

## **Article 26: DEFERRED RETIREMENT OPTION PROGRAM (DROP)**

**Section 26.01: Deferred Retirement Option Program.** It is the intent of this Article to provide a voluntary Deferred Retirement Option Program (“DROP”) for Miscellaneous Members employed in County Bargaining Units 01,02,04,05,07,08,09,10,11,12,13,17, 21 or 22, and for Safety Members employed in County Bargaining Units 03,06,07,10,14,15 or 16 and for Probation Officer Members employed in County Bargaining Units 07,08 or 09. (07-25-2006)(10-03-2006)(12-5-06)

(a) DROP is an alternative method by which a Service Retirement Allowance is paid to a Retired Participant.

(b) DROP is intended to be cost neutral to the Pension Trust and to the Pension Trust Fund. All costs and expenses incurred in the administration and operation of DROP shall not be paid from the Pension Trust Fund, but, instead shall be paid, in equal shares, by the County Employer and the participants in DROP. To this end (i) the share of said costs and expenses to be paid or reimbursed by the County Employer shall be included in County Appropriations pursuant to Section 16.05 of the Retirement Plan, and (ii) the share of said costs and expenses to be paid or reimbursed by the participants in DROP shall be deducted, from time to time, for the DROP Account of each DROP participant on a proportional basis based upon such Drop participant’s DROP account balance.

**Section 26.02: Conformance with the Internal Revenue Code.** DROP shall conform to those parts of the Internal Revenue Code and Regulations which provide for the tax qualified status of governmental pension trusts and retirement plans. DROP shall not jeopardize, in any way, the tax qualified status of the Pension Trust or this Retirement Plan under the Internal Revenue Code. Notwithstanding any other provision of the Retirement Plan, the provisions of this Article 26 shall at any time be modified, with such modifications being given retroactive effect, if necessary to maintain the tax qualified status of the Pension Trust or the Retirement Plan.

**Section 26.03: Severability.** If any provision of this Article or the application thereof to any person or circumstance is held to be invalid, that invalidity will not affect other provisions of this Article or of this Retirement Plan that can be given effect without the invalid provisions or application, and to this end the provisions of this Article are severable.

**Section 26.04: Eligibility.** a.) On and after July 25, 2006 a Miscellaneous Member currently employed in County Bargaining Units 01,04,05,07,08,09,10,11,12,13,17, 21 or 22, and a Safety Member employed in County Bargaining Units 03,07,10,14,15 or 16 and a Probation Officer Member employed in County Bargaining Units 07,08 or 09, and who has attained age 50 and who is credited with five years of Pension Trust Service Credit, shall be eligible to participate in DROP.

b.) On and after October 3, 2006 a Miscellaneous Member currently employed in County Bargaining Unit 2 who has attained age 50 and who is credited with five years of Pension Trust Service Credit shall be eligible to participate in DROP.

c.) On and after December 5, 2006 a Safety Member employed in County Bargaining Unit 6 who has attained age 50 and who is credited with five years of Pension Trust Service Credit shall be eligible to participate in DROP. (10-03-06)(12-05-06).

d.) For purposes of this Section, service credit accrued with a retirement system, which service is recognized by this Retirement Plan for purposes of Article 20: Reciprocity, shall be recognized for purposes of establishing eligibility to participate in DROP. A Retired Participant who previously participated in DROP and who reinstates from retirement shall not be eligible to participate in DROP.

**Section 26.05: Election to Participate in DROP.** The Member's election to participate in DROP shall be voluntary and irrevocable. Any Member who elects to participate in the DROP shall make his or her election on a form prescribed and retained by the Pension Trust.

The Member's election shall:

(a) designate a period of participation in DROP not less than 6 months and not more than 60 months;

(b) affirm that the Member agrees to terminate employment with the Employer no later than the completion of designated DROP participation period and acknowledge that participation in DROP is not a guarantee of continued employment for any period;

(c) affirm that the Member, on the date the Member commences participation in DROP, shall cease accruing Pension Trust Service Credit and that the Member's Service Retirement Allowance at the end of the Member's participation in DROP shall be the same as the Member's Service Retirement Allowance at the beginning of the Member's participation in DROP (plus any Cost of Living Adjustments after such date); and the Member's Final Compensation for purposes of establishing the Member's Service Retirement allowance shall be the Final Compensation determined at the beginning of the Member's participation in DROP and any changes in the compensation paid to the Member by the County Employer during the Member's participation in DROP shall have no effect on the Service Retirement Allowance paid to the Member at the time of the Member's cessation of participation in DROP.

(d) constitute an application for a Service Retirement allowance to commence no later than the end of the designated DROP participation period;

(e) include the Member's irrevocable election of the Unmodified Allowance (as described in Article 6) or one of the options set forth under Article 13: Options Available After Retirement;

(f) acknowledge that the Member has read this Article 26 and, particularly, Sections 26.07 (d) and 26.09 (g) which modifies and supersedes the Member's rights to a Disability Retirement Allowance under Article 10: Disability except as provided in Section 26.09(g).

(g) designate a Beneficiary for the DROP account in the event of the Member's death while a participant in DROP.

