISCUSSION OF DRAFT CHANGES

Staff has drafted amendments to the Benefits Administration Operating Procedures to:

1. Complement the new state legislative provisions contained in SB1444 (COAERS legislation), and
2. Address routine administrative changes arising from the day-to-day administration of the plan, and
3. Implement new federal legislative changes (Secure Act 2.0).

A summary of the changes is below.

- Pages 6 and 7. Article VII. Adding "Limited Transitional Service Purchase Election." Sections 7.2, 7.3, and 7.7. SB 1444 requires purchases (supplementary, non-contributory, and military) to be made **only at retirement** beginning January 1, 2024 and therefore Sections 7.2 and 7.3 have been edited accordingly.

One theme from the stakeholder feedback about SB 1444 was that the changes to service purchases interrupted some member's plans to make purchases in the next few years, specifically Supplementary Service.





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To address this concern, Staff has drafted new procedures (Section 7.7) to allow COAERS members the right to purchase Supplementary service prior to retirement if they make an election to do so on or before December 31, 2023. If the rules are recommended by the Committee and adopted by the Board, Staff will develop a communications plan to notify members and create a uniform process for members to make their election.

- Page 7. Article VII. Adding “7.8 Rollovers to Purchase Supplementary Service Credit”. Memorializes an Internal Revenue Service provision allowing members to make a supplementary service purchase if they have less than five years of service but only if they roll funds in from a governmental 457 or 403(b) retirement plan. This change complements new provisions contained in Section 7.7; however, this change would have a limited impact if Section 7.7 is not enacted.
- Page 9. Article IX Benefit Claims and Substantiation Adding “9.6 Withholding for Payments to Non-US Citizens”. Occasionally, a COAERS member will designate a joint annuitant who is not a US citizen to receive an annuity after the member’s death. Certain tax withholding rules are required for payments to non-US citizens. Accordingly, Staff has inserted new language in Section 9.6 to memorialize these rules.
- Page 9. Article IX Benefit Claims and Substantiation Adding “9.7 IRS Limits on Average Final Compensation”. Certain highly compensated members may find that their average final compensation is capped when they retire pursuant to Internal Revenue Code provisions. The effect of this cap is to place a limit on the member’s monthly benefit. Section 9.7 has been inserted to provide the Executive Director with a way to provide administrative relief for those whose average final compensation is subject to IRS limits.
- Page 10. Article X. Amending Section 10.2 to revise the time for prior notice of a new retirement. Since many service purchases can only be made at retirement starting January 1, 2024, Staff needs more time prior to the member’s retirement date to identify, estimate, counsel, and give effect to a member’s desire to purchase service credit at retirement. Accordingly, the procedures have been amended to increase the notice period for a new retirement from the 15<sup>th</sup> day of the month prior to the member’s retirement date to 30 calendar days before the member’s retirement date.
- Pages 21 – 24 and 27. Articles XV Death Benefit Distribution and XVII Option Selection and Survivor Beneficiary Designation. Federal legislation via the Secure Act 2.0 requires COAERS to change the age



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at which distributions are required. Edits to Articles 15 and 17 reflect changes in the new federal law.

- Page 31. Article XX Retirees Returning to Work with a Participating Employer. The Internal Revenue Code (Code) requires a “bone fide” break-in-service before a retiree returns to work with a participating employer in the same plan; however, the term “bone fide” is not defined in the Code. Both COAERS and the City have existing complementary policies prohibiting returning to work within 90 days to provide a definition of “bone fide”; however, we have found a discrepancy between the City policy and the COAERS policy on when the 90 period begins. Edits to Section 20.4 put the COAERS policy in sync with the City’s policy.

Staff suggests the edits become effective September 22, 2023 (day after next Board meeting) except for the following that would become effective January 1, 2024 coinciding the effective dates in SB 1444: Section 7.2; 7.3; and 10.2.

A quick reference chart for all these changes follows on the next page.



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### DRAFT CHANGES - QUICK REFERENCE CHART

Staff has summarized all ten (10) changes into the chart below:

Item #	Page(s)	Section	Description of the Edit	Effective Date
1	6	7.2	Necessary due to SB 1444	January 1, 2024
2	6	7.3	Necessary due to SB 1444	January 1, 2024
3	6-7	7.7	Optional. Staff's recommendation to address concerns from membership that the changes to Supplementary service purchases contained in SB 1444 have interrupted their retirement plans.	September 22, 2023
4	7	7.8	Optional. Complements changes to Section 7.7 to allow members to roll in funds from the 457 plan to make a supplementary purchase before the member has 5 years of service. If revisions to 7.7 are not adopted, this provision would have limited application.	September 22, 2023
5	9	9.6	Necessary. The internal revenue code/regulations require tax withholding on payments to non U.S. citizens.	September 22, 2023
6	9	9.7	Optional. Staff believes that this provides equitable relief to those limited by IRS compensation rules limiting benefits.	September 22, 2023
7	10	10.2	Necessary due to SB 1444	January 1, 2024
8	21 - 24	15.4; 15.10.1; 15.10.2; 15.10.4 15.10.5 15.11; 15.19	Necessary. Required by federal law – Secure Act 2.0.	September 22, 2023
9	27	17.4	Necessary. Required by federal law – Secure Act 2.0.	September 22, 2023
10	31	20.4	Necessary to sync COAERS policy to City policy	September 22, 2023

### ATTACHMENT

1. DRAFT Benefits Administration Operating Procedures with strikeouts and underline revisions.



— CITY OF AUSTIN —  
EMPLOYEES' RETIREMENT SYSTEM

## Benefits Administration Operating Procedures

Provisions in effect ~~August 2022~~ September 22, 2023 except as noted

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## **ARTICLE I AUTHORITY**

**1.1 Authority and Delegation to the Executive Director.** The City of Austin Employees' Retirement System (COAERS or the System) was established pursuant to Article 6243n of Texas Revised Civil Statutes (the Act). The Act requires the COAERS Board of Trustees (the Board or Trustees) to administer COAERS and invest its funds. The Board is the trustee of all plan assets, is responsible for the general administration and operation of COAERS, and is authorized by law to adopt rules for the administration of COAERS and the transaction of the business of the Board. The Board may, at its discretion, delegate authority to carry out the administration of the System. This document specifies the administration of benefits that have been delegated to the Executive Director.

**1.2 Statement of Purpose.** This document contains statements of practices and procedures in matters where the meaning or the implementation of the law or Board policy is not readily apparent. They do not include matters in which COAERS considered the intent of the laws that govern COAERS to be unmistakably clear. For this reason, these procedures should be used in conjunction with other applicable provisions of law. The procedures established herein are interpreted and applied in a manner consistent with the COAERS Act, applicable laws of the State of Texas, federal law, and applicable Internal Revenue Code sections and regulations promulgated thereunder. In the event of a conflict between these Procedures and Board policy or applicable law, the Board policy and applicable law will control.

## **ARTICLE II BOARD AND STAFF RESPONSIBILITIES**

**2.1 Responsibilities of the Executive Director.** The Executive Director shall follow the laws that govern COAERS and Board policies to administer benefits and, in matters not addressed by law or policy, consult with professional advisors and legal counsel to determine the rights and benefits of plan participants. The Executive Director shall create Benefits Administration Operating Procedures (the Procedures) to guide the administration of benefits and for publication to the COAERS membership. The Executive Director shall consult with professional advisors and legal counsel to ensure that the Procedures are interpreted and applied in a manner consistent with the COAERS Act, applicable laws of the State of Texas, federal law, and applicable Internal Revenue Code (the Code) sections and regulations promulgated thereunder. The Executive Director shall receive requests for policymaking and collaborate with the Benefits and Services Committee Chair to determine appropriate action.

**2.2 Responsibilities of the General Counsel and Tax Counsel.** The COAERS General Counsel and Tax Counsel shall provide advice to the Executive Director on benefits administration and tax related matters. The General Counsel and Tax Counsel shall review the Procedures no less than every three years and make recommendations for revision to the Executive Director. The results of these reviews will be presented to the Benefits and Services Committee.

**2.3 Responsibilities of the Benefits and Services Committee.** The Benefits and Services Committee will receive a report from the Executive Director on the periodic review of the Procedures. The Committee will consider requests for policymaking if the Chair of the Benefits and Services Committee determines such a request will be considered.

**2.4 Responsibilities of the Board of Trustees.** The Board can choose to hear an appeal of a decision by the Executive Director pursuant to the Procedures.

**ARTICLE III**  
**MEMBERSHIP, MEMBER RIGHTS, MEMBER RESPONSIBILITIES**

**3.1 Membership.** COAERS membership is mandatory for regular, full-time employees of participating employers who occupy non-civil service positions. Retirement benefits and eligibility are determined by the member's retirement group. Members who have full-time, regular employment dates before January 1, 2012 are in Group A. Members who have full-time regular employment dates on or after January 1, 2012 are in Group B.

**3.2 Right to Appeal Decisions by the Executive Director to the Board of Trustees.** Any decision of the Executive Director made pursuant to the Procedures may be appealed to the Board. Only a member or beneficiary directly affected by a decision may appeal.

**3.2.1** The member or beneficiary must appeal the decision within 30 calendar days of notification of denial by the Executive Director or designee.

**3.2.2** The appeal shall set forth, in writing, the applicable facts and relevant law in support of the request for a hearing.

**3.2.3** Appeals from a decision by the Executive Director or designee will generally be scheduled for hearing before the Board of Trustees within 120 calendar days of the written notice of appeal, unless an extension is granted by mutual agreement of the Executive Director and the appellant. Failure by the Board of Trustees to conduct a hearing within 120 calendar days does not result in an automatic decision of any kind.

**3.2.4** The Board of Trustees reserves the right to rule on an appeal, regardless of whether the appellant appears at the scheduled hearing. Failure to appear will not automatically result in postponement of a scheduled hearing.

**3.2.5** On appeals to the Board, the appellant may be represented by legal counsel or may personally present arguments. The System will be represented by the General Counsel for COAERS. However, unless a rule or policy outside of this policy requires a specific procedure due to the subject or nature of the appeal, the Board will determine the process to be followed at the hearing. The Board will determine the time permitted for the member and the Executive Director or General Counsel to make a presentation.

**3.2.6** The appellant will be afforded an opportunity to present a statement concerning the facts and any arguments to the board and will be allowed to respond to questions from Trustees. The member or beneficiary bears the burden of proof. In making a decision, the Board of Trustees shall consider System records and evidence presented by the member or beneficiary as well as any testimony or evidence submitted by the General Counsel. A decision by the Board of Trustees is final.

**3.3 Member Responsibilities - Generally.** Members have to assume certain basic responsibilities for the administration of benefits to be effective. To that end, this document describes the many responsibilities that members have with respect to the various benefits offered by COAERS. In addition, all members should be particularly aware of these general responsibilities:

- (a) Knowing when the member is eligible for benefits;
- (b) Timely and properly applying for and claiming benefits;
- (c) Keeping contact information up to date including address, telephone, and email details;
- (d) Keeping beneficiary designations up to date; and
- (e) Notifying COAERS of proportionate time accrued or accruing in another Texas retirement system that participates in the Proportionate Retirement Program and keeping that information current.

**3.4 Information Provided Prior to Retirement.** All information about normal or early retirement benefits is preliminary and not final until the first monthly annuity payment is made after the member's termination date. The member assumes the risk that an error or additional or different payroll information may change their eligibility or benefit before the member receives their first monthly annuity payment. No one shall be entitled to claim detrimental reliance on any information provided by COAERS prior to a member's first monthly annuity payment.

**3.5 Tax Liabilities.** Any tax liability that results from a payment from COAERS to a member or payee is the sole responsibility of the member or payee.

**3.6 Tax Advice.** COAERS staff will assist members with general tax information but cannot provide tax advice to members or payees. COAERS will not be responsible for tax consequences of payees. Payees are encouraged to obtain professional tax advice for all COAERS payments and benefits.

**3.7 Requests for Policymaking.** Members have the right to request changes or additions to the Board Approved Benefits Policy and the Procedures. Such a request shall be made to the Executive Director.

**3.8 Suspicion of Fraud.** Payees who suspect fraud occurring with respect to a payment they were expecting from COAERS can contact COAERS to report the fraud. Once a payee has contacted COAERS about suspected fraud, COAERS will investigate the matter. The payee may be asked to complete an affidavit and provide new payment instructions. COAERS may reissue a payment to the member if it finds that there is a reasonable probability that fraud has occurred. As a condition of reissuing a payment, COAERS may require additional authentication or substantiation measures to be taken to issue or change future payments.

## **ARTICLE IV AUTHENTICATION AND AGENTS**

**4.1 Authorized Member Signature.** A signature other than that of the member, joint annuitant, or beneficiary will not be accepted on COAERS forms, applications, or requests for confidential information unless the individual signing presents a Power of Attorney, guardianship, conservatorship, or a legal court order. No person may act on behalf of the member, joint annuitant, or beneficiary including a spouse or parent, except as provided herein.

