SIDE LETTER AGREEMENT
BETWEEN COUNTY OF SAN MATEO AND
THE ORGANIZATION OF SHERIFFS' SERGEANTS
RE: RETIREE HEALTH

WHEREAS, the County of San Mateo ("County") and the Organization of Sheriffs' Sergeants ("OSS") (collectively the "parties") reached a successor Memorandum of Understanding (MOU) effective April 5, 2021 through April 18, 2026;

WHEREAS, the parties agreed to certain changes to the retiree health benefits for employees covered by the 2021 OSS MOU, subject to agreement by the Deputy Sheriffs' Association ("DSA") over the same benefit changes with the same employee cost share;

WHEREAS, the DSA agreed to the same benefit changes with the same employee cost share; however, the DSA negotiated a different retiree health savings vehicle (the PORAC Retiree Medical Trust) from OSS;

WHEREAS, the parties wish to align the retiree health benefits for employees covered by the OSS and DSA MOUs for ease of benefit administration and to avoid disruption upon promotion between bargaining units;

NOW THEREFORE, the parties agree to modify the 2021-2026 OSS MOU between the parties as follows:

Section 18. Hospitalization and Medical Care

18.2 Retiree Health

Effective July 10, 2011, existing employees who promote into the Sergeant classification will bring forward the retiree health benefits that they had as a Deputy Sheriff. Upon request from the County, the OSS agrees to meet and confer with the County over potential compliance issues related to promotion from the Deputy Sherriff's Association to OSS, and from OSS to unrepresented management.

18.3 Retiree Health Medical Trust

Effective February 5, 2023, OSS will establish participation in the retiree medical expense reimbursement plan administered by the PORAC Retiree Medical Trust ("Trust"), to which the County and employees contribute to save, on a nontaxable basis, money to help pay the cost of eligible medical expenses after terminating from County employment. The Trust is intended to constitute a "health reimbursement arrangement" within the meaning of IRS Notice 2002-45.

The cost of establishing the Trust shall be at no cost to the County. The County is not a party to the Trust. Participation in the Trust shall be the complete and sole responsibility of the OSS. Aside from transferring funds, the County has no obligations to the management, regulatory compliance or performance of the Trust. In the event the Trust becomes insolvent or unable to pay, the County has no financial obligation to the Trust, the employees covered by this Agreement, or the OSS, including no obligation to provide a lifetime benefit to employees covered by this Agreement.

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The OSS agrees to defend, indemnify and hold the County, its agents, officers, and employees harmless from any liability of any nature which may arise as a result of employee participation in the PORAC RMT, including any and all claims or legal proceedings regarding the operation of the Trust, except for the obligation of the County to make and report employee and County contributions to the Trust as described in this MOU.

The monies contributed to the Trust on behalf of employees and retirees shall only be used for the sole purpose of providing funding for retiree health insurance premiums or reimbursement of retiree health care expenses, as permitted by law. The employee assumes full responsibility and liability for tax consequences related to contributions to and/or withdrawals from the PORAC Retiree Medical Trust. There shall be no employee election or option to take the contribution amount in cash. The Trust shall be and remain separate and apart from any of the County's health insurance funding programs.

A. Contributions

The following contributions will be made to the Trust on behalf of each employee:

1. County Contributions:

Effective February 5, 2023, for employees hired on or after February 5, 2023 who achieve five (5) years of continuous regular full-time service with the County, the County will contribute fifty dollars ($50) per month to each employee's account. In recognition of the first five (5) years of regular full-time service, upon the employee reaching such anniversary, the County will deposit in the Trust a lump sum of three thousand dollars ($3,000) which is equivalent to fifty dollars ($50) for every month of service following February 5, 2023 up to the employee's five (5) year anniversary.

County contributions to the Trust will be made only during periods for which the employee is receiving County compensation. For example, an employee on unpaid leave will not be entitled to such County contributions. In addition, the $50 County contribution amount will apply to full-time employees; the contribution amounts for less-than-full-time employees will be pro-rated according to those employees' work schedules.

Upon an employee's separation from employment with the County, the County will cease contributions to the Trust on behalf of that individual.

