

ORDINANCE NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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**ORDINANCE ADOPTING CHAPTER 2.48 OF THE SAN MATEO COUNTY
ORDINANCE CODE RESTRICTING THE USE OF COUNTY RESOURCES TO
ASSIST OR COOPERATE WITH IMMIGRATION AUTHORITIES**

SECTION 1. FINDINGS. The Board of Supervisors of the County of San Mateo (“County”) hereby finds and declares as follows:

WHEREAS, San Mateo County is home to persons of diverse racial, ethnic, and national backgrounds, including a large immigrant population; and

WHEREAS, all San Mateo County immigrant residents, whether they are U.S. citizens, permanent residents, undocumented residents, refugees, or residents with any other immigration status, are valued and integral members of our social, cultural, and economic fabric; and

WHEREAS, many immigrants have created deep ties in San Mateo County, which they have cultivated for themselves, their families, and their communities; and

WHEREAS, the County seeks to protect public health and safety, which is founded on trust and cooperation of and between community residents and local law enforcement, and the County has enacted numerous laws and policies to strengthen communities and to build and bolster trust between communities and local law enforcement; and

WHEREAS, the United States Immigration and Customs Enforcement (ICE), which is responsible for enforcing federal civil immigration laws, often seeks to enlist local law enforcement’s voluntary cooperation and assistance in enforcing immigration

laws, which may include, for instance, continuing to detain persons based on non-mandatory civil immigration detainers or cooperating and assisting with requests to notify ICE that/when a person will be released from local custody, and such actions often shift the financial burden of civil immigration enforcement onto local agencies; and

WHEREAS, unlike judicial warrants, which must be supported by probable cause and issued by a neutral judicial officer, civil immigration detainers are issued by immigration officers without judicial oversight; and

WHEREAS, when local law enforcement agencies voluntarily assist ICE and other immigration authorities, such assistance can contribute to the separation of families, community distrust of local government, fear of accessing necessary government services by immigrant communities, and reluctance to share vital information and cooperate with local authorities; and

WHEREAS, a significant number of detained immigrants are working people and the primary breadwinners of their families, and many immigrants have lost employment and the ability to provide for their families while detained or deported; and

WHEREAS, in September 2018, the Board unanimously approved funding to support a rapid response network, as well as to fund local non-profit legal service organizations to assist in representing San Mateo County residents in removal defense; and

WHEREAS, in November 2021, in response to requests from residents, faith communities, and civic organizations, the San Mateo County Sheriff's Office adopted a policy of not assisting with ICE detainer, transfer, and notification requests unless presented with a valid judicial warrant (as defined in Cal. Gov. Code § 7284.4(i)), joining

other California counties, including, but not limited to, Humboldt, Los Angeles, Marin, Santa Clara, and San Francisco with similar policies; and

WHEREAS, the Board wishes to end the County's cooperation with ICE and other immigration authorities to the greatest extent legally practicable.

NOW, THEREFORE, the Board of Supervisors of the County of San Mateo ordains as follows:

SECTION 2. A new Chapter 2.48 of Title 2 of the San Mateo County Ordinance Code is hereby adopted to be numbered and entitled to read as follows:

Chapter 2.48 NON-COOPERATION WITH IMMIGRATION AUTHORITIES

Section 2.48.010 – Restrictions.

- (a) All County of San Mateo (“**County**”) departments, agencies, commissions, officers, agents, representatives, and employees are prohibited from using County resources, property, personnel, time, labor, or funds to:
1. Assist or cooperate with requests by the United States Immigration and Customs Enforcement or other immigration authorities or persons, or entities contracted for immigration enforcement purposes (“**Immigration Authorities**”), to hold, detain, house, transfer, or otherwise facilitate the arrest of any person in the custody of the San Mateo County Sheriff's Office, Probation Department, or any other County Department, unless pursuant to a judicial warrant (as defined in California Government Code § 7284.4(i)) or otherwise required by federal or state statute, regulation, or court decision; or
 2. Communicate with Immigration Authorities regarding an individual's release time, date, or place, home or work address, or contact information, or to otherwise assist or cooperate in any immigration enforcement activities, including information gathering, unless pursuant to a judicial warrant (as defined in California Government Code § 7284.4(i)) or otherwise required by federal or state statute, regulation, or court decision; or
 3. Provide access to or use of non-public County property, including but not limited to, County jails, stations, courthouse holding cells, conference rooms, and databases to Immigration Authorities, unless pursuant to a judicial warrant (as defined in California Government Code § 7284.4(i)) or otherwise required by federal or state statute, regulation, or court decision.

(b) Notwithstanding the foregoing provisions of Section 2.48.010(a), County departments, agencies, commissions, officers, agents, representatives, and employees may use County resources, property, personnel, time, labor, or funds to assist or cooperate with Immigration Authorities solely for the purpose of providing assistance with the investigation or enforcement activities of any local, state, or federal law enforcement agency relating to suspected violations of any federal or state criminal statute, regulation, or court decision, provided, however, that such activities do not involve immigration enforcement as defined in California Government Code § 7284.4(f).

(c) Notwithstanding the foregoing provisions of Sections 2.48.010(a) and 2.48.010(b), County departments, agencies, commissions, officers, agents, representatives, and employees may use County resources, property, personnel, time, labor, or funds to assist or cooperate with Immigration Authorities solely for the purpose of providing assistance with the investigation or enforcement activities of any local, state, or federal law enforcement agency, including with immigration enforcement activities as defined in California Government Code § 7284.4(f), if the individual who is the subject of the immigration enforcement activities has been convicted of any of the following serious or violent felonies, provided, however, that any such assistance shall be provided in conformance with the California Values Act (California Government Code § 7284, et seq.):

- 1. Murder, as identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the California Penal Code;**
- 2. Rape, as identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the California Penal Code;**
- 3. Lewd or lascivious act, as identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the California Penal Code; or**
- 4. The federal crimes of murder, rape, or sexual abuse of a minor, as identified in paragraph (43) of subsection (a) of Section 101 of the federal Immigration and Nationality Act (8 U.S.C. § 1101).**

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this Ordinance.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective 30 days from the date of adoption.

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