**4.2 Designation of an Attorney-in-Fact.** COAERS will accept documents signed by an authorized Attorney-in-Fact, pursuant to a durable or statutory Power of Attorney. The Power of Attorney must substantially comply with Texas law, contain the statutorily prescribed language,



be notarized, and be approved by and filed with COAERS. The member, joint annuitant, or beneficiary will retain the right to act regarding their retirement account except where the member has been determined incapable of acting on their own behalf. Any conflict in direction or instruction between the member, joint annuitant, or beneficiary and the Attorney-in-Fact shall be resolved in favor of the member, joint annuitant, or beneficiary. The right to act under a durable or statutory Power of Attorney terminates at the death of the principal and as otherwise provided by law.

**4.3 Appointment of a Guardian.** If a guardian or conservator has been appointed for a member, joint annuitant, or beneficiary by a court of proper jurisdiction, only the named guardian or conservator can act on behalf of the member, joint annuitant, or beneficiary. A certified copy of the letters of guardianship and a filed court order of appointment must be provided to COAERS and will be effective until amended or withdrawn by subsequent court order or termination under its own terms. The guardian or conservator shall have exclusive authority to act on behalf of the member, joint annuitant, or beneficiary unless the court instructs otherwise.

**4.4 Creation of a Custodian.** COAERS will recognize a custodian designation made pursuant to the Uniform Transfers to Minors Act.

**4.5 Reliance on a Notary Public or Apostille.** When COAERS requires certain documents to be notarized, the Board and Trustees and Staff may rely on the signature and seal of a commissioned Notary Public as the proper authentication of the signer. In addition, COAERS can rely upon a document containing an Apostille certificate from a country participating in the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents.

**4.6 Electronic Authentication.** COAERS may allow signatures in an electronic format pursuant to the Uniform Electronic Transactions Act (TEX. BUS. & COM. CODE § 322.001 et seq.) or any similar law but will not assume responsibility for damage that occurs as a result of the reliance of such an electronic signature.

**4.7 Online Registration Constitutes Authentication.** Registration for a COAERS online account constitutes the authentication of the user's identity and can be relied upon by COAERS, the Board, and Staff as such. COAERS may presume that any request or information entered by a person using an online account is authorized by the member.

**4.8 Prohibition from Self-Dealing.** Any person authorized to act on behalf of a member, joint annuitant, beneficiary, or payee is prohibited from self-dealing relating to the benefit, account, payment, or funds of said member, joint annuitant, beneficiary, or payee. Self-dealing consists of any change or action which alters a previous instruction or document or makes an election or selection which would result in a benefit or conveyance of a pecuniary interest to said person absent a court order or statute specifically permitting or approving such action.

## **ARTICLE V ONLINE ACCESS TO INFORMATION AND SERVICES**

**5.1 Online Access to COAERS Member Information.** COAERS may provide members, joint annuitants, beneficiaries, and other payees, access to information and services online. To access a COAERS online member account, the user must follow and complete the registration process. The process shall require the user to read and agree to the terms and conditions established by COAERS.

**5.2 Termination of Rights to Online Access.** Rights granted users terminate immediately upon any violation of the terms of use. COAERS reserves the right to terminate online access at any time at its sole discretion without notice.

**5.3 Password Responsibilities.** The user is solely responsible for and will be the exclusive owner of their ID and password. The user is responsible for use and protection of the password used to sign on to the account, as well as for any transaction occurring in an account opened, held, or accessed by the password.

**5.4 Duty to Notify.** The user shall notify COAERS in writing, of the following:

- (a) Any failure to receive a message from the COAERS member online site indicating that a request was received and/or executed by COAERS; or
- (b) Any failure by the user to receive an accurate confirmation of a transaction; or
- (c) Any receipt of confirmation of a request and/or execution which the user did not place; or
- (d) Any inaccurate information in an account including contributions, interest, balances, service credit, salary, group status, or transaction history.

**5.5 Documents Sent via Electronic Delivery.** By using COAERS online services, users agree to receive communications, documents, notices, and other information electronically. All communications so sent will be considered delivered. Documents that may be delivered via an online member account include, but are not limited to, account statements, tax documents, benefit estimates, purchase estimates, seminar information, and correspondence from Staff about COAERS accounts and/or benefits.

**5.6 Confidential Information Sent Electronically.** Confidential information related to a specific member, retiree, or payee may be provided by COAERS electronically to the email address provided by the member, retiree, payee, or authorized requestor or said person's COAERS online account. The transmission will be password protected. COAERS cannot guarantee the confidentiality of such a transmission.

**5.7 Confidential Information Sent to COAERS Electronically.** Confidential information related to a specific member, retiree, or payee should be sent through means protecting the information. Members, retirees, or payees should not send confidential information via unsecured email to COAERS. If confidential information is provided to COAERS via unsecured email, COAERS is not responsible for any harm to the member, retiree, or payee that may result from the email transmission.

## **ARTICLE VI BENEFIT AND PURCHASE ESTIMATES**

**6.1 Estimates Not Benefit Guarantees.** COAERS will provide estimates of benefits and purchases of services to aid members in the understanding of their eligibility for and amount of benefits. An estimate is not to be construed in any way as a promise or contract with COAERS to pay a specified benefit amount, provide a post-retirement adjustment, guarantee a specific retirement eligibility date, set a specific amount for a purchase of service or a conversion of sick leave, or provide any expressed or implied right or benefit. The actual determination of eligibility, benefits, service purchase costs, and sick leave conversion costs will be made by COAERS

based upon the law and policies in effect at the time of the determination and is subject to audit and recalculation if necessary.

**6.2 Service Purchase Estimate Limits.** Estimates for service purchases will contain future purchase possibilities but will be limited to three months of future projected purchase costs.

## ARTICLE VII PURCHASE OF SERVICE CREDIT

**7.1 Service Purchase Increments.** Creditable service may be purchased by certain non-retired members in increments of one month. Two pay-periods of purchased creditable service are the equivalent of one month of creditable service.

**7.2 Service Purchase Payments – Time and Method.** Payment for purchases of creditable service must be made in full at the time of the purchase. Purchases can be made through check, money order, or Trustee-to-Trustee rollover of funds from another qualified plan to the extent permitted by law. ~~Unless otherwise noted by GOAERS, purchase payments must be tendered on or before the 25<sup>th</sup> day of a month to receive that month's cost.~~ [Edits effective January 1, 2024]

**7.3 Payment Completion and Cost Calculation.** Purchases of supplementary, military, and non-contributory service shall only be made at the time of retirement, therefore the date to determine the cost of each of these purchases will be the member's actual retirement date. Purchases to reinstate prior Sservice credit purchases can be made at any time must be completed on or prior to the member's actual retirement date. [Edits to 7.3 and 7.4 effective January 1, 2024]

~~**7.4 Salary Used for Purchases.**~~ The salary used to calculate the cost of all service purchases other than prior service, is the greater of the 36-month average salary at the time of purchase, or the projected final 36-month average salary based on actual salary at the time of purchase.

**7.45 Return of Amount Tendered at Death.** In the event of the death of an active member who has purchased creditable service, the amount paid to purchase such creditable service will be refunded to the member's beneficiary as a death benefit refund in accordance with Section 15.3, provided the beneficiary properly files a death benefit claim. Prior service purchases will be matched by the System, all other purchases will be refunded without a matching payment.

~~**7.56 Purchases Applicable to Group B Eligibility.**~~ Supplementary service purchased by members of Group B is not included in the creditable service required to qualify a Group B member for normal or early retirement eligibility. However, purchased military, prior, and non-contributory service are included in the creditable service required to qualify a Group B member for normal or early retirement.

~~**7.67 Limitation of Number of Purchases.**~~ Members may make no more than six (6) purchases of creditable service per calendar year.

**7.7 Limited Transitional Service Purchase Election.** Members making a proper and timely election under this section may make a supplementary service purchase up to the maximum amount allowed by the Plan, in whole or in part, at any time prior to the member's actual retirement date subject to the following:

7.7.1 COAERS must receive a written election to make a Creditable Service Purchase under this provision no later than 5:00 PM Central Time on December 31, 2023; and

7.7.2 The member must sign and execute a Creditable Service Purchase Agreement(s) committing to purchasing Supplementary service; and

7.7.3 The member must pay the actuarial cost for each purchase under this section as determined by the COAERS actuary based on the rules and assumptions adopted by the Board for such purpose.

7.7.4 A member making an election under this section has a time limit on completing the purchase(s) as the earlier of December 31, 2028 or the member's actual retirement date.

7.7.5 If payment of the purchase price for the full amount of service credit under the Creditable Service Purchase Agreement is not made on or before December 31, 2028; or made on or before the member's actual retirement date; credit will be provided to the extent of the amount already paid in monthly increments of service credit and the excess amount tendered to COAERS will be returned to the member without interest.

7.8 Rollovers to Purchase Supplementary Service Credit. Only in the case of a trustee-to-trustee transfer from a 403(b)(13)(A) or 457(e)(17)(A) deferred compensation plan can a member make a supplementary service purchase if they have less than five (5) years of service credit at the time of the purchase.

## ARTICLE VIII PROPORTIONATE SERVICE

**8.1 Participation in the Proportionate Retirement Program.** COAERS will provide service credit in accordance with the Proportionate Retirement Program described in Chapter 803 of the Texas Government Code as may be amended.

**8.2 Notification.** Members who wish to receive proportionate service credit with respect to their COAERS benefits must notify COAERS of the proportionate time accrued or accruing in another Texas retirement system that participates in the Proportionate Retirement Program and keep that information continuously current and accurate.

**8.3 Disclosure of Proportionate Service for Service Purchases.** At the time of any purchase of creditable service, members are required to disclose whether they intend to use proportionate service. If proportionate service is being used for a purchase of creditable service or for retirement eligibility and that proportionate service includes service which: a) existed at the time of a previous purchase but was not disclosed to COAERS; or b) existed at the time of a previous purchase and was disclosed to COAERS but not used for a previous purchase; then the purchase price of the previous purchase shall be recalculated at the current cost, and the purchaser shall be required to pay any additional costs attributable to the proportionate service.

**8.4 Calculation of Costs with Proportionate Time.** The cost to purchase service credit for a member with proportionate service will be calculated based on the date of first COAERS eligibility for retirement taking into consideration the proportionate time.

**8.5 Proportionate Service with the Travis County Healthcare District.** COAERS will recognize, for purposes of vesting and retirement eligibility, service credit earned by an employee of the Travis County Healthcare District (District) in the District's retirement system.

**8.6 Proportionate Credit for Closed Accounts.** COAERS will recognize proportionate service credit for those with closed accounts or previously canceled service credit accrued in the Texas County and District Retirement System (TCDRS), the Texas Municipal Retirement System (TMRS), or the retirement system in which a hospital district, charitable organization, or administrative agency described by Texas Government Code Section 803.204 participates as provided for by Texas Government Code Chapter 803, if the system or entity confirms said service.

**8.7 Same Proportionate Service Counted Only Once.** Service credit earned with or allowed by more than one retirement system for the same service may be counted only once in determining the amount of a person's proportionate service credit.

## **ARTICLE IX BENEFIT CLAIMS AND SUBSTANTIATION**

**9.1 Timely and Properly Apply to Claim Benefits.** It is the member's responsibility to timely and properly apply for and claim benefits.

**9.2 No Retroactive Payment of Benefits.** Except for disability benefits, COAERS will not pay benefits retroactively back to the first date a member became eligible for benefits if the member applies for benefits after they become eligible.

**9.3 Proper Substantiation of Benefits.** Generally, the following will constitute the minimum requirements for substantiation of certain information unless the circumstances require further substantiation or the Executive Director establishes further or different substantiation requirements:

**9.3.1 Substantiation of Annuity Claims.** The following will constitute substantiation of certain information during the claims process for monthly retirement annuities:

- (a) The seniority date contained in the City of Austin or COAERS (Employer) human resource database will be used to validate a COAERS member's service credit membership date. In the event this data is not available or is in question, COAERS may use other Employer personnel records and contribution data to determine a COAERS member's membership date.
- (b) The following documents or copies thereof can be used to substantiate dates of birth: birth certificate, birth record, passport, or naturalization record.
- (c) The following documents or copies thereof can be used to substantiate tax-reporting information: Social Security card or a COAERS form.
- (d) The following documents or copies thereof can be used for authenticating a person's identity: driver's license, passport, military identification, or other photo identification document issued by a governmental authority.
- (e) A statement from the member indicating their marital status.

**9.3.2 Substantiation of Withdrawal (Refunds).** The following will constitute substantiation of certain information during the claims process for a withdrawal of a member's accumulated deposits (refund):

- (a) The termination date received by COAERS from the Employer will be used to determine the status of the member.
- (b) A signed refund claim form properly notarized by a commissioned notary public or by apostille.
- (c) A photo identification document issued by a governmental authority.