Employees will have no vested right in ongoing County contributions to the Trust. The contributions may be increased, decreased or frozen at any time in accordance with future MOU's.

2. Mandatory Employee Contributions:
Three types of employee contributions will be made to the Trust, as specified below. These employee contributions are mandatory. No employee will have any right to elect to receive cash or any benefit in lieu of the contributions. The contribution amount for employees represented by the OSS will not exceed the contribution amount for employees represented by the DSA.
    a. Regular Contribution*:* Effective February 5, 2023, each employee regardless of hire date will contribute one hundred dollars ($100) per month to the employee's Trust. These contributions will be deducted from the employee's County compensation. The contribution amounts specified in this paragraph will apply to full-time employees; contribution amounts for less-than-full-time employees will be pro-rated according to those employees' work schedules. Contributions to the plan must be uniform across bargaining unit members. The Association may notify the County as to changes to employee contributions; the frequency of contribution changes is subject to approval by the Trust.

    b. Unused Vacation Accruals: At separation from County service, fifty percent (50%) of the employee's earned and unused vacation will be cashed out and deposited into the employee's Trust; except if the employee dies while in County employment, then vacation accruals will not be deposited into the employee's Trust and will instead be converted to cash and distributed to the employee's estate.

    c. Converted Old Sick Leave for Employees Hired Before February 5, 2023. Upon retirement from County service, contributions of "old" sick leave will be made to an eligible employee's Trust subject to the terms and conditions specified below.

B. Vesting

An employee's Trust contributions, including any allocable investment earnings, are 100% vested at all times.

To become vested in the County's Trust contributions, an employee must complete five (5) years of continuous, full time (or full time equivalent), paid County employment in a regular position. A break in service of twenty-eight (28) days or more will result in the exclusion of prior service in calculation of the employee's Trust vesting service requirement. If an employee's County employment terminates before completion of five (5) years of continuous County employment, all County contributions to the employee's Trust, including any allocable investment earnings, will be forfeited.

C. Distributions

After an employee separates from County employment, the employee's Trust funds may be used for any eligible medical expenses incurred by the employee, the employee's spouse, or the employee's eligible dependents. "Eligible medical expenses" are expenses described in section 213(d) of the Internal Revenue Code, as amended from time to time, including but not limited to, qualifying insurance premiums. Trust funds may not be used for any other purpose.

In accordance with the federal tax laws, any Trust benefits cannot be provided with respect to a Trust participant's registered domestic partner, and thus such payments must be made out of pocket.

In addition, the use of the Trust funds will be subject to the terms of the governing Trust plan document.

The parties acknowledge that the Trust plan will be subject to non-discrimination testing. Non-compliance with non-discrimination rules may result in taxation of discriminatory coverage. In the event of taxation of discriminatory coverage, the parties will reevaluate and negotiate changes to the plan design to comply with non-discrimination rules.

18.4 "Old" Sick Leave Conversion:

The following terms apply to employees hired by the County before February 5, 2023:

A. Effective February 5, 2023, all employees hired before February 5, 2023 will contribute two and eight-tenths percent (2.8%) of the employee's base wage rate each pay period for the duration of their employment with the County, to the County to offset the costs of retiree medical benefits described herein. These contributions are mandatory.

B. "Old" sick leave will be defined as sick leave earned before February 5, 2023. Old Sick Leave will cease to accrue as of February 4, 2023 ("transition date"). For employees hired by the County before February 5, 2023, old sick leave accrued and unused as of February 4, 2023, with the exception of one hundred ninety-two (192) hours, will be removed from the employee's sick leave bank. A record of the number of frozen hours of old sick leave will be kept on file with the County, pending the employee's retirement from County service.

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C. Employees hired before February 5, 2023 will retain up to one hundred ninety-two (192) hours of accrued, unused Old Sick Leave in their sick leave bank to use as needed.
   1. Employees hired before February 5, 2023 who take long-term, FMLA, CFRA or disability (including pregnancy disability) leaves of absence on or after February 5, 2023, who exhaust their one hundred ninety-two (192) hours of Old Sick Leave hours, as well as their New Sick Leave accrued after February 5, 2023, will be permitted to use additional hours of Old Sick Leave upon request for sick leave purposes listed in this MOU.
   2. Employees hired before February 5, 2023 who have less than one hundred ninety-two (192) hours of accrued, unused Old Sick Leave in their sick leave bank will retain remaining Old Sick Leave in their sick leave bank to use as needed.

