

Resolution No. 2025-XXX N.C.S.
of the City of Petaluma, California

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PETALUMA AUTHORIZING THE CITY MANAGER TO SIGN ON
BEHALF OF THE CITY A FUNDING AGREEMENT WITH THE
COUNTY OF SONOMA FOR DISBURSEMENT OF PROCEEDS FROM
MEASURE H, “THE IMPROVED AND ENHANCED LOCAL FIRE
PROTECTION, PARAMEDIC SERVICES AND DISASTER RESPONSE
TRANSACTIONS AND USE TAX ORDINANCE”**

WHEREAS, on March 5, 2024, the voters of Sonoma County approved Measure H, “The Improved and Enhanced Local Fire Protection, Paramedic Services and Disaster Response Transactions and Use Tax Ordinance,” which added Article VIII, consisting of Sections 12.60 through 12.68 to Chapter 12 of the Sonoma County Code; and

WHEREAS, Measure H is a \$0.05 transactions and use (sales) tax that provides funding that is intended to achieve effective and efficient regional fire response services throughout Sonoma County, and to address growing wildfire risks by generating revenue to improve fire preparedness, response times, and infrastructure, including equipment, training, and personnel; and

WHEREAS, Measure H aims to enhance Sonoma County fire services agencies’ ability to respond to wildfires and emergencies, helping ensure public safety and the protection of vital resources; and

WHEREAS, approximately 7.19% of the revenue generated by Measure H is allocated to eligible fire and emergency services costs of the City of Petaluma, and Petaluma’s share of Measure H proceeds can support Petaluma's 2023 Public Safety Facility Master Plan and fund additional staffing for emergency response and wildfire mitigation efforts; and

WHEREAS, Measure H imposes on the County of Sonoma a fiduciary duty to administer Measure H tax proceeds, and implementation of Measure H is the responsibility of an Oversight Committee that the Sonoma County Board of Supervisors must establish consisting of eleven appointed committee members to provide transparency and ensure fiscal accountability by reviewing the receipt and expenditure of Measure H revenues and an annual report from each agency that receives Measure H funds on that agency’s use of the measure proceeds; and

WHEREAS, Section 12-61 of Measure H provides: “The Expenditure Plan set forth in section 12-66 is intended as a specific and legally binding and enforceable limitation on how the proceeds of the transactions and use tax imposed by this Ordinance may be spent;” and as part of the Measure H Expenditure Plan, Section 12-66(D) of the measure specifies allocation percentages for entities receiving funds generated by the measure; and

WHEREAS, Section 12-67(B) of Measure H requires recipient agencies to prepare and distribute specified information annually to the Oversight Committee not later than December 31st of each year; and as part of the oversight and administration of the measure, Section 12-68(A) requires a funding agreement between Sonoma County and Measure H funding recipients before any tax proceeds are distributed; and

WHEREAS, Section 12-65 of Measure H requires that tax proceeds shall not be used to supplant recipient agencies' historical general fund contribution originating from taxes and fees to support the operating cost for providing fire related services, excluding non-capital project and limited term expenses, and Section 12-65 also establishes a baseline maintenance of effort amount consisting of each recipient's baseline fire-related services operating budget for fiscal year 2021-2022, excluding limited term funds such as those budgeted for capital projects, grants, grant matches, or other one-time revenues, and

WHEREAS, Section 12-68(A) of Measure H requires that the funding agreements between the County of Sonoma and recipient agencies shall establish existing revenue used to fund existing personnel in order to establish the baseline for measuring compliance with the requirement that sales tax proceeds from the measure shall only be used to pay for the purposes authorized in Section 12-66(B) of the measure (which include recruitment of additional personnel), and also retention of existing personnel, and Measure H further provides that recipient agencies' whose general fund allocations to fire related services operating costs are materially different than their 2021-2022 allocations, will be deemed to not have upheld their maintenance of effort obligations and to be in violation of the measure; and