**9.3.3 Substantiation of Death Benefits.** The following will constitute substantiation of certain information during the claims process for a lump sum death benefit or a joint annuity beginning upon the death of a member:

- (a) A death certificate issued by a governmental authority can be used to substantiate dates of death.
- (b) The following documents or copies thereof can be used to substantiate tax reporting information: Social Security card or a COAERS form.
- (c) The following documents or copies thereof can be used for authenticating a person's identity: driver's license, passport, military identification, or other photo identification document issued by a governmental authority.
- (d) A signed death benefit claim form properly notarized by a commissioned notary public or by apostille.

**9.4 Certain Calculations Performed by the Actuary.** The actuarial firm employed by COAERS may provide or perform calculations to administer benefits. The Executive Director may require a member to pay the cost of estimates or calculations prepared at the specific request of an individual member for actuarial calculations in excess of three.

**9.5 Same Sex Marriage.** For purposes of the Plan, the terms "spouse", "husband and wife", "husband", and "wife" include an individual married to a person of the same sex if the individuals are lawfully married under state law. The term "marriage" includes such a marriage between individuals of the same sex, including a marriage of same-sex individuals that was validly entered into in a state whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages.

**9.6 Tax Withholding for Payments for Non-US Citizens.** For benefit payments to foreign persons, the following procedures will be observed:

- 1) Upon receipt of an IRS ITIN number or a US Social Security number, and a completed W-8BEN indicating the country of residency (Part II, Item 9), COAERS will provide the appropriate withholding amount (annuity or lump sum) for the payment;
- 2) If no IRS ITIN number nor a completed W-8BEN form including a country of residency has been received, COAERS will withhold 30% of the payment for Federal income tax.

**9.7 IRS Limits on Average Final Compensation.** A member whose average final compensation is limited under Internal Revenue Code Section 401(17)(a) (the Limit), may make a written request

to the Executive Director to return an amount equal to the cumulative portion of employee retirement contributions made on salary in excess of the Limit for each of the pay periods the Limit capped the average final compensation. The Executive Director will review the request to determine if the member qualifies and establish the amount payable. Any payment made under this provision will be issued without interest and will not reduce the member's account balance nor affect the member's simplified safe harbor basis recovery calculations.

## ARTICLE X ANNUITY PAYMENTS

**10.1 Issuance of Monthly Annuity Payments.** COAERS has a monthly retirement payroll cycle. Monthly retirement annuity payments are made available to payees on the last business day of each month.

**10.2 Retirement Notice Deadline.** Except for claims for disability retirement, a Notice of Intent to Retire for those with an actual retirement date of January 31, 2024 and thereafter must be signed and received no later than the close of business ~~on the 15<sup>th</sup>.~~ 30 calendar days of the month prior to the member's actual retirement date in which the member is to retire. The deadline shall be the close of business the previous business day if the ~~15<sup>30</sup><sup>th</sup>~~ calendar day of the month falls on a non-business day. [Edits effective January 1, 2024]

**10.3 Actual Retirement Date.** The term 'actual retirement date' means the last day of the month during which a member retires.

**10.4 Benefit Effective Date.** The term 'benefit effective date' means the first day of the month of retirement status. It represents the first day a member could be in retirement status if the member is eligible for benefits and properly and timely applies for benefits.

**10.5 Retirement Annuity Commencement Determination.** The commencement of the first monthly retirement annuity payment is determined by the member's eligibility on the member's actual retirement date. If a member is eligible for retirement by age and/or service on the actual retirement date, and the member timely submits a written application for retirement, the earliest date for the issuance of the first monthly retirement annuity will be the last business day of the month following the member's actual retirement date.

**10.6 Prohibition on Retirement Option Changes.** A member cannot change the life annuity or an actuarial equivalent option after their original retirement date. A member cannot change the survivor or beneficiary designated under an actuarial equivalent life annuity option after their actual retirement date.

**10.7 Backward DROP or Partial Lump Sum Payment Issuance.** Backward deferred retirement option payments (Backward DROP) and partial lump sum payments will be issued at the same time as the member's first annuity payment.

**10.8 Deadline for ACH Changes.** Changes in directions for payments made via Automated Clearing House (ACH) must be received at COAERS no later than the close of business on the 15<sup>th</sup> day of each month for the change or direction to be effective for that month. If the 15<sup>th</sup> day of the month falls on a non-business day, the deadline shall be the close of business the previous business day. The following will constitute substantiation of information during the claims process for establishing an ACH:

- (a) A signed Direct Deposit form properly notarized by a commissioned notary public or by apostille, and
- (b) A photo identification document issued by a governmental authority.

**10.9 Deadline for Paper Check Address Changes.** Address changes for paper annuity check payments must be received at COAERS no later than the close of business on the 15<sup>th</sup> day of each month for the change to be effective for that month. If the 15<sup>th</sup> day of the month falls on a non-business day, the deadline shall be the close of business the previous business day. Address change requests must include a photo identification document issued by a governmental authority.

**10.10 Annuity and Partial Lump Sum Calculation.** Effective for annuity starting dates on or after January 1, 2017, if a participant elects to have his or her benefits under the Plan paid partly in the form of an annuity and partly as a single lump sum, the participant's accrued benefit will be divided and distributed in accordance with the regulations under Code Section 417(e) and the IRS Model Amendments attached hereto.

**10.11. Prohibition on Single Lump Sum Payment.** COAERS promises each eligible member a lifetime retirement benefit, therefore a member cannot choose to convert their retirement annuity into one single lump sum payment.

## ARTICLE XI CREDITABLE SERVICE

**11.1 Calculation of Creditable Service.** Creditable service is calculated as follows:

- (a) Subtract the membership date from the termination date. When subtracting dates, the following formula shall be used:

$$\begin{array}{r} \text{YYYY-MM-DD (Termination Date)} \\ - \text{YYYY-MM-DD (Membership Date)} \\ \hline \text{Years, Months, and Days of Creditable service} \end{array}$$

- (b) If the number of days in the membership date is greater than the number of days in the termination date, days are borrowed from the "Months" column, using the actual calendar days of the month preceding the month of the termination date.
- (c) If the number of months in the membership date is greater than the number of months in the termination date, months are borrowed from the "Years" column. Each year borrowed or subtracted from the "Years" column is added as 12 months to the "Months" column.
- (d) If the number of days in the result is 16 or more, round the number of months up by one month. If the number of days is 15 or less, no service credit is recognized for those days.

**11.2 Creditable Service Documentation.** Official City of Austin or COAERS records will be used to document dates and amounts of creditable service.



**11.3 Calculation of a Break in Service.** A break in service exists when retirement contributions are not received for a pay period. Breaks in service are calculated as follows:

$$\begin{array}{r} \text{YYYY-MM-DD (Ending Date)} \\ - \text{YYYY-MM-DD (Beginning Date)} \\ \hline \text{Years, Months, and Days of Creditable service} \end{array}$$

If the result yields days of a break in service, and the number of days in the result is 16 or more, round the number of months up by one month. If the number of days is 15 or less, no service credit is recognized for those days. If the result yields just an amount of days of service, the break will be represented in days.

Multiple breaks in service will be added together to represent the entire credit to be subtracted from a member's total creditable service.

**11.4 Calculation of Total Creditable Service for Annuity Benefits.** A member's total creditable service for a monthly retirement annuity consists of the total of all years and months of prior service, membership service, redeemed service, and service purchased less breaks in service.

**11.5 Calculation of Total Creditable Service for Group A Eligibility.** A Group A member's total creditable service for retirement eligibility consists of the total of all years and months of proportionate service, prior service, membership service, redeemed service, and service purchased less breaks in service.

**11.6 Calculation of Total Creditable Service for Group B Eligibility.** A Group B member's total creditable service for retirement eligibility consists of the total of all years and months of proportionate service, prior service, membership service, redeemed service, and service purchased, excluding purchased Supplementary Service Credit, less breaks in service.

**11.7 Prior Service.** Former members who received a distribution of their accumulated deposits and therefore discontinued their COAERS membership may reinstate service in their original membership group if they are reemployed as a regular full-time employee and deposit into the System the accumulated deposits withdrawn by that person, together with interest.

**11.8 Prior Service for Proportionate Members.** Former members who received a distribution of their accumulated deposits and therefore discontinued their COAERS membership may reinstate this membership if they are a member of a retirement system participating in the Proportionate Retirement Program under Chapter 803 of the Texas Government Code and deposit into the System the accumulated deposits withdrawn by that person, together with interest.

**11.9 Military Service Credit.** Credit for military service can be granted only to the extent such service is documented on the Active Service Period line of an original Form DD214 or, in the alternative, a Certification of Military Service from the United States Department of Defense. Members may not purchase military service credit for a period of military service that is less than 90 consecutive days.

**11.10 Proportionate Service Credit.** Service credit that meets the requirements of Chapter 803 of the Texas Government Code (governing the Proportionate Retirement Program) may be used to determine length-of-service eligibility for retirement under COAERS only if COAERS receives written verification (paper or electronic) of such service credit. Purchases of prior military service may not be counted in more than one proportionate retirement system for purposes of reaching

retirement eligibility. It is the member's responsibility to notify COAERS of proportionate time accrued or accruing in another Texas retirement system that participates in the Proportionate Retirement Program and to keep that information current.

**11.11 Unused Sick Leave Conversion.** Members must apply to convert unused sick leave credit no earlier than 90 days prior to retirement and no later than the 15<sup>th</sup> day of the month of retirement. Members must submit payment in full for converted unused sick leave no later than the 15<sup>th</sup> day of the month in which they will retire.

Unused sick time will be converted in 80-hour pay period increments at a minimum. The calculation will analyze how much unused sick leave can be converted to maximize a member's service credit and therefore their retirement benefit given the rounding rules for service credit discussed in Section 11.1. Because of the rounding rules, not all unused sick leave will be converted to prevent overcharging the member and City for unused sick leave not needed to increase the member's service credit. The member will only pay the respective contributions for the unused sick leave needed to be converted based upon the contribution rates in effect at the time of conversion.

**11.12 Supplementary Service Credit.** Nonqualified permissive service credit, defined in Section 415 of the Internal Revenue Code, and the regulations promulgated thereunder, may be purchased and will be referred to generally as Supplementary Service Credit.

**11.13 Probationary Service Credit.** Employees hired after October 1, 1995, became members at their date of employment. Members employed on October 1, 1995, are given service credit for up to six (6) months of service between the time of their actual hire date and October 1, 1995. Credit is given at the time the member retires using the member's seniority date as reported by the Employer, or in the alternative, Employer personnel or contribution information. Probationary service credit cannot be granted until full payment has been made for a member's complete period of prior service.

## **ARTICLE XII UNCLAIMED MEMBER DEPOSITS**

**12. 1. Unclaimed Member Deposit Procedure.** Inactive members who have not declared vested or proportionate status, and who have left their accumulated deposits and interest on deposit for more than seven years will be contacted via United States Postal Service (USPS) certified mail to the last known mailing address and through appropriate means for any address or contact information (including email addresses and telephone numbers). If the member cannot be located, COAERS will:

- (a) Search plan and related plan, sponsor, and publicly-available records or directories for alternative contact information; and/or
- (b) Use any of the search methods below:
  1. A commercial locator service;
  2. A credit reporting agency; or
  3. A proprietary internet search tool for locating individuals.

If the member cannot be located after a reasonable period of time, the member's accumulated deposits and interest will be transferred to Fund 2. If such a member is subsequently located,

their accumulated deposits and interest will be refunded to them upon the completion of the proper documentation.

### **ARTICLE XIII QUALIFIED DOMESTIC RELATIONS ORDERS**

**13.1 Purpose and Scope.** This article establishes guidelines with respect to Qualified Domestic Relations Orders authorized by Chapter 804 of the Texas Government Code. A Qualified Domestic Relations Order (QDRO) is a legal instrument which provides for the redirection of a portion of COAERS benefits from a member to an alternate payee. A QDRO may be in conjunction with a divorce or for the support of a minor child.

**13.2 Requirements for Qualified Domestic Relations Orders Related to Divorce.** The Executive Director or designee will establish, in consultation with the General Counsel, one or more model QDRO forms. The model form(s) will be provided to assist in the development of individual QDROs acceptable to the System but will not be mandatory provided that the required provisions of the model QDRO form are included and provided that, in the case of an award of a portion of the member's monthly annuity, the dollar amount of the alternate payee's portion of the member's monthly annuity is specified in the QDRO. Any QDRO found by the General Counsel to meet the requirements of Chapter 804 and this policy may be approved by the Executive Director or designee. A copy of the final divorce decree may be required in addition to the proposed QDRO. All proposed QDROs will be reviewed by the General Counsel and will become effective only upon final approval by the Executive Director or designee.

**13.3 Form of Payment.** QDROs may be approved and paid either in the form of a lump sum payment or as a portion of the benefits otherwise payable to the member under the Plan.

