

RESOLUTION NO. _____ (2024 SERIES)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN LUIS OBISPO, CALIFORNIA, ALLOWING PREVIOUSLY CONTRIBUTING EMPLOYEES TO CONTINUE PARTICIPATING IN THE RETIREE MEDICAL TRUST THROUGH THE PEACE OFFICERS RESEARCH ASSOCIATION OF CALIFORNIA

WHEREAS, the Peace Officers Research Association of California (PORAC) has established an employee benefit trust called the PORAC Retiree Medical Trust (the “Trust”), governed by the “Trust Agreement Governing the PORAC Retiree Medical Trust” restated effective December 21, 2023, and as amended thereafter (hereafter, the “Trust Agreement”), which is administered by a Board of Trustees (“Trustees”); and

WHEREAS, the Trust provides medical expense reimbursement benefits for retired members of bargaining units represented by PORAC Associations, who are parties to a bargaining agreement that requires contributions to the Trust, pursuant to the Trust’s “Medical Expense Reimbursement Plan,” restated effective December 21, 2023 (incl. Plan Amendment Nos. 1-21) (Dr. 11/1/21), and as amended thereafter, (hereafter, the “Plan”); and

WHEREAS, the City of San Luis Obispo (hereafter, “Employer” or “City”) makes contributions to the Trust on behalf of employees in the following bargaining unit: The International Firefighters Association, Local 3523 (hereafter, “Association”) pursuant to a Memorandum of Understanding dated December 5, 2023 (hereafter, “MOU”); and

WHEREAS, certain fulltime employees of the City, who have previously participated in the plan as a member of the Association, but have promoted out of the bargaining unit represented by the Association, have requested to continue participation in the Plan through mandatory employee contributions after their promotion; and

WHEREAS, in order to comply with applicable federal tax rules, the Trust does not allow participation in the Trust by individual employee election, but allows participation only on a nonelective basis (see Section 4 hereof); and

WHEREAS, under the MOU, the City is required to withhold a mandatory employee contribution for transfer to the Trust for all participating employees in the Association.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of San Luis Obispo as follows:

SECTION 1. Receipt of Documents. Employer acknowledges receipt of the Trust Agreement of the Trust.

SECTION 2. Definitions.

- a) “Non-Bargaining Unit Employees” or “NBUs” means active employees of the Employer:
 - i) For whom contributions were previously made to the Trust on their behalf when they were represented by an Association; and
 - ii) Who are not currently in a bargaining unit due to the nature of their position, e.g., they have promoted out of a bargaining unit into management, or they were reassigned or hired into a non-bargaining unit position.

- b) “Association” means a labor organization allowed to participate in the Trust.

SECTION 3. Participation.

- a) The Employer agrees to contribute to the Trust on behalf of all NBUs, by adopting this Resolution, as the compensation arrangement for all NBUs (referred to as a subscription agreement in the Trust Agreement and qualifies as a Special Agreement under the Plan), pursuant to Article V, Section 3 of the Trust Agreement.

- b) The Trust has agreed to the participation of all NBUs of the Employer in the Plan, pursuant to the terms of this Resolution.

SECTION 4. Contributions: Payroll and Transfer of Salary/Sick Leave.

- a) The Employer shall transfer a mandatory pre-tax employee contribution to the Trust for each and every NBU, in the same amount and on the same schedule that the Employer is transferring for each employee in the bargaining unit represented by the Association pursuant to the MOU between the Employer and the Association (i.e., currently \$100 semi-monthly (24 pay periods per year)). There shall neither be an election for NBUs to opt in or out of employee contributions, nor to determine the amount of the contribution.

- b) If the rate or schedule changes for the Association members, the Employer will contribute the changed amount on the NBUs at the same time.

- c) With each payment, the Employer shall also submit employee data to identify the amounts paid on behalf of each covered employee, and any other information necessary for the administration of the Trust and Plan.

- d) Except as otherwise stated in Sections 3 and 4 hereof, all aspects of the Plan contributions for NBUs, including the timing, manner, and reporting of the contributions will be determined according to the terms of the Association MOU with the City, as amended from time to time.

SECTION 5. Certification of Mandate for all NBU Employees.