D. For the purpose of this Section 18.4 only, prior years of service with Half Moon Bay Police Department, Millbrae Police Department and San Carlos Police Department immediately prior to such cities contracting with the County for law enforcement services will count toward the calculation of County Service.

E. A break in service of twenty-eight (28) days or more will result in the exclusion of prior service in the calculation of hire date and service time for the purpose of this section.

F. "Severed by reason of retirement" is defined as an employee retiring and drawing pension benefits from SamCERA simultaneous with separation from the County employment.

   Retirement from County service is defined as drawing SamCERA pension benefits via a service or disability retirement immediately upon separation from the County.

   If an employee separates from County service without retiring and does not return to County service within twenty-eight (28) days or less, the employee will forfeit all converted "old" sick leave amounts listed in this section, and will forfeit entitlement to all retiree health benefits described herein, except for vested contributions to the Trust. The employee will not receive any Trust contributions or other benefit with respect to the forfeited amounts.

G. **For Employees Hired By The County Before February 5, 2023 With Less Than Fifteen (15) Years Of Service Whose Employment With The County Is Severed By Reason Of Retirement:**
   For employees hired prior to February 5, 2023 whose employment with the County is severed by reason of retirement during the term of this MOU, and who have less than fifteen (15) years of continuous, full-time regular service at retirement, the County will contribute to the retiree's Trust in the amount of the employee's unused, frozen, "old" sick

leave at the time of retirement on the following basis:

- For Tier 1 employees (defined as employees hired by the County prior to April 10, 2016 (except for those employees described in Tier 2 below) who maintain continuous County service without a break in service of more than twenty-eight (28) days), who retire from the County on or after February 5, 2023, each eight (8) hours of unused "old" sick leave at the time of retirement from County service will be converted to six hundred seventy-five dollars ($675).
- For Tier 2 employees (defined as employees hired by the County between April 10, 2016 and January 7, 2023, employees hired before April 10, 2016 who made a prior, irrevocable election to go into Tier 2, and employees represented by the Deputy Sheriffs' Association hired between July 1, 2011 and April 10, 2016 who promote into a position represented by OSS, who maintain continuous County service without a break in service of more than twenty-eight (28) days), who retire from the County on or after February 5, 2023, each eight (8) hours of unused "old" sick leave at the time of retirement from County service will be converted to four hundred dollars ($400).

The remaining one hundred ninety-two (192) hours of "old" sick leave will be maintained in the employee's sick leave bank to use as sick leave. Upon retirement from County service concurrent with separation from the County, the County will deposit any of the remaining, unused portion of the one hundred ninety-two (192) hours of "old" sick leave into the retiree's Trust, using the following conversion formula:

- For Tier 1 employees, each eight (8) hours of unused "old" sick leave at the time of retirement from County service will be converted to six hundred seventy-five dollars ($675).

For Tier 2 employees, each eight (8) hours of unused "old" sick leave at the time of retirement from County service will be converted to four hundred dollars ($400

Following retirement, retirees and dependents will have only one opportunity to enroll in County medical, dental and vision insurance plans. If the retiree and/or their dependents opt out of any of the above benefits following enrollment, the individual will not have an opportunity to opt back in to County medical, dental and vision insurance plans at a later date. Nothing in this section prohibits a retiree from using the benefit(s) and amounts outlined above towards a market-based plan (non-county plan) should the retiree elect to do so, either at the time of retirement, or at a later date.