#### **13.3.1 Specified Lump Sum Less than Member's Deposits**

(a) If the lump sum amount does not exceed the amount of the member's contributions plus accumulated interest on deposit with the System at the time the QDRO is approved, the lump sum amount will be paid to the alternate payee as soon as administratively feasible.

(b) Upon approval of a QDRO providing for payment of a lump sum amount that is less than the amount of the member's contributions plus accumulated interest then on deposit with the System, the lump sum amount shall become an asset payable by the System to the alternate payee. Such amount shall be segregated from the member's account and paid to the alternate payee as provided in this article.

#### **13.3.2 Specified Lump Sum Greater than Member's Deposits**

(a) A QDRO shall not award a lump sum amount that exceeds the member's contributions plus accumulated interest on deposit with the System.

(b) If a QDRO purports to award the alternate payee a lump sum amount greater than the amount of the member's contributions and accumulated interest on deposit with the System, the lump sum will not be paid as a lump sum unless the member thereafter voluntarily terminates membership by withdrawal of deposits prior to retirement. However, in that event, the amount of the lump sum to the

alternate payee may not exceed the amount of the member's contributions and accumulated interest.

(c) If the lump sum amount is not paid, and the member retires, the lump sum amount will be converted to the actuarially equivalent proportionate amount of the periodic payments payable to the member as a retirement benefit, as determined by the actuarial firm for the System.

(d) Upon approval of a QDRO that provides for the payment of a lump sum amount that is greater than the amount of the member's contributions plus accumulated interest then on deposit with the System, the lump sum amount shall not become an asset payable by the System to the alternate payee. Such amount shall not be segregated from the member's account but shall be paid to the alternate payee only as provided in and subject to this article.

**13.3.3 Lump Sum Reduction to Future Retirement Benefit.** If a lump sum payment is made, the member's benefits will be reduced, and any subsequent retirement annuity will be reduced in an actuarially equivalent amount as determined by the actuarial firm for the System.

**13.3.4 Lump Sum Distribution after Retirement.** A QDRO providing for a lump sum distribution will not be approved after the retirement of the member.

**13.4 Retirement Benefit.** The alternate payee's award shall only be paid from the Basic Plan, and no portion of the alternate payee's award shall be paid from the portion of the member's benefit, if any, paid from the Restoration Plan, provided for in Resolution No. 1999-11-23. The member's benefits will be reduced as determined by the actuarial firm for the System.

**13.5 Death of Member and/or Alternate Payee.** If the member dies prior to termination of membership or retirement, no amount will be paid to the alternate payee unless they are designated as a beneficiary on the most recent valid Beneficiary Designation Form executed and filed with the System by the member. If the member dies after retirement, any amounts then being paid to the alternate payee will terminate. Upon the alternate payee's death, any annuity payments to be paid in the future or that were being paid to the alternate payee cease and all remaining annuity benefits are paid to the member.

### **13.6 Conversion of QDRO Annuity Deduction to Lump Sum.**

**13.6.1 Request for Refund After QDRO Accepted.** Under the authority set forth in Section 804.004 of the Texas Government Code, if a member applies for a withdrawal of deposits after a QDRO awarding a portion of the member's future monthly annuity to an alternate payee has been accepted by COAERS, the annuity awarded to the alternate payee shall be converted to a lump sum payment in an amount that is the actuarial equivalent of the interest awarded to the alternate payee under the QDRO. The lump sum payment will be disbursed to the alternate payee at the time that the deposits are disbursed to the member.

**13.6.2 Conversion of Monthly Annuity Deduction to Lump Sum.** The Executive Director is authorized to approve a written request signed by both the member and the alternate payee to convert the alternate payee's award under a QDRO that has been accepted by COAERS as provided in Section 804.004 and this paragraph. If

the QDRO awards the alternate payee a monthly annuity, the Executive Director may authorize a lump sum in an amount that is the actuarial equivalent of the annuity awarded in the QDRO be paid in lieu of the annuity. If the QDRO awards the alternate payee a lump sum, the Executive Director may authorize that a monthly annuity in an amount that is the actuarial equivalent of the lump sum awarded in the QDRO be paid in lieu of the lump sum. The Executive Director's decision to deny a request to convert a QDRO award as provided in this section is final and may not be appealed.

**13.6.3 Converted Lump Sum Reduction to Future Retirement Benefit.** When an interest in a QDRO is converted to an alternative method of payment as authorized in this section, the benefit payable to the member shall be reduced by the interest in the benefit awarded to the alternate payee by the QDRO as determined by the COAERS actuary.

**13.7 Qualified Domestic Relations Orders Related to Child Support.** Orders relating to the support of a dependent child must meet the state statutory requirements of a QDRO. An order for support of a dependent child that meets the appropriate QDRO requirements may be approved by the Executive Director or designee.

## **ARTICLE XIV DISABILITY BENEFITS**

**14.1 Purpose and Scope.** This Article establishes the rules, regulations, and procedures necessary to implement Section 8 of the Act that govern COAERS, and establish the requirements for application, receipt, continuation, and/or discontinuation of disability retirement benefits.

**14.2 Duty of Confidentiality.** All Disability Committee, Board, and staff members of COAERS are to protect and treat as confidential the medical information received and reviewed relative to disability retirement applications and continuations.

**14.3 Member Responsibilities When Claiming Disability Benefits.** Members applying for disability retirement benefits have the burden to provide evidence establishing that they are mentally or physically incapacitated for the performance of all employment duties, not just their City of Austin employment duties, and that such disability is likely to be permanent. While the Executive Director and Staff provide general assistance and information to members regarding disability applications and procedures, the burden remains on the member to establish a likely permanent inability to perform all employment duties. Members, who due to an illness, injury or disability, desire COAERS to make an accommodation in the process, schedule, time requirements, or otherwise, for considering an application, must submit a request for the accommodation to the Executive Director. Members applying for disability retirement benefits (or the member's legal guardian or a person having the member's Power of Attorney) must complete an application process and submit requested information as required. Members applying for disability retirement must submit to examination(s) by physician(s) when required by the Committee and/or Board.

**14.4 Costs of Disability Applications, Hearings, and Appeals.** Except as specifically provided for by the Committee or Board, all costs for disability applications, hearings, and appeals will be the responsibility of the member.

**14.5 Disability Retiree Applying for Continuation of Disability Retirement Benefits.** Retirees receiving a disability retirement allowance (or their guardian or a person having their Power of Attorney) are required to submit requested information as outlined in this section.

**14.6 Role of the Benefits and Services Committee.** The COAERS Benefits and Services Committee will review initial disability retirement applications and make a disability retirement eligibility recommendation to the Board of Trustees. The Committee will also annually consider and recommend suspension or revocation of disability retirement benefits as appropriate.

**14.7 Role of the Board of Trustees.** The Board of Trustees will hear appeals from members whose disability retirement benefits have been denied, suspended, or revoked. The Board's determination is final.

**14.8 Qualifications for Receipt of Disability Retirement Benefits.** COAERS provides disability retirement benefits to qualifying members who sustain an injury or illness that is likely to be permanent and that incapacitates the member for the performance of all employment duties. Disability determination will be based on the mental or physical incapacitation of the member as of the application date for disability retirement, as demonstrated by the member's application, physician's statement(s), medical records, other supporting documents, and other information deemed relevant by the Board. Any medical condition(s) not defined or existing as of the member's date of application is not applicable and will not be considered in the disability application process.

**14.9 Disability Retirement Eligibility.** Only active-contributory, inactive-contributory, and members on approved medical leave of absence are eligible for consideration for disability retirement. Such a member must also meet one of the following:

- (a) Members with less than five years of creditable service may only apply for disability retirement if the disability is a result of an on-the-job accident or injury.
- (b) Members with five or more years of creditable service may apply for disability retirement even if the disability is not job related.
- (c) Members who have reached normal retirement age and are already eligible to retire at the time of their application for disability retirement may not apply.
- (d) Inactive-noncontributory members may not apply for or receive disability benefits.
- (e) For the purpose of applying for disability benefits, a member who is terminated by the Employer for inability to perform employment duties retains the membership category held prior to termination for 90 days following the date of termination. Qualifying members may apply for disability retirement within the 90-day period.

**14.10 Application by Guardian or Attorney-in-Fact.** A member's legal guardian or an Attorney-In-Fact under a valid Power of Attorney may submit an application for disability benefits on behalf of the member.

**14.11 Required Documents.** Members applying for disability retirement benefits (or the member's legal guardian or a person having the member's Attorney-In-Fact) must, at a minimum, submit a member's statement and physician's statement(s) from any physician(s) treating the

underlying condition giving rise to the disability claim, copies of all medical records from all treating physicians (including all notes, narrative reports, and test results), and such additional and supporting evidence as the member determines appropriate. Physician's statements must be from an M.D. (Doctor of Medicine) or a D.O. (Doctor of Osteopathic Medicine); statements from chiropractors will not be accepted.

**14.12 Applicant's Burden of Proof.** The applicant has the burden of proof to establish qualification for disability retirement. It is the member's responsibility to timely and properly submit a complete application and related documents.

**14.13 Applicant's Responsibilities.** Although the Staff will notify members of incomplete disability retirement applications, it is the member's responsibility to submit a complete application. All information provided in the disability retirement application as of the date the Committee reviews the application will be considered in the decision; new information can be considered on appeal.

**14.14 Incomplete Disability Applications.** Disability retirement applications that are incomplete six or more months after receipt of the member's statement may be submitted for a determination by the Board.

**14.15 Date of Receipt of the Disability Application.** The date of receipt of the disability application will be the date of receipt of the member's statement.

**14.16 Date of Disability Retirement.** The member's disability retirement date shall be the last day of the month in which the application is received or retirement contributions cease, whichever is later.

**14.17 Effective Date of Disability Retirement.** The effective date of a disability retirement shall be no earlier than the date of receipt of the member's disability application or the date of the member's termination date, whichever is later. If COAERS receives a retirement contribution associated with final sick or vacation terminal pay after the date of disability retirement is established, COAERS can return the contribution, and the member's retirement date shall remain as established.

**14.18 Date of First Disability Allowance Payment.** On award of a disability retirement, the member shall receive a disability retirement allowance beginning on the last day of the month after the month in which the Board approves the disability retirement.

**14.19 Appointment of a Guardian.** The Committee or Board may require, as appropriate, that a guardian be appointed for a member in cases where it has been represented or evidence shows that the member is mentally incompetent. Such guardianship is required prior to processing the disability retirement and disbursement of the retirement annuity payments.

**14.20 Posthumous Disability Award.** If a member who is eligible and properly and timely applies for disability benefits, dies after application but before the Committee makes a recommendation or the Board acts on the member's application for disability, the Committee or Board will consider the application if requested by a preselected survivor or spouse.

**14.21 Disability Retirement Continuation.** If, after an award of disability retirement benefits, a member receiving a disability retirement allowance is determined no longer physically or mentally

incapacitated for the performance of all employment duties, the Board shall discontinue the disability retirement allowance.

**14.21.1 Review of Wages and Income.** Unless specifically exempt by Board action, all retirees currently receiving a disability retirement allowance shall annually submit documentation of wages and income. Disability retirees shall provide a signed IRS form that authorizes COAERS to obtain individual taxpayer information. Copies of any earned income, including spousal income if the member files a joint return, must be submitted with the completed IRS Form. Unless additional documentation is requested, providing the form and copies of income documentation (e.g., W-2 forms, etc.) will satisfy this requirement. Staff will obtain a statement or documentation of income and wages from retirees receiving a disability retirement allowance who did not file an income tax return.

**14.21.2 Substantial Gainful Activity Limit.** Section 8(i)(1) of the Act states that if a disability annuitant is engaged in, or able to engage in, substantial gainful activity as defined by the Social Security Administration, the Board shall discontinue the disability retirement allowance. The substantial gainful activity standards used will be for non-blind individuals for the year in which the annuitant is evaluated.

**14.21.3 Failure to Provide Information or Submit to Examination.** The disability allowance of a member who fails to submit the required periodic reports or authorize release of taxpayer information, or who fails to submit to required physician examination(s), shall be discontinued until the member has submitted the required periodic report, authorized the release of taxpayer information, or submitted to a required physician examination, as appropriate. If such failure or refusal continues for 12 months, the disability allowance shall be revoked.

**14.22 Discontinuance of Disability Retirement.** If the disability retirement allowance of a member is discontinued, and the member is not reemployed by the City of Austin, the member may withdraw any amount by which the sum of the member's accumulated deposits as of the date of the disability retirement exceeds the sum of all disability retirement benefits paid to the member.

**14.22.1** If a member has five or more years of Creditable Service and does not withdraw the excess, the member is entitled to a life annuity (modified cash refund) beginning on the first day of the month in which the member's normal retirement eligibility occurs.

**14.22.2** If the member has less than five years of creditable service but is eligible and elects to participate in the Proportionate Retirement Program and does not withdraw the excess, the member will be entitled to a life annuity on reaching normal retirement eligibility.