**Section 26.06: Waiver.** A Member making the election to participate in DROP shall execute such waivers with respect to state and federal employment discrimination and related laws, such releases and such covenants as are required by the Employer and/or the Pension Trust.

**Section 26.07: Participation in DROP.** By electing to participate in DROP:

(a) the Member becomes subject to all of the provisions of this Article 26;

(b) the Member's Final Compensation shall be determined pursuant to Section 1.16 as applicable to the Member making the election, provided that the determination of Final Compensation shall be based on Compensation Earnable during periods of Membership preceding the DROP participation period and no compensation paid to the Member by the County Employer during the Member's participation in DROP shall be included in the determination of the Member's Final Compensation;

(c) the Member shall, on commencement in DROP, cease accruing Pension Trust Service Credit and that the Member's Service Retirement Allowance at the end of the Member's participation in DROP shall be the same as the Member's Service Retirement Allowance at the beginning of the Member's participation in DROP (plus any Cost of Living Adjustments after such date);

(d) the Member shall not be eligible to receive a refund of Accumulated Contributions upon termination of the Member's employment with the County Employer.

(e) the Member shall have DROP allowances credited to a DROP account pursuant to Section 26.09 of this Article 26;

(f) the Member waives the right to disability retirement allowance based on an injury or illness that occurred prior to participation in DROP and/or during the Member's participation in DROP except as provided in Section 26.09(g) below.

(g) the Member's employment status during participation in DROP shall not be affected by the Member's election to participate in DROP.

**Section 26.08 Spousal Consent:** If the Member is married or if the Member has a registered domestic partner, the Member's spouse or registered domestic partner shall execute a statement, on a form prescribed by the Pension Trust, acknowledging the spouse's or domestic partner's understanding of, and agreement with, the Member's election to participate in DROP.

**Section 26.09 DROP Accounts and DROP Benefits:**

(a) A DROP Account is an account established by the Pension Trust for each participant in DROP.

(b) A Member's DROP Account shall be credited with an amount equal to the service Retirement Allowance and the annual cost-of-living adjustment the Member would have received if the Member had retired for service under Article 6 of the Retirement Plan on the date the Member commences participation in DROP. In addition, a Member's Additional Contribution Account, which may be an accumulation of pre-tax and post – tax contributions, shall be deposited into the Member's DROP Account. The DROP Account shall accept said pre and post tax contributions for deposit. If the Member elects to have his or her Additional Contribution Account paid in the form of an annuity, the annuity that is payable based on the contributions reposed in the said Additional Contribution Account shall be deposited into the Member's DROP Account. Contributions reposed in the Additional Contribution Account which are deposited into the Member's DROP Account shall be identified by the Pension Trust and by the third party administrator retained by the Board of Trustees for administration of the DROP accounts as to their status as either pre-tax or post-tax contributions. Amounts credited to a Member's DROP account shall be vested in the Member, except to the extent deemed necessary by the Board in its sole discretion to maintain the Pension Trust's tax-qualified status under the Internal Revenue Code.

(c) A Member may direct the investment and reinvestment of the monies in his/her individual DROP Account and any earnings or losses shall be reflected in the Member's DROP account. The Board of Trustees may select and approve a third party administrator to administer investment selections.

(d) The monthly amounts credited to a Member's DROP account, shall from time to time, include any cost-of-living adjustment otherwise applicable to Retired Participants as determined by the Board of Trustees.

(e) The date of a Member's participation in DROP shall be the first of the month following the date the Board of Trustees considers and approves the Member's fully completed DROP application.

(f) Upon the date of a Member's participation in DROP, the Member shall cease to make Normal Contributions to the Pension Trust. A Member may elect to make his or her Normal Contribution into his or DROP Account during the Member's participation in DROP. For purposes of this Section, for a Member who elects to make his or her Normal Contribution to DROP, said Normal Contribution may begin during the County Employer pay period that includes the first of the month following the date the Board of Trustees considers and approves the Member's fully completed DROP Application.

(g) If a Member becomes disabled while participating in DROP, the Member shall be eligible to apply for Disability Retirement under Article 10: Disability, and shall be subject to the same disability eligibility requirements as if the Member were not in DROP. Notwithstanding the provisions of Article 10: Disability, if the Board approves the Member's Application for Disability Retirement, the amount of the Disability Retirement Allowance shall be the same

as the amount then being credited monthly to the Member's DROP account. Upon approval by the Board of Trustees of a Member's Application for Disability Retirement the Member's participation in DROP shall cease and the DROP account shall be available to the Member for distribution.

(h) If a Member dies while participating in DROP, the Member shall be deemed to have died after retirement and the provisions of Section 7.04 of this Retirement Plan shall apply based on the amount of service Retirement Allowance being credited to the DROP account. All the monies credited to the Member's DROP Account shall be paid to the designated DROP beneficiary, subject to the provisions of Section 7.04 and Article 13 of the Retirement Plan subject to Section 26.10 below.

**Section 26.10: Designation of DROP Beneficiary.**

(a) A Member electing to participate in DROP shall designate a beneficiary of the Member's DROP account to whom the balance of the Member's DROP Account shall be paid in the event of the Member's death while participating in DROP.