H. For Employees Hired By The County Before February 5, 2023 Whose Employment with the County is Severed by Reason of Retirement, Who Retire with Between Fifteen (15) and Twenty Years Of Service:

For an employee hired before February 5, 2023, who has between fifteen (15) and twenty (20) years of County service, and whose employment with the County is severed by reason of retirement:

1. From the date of retirement until the retiree reaches the age of Medicare eligibility, the County will contribute five hundred dollars ($500) per month to the retiree for the purchase of medical, dental and vision insurance through the County health plans. For retirees not enrolled in County benefit plans, the County will deposit the $500 into the retiree's Trust on a monthly basis.
   a. If the retiree passes away before the age of 65, the benefits payable to a surviving spouse will be two hundred fifty dollars ($250) per month paid until the retiree would have reached the age of Medicare eligibility; except, if the retiree passes away before the age of 65, and the retiree's surviving spouse has one or more dependent(s), the benefits payable to a surviving spouse will be four hundred dollars ($400) per month paid until the retiree would have reached the age of Medicare eligibility.
   b. Retirees who retire at or after age 65 (the age of Medicare eligibility) will not be eligible to receive any portion of the pre-65 benefit.
2. When the retiree reaches the age of Medicare eligibility, the County contributions specified herein will cease.
3. Following retirement, retirees and dependents will have only one opportunity to enroll in County medical, dental and vision insurance plans. If the retiree and/or their dependents opt out of any of the above benefits following enrollment, the individual will not have an opportunity to opt back in to County medical, dental and vision insurance plans at a later date. Nothing in this section prohibits a retiree from using the benefit(s) and amounts outlined above towards a market-based plan (non-county plan) should the retiree elect to do so, either at the time of retirement, or at a later date.
4. For retirees enrolled in County benefit plans, the County will contribute the contribution specified in Section 18.4, subsection H(1) toward the benefit premiums for the County medical, dental and vision benefits elected by the retiree and qualified dependents. If the cost of the premium(s) is greater than the County's contribution, the retiree will be required to pay the difference through an automatic ACH bank withdrawal. If the cost of the premium(s) is less than the County's contribution, the County will deposit the difference in the retiree's Trust.
5. At the time of retirement, the County will deposit an amount into the retiree's Trust equal to fifty percent (50%) of the unused, frozen Old Sick Leave hours (plus fifty percent (50%) of any remaining, unused hours from the 192 hours of old sick leave left in the employee's sick leave bank as of the transition date), multiplied by the rate of employee's base hourly wage.

I. For Employees Hired By The County Before February 5, 2023 Whose Employment with the County is Severed by Reason of Retirement, Who Retire with Twenty or More Years Of Service:

For an employee hired before February 5, 2023, who has twenty (20) or more years of County service, and whose employment with the County is severed by reason of retirement:

1. From the date of retirement until the retiree reaches the age of Medicare eligibility, the County will contribute one thousand dollars ($1,000) per month to the retiree for the purchase of medical, dental and vision insurance through the County health plans. For retirees not enrolled in County benefit plans, the County will deposit the $1,000 into the retiree's Trust on a monthly basis.
   a. If the retiree passes away before the age of 65, the benefits payable to a surviving spouse will be five hundred dollars ($500) per month paid until the retiree would have reached the age of Medicare eligibility; except, if the retiree passes away before the age of 65, and the retiree's surviving spouse has one or more dependent(s), the benefits payable to a surviving spouse will be eight hundred dollars ($800) per month paid until the retiree would have reached the age of Medicare eligibility.
   b. Retirees who retire at or after age 65 (the age of Medicare eligibility) will not be eligible to receive any portion of the pre-65 benefit.
2. When the retiree reaches the age of Medicare eligibility, the County contributions specified herein will cease.
3. Following retirement, retirees and dependents will have only one opportunity to enroll in County medical, dental and vision insurance plans. If the retiree and/or their dependents opt out of any of the above benefits following enrollment, the individual will not have an opportunity to opt back in to County medical, dental and vision insurance plans at a later date. Nothing in this section prohibits a retiree from using the benefit(s) and amounts outlined above towards a market-based plan (non-county plan) should the retiree elect to do so, either at the time of retirement, or at a later date.
4. For retirees enrolled in County benefit plans, the County will contribute the contribution specified in Section 18.4, subsection I(1) toward the benefit premiums for the County medical, dental and vision benefits elected by the retiree and qualified dependents. If the cost of the premium(s) is greater than the County's contribution, the retiree will be required to pay the difference through an automatic ACH bank withdrawal. If the cost of the premium(s) is less than the County's contribution, the County will deposit the difference in the retiree's Trust.
5. At the time of retirement, the County will deposit an amount into the retiree's Trust equal to fifty percent (50%) of the unused, frozen Old Sick Leave hours (plus fifty percent (50%) of any remaining, unused hours from the 192 hours of old sick leave left in the employee's sick leave bank as of the transition date), multiplied by the rate of employee's base hourly wage.
6. For Tier 2 employees who retire from County service with twenty (20) or more years of service, the County will deposit into the Trust on behalf of the retiree fifty percent (50%) of the equivalent of two hundred eighty-eight (288) hours of "old" sick leave), multiplied by the rate of employee's base hourly wage into the retiree's Trust.