**14.23 Returning to Employment Post Disability Award.** If a disabled member returns to active employment service with the Employer, the disability retirement allowance shall cease. If the person is reemployed as a regular full-time employee, the person shall be reinstated as an active-contributory member of COAERS and shall comply with the requirements of the Act. If reinstated as an active-contributory member, membership service credits accumulated prior to disability shall be restored to the full amount standing to the member's credit as of the date the Board found the member eligible for disability retirement, and any prior service credit shall be restored in full. The member is not required to reimburse COAERS for any disability retirement allowance amounts received by the member.



## **ARTICLE XV DEATH BENEFIT DISTRIBUTION**

**15.1 Purpose.** This article addresses benefits payable upon the death of a member.

**15.2 Lump Sum Retiree Death Benefits.** The following lump sum death benefits are payable on the death of a retired member or a member eligible to retire:

(a) The \$10,000 lump sum benefit payable on the death of a retiree as stated in the Act (Death Benefit); and

(b) If applicable, the excess of the accumulated deposits over the retirement allowances paid prior to the death of a retiree (Retiree Remaining Deposits).

**15.3 Lump Sum Active, Inactive, and Vested Member Death Benefits.** The following lump sum death benefits (member and Employer deposits) are payable on the death of members who are not retired or eligible to retire:

(a) The accumulated member deposits remaining credited to the member's account, including those deposits made by the member such as Prior Service (reinstated) purchases and Uniformed Service Credit (mid-career military leave of absence) for which an Employer contribution was made and all interest accrued, and an equivalent amount from the Fund; and

(b) The aggregate amount of any other accumulated deposits remaining in the member's account that were made by or on behalf of the member, including Non-contributory purchases, Prior Active Military Service purchases, and Supplementary Service purchases whether made by the member or the Employer (the non-matching deposits).

**15.4 Survivor Benefits.** The following benefits are payable, as applicable, over a period of time after the death of a retired member, or of a member eligible to retire:

(a) Annuity payments payable on the death of a retired member (e.g., amounts payable pursuant to a survivor beneficiary designation made under a retirement option listed in Sec. 7(l) of the Act) are payable as applicable to the survivor beneficiary over a period of time after the death of a member. Annuity payments to the survivor beneficiary will begin the month following the death of the member. If the survivor beneficiary does not immediately submit the necessary documentation (e.g., original or court certified death certificate), any missed payments will be included with the first disbursement provided the time limit governing the benefit has not expired.

(b) Annuity payments payable on the death of a member that is eligible to retire, but had not yet retired (e.g., amounts payable pursuant to a survivor beneficiary designation made under a retirement option listed in Sec. 7(1) of the Act) are payable as applicable to the survivor beneficiary over a period of time after the death of a member. If the member preselected a retirement option prior to death, a member's spouse that is designated as a survivor beneficiary or that did not consent to another party being designated as a survivor beneficiary, may elect a lump sum distribution or any benefit option the member could have selected.

(c) A sole non-spouse survivor beneficiary may elect a lump sum distribution or a benefit under Option V. Fifteen-Year Certain and Life. Annuity payments to a non-spouse

survivor beneficiary will begin the month following the death of the member. If a non-spouse survivor beneficiary does not immediately submit the necessary documentation (e.g., original or court certified death certificate), any missed payments will be included with the first disbursement provided the time limit governing the benefit has not expired.

- (d) A surviving spouse that is entitled to an annuity as a survivor beneficiary must begin receiving the annuity on or before April 1 of the year after the year in which the member would have attained ~~the applicable age 72 if the member attained age 70 ½ on or after January 1, 2020~~ as determined by the Code.

**15.5 Designating a Survivor.** If a member selects a retirement option that provides for a monthly annuity to be paid to another person upon the death of the member, the member must designate the survivor beneficiary at, or prior to, actual retirement. A member may change the survivor beneficiary prior to actual retirement, but a member cannot change the survivor beneficiary after retirement. If a member selects a retirement benefit option providing for an ongoing annuity at the time of their death, only the survivor beneficiary named at retirement will receive survivor benefits. Even if a retiree and the beneficiary are no longer married, the survivor beneficiary cannot be changed. If the member has a spouse at the time of retirement and designates a survivor beneficiary, the spouse must be designated to receive the survivor benefits unless the spouse signs a COAERS form authorizing otherwise.

**15.6 Survivor Annuity Commencement.** If a retired member chose an option providing benefits to a survivor beneficiary, at the retiree's death, such benefits will be paid to the designated survivor beneficiary. Payment will only begin after the original or court certified death certificate is received along with other necessary documents. This benefit is retroactive to the month following the member's death. If the survivor beneficiary does not survive the retiree, monthly benefits cease.

**15.7 Final Annuity Payment.** COAERS is required to pay the annuity payment to the retired member for the month in which the member's death occurs. If the final monthly annuity payment due to the member is rejected by the member's financial institution, the payment should be reissued to the member's spouse, if applicable. If there is no spouse, payment will be reissued to the member's beneficiary or estate. Payment of this benefit should be made no later than five years following the death of the member. If the retirement option selected was Option V. Fifteen-Year Certain and Life, the final check may be issued to the beneficiary or the member's estate.

**15.8 QDRO Payments Cease upon Member's Death.** If the deceased retiree's annuity was subject to division with one or more Qualified Domestic Relation Orders (QDRO), all payments to the alternate payee(s) will cease the month following the retiree's death.

**15.9 Distributions to Non-Spouse Beneficiaries.** Distributions of benefits to non-spouse beneficiaries must be made in accordance with these provisions:

**15.9.1 Distributions to be Made Within Five Years.** When payable as a lump sum, the Death Benefit, the member's deposits and interest, or the retiree remaining deposits must be paid within five years. If a designated beneficiary cannot be located, and no proof of death is made for such beneficiary, the benefits (if any) designated to be paid to such beneficiary will be held for up to five years for payment if the beneficiary is located.

**15.9.2 Payments upon Death or Failure to Locate Beneficiaries.** If a Primary or Alternate Beneficiary, to which funds are due to be distributed due to the death of, or failure to locate, the Primary Beneficiary within five years of the member's death, does not contact

COAERS and is not located within five years after the death of the member, part or a portion of the lump sum benefits otherwise payable will be paid in the order of priority designated by the BDF (e.g. to any additional Primary Beneficiary, or if none, to the Alternate Beneficiary, if known). Upon proof of death being presented to establish the death of a Primary Beneficiary or, as applicable, an Alternate Beneficiary, the benefits will be distributed to the remaining designated beneficiaries in order of priority, or to the member's estate. If no designated beneficiaries are located within five years, the benefits will be paid to the member's estate if the estate is probated and letters testamentary are provided to COAERS.

**15.9.3 Beneficiaries Predeceasing the Member.** When one or more designated beneficiaries have predeceased the member, the benefits will be paid in the following order of priority to: (1) the beneficiaries that are known and located, in the following order, as applicable: (a) the remaining Primary Beneficiary pro rata or (b) the Alternate Beneficiary pro rata; or (2) the member's estate (if probate has been opened and COAERS has been provided the required notice and documentation).

**15.9.4 Non-Spouse Survivor Benefits.** If a member is retired or was eligible to retire and preselected a retirement option prior to death, a non-spouse survivor beneficiary will receive a survivor annuity based on the retirement option selected by the member. Survivor benefits payable to a non-spouse beneficiary must commence within one year after the member's death if the beneficiary qualifies as a designated beneficiary under the Code. The Code requires survivor benefits to be paid within five years for a beneficiary that does not qualify as a designated beneficiary under the Code. Upon the death of a member that is eligible to retire but not yet retired, and that had not selected a retirement option prior to death, a designated non-spouse survivor beneficiary may elect a lump sum distribution or a benefit payable under Option V. Fifteen-Year Certain and Life.

**15.10 Distributions to Spouse Beneficiaries.** Distributions of benefits to spouse beneficiaries must be made in accordance with these provisions:

**15.10.1 Spousal Lump Sum Death Benefits.** When payable as a lump sum, the Death Benefit, the member and Employer deposits, and the retiree remaining deposits must be fully paid no later than April 1 of the year following the year the member would have attained the applicable age 72 (if the member attained age 70 ½ on or after January 1, 2020) as determined by the Code. If the spouse dies before the distribution of the benefits, the benefits will be distributed as specified in this section within five years of the date of the spouse's death.

**15.10.2 Claims by Spouse for Benefits.** The spouse beneficiary should contact COAERS to provide a permanent address and contact information as soon as possible after the death of a member. If the spouse beneficiary does not contact COAERS and is not located on or before April 1 of the year following the year the member would have attained the applicable age 72 (if the member attained age 70 ½ on or after January 1, 2020) as determined by the Code, the benefits will be paid to any additional Primary Beneficiary, or if none, to the Alternate Beneficiary, if known. The Code requires lump sum benefits that are payable to a spouse and that do not commence within one year to be paid on or before April 1 of the year following the year in which the member would have attained the applicable age 72 (if the member attained age 70 ½ on or after January 1, 2020) as determined by the Code.

**15.10.3 Alternative Payments Procedure.** If the benefits are not paid to the spouse as detailed above, the benefits will be paid in the following order of priority, to: (1) the remaining Primary Beneficiary; (2) the Alternate Beneficiary; or (3) the member's estate (if probate has been opened and COAERS has been provided the required documentation).

**15.10.4 Spousal Survivor Benefits.** A spouse beneficiary of a retired member will receive a survivor annuity based on the retirement option selected by the member. If a spouse beneficiary does not survive the member, no survivor benefits are payable. Spouse benefits must begin no later than April 1 of the year after the year the member would have attained applicable age as determined by the Code~~72 if the member attained age 70 ½ on or after January 1, 2020~~. If the deceased member was eligible for retirement, but was not yet retired, at the time of death, the spouse may elect to either receive an optional benefit payment of a survivor benefit or receive a lump sum payment equal to the member and Employer deposits. If the member had reached the applicable age 72 at the time of death (if the member attained age 70 ½ on or after January 1, 2020) as determined by the Code, the spousal benefits must begin immediately. If the member's spouse is the designated beneficiary, distributions shall begin no later than April 1 of the year following the year the member would have attained the applicable age 72 if the member attained age 70 ½ on or after January 1, 2020 as determined by the Code. This special rule is not available to non-spouse beneficiaries. These requirements correspond with IRS rules and regulations.

**15.10.5 Active Member Death at 72 or Older.** If an active member attained the applicable age 70 ½ on or after January 1, 2020 and is 72 or older and dies as determined by the Code, distributions to the member's spouse (if applicable) begin immediately.

**15.11 Distributions for Terminated Members.** Except for employees that remain active-contributing members, a terminated member must begin receiving the retirement annuity no later than April 1 of the year following the year in which the member attains the applicable age 72 if the member attained age 70 ½ on or after January 1, 2020 as determined by the Code.

**15.12 Lump Sum Distribution to Members Not Eligible for Retirement.** Upon the death of a member who is ineligible for retirement, an amount equal to the member and Employer deposits, together with the interest accrued thereon, shall be paid to the member's designated beneficiaries, except as may otherwise be required by a QDRO. The payment will be made from System funds (Fund No. 2). Non-matching deposits will be distributed in the same manner as a member's accumulated deposits, except there shall be no equivalent amount paid from System funds (Fund No. 2).

**15.13 Delays in Timely Distribution of Benefits.** The beneficiary is responsible for contacting COAERS after the member's death. However, COAERS staff shall make reasonable attempts to locate survivor beneficiaries before the time benefits are required to commence. COAERS will encourage, or require, beneficiaries to commence receiving benefits. Attempts to locate may include sending letters to the last known address and internet search tools. Written documentation of the search attempt should be kept in the member's file.

**15.14 Court Approved Small Estate Affidavit.** COAERS can accept a Small Estate Affidavit provided it meets the requirements of Chapter 205 of the Texas Estates Code, the affidavit is filed with the clerk of the court that has jurisdiction and venue of the estate, and the presiding judge approves the affidavit.

**15.15 Court Approved Order Admitting a Will to Probate as a Muniment of Title.** COAERS can accept a court order admitting a will to probate as muniment of title provided that the order meets the requirements of Chapter 257 of the Texas Estates Code, has been signed by the presiding judge, and has been properly filed.

**15.16 Legal Counsel Review of Certain Distributions.** The COAERS General Counsel will be advised of problems in making timely distributions: e.g., no valid BDF on file, no valid EBDF, no spouse, inability to locate designated beneficiary, all beneficiaries predeceased the member, beneficiary is a minor, or beneficiary refuses to accept benefits.