(b) If a Member dies while participating in DROP,

(1) a designated DROP account beneficiary who is also an eligible surviving spouse of the Member as defined in Section 7.04 (b) of this Retirement Plan shall be entitled to elect to receive a lump sum distribution of the deceased member's DROP account or may elect a form of distribution payment described under Section 26.12; or

(2) a designated DROP account beneficiary who is not an Eligible Survivor pursuant to Section 7.04 (b) shall receive a DROP account distribution in the form of a lump sum; or

(3) if the designated DROP account beneficiary is not then living, the balance in the Member's DROP account shall be distributed to the estate of the Member in the form of a lump sum.

(c) No DROP beneficiary designation shall modify a Member's community property obligations under California Law unless, and only to the extent, that the Member's spouse or registered domestic partner shall consent to in writing.

**Section 26.11: Distribution of DROP Account.** Upon termination of DROP participation and upon retirement from the County Employer, a Member shall receive the amounts credited to the Member's DROP Account, including any earnings thereon. The Member shall become a Retired Participant and shall begin receiving a monthly retirement allowance equal to the amount that was being credited to the member's DROP Account at the date of the Member's cessation of participation in DROP.

**Section 26.12: Method of Distribution.** Upon the completion of the designated DROP participation period a Member shall become a Retired Participant and shall select one of the following forms of distribution of the DROP Account:

(a) a lump sum; or

(b) an amount payable monthly in equal monthly installments in accord with applicable provisions of the Internal Revenue Code subject to the following:

1. The Retired Participant shall be entitled to select an installment payment period not to exceed the lesser of ten years or the joint life expectancies of the Retired Participant and the Retired Participant's Spouse.

2. The balance of the Retired Participant's DROP account shall continue to earn interest based on the available account investments selected and directed by the Retired Participant.

3. At the end of the Member's period of participation in DROP no Cost of Living Adjustment shall be made to the Member's DROP account or to the monthly amount being paid to the Retired Participant from the DROP Account.

4. Payments of the monthly amount from the DROP account shall terminate when the balance in the DROP account is reduced to zero (\$0.00).

**Section 26.13: Death During Distribution of DROP Account:** If the Retired Participant dies before receipt of the entire balance in his or her DROP Account then:

(a) The Retired Participant's designated DROP beneficiary shall receive the balance of the Retired Participant's DROP Account in a lump sum; or

(b) The Retired Participant's designated DROP beneficiary may elect to continue to receive the monthly amount elected by the Retired Participant, said amount to be payable until the DROP Account balance is reduced to zero (\$0.00); or

(c) if the Retired Participant's designated DROP beneficiary is not then living, the balance in the DROP Account shall be distributed to the estate of the Retired Participant.

**Section 26.14: Full Distribution.** At any time after the cessation of participation in DROP and termination of employment from the County Employer, a Retired Participant may elect to receive the entire remaining balance of his or her DROP Account. No distribution shall be made from a member's DROP account until the Member has terminated participation in DROP and ceased employment with the County Employer except for employment pursuant to Section 12.02 of this Retirement Plan.

**Section 26.15: Execution and Unassignability.** The right of a DROP participant to benefits under this Article 26 is not subject to levy or execution or any other process whatsoever, except as to the extent permitted by Section 704.110 of the Code of Civil Procedure and is unassignable except as provided for by the Retirement Plan.

**Section 26.16: Dissolution of Marriage.** The rights of the DROP participant or his or her spouse under the program shall be subject to any applicable provisions of law or court orders relating to dissolution of marriage, dissolution of domestic partnership, division of community property, and child or spousal support.

**Section 26.17: Termination of DROP Participation.** A Member's participation in DROP shall automatically terminate upon the earliest occurrence of one of the following events:

- (a) completion of the Member's designated DROP participation period; or
- (b) death of the Member; or
- (c) approval by the Board of Trustees of the Member's Application for Disability Retirement; or
- (d) voluntary termination of the Member's employment; or
- (e) involuntary termination of the Member's employment, whether or not for cause, including layoffs or reductions in force and including the conclusion of any judicial or administrative appeals process.

**Section 26.18: General DROP Provisions**

- (a) The right is reserved at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part this Article 26 and any or all provisions relating to DROP. Notwithstanding the provisions of this part, no amendment shall be enacted which has the effect of decreasing the amount already credited to a Member's DROP Account.
- (b) The Board of Trustees shall enact such rules and procedures as are necessary or appropriate to administer DROP.
- (c) The Board of Trustees shall issue annually to each DROP participant a statement of that Member's DROP account.

**Section 26.19: Compliance with Applicable Provisions of the Internal Revenue Code and other Federal Laws.**

- (a) It is intended that DROP shall not jeopardize the tax qualified status of the Pension Trust under the Internal Revenue Code. Full rights are reserved to modify this Article to the extent necessary or appropriate to ensure that DROP complies with applicable federal laws, regulations and administrative rulings.

(b) The DROP program shall be subject to the section of the Internal Revenue Code applicable to governmental plans, as amended, and the regulations and rulings under those sections.