- a) *No Individual Election.* The Employer hereby certifies that mandatory employee pre-tax contributions will be made to the Trust on behalf of all NBUs of the Employer. There shall neither be an election for NBUs to opt in or out of mandatory pre-tax employee contributions, nor to determine the amount of such contribution;
- b) *Eligibility.* The Employer hereby certifies that all NBUs reported to the Trust meet the definition of “Employee” in Section 1.11 of the PORAC Retiree Medical Trust Plan, as follows:
 - i) *“Employee means an individual employed by a Participating Employer on or after the Employee’s Effective Date, who is a member of an Association that represents public safety employees, and on whose behalf the required Contributions are made to the Trust Fund pursuant to a Memorandum of Understanding or Special Agreement, for all periods of Active Service after the Effective Date. The term ‘Employee’ includes any individual who works on a part-time contract basis for any Participating Employer.”*

SECTION 6. Reporting and Audit Rules. The Employer hereby acknowledges receipt of the Trust Agreement governing the Trust and will comply with rules set by the Trust Office in regard to reporting and transferring the required contributions set forth above.

- a) *Demographic Information Report and Updates.*
 - i) *Initial Report.* Employer shall electronically provide an initial report of demographic information, which shall include: Social Security Number (or unique identifier), first name, last name, gender, address (city, state, zip code), contact information (email address and phone number), birth dates, and hire dates, for all participating employees, including NBUs.
 - ii) *Updates.* Employer shall send updates to this information to the Trust Office whenever the Employer has notice of changes to the information. Employer shall also provide notice to the Trust when an employee is promoted, or otherwise becomes an NBU, and when an NBU is terminated.
 - iii) *Deadline.* The Employer shall send the Demographic Information Report under this Section 6.a within 15 days of the first contribution to the Trust. The Employer shall send updates to this report within 15 days of receipt of the updates to the information included in the Demographic Information Report or within 15 days of a promotion, transfer, or termination. This Demographic Information Report shall be furnished in the format that the Trust Office requests.

- b) *Regular Contribution Report.* The Employer shall electronically submit to the Trust Office a Regular Contribution Report with each transfer of contributions to the Trust. This Regular Contribution Report shall be sent in the format requested by the Trust, and received by the Trust Office within five (5) days of each receipt of contribution funds. This Regular Contribution Report shall include the data that the Trust Office requests concerning employees and contributions, including at least:
- i) Leave funds. Identify the employees receiving a transfer of leave funds to the Trust and the amount received on behalf of each employee; and
 - ii) Promotions and Terminations. The reason that an employee was dropped off of the Regular Contribution Report, e.g., involuntary termination, voluntary termination, retirement, resignation, leave without pay, and the date that an employee was promoted, became an NBU, or terminated employment.
- c) *Failure to Provide Reports.* The Employer hereby acknowledges that the Trust may refuse to accept contributions or take other legally permissible actions with respect to the Employer's contributions and employees' benefits from the Trust if the Employer does not comply with the Trust Office's rules regarding the aforementioned contribution reports.
- d) *Payroll Audit.* The Employer hereby acknowledges receipt of the Trust Agreement governing the Trust and will cooperate with the Trust in allowing a payroll audit for the purpose of ascertaining if the proper amount of contributions have been made. The Employer shall timely cooperate with the Trust Office's audit rules and any requests made or authorized by the Trust's auditor.

SECTION 7. Effective Date. The effective date of this Resolution is December 21, 2023. Each eligible NBU will be required to make a single payment reflecting the sum of the contributions that would have been made to the Trust on behalf of the NBU during the 2024 calendar year. If contributions are made retroactive to the effective date of the MOU, the Trust may charge for lost interest through loss of the appropriate number of Active Service Units.

SECTION 8. Notices. Any notice related to this Resolution shall be sent to the Trust at: PORAC Retiree Medical Trust c/o Vimly Benefit Solutions Inc, PO Box 6, Mukilteo, WA 98275, and to the Employer, c/o: Nickole Domini at the following address: 990 Palm Street, San Luis Obispo, CA 93401.

SECTION 9. Termination. This Resolution shall remain in effect unless terminated by the Council. The Resolution will automatically terminate effective on the termination date of contributions to the Trust pursuant a termination of contributions in the Memorandum of Understanding between the Employer and the Association. The Employer acknowledges that the Trust may terminate coverage effective the first of any month after two months of the Employer’s failure to remit contributions when due. Written notice of termination must be received by the other party at least ten (10) days prior to the first day of the month in which coverage is to be terminated, or contributions will be due for that month.

SECTION 10. Change of Law. This Resolution will be modified as necessary in order to ensure that contributions will not be treated as taxable income, according to the Internal Revenue Code and guidance pursuant thereto (e.g., PLR 201345020) concerning participation in employee benefit plans.

Upon motion of Council Member _____, seconded by Council Member _____, and on the following roll call vote:

- AYES:
- NOES:
- ABSENT:

The foregoing resolution was adopted this _____ day of _____ 2024.

Mayor Erica A. Stewart

ATTEST:

Teresa Purrington, City Clerk

APPROVED AS TO FORM:

J. Christine Dietrick, City Attorney

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Luis Obispo, California, on _____.

Teresa Purrington, City Clerk

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