**15.17 Procedure for Contacting Payees Subject to Minimum Distributions.** Payees subject to minimum distribution requirements will be contacted via United States Postal Service (USPS) certified mail to the last known mailing address and through appropriate means for any address or contact information (including email addresses and telephone numbers). If the member cannot be located, COAERS will:

- (a) Search plan and related plan, sponsor, and publicly available records or directories for alternative contact information; and/or
- (b) Use any of the search methods below:
  1. A commercial locator service;
  2. Credit reporting agency; or
  3. A proprietary internet search tool for locating individuals.

**15.18 Staff May Not Provide Tax or Legal Advice.** When making application for retirement benefits and designating a beneficiary for death benefits, members should consult with independent, qualified professionals regarding tax, estate planning, and legal issues related to their retirement. Statements and opinions by COAERS staff or attorneys that relate to estate planning, tax, or other legal issues, are made only as examples to raise issues and provide information that may be generally applicable and should be the subject of independent professional advice obtained by the members.

**15.19 Applicable Age Defined.** The applicable age for required distributions is age 72 unless the member reached age 72 after December 31, 2022, then the applicable age is 73.

## **ARTICLE XVI BENEFICIARY DESIGNATION FOR LUMP SUM BENEFITS**

**16.1 Creation of the Beneficiary Designation Form.** COAERS staff will maintain a form required to be used by members to designate beneficiaries to receive certain lump sum benefits or distributions that are payable on the death of the member. Except as provided otherwise in the Act, any member may file such a form with COAERS at any time. All beneficiary designations must include a photo identification document issued by a governmental authority.

**16.2 Employer Beneficiary Form Validity.** If a valid Beneficiary Designation Form (BDF) is not on file with the System, COAERS will obtain the most recent Employer beneficiary designation form (EBDF) on file with the Employer, as defined in the Act. The Executive Director or designee has the authority to determine the validity of a beneficiary designation form. COAERS will recognize the most recent EBDF as a valid form if it meets the following criteria:

- (a) is provided by and on file with the Employer;
- (b) is executed by the member;
- (c) designates the beneficiary for retirement benefits;
- (d) is executed by the member's spouse unless the spouse is designated as the Primary Beneficiary receiving 100% of the retirement benefit; and
- (e) the member has not signed a subsequently dated EBDF that revokes or cancels any previous forms.

**16.3 Most Recently Dated Form Valid.** If a recent valid BDF is on file with COAERS, it will conclusively determine the member's designated beneficiaries for the purposes of COAERS and the payment of death benefits. If a valid BDF or a valid EBDF is not found, or the designated beneficiary listed on the form has predeceased the member, the benefits will be paid to the member's spouse, if applicable, or to the member's estate, if the member is not married.

**16.4 Spousal Consent.** To be valid, effective, and recognized by COAERS, a BDF must be executed by the member and the member's spouse (if married and the spouse is not designated as Primary Beneficiary to receive 100% of benefits), and must be on file with COAERS or the Employer at the time of the member's death. A written form that is not a valid BDF or a valid EBDF will not be considered effective by COAERS. If a married member designates a beneficiary who is not the spouse or designates less than 100% of the benefits to the spouse as Primary Beneficiary, the form must be signed by the spouse to be valid. If the spouse is not the Primary Beneficiary and did not sign the form prior to the member's death, the spouse may request the benefits be paid directly to the spouse or consent to distribution of benefits as stipulated in the most recent valid form.

**16.5 Common Law (Informal) Marriage Recognized.** Common law or informal marriage is recognized in the State of Texas. As used in this article, the word "spouse" includes a common law spouse. The member and/or the common law spouse must provide documentation in support of assertion of common law marriage, especially any evidence where the couple held themselves out as husband and wife. The COAERS General Counsel will review the assertion of common law marriage and then make a determination of marital status based on the facts supported by the documentation presented.

**16.6 Alternate Beneficiaries.** A BDF may name an Alternate Beneficiary to receive benefits if the Primary Beneficiary is deceased, presumed deceased, or refuses to accept the benefits. An original or court certified death certificate or, as applicable, a sworn statement, confirming the Primary Beneficiary's death or refusal of benefits, is required for benefits to be paid.

**16.7 Designation of a Custodian.** The Texas Uniform Transfers to Minors Act permits a custodian to be named for a COAERS minor beneficiary.

**16.8 Other Designations.** A trust, custodian, guardian, or Attorney-in-Fact may be designated on a BDF as a Primary Beneficiary or Alternate Beneficiary only for the benefit of persons that are listed on the BDF.

**16.9 Payments in the Event No Valid Form Exists.** Benefits payable on the death of a member must be made to the beneficiaries listed on a valid BDF. If a valid BDF or a valid EBDF is not

found, the benefits will be paid to the member's spouse, or if no spouse survives, to the member's estate.

**16.10 Changing a Beneficiary Form for Lump Sum Benefits.** A member may change the beneficiary designated for the lump sum death benefit at any time by completing a new BDF, subject to the requirements for the spouse's signature if married. If the member obtains a divorce after designating a spouse as the beneficiary for the lump sum death benefit, the lump sum death benefit will be paid to the current spouse at time of death, unless the current spouse has signed the BDF or consents to distribution of benefits as stipulated in the BDF.

**16.11 Notification of Member Death.** Upon notification of a member's death, COAERS staff will research and locate the member's most recent valid BDF to determine to whom benefits are payable. If a BDF is not on file with COAERS, staff will obtain the most recent valid EBDF. The BDF(s) filed with COAERS are a part of member records at COAERS. If a BDF has not been received by COAERS, the most recent EBDF (generally for active-contributory, non-declared vested, proportionate, and terminated members) will be requested from the Employer's Human Resources department personnel files to determine whether such form may be accepted as a valid form.

**16.12 COAERS or Employer Records.** COAERS will retain the BDF in the member records. The BDF or, if none, the valid EBDF, must be received by the System/Employer prior to the member's death. Only if the member has not filed a BDF with COAERS will the EBDF be obtained from the Employer. If a BDF was not received by COAERS, and the EBDF is obtained, the most recent EBDF will conclusively determine the member's designated beneficiaries for the purposes of COAERS and the payment of death benefits if the EBDF qualifies as a valid form. If no valid BDF or valid EBDF is located, the death benefits will be payable to the member's spouse, if applicable, or to the member's estate, if there is no spouse. If information in the member's file or personal knowledge of COAERS or the Employer's staff indicates the member was married, but the beneficiary designation form indicates otherwise, further examination of the facts must occur. These instances will be addressed on a case-by-case basis.

**16.13 Member Designations and Records.** Members are encouraged to keep a current BDF on file with COAERS. This is particularly important if the member marries or divorces or there is a change in the custodian of a minor beneficiary. Member file information concerning designated beneficiaries may be obtained by a member or a person having the member's Power of Attorney, if the member or Attorney-in-Fact comes to COAERS with picture identification and, as applicable, an original or court certified copy of a Power of Attorney. Information may also be mailed to a requesting member at the member's address of record with COAERS, or to the person holding the member's Power of Attorney.

**16.14 Beneficiary Responsibility.** It is the responsibility of the beneficiary to make timely contact with COAERS following the death of a member. COAERS staff will attempt to contact the beneficiary designated on the most current valid BDF on file with COAERS or, if none, the most recent valid EBDF. Once contacted, it is the responsibility of the beneficiary to timely and properly claim benefits.

**16.15 Refusal by Beneficiary to Accept Benefits.** Although any assignment/transfer of any benefit is prohibited, including a death benefit, a person has a right to decline to be a beneficiary and to refuse the benefit. If a beneficiary refuses to accept the benefit, that person is required to sign a sworn statement of refusal to accept the benefit and a waiver of the funds. In such event, it is permissible for the System to pay to the other beneficiaries of the same class the designated

portion of the death benefits that would have been payable to that person. In such event, if there are no other beneficiaries of the same class, the death benefits are distributed to the named Alternate Beneficiaries, or, if none, to the member's estate.

**16.16 No Valid Form or No Valid Designations.** If no valid BDF or valid EBDF is on file, or if all designated beneficiaries predecease the member or refuse to accept benefits, COAERS staff will contact the COAERS General Counsel, and the benefits will be paid as provided by the Act and State law.

## ARTICLE XVII OPTION SELECTION AND SURVIVOR BENEFICIARY DESIGNATION

**17.1 Selection of Annuity Payment and/or Options.** The annuity payment options available to members are listed and described in Section 7(l) of the Act as follows:

- (a) Life Annuity;
- (b) Option I. 100 Percent Joint and Survivor Annuity;
- (c) Option II. 50 Percent Joint and Survivor Annuity;
- (d) Option III. 66-2/3 Percent Joint and Survivor Annuity;
- (e) Option IV. Joint and 66-2/3 Percent Last Survivor Annuity;
- (f) Option V. 15-Year Certain and Life Annuity; and
- (g) Option VI. Equivalent Benefit Plan, which allows a member to customize a survivor benefit.

**17.2 Spousal Consent Required.** Section 7(m) of the Act requires spousal consent for the member to select an optional retirement benefit other than I, II, III, or IV. It also requires spousal consent if a married member designates any person other than the spouse as a surviving beneficiary. Since Texas is a community property state, COAERS requires spousal consent for a Life Annuity designation (member only) and all other options except for Option I naming the spouse as the survivor.

**17.3 Annuity Payment Selection.** Members may select an annuity option during the retirement claim process. The option selected by the member may be changed at any time on or prior to the member's benefit effective date.

**17.4 Deferred Annuities.** During the retirement claim process, members may select an option to receive a lump sum payment and defer their monthly annuity payment until a later date. However, members must begin receiving their retirement annuity no later than when they ~~become~~achieve the applicable age under the Code~~72 if the member attained age 70 ½ on or after January 1, 2020.~~ See Section 15.19 for a definition of "applicable age."

**17.5 Disclosure of Marital Status.** During the retirement claim process, members must disclose their marital status, and if married, provide spousal consent for any annuity option, except Option I. COAERS is entitled to rely on the written representation by the member that there is no spouse unless there is a reason to believe or know that such a representation is not true.

**17.6 Prohibitions on Survivor Designations.** COAERS does not permit:



- (a) The member's option selection to be changed after retirement. A survivor's rights vest at retirement so a survivor designation cannot be changed after a retirement even if the member is subsequently divorced and a QDRO purports to extinguish survivor rights to a former spouse.
- (b) More than one beneficiary to be designated for ongoing joint annuitant survivor benefits except for beneficiaries under Option V, 15-Year Certain option.
- (c) A survivor beneficiary designation to be changed after the effective date of the retirement.
- (d) Certain joint and survivor beneficiary designations that the Internal Revenue Service prohibits under its Minimum Distribution Incidental Benefits statutes and regulations.

**17.7 Equivalent Benefit Plan Option Creation and Limitations.** Members may design a retirement option subject to limitations from the COAERS actuary. Requests for Equivalent Benefit Plan Option (Option VI) designs must be made 90 days before the member's actual retirement date. Under Option VI, benefit designs will be subject to the following restrictions:

- (a) Benefits may not be structured to provide for a decrease in annuity payments at a future date.
- (b) If a partial lump sum distribution and a Backward DROP are used in combination, the resulting lump sum payment cannot exceed the equivalent of 60 months of annuity payments under a basic Life Annuity.
- (c) The Executive Director may require a member to pay the cost of estimates prepared by the actuarial firm for the System for any estimates in excess of three.

**17.8 Designation of Beneficiary – Ongoing Survivor Annuity.** As required by the Act, COAERS will maintain a form or forms, either in paper or electronic form, which are required to be used by a member to make an application and a claim for retirement, make a retirement option selection, and designate a survivor beneficiary to receive an ongoing survivor annuity in the event of the member's death. If the member is married and seeks to name a person other than the spouse as survivor beneficiary, spousal consent is required. To be effective and recognized by COAERS, the form(s) must be executed by the member, by a written or electronic signature and submitted on or before the deadline that corresponds with the member's effective retirement date.

**17.9 Preselection of Survivor Benefits Prior to Retirement.** At any time before retirement, a vested member may preselect a retirement option and at some future time apply to receive benefits at the normal retirement age. A vested member may preselect a retirement option with a DROP (Deferred Retirement Option Program). Such preselection must be made on the designated COAERS form, including notarized signatures of both the member and the member's spouse, if applicable, and filed with COAERS. The preselection may be revoked by the member in writing without the consent of the spouse at any time before retirement. A new preselection will require completion and filing of a new form with COAERS; any new form will require notarized signatures of both the member and the member's spouse, if applicable. Consequently, a former spouse's waiver or consent, provided prior to actual retirement, is not binding on a new spouse. The member retains the right to change the option selected or the survivor beneficiary designated until the member's actual retirement date, subject to the Act and this Policy. An option selection and beneficiary selection becomes effective on the member's actual retirement date and may not be revoked.

**17.10 Minors as Surviving Beneficiaries.** A member may designate a minor as a surviving beneficiary. A member designating a minor on the COAERS form will be given the opportunity, but will not be required, to designate a custodian to receive benefits for any beneficiary that has not attained the age of 21. If a custodian is designated and such beneficiary remains under the age of 21 at the time of the member's death, the benefits will be paid to the custodian designated for the minor. If such beneficiary has attained 21 years of age when the survivor benefits are payable, the benefits will be paid directly to the beneficiary.