Effective February 5, 2023, "old" sick leave with a conversion value to retiree health dollars will cease to accrue for all employees.

J. The surviving spouse or registered domestic partner of an active employee hired before February 5, 2023 who dies may, if they elect a retirement allowance, convert the employee's accrued sick leave to the above specified limits providing that the employee was age 50 or over with at least twenty (20) years of continuous service.

Section 19. "New" Sick Leave

19.1 <u>"New" Sick Leave Accrual:</u>

Effective February 5, 2023, employees will accrue "new" sick leave at a rate of three and seven-tenths (3.7) hours per pay period. "New" sick leave will have no cash value and will not have conversion value for the purpose of sick leave conversion for retiree health coverage. Such accrual will be prorated for an employee who works less than full time during a pay period.

"New" sick leave can accrue up to a cap of nine hundred sixty (960) hours.

Employees represented by OSS who subsequently promote to, and retire from, an unrepresented management position will have unused, "new" sick leave (accrued since February 5, 2023) converted to "old" sick leave upon retirement.

19.2 <u>"New" Sick Leave Usage:</u>

Sick leave may be used in increments of six (6) minutes.

"New" sick leave, plus up to one hundred ninety-two (192) hours of "old" sick leave, is accrued paid leave from work that can be used for any of the following purposes:

A. Diagnosis, care, or treatment of an employee's illness, injury, health condition, or exposure to contagious disease which incapacitates them from performance of duties. This includes disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom as determined by a licensed health care professional.
B. The employee's receipt of preventative care or required medical or dental care or consultation.
C. The employee's attendance, for the purpose of diagnosis, care, or treatment of an existing health condition of, or preventative care, on a member of the immediate family who is ill. For the purpose of this Section, immediate family means parent, spouse, registered domestic partner, child, stepchild, sibling, parent-in-law, grandparent or grandchild. The employee's preparation for or attendance at the funeral of a member of the immediate family. For the purpose of preparation for or attendance at a funeral, immediate family also includes child-in-law, grandparent-in-law, and sibling-in-law. Use of sick leave for this expanded definition is limited to a maximum of three (3) days if travel is required.

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D. The employee's attendance to an adoptive child or to a child born to the employee or the employee's spouse or registered domestic partner for up to six (6) weeks immediately after the birth or arrival of the child in the home. Sick leave used concurrently with California Family Rights Act (CFRA) leave for the purpose of bonding following the birth, adoption or foster care placement of a child of the employee must be concluded within one (1) year of the birth or placement of the child. The basic minimum duration of such leave is two (2) weeks. However, an employee is entitled to leave for one of these purposes (e.g. bonding with a newborn) for less than two (2) weeks duration on any two (2) occasions.

E. An employee who is a victim of domestic violence, sexual assault, or stalking may use up to one half (1/2) of their annual sick leave allotment to:
   1. Obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or their child; or
   2. Obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety.

An employee may elect to use their full amount of "new" sick leave in advance of drawing on "old" sick leave accrued before February 5, 2023.

This side letter will be incorporated into the final 2022 Memorandum of Understanding between the County of San Mateo and the OSS, and shall thereafter be eliminated.

SO AGREED:

For the OSS:	For the County:
______________________	______________________
Name, Title	Name, Title
______________________	______________________
Date	Date