**17.11 Advice and Access Concerning Selection of Annuity and Surviving Beneficiary.** COAERS staff will assist members in understanding their benefit, but cannot provide financial, estate planning, tax, or legal advice to members. When making application for retirement benefits, members are strongly encouraged to obtain independent financial and/or tax advice when making decisions about retirement.

**17.12 Pop Up Provision Upon Death of a Survivor.** If the person designated as the surviving annuitant under Options I, II, or III, predeceases the retired member, the reduced annuity of the retired member will increase to the life annuity. The adjustment to the retired member's annuity begins with the payment for the month following the month in which COAERS received the death certificate of the deceased survivor annuitant.

## **ARTICLE XVIII EMPLOYER DATA**

**18.1 Reliance upon Employer Data.** In order to determine member account balances, pay benefits, and determine actuarial liabilities, COAERS shall rely on data provided from participating employers.

**18.2 Contribution Basis.** The Act that governs COAERS requires contributions to be made on a 40-hour workweek. Certain job titles for the Emergency Medical Services (EMS) department have workweeks exceeding 40 hours. Therefore, COAERS will determine the hourly rates for these members by dividing the reported contributions each pay period by 80, then by .08.

**18.3 COAERS Membership Date.** It is customary for an employer to begin an employee's employment at the beginning of a pay period. Therefore, in general, each retirement contribution has two weeks of service credit associated with it. If any doubt exists as to the member's correct membership date for eligibility and service credit, Staff will review the date that corresponds with the last day of the pay period for the member's initial COAERS contribution. Staff will then subtract 14 days from that date and then try to find a date in City records (paper or banner) which matches that date. If the result is different from the City's date of hire, Staff may adjust the membership date to the 14<sup>th</sup> day prior to the contribution date or the corresponding pay period begin date. In this way, the member's membership date will correspond to the member's initial contribution.

**18.4 Deductions for COAERS Contributions.** A full COAERS employee contribution will be deducted for every pay period in which the employee works.

## **ARTICLE XIX BACKWARD DEFERRED RETIREMENT OPTION AND PARTIAL LUMP SUM PAYMENTS**

**19.1 Purpose and Scope.** The COAERS Board adopted this Policy regarding the Backward Deferred Retirement Option Program (Backward DROP or DROP). The Act establishes the rules governing receipt of a Backward DROP or a Partial Lump Sum payment. The Backward DROP allows eligible members to receive a Backward DROP payment in addition to a monthly retirement annuity at retirement subject to the conditions and limitations in the governing statute and in this policy.

**19.2 Eligibility Excludes Proportionate Service.** The Backward DROP is only available to active contributory members who have already attained normal retirement eligibility, excluding proportionate service credit.

**19.3 DROP Period.** The DROP Period is the period between the member's actual retirement date and the date the member was first eligible for normal retirement (excluding proportionate service credit) or the date of the member's last purchase of service (excluding unused sick leave conversion), whichever is later. The DROP Period cannot exceed 60 months.

**19.4 Backward Drop Payment.** The Backward DROP payment is equal to ninety percent (90%) of the life annuity monthly benefit (after any reductions for lump sum QDRO) multiplied by the number of months in the DROP Period. No interest will be paid on, or added to, the Backward DROP payment.

**19.5 Monthly Retirement Annuity.** The monthly life annuity for a member electing the Backward DROP program is calculated using the average final compensation and creditable service (including converted unused sick leave) at the beginning of the DROP Period. Members retiring with a Backward DROP option may choose a life annuity or any actuarial equivalent life annuity options.

**19.6 Payment.** The Backward DROP payment is paid at the same time the first monthly annuity is paid. Backward DROP payments may be rolled over as permitted by the Internal Revenue Code or paid, in part, as a Backward DROP payment and the remainder as a rollover. To roll over a Backward DROP payment, the proper documentation must be completed and submitted no later than the member's actual retirement date.

**19.7 Partial Lump Sum Payment.** In lieu of a Backward DROP, a member can choose to take a reduced benefit and receive a Partial Lump Sum Payment at retirement. The lump sum payment may not exceed an amount equal to the total amount of 60 monthly life annuity payments. The Partial Lump Sum Payment is paid at the same time the first monthly annuity is paid. The COAERS actuary shall determine the calculations for the administration of the Partial Lump Sum Payment and the corresponding reduction in the member's monthly retirement annuity.

## **ARTICLE XX RETIREES RETURNING TO WORK WITH A PARTICIPATING EMPLOYER**

**20.1 Purpose and Scope.** The COAERS Board adopted this article regarding retirees who return to work for the City of Austin or COAERS (hereinafter collectively referred to as the Employer) after retirement. The Act establishes restrictions on the number of hours and duration of any employment by a member with the Employer after retirement. This policy implements the governing statute and ensures regulatory compliance.

**20.2 Responsibilities of the Executive Director and Staff.** The COAERS staff shall monitor retiree data and notify retirees and the Employer of any potential noncompliance with the governing statute. The Executive Director shall suspend the annuity of any retiree found to be in noncompliance.

**20.3 Responsibilities for Retirees Working for the City of Austin.** Retirees working for the City of Austin shall conform work hours to the statutory limits, and shall notify COAERS if their work schedule exceeds the limits of the governing statute or if they wish to voluntarily suspend monthly annuity payments.

**20.4 Waiting Period and No Agreement to Return.** A member who has not attained the age of 55 at retirement may not work for the City of Austin within 90 days of the retirement date and may not have an agreement (oral or written) prior to retirement to return to work for the City of Austin after retirement. If employment with the City of Austin occurs within 90 days of ~~retirement~~termination, the retirement will be invalidated. This restriction will apply to retirees working for any employer covered by the City of Austin Employees' Retirement System. Employees making application for retirement who have not attained the age of 55 at the time of retirement will be required to affirmatively state that they will terminate employment no later than their selected retirement date, and that they have not entered into an agreement (oral or written) to return to work for the Employer after termination~~retirement~~.

**20.5 Suspension of a Retirement Allowance.** COAERS shall suspend the retirement allowance of the following members:

- (a) A member who resumes employment after retirement as provided in Section 20.4 above;
- (b) A retired member who resumes employment after retirement as a regular full-time employee of the City of Austin, COAERS, or an agency of the City; or
- (c) A retired member who resumes employment with an employer in a position that is not required to participate in another retirement system maintained by an employer, and who is not a regular full-time employee of an employer, if the member works for, or is compensated by, an employer for more than 1,508 hours in any rolling 12-month period after the member resumes employment with the employer.

**20.6 Sick Leave.** If a retiree uses sick leave to be paid for time away from work during their part-time employment those hours will be counted towards the 1,508 limit.

**20.7 Suspension Effective Date.** A suspension of a retirement allowance can begin as early as the retirement allowance payable the last day of the month following the month in which the retired member exceeded 1,508 hours of employment in a rolling 12-month period.

**20.8 Suspension Duration.** A suspension of a retirement allowance shall be in effect until the member's employment terminates, and the member applies in writing for reinstatement of the retirement allowance and qualifies for retirement.

**20.9 Voluntary Suspension.** A retired member who resumes employment in a position not required to participate in another retirement system maintained by an employer may voluntarily suspend their retirement allowance. However, such a member must also meet the requirements of Section 20.4 above.

**20.10 Events Not Triggering Suspension.** A suspension of a retirement allowance will not occur in the following situations:

- (a) A member who retires after reaching normal retirement age and continues or resumes employment with the City of Austin in a position that is required to participate in another retirement system maintained by the City of Austin, or
- (b) A retiree who is working for the City of Austin as an independent contractor as defined by the Internal Revenue Code.

**20.11 Reinstatement of a Retirement Allowance.** A member whose retirement allowance is suspended may retire again and reinstate a retirement allowance. The reinstatement of a retirement allowance shall be subject to the following provisions:

- (a) COAERS and/or its actuary shall calculate the reinstated retirement allowance based on the member's total creditable service, reduced actuarially to reflect the gross amount of total retirement allowance paid to the member prior to suspension of the retirement allowance.
- (b) The reinstated retirement allowance cannot be less than the previous retirement allowance prior to the suspension.
- (c) The member cannot change the actuarial equivalent life annuity option they selected at their original retirement date.
- (d) The member cannot change the survivor or beneficiary designated under an actuarial equivalent life annuity option at their original retirement date.

**20.12 Compliance.** The burden of compliance shall rest with the retiree. The City of Austin Employees' Retirement System will provide information to all retirees as to the restrictions on retirees working for the City of Austin, as part of the retirement process; however, it is ultimately the responsibility of the retiree to know the plan provisions relating to returning to work. Absence of notice will not be considered a valid defense.

## ARTICLE XXI ANNUITY DEDUCTIONS FOR RETIREE INSURANCE

**21.1 Purpose and Scope.** The Board of Trustees of the City of Austin Employees' Retirement System recognizes that the City of Austin offers insurance-related products to retirees and annuitants and therefore intends, as a convenience to retirees and annuitants, to allow for the deduction of costs associated with insurance-related products authorized by the City of Austin.

**21.2 Responsibilities of the Executive Director.** Shall be responsible for deducting retiree or annuitant costs from insurance-related products from the monthly annuities of retirees or annuitants.

**21.3 Responsibilities of Retirees and Annuitants.** Shall be responsible for reviewing insurance related deductions for accuracy and notifying the City of Austin if inaccuracies are discovered.

**21.4 Responsibilities of the City of Austin.** Shall provide COAERS with the information to allow the proper insurance related deductions from the monthly annuities of retirees or annuitants.

**21.5 Authorization for Deductions from Monthly Retirement Benefits.** A retired member or annuitant who is receiving benefits from the System may authorize deductions from their monthly benefit only for certain eligible insurance products established by the City of Austin, provided the benefit amount is sufficient to allow the entire deduction considering any previously existing deductions. No partial deductions are permitted. The System will only recognize instructions received by the City of Austin, and not directly from the member or annuitant. Any discrepancy between the amount actually deducted and the amount which should have been deducted will be resolved by the member or annuitant and the City of Austin.

**21.6 Products Eligible for Deductions.** The only products that are eligible for deduction are those insurance-related products which may be offered to retired employees through the City of Austin's Human Resources Department and which are offered to retirees as a group. Deductions for all other products, services, or associations are prohibited.

**21.7 No Endorsement.** The allowance of deductions for certain eligible insurance products, does not under any circumstances, constitute an endorsement for any particular product or company.

## **ARTICLE XXII ANNUITY VERIFICATION**

**22.1 Identification of Death Records.** To protect the fund and the interests and benefits of the members, the City of Austin Employees' Retirement System (COAERS) will periodically use a third-party vendor to identify death records for COAERS payees. For any death record, COAERS will suspend the payment and independently verify the validity of the death record.

**22.2 Use of Affidavit.** In the case of a discrepancy or error in a third-party's death records, COAERS will require the annuitant to complete a notarized affidavit on a form approved and provided by the COAERS.

## **ARTICLE XXIII ELIGIBLE ROLLOVER DISTRIBUTIONS**

**23.1 General Rollover Information.** Some payments from COAERS are eligible to be rolled over to a qualified IRA or employer plan. Participants can access a document called "Special Tax Notice – Rollover Options" at [www.coaers.org](http://www.coaers.org) to help them decide whether to do such a rollover. Participants may also wish to consult with a professional tax advisor regarding rollovers before taking a payment from COAERS. More detailed information on the federal tax treatment of payments from COAERS can be found in: IRS Publication 575, Pension and Annuity Income; IRS Publication 590-A, Contributions to Individual Retirement Arrangements (IRAs); IRS Publication 590-B, Distributions from Individual Retirement Arrangements (IRAs); and IRS Publication 571, Tax-Sheltered Annuity Plans (403(b) Plans). These publications are available from a local IRS office, on the web at [www.irs.gov](http://www.irs.gov), or by calling 1-800-TAX-FORM.

**23.2 Rollover Election.** A distributee may elect, at the time and in the manner prescribed by the Board of Trustees, to have any portion of multiple eligible rollover distributions from the Plan scheduled to be made at the same time, directly allocated to multiple eligible retirement plans and treated as a single eligible rollover distribution to the extent permitted by Code Section 72 and 402(c); provided, however, that the Plan's terms permit such rollover, and, provided, further that such rollover does not exceed permissible limits.

**23.3 Disbursements Scheduled to be Made Simultaneously.** For purposes of determining the portion of a disbursement of benefits from a plan to a participant, beneficiary, or alternate payee that is not includible in gross income under the rules of Code Section 72, all disbursements of benefits from the Plan to the recipient that are scheduled to be made at the same time (disregarding differences due to reasonable delays to facilitate plan administration) are treated as a single distribution without regard to whether the recipient has directed that the disbursements be made to a single destination or multiple destinations. In such a case, allocations of pre and post-tax amounts will be allocated according to the Code and regulations.

## **ARTICLE XXIV INTEREST CREDITED TO MEMBER ACCOUNTS**

**24.1 Purpose.** The accumulated deposits standing to the credit of a COAERS member are improved annually through crediting interest at a rate determined by the Board upon the advice of the System's actuary. Interest is credited as of December 31 to amounts standing to the credit of the member on January 1 of the same calendar year. This article establishes the responsibilities, guidelines, and procedures for the interest rate decision.

**24.2 Responsibilities of the Actuary.** The System's actuary provides advice to the Board regarding the interest rate credited to member accounts.

**24.3 Guidelines.** The interest rate is set based on fixed income type returns, not returns earned by the entire fund or other more aggressive investment vehicles. Neither the interest rate recommendation by the actuary nor the final decision by the Board should negatively impact the financial soundness of the System.

**24.4 Procedure.** The System's actuary will provide an interest rate recommendation to the Board. The recommendation will consider the following:

- (a) The average yield of 10-Year Treasury Constant Maturities (Nominal), as published by the Federal Reserve in Statistical Release H.15, during the 12 months from November 1 of the prior year through October 31 of the current year; and
- (b) Historical interest rates established by the Board, and
- (c) Any other factor relevant to the determination of that year's interest rate.

**24.5 Crediting Interest to Member Accounts.** Annually, member accounts will receive interest as determined by the Board.

## 6. Discuss and consider Board Resolution 2023-0921

Presented by Russell Nash





## COMMITTEE MEETING Agenda Item Information Sheet

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### AGENDA ITEM 6:

Discuss and consider Board Resolution 2023-0921 – Russell Nash

#### AGENDA ITEM OBJECTIVE

This agenda item is intended for the Committee to review draft Resolution 2021-0629 designed to keep the COAERS Plan compliant with the Internal Revenue Code (“Code”) and regulations.

#### RELEVANCE TO STRATEGIC PLAN

This agenda item aligns with one of the five core competencies of **COAERS Strategic Plan** “*Dependable Operations: Managing the financial and operation commitments of the system appropriate measurable standards.*” The COAERS statutes authorize the Board to adopt any amendment necessary for the retirement system to maintain its status as a qualified plan under the Code.

#### RECOMMENDATION FOR COMMITTEE ACTION

Staff recommends the Committee refer Resolution 2023-0921 to the Board for approval.

#### BACKGROUND

COAERS tax counsel Mr. Brad Oxford has reviewed all relevant current plan documents considering recent federal law changes (SECURE Act 2.0) and has indicated there are two items which require a resolution adopted by the Board to comply with for IRS requirements. The attached Board resolution contains the applicable wording to achieve compliance.

#### ATTACHMENT

1. Proposed Board Resolution #2023-0921

**RESOLUTION NO. 2023-0921****A RESOLUTION OF THE CITY OF AUSTIN EMPLOYEES' RETIREMENT SYSTEM TO ADOPT RULES, POLICIES, AND PROCEDURES NECESSARY FOR THE RETIREMENT SYSTEM TO MAINTAIN QUALIFIED PLAN STATUS UNDER THE INTERNAL REVENUE CODE.**

**WHEREAS**, the Board of Trustees for the City of Austin Employees' Retirement System, ("COAERS") is authorized by Article 6243n, Tex. Rev. Civ. Stat., ("Statutes") to govern, administer, manage and operate COAERS for the exclusive benefit of its present and future members; and

**WHEREAS**, Section 4(aa) of the Statutes provides that the Board of Trustees is authorized to adopt any amendment that modifies the Act to the extent necessary for the retirement system to be a qualified plan under the Internal Revenue Code ("Code").

**WHEREAS**, except as altered and amended by virtue of the provisions herein, the provisions of the Plan as currently in effect are hereby ratified and confirmed.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE CITY OF AUSTIN EMPLOYEES' RETIREMENT SYSTEM, TEXAS:**

The foregoing recitals are all true and correct and are hereby approved and adopted. In accordance with the SECURE Act 2.0, the Plan is hereby amended as follows:

- A. Under current law, a participant must begin receiving Required Minimum Distributions (RMDs) no later than April 1 of the calendar year following the later of the calendar year in which the employee attains age 72, or the calendar year in which the employee retires. The age at which retired participants must now commence payments from COAERS is determined as follows:
- i. For employees who turned age 72 before 2023, the applicable age is age 72 (or age 70 ½ if they were born before July 1, 1949).
  - ii. For employees who will turn age 72 after 2022 and age 73 before 2033, the applicable age now is 73.
  - iii. For employees who will turn age 74 after 2032, the applicable age now is age 75.

This provision is effective for RMDs made after 2022 for employees who turn age 72 after 2022.

- B. Effective January 1, 2024, a surviving spouse has the irrevocable right to elect to be treated as the deceased employee for purposes of the Required Minimum Distribution rules and, if the surviving spouse is the sole designated beneficiary, COAERS will apply the uniform life table in determining the distribution period.

PASSED AND APPROVED this the 21st day of September, 2023.

ATTEST:

CITY OF AUSTIN EMPLOYEES' RETIREMENT  
SYSTEM, TEXAS

\_\_\_\_\_  
Sarah McCleary, Executive Assistant

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Yuejiao Liu, Board Chair

## 7. Receive report on actuarial service consultant

Presented by Russell Nash



## COMMITTEE MEETING Agenda Item Information Sheet

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### AGENDA ITEM 7: Receive report on actuarial service consultant

#### AGENDA ITEM OBJECTIVE

The Committee will conduct the required annual review of the System's actuarial consultant, for which the Committee has oversight responsibility.

#### RELEVANCE TO STRATEGIC PLAN

This item supports **Strategic Plan Goal 4: Identify and implement leading practices in Board governance, pension administration, and investment management.** Best practices for fiduciaries require the regular evaluation of key service providers, including the System's actuarial consultant.

#### RECOMMENDATION FOR COMMITTEE ACTION

At the Committee's discretion.

#### BACKGROUND

The Benefits and Services Committee has oversight responsibility for COAERS' actuarial consultant and annually receives a report on the performance, contract provisions, and working relationship with the actuarial consultant. The review is summarized in the attached report which will be discussed at the Committee meeting.

#### ATTACHMENTS

1. Report on actuarial service provider
2. Summary Bio for Ms. Janie Shaw



## Staff Report on COAERS' Actuarial Consulting Firm

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**Summary Rating:** Excellent. GRS Retirement Consulting has provided timely work related to COAERS annual actuarial valuation, experience studies, and the newly required Risk Sharing Valuation Study (RSVS); assistance efforts related to the recently enacted legislation including participation in the COAERS and City of Austin working group; and support with plan administration.

**Firm Information:** COAERS currently retains the services of GRS Retirement Consulting (formerly Gabriel, Roeder, Smith, and Company) for actuarial consultation services. GRS is a national actuarial and benefits consulting firm. Mr. Lewis Ward leads the engagement and has served as the COAERS lead consultant for this engagement for more than 25 years.

**Support Role Personnel Changes:** In May 2023, GRS announced the departure of Mr. Ryan Falls. Mr. Falls provided actuarial support to Mr. Ward on the COAERS account. GRS provided several choices of replacement actuaries to fill Mr. Fall's actuarial support role. After an interview process, the Staff requested Ms. Janie Shaw replace Mr. Falls, with the option to select another support member should Ms. Shaw's performance fall short of COAERS expectations. Ms. Shaw is graduate of the University of Texas at Austin and is a member of the Society of Actuaries and the American Academy of Actuaries. A summary of her biography is attached in this agenda item's materials.

**Observations:** The GRS team is responsive, knowledgeable, and accessible. Mr. Ward attends all necessary Committee and Board meetings and is effective in communicating relevant information to the Board. The GRS team is responsive to inquiries from Staff on any variety of matters and always provides deliverables in a timely fashion. In 2022, Mr. Ward participated in the COAERS and City of Austin working group. His expertise was essential in the development of the proposal resulting in SB 1444. During the legislative session, Mr. Ward was timely in providing actuarial analysis on Senate Bill 1444 and House Bill 4000 necessary for their respective Committee hearings.

The recent departure of Mr. Ryan Falls from GRS directly impacts the COAERS team as he served as Mr. Ward's backup. Mr. Falls is a highly respected actuary with deep institutional knowledge of COAERS, as well as Texas public retirement system laws. His departure was a personal choice, and not related to the performance of his work or any other matter.

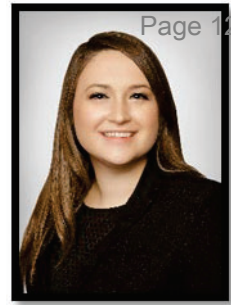
While Mr. Falls departure represents the loss of a key member of the COAERS team at GRS, Staff does not expect it to impact the quality nor the responsiveness of GRS's service to COAERS. GRS has a deep team with significant public retirement experience and Staff met individually with potential replacements for Mr. Falls. Staff believe Ms.

Shaw will provide excellent support to Mr. Ward. Her experience includes all relevant actuarial work performed on the COAERS account and she has the necessary professional designations to serve as Mr. Falls' replacement. Additionally, her background includes relevant experience with Texas public retirement systems and Texas public pension laws.

**Terms of the Representation:** GRS provides services to COAERS under an Engagement Letter that defines the scope and fees of the relationship. The current engagement letter expires at the end of 2024.

	<b>2023</b>	<b>2024</b>
Valuation/RSVS	\$45,000	\$46,000
Experience Study		\$45,000
In Person Meeting Attendance	\$2,400	\$2,500
GASB 68 City Information	\$3,600	\$3,700
Janie Shaw	\$400	\$410
Lewis Ward	\$400	\$410
Senior Analyst	\$275	\$280
Analyst	\$225	\$230
Support	\$185	\$190

**Future Activities:** COAERS and GRS agreed to an Engagement Letter for calendar years 2022, 2023, and 2024. Staff recommends retaining GRS under the current Engagement Letter.



## Janie Shaw, ASA, MAAA

Consultant

[janie.shaw@grsconsulting.com](mailto:janie.shaw@grsconsulting.com)

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### Expertise

Janie Shaw is a Consultant in GRS' Dallas, Texas office. She has more than 12 years of public sector pension and OPEB consulting experience. Janie has experience working with statewide and municipal retirement systems in multiple states including Kentucky, Michigan, North Carolina, Oklahoma, and Texas.

Janie's actuarial consulting experience includes annual valuation services for both pension and OPEB plans, plan design analysis in regards to benefit provision and funding policy designs, funding projections, and stochastic analysis. She also has significant experience analyzing and revising demographic and economic assumptions through actuarial experience studies and actuarial audits. Janie's compliance work and experience covers GASB reporting requirements as they apply to pension and OPEB plans, 415(b) calculations and non-discrimination testing for DB and DC plans.

Janie has experience using both commercial actuarial software such as Proval and multiple firms' proprietary systems. Her experience includes utilizing the software systems for plan redesign analysis, legislative cost impact statements, funding projections, tracking plan experience, and data analysis.

### Professional Designations

- Associate, Society of Actuaries
- Member, American Academy of Actuaries

### Education

Bachelor of Science, Mathematics, University of Texas, Austin

## 8. Review key meeting takeaways and call for future agenda items

Presented by Committee Chair Thomas





## COMMITTEE MEETING Agenda Item Information Sheet

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### AGENDA ITEM 8:

Review key meeting takeaways and call for future agenda items

#### AGENDA ITEM OBJECTIVE

This standing agenda item provides Trustees the opportunity to review the key takeaways from the meeting.

#### RELEVANCE TO STRATEGIC PLAN

This agenda item meets **COAERS Strategic Plan Goal 4: Identify and implement leading practices in board governance, pension administration, and investment management**. It is an industry best practice to review key meeting takeaways to summarize what was accomplished at the meeting as well as ensure Staff has clear direction on further work and future agenda items.

#### RECOMMENDATION FOR COMMITTEE ACTION

Trustees will review key meeting takeaways and delineate next steps.

## **2023 Benefits and Services Committee Work Plan**

### **Scheduled Quarterly Meetings**

1. January meeting
  - ✓ Disability applications
2. March meeting
  - ✓ 12/31/2022 Actuarial Valuation
  - ✓ Disability applications TBD
3. June meeting
  - ✓ Funding Policy with City of Austin
  - ✓ Adopt Benefits Resolution for IRS compliance
  - ✓ Disability applications TBD
  - ✓ Benefits Policy and Benefits Operating Procedures
  - ✓ Risk Sharing Valuation Study
4. August meeting
  - ✓ Funding Policy with City of Austin
  - ✓ Actuarial service provider review
  - ✓ Benefits Policy and Benefits Operating Procedures
  - ✓ Disability applications TBD
5. November meeting
  - Medical consultant provider review
  - Disability continuation review
  - Disability applications TBD
  - 2024 Committee Work Plan