WHEREAS, the provisions of Measure H do not define "materially different" or "supplant" as these terms are used in the measure, and although Section 12-64 of the measure expressly provides that the permitted uses of Measure H funds include not only recruitment but also *retention* of local firefighters, Section 12-68 of the measure, which establishes requirements for baseline staffing budget allocations, focuses on the use of tax proceeds only for additional personnel; and

WHEREAS, Measure H is silent on how the measure's maintenance of effort requirements for fire related services and staffing are to be construed in times of economic downturn, when recipient agencies' general fund revenues available for fire related services and staffing may potentially be less than in fiscal year 2021-2022, the fiscal year specified in Measure H for determining recipient agencies' compliance with the measure's maintenance of effort requirements; and

WHEREAS, Measure H was placed on the 2024 ballot by the Sonoma County voters as a citizens' initiative, and the voters' legislative power when acting by initiative does not exceed the government's legislative power, and the obligations of Sonoma County, and of municipalities and districts providing fire services in Sonoma County that are eligible to receive Measure H tax proceeds to comply with applicable constitutional debt limits continue in effect notwithstanding Measure H's maintenance of effort requirements (See, e.g., Article XVI, Section 18 of the California Constitution), and budget adoption requirements of charter cities like Petaluma remain in effect (See, Article IX, Sections 59 and 60 of the Petaluma Charter), and nothing in Measure H purports to or likely can affect such recipient agency budget obligations, and as a result, to the maximum extent possible and consistent with applicable law, Measure H's maintenance of effort provisions should be interpreted consistent with recipient agencies' existing constitutional debt and budget obligations; and

WHEREAS, City Council action to adopt a resolution authorizing the City Manager to sign a Measure H funding agreement with Sonoma County as recommended by staff is not a "project" subject to review under the California Environmental Quality Act ("CEQA") in accordance with Section 15378 of the CEQA Guidelines, which provides that "projects" for CEQA purposes do not include the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and subsequent actions or programs of the City utilizing Measure H funds that may result in environmental impacts subject to CEQA review will be separately analyzed in accordance with applicable CEQA requirements;

NOW, THEREFORE, the City Council of the City of Petaluma does hereby resolve as follows:

1. **Recitals Made Findings.** The above recitals are hereby declared to be true and correct and are incorporated into this resolution as findings of the City Council.
2. **Action is Not a Project Subject to CEQA:** Council action to adopt a resolution authorizing the City Manager to sign a Measure H funding agreement with Sonoma County as recommended is not a "project" subject to review under the California Environmental Quality Act ("CEQA") in accordance with Section 15378 of the CEQA Guidelines, which provides that "projects" for CEQA purposes do not include the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, and organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. Subsequent actions or programs of the City utilizing Measure H funds that may result in environmental impacts subject to CEQA review will be separately analyzed in accordance with applicable CEQA requirements.
3. **City Manager Authorized to Execute Agreement.** The City Manager is hereby authorized and directed to execute a funding agreement with the County of Sonoma for disbursement to the City of its share of proceeds from Measure H, the "The Improved and Enhanced Local Fire Protection, Paramedic Services and Disaster Response Transactions and Use Tax Ordinance." The City Manager's authorization pursuant to this resolution is conditioned on the funding agreement incorporating changes substantially in accordance with or consistent with the purposes of those changes recommended by City staff and that are shown in Attachment 2 to the staff report accompanying this resolution. Alternatively, if there is insufficient time to reach agreement on changes to the Measure H funding agreement substantially in accordance with those in Attachment 2 to the staff report prior to the first disbursement of Measure H proceeds in April, 2025, then the City Manager's authority to execute a Measure H funding agreement pursuant to this resolution is conditioned on that agreement including a provision substantially in accordance with the following: "The Parties agree to negotiate in good faith and by mutual agreement to execute an amendment or amendments to this Agreement sufficiently clarifying the following issues: 1) the maintenance of effort provisions in this Agreement regarding the definitions of 'supplant' and 'materially different' concerning recipient agencies' baseline funding obligations; 2) the permitted uses of Measure H proceeds under Section 12-64 of the measure – which include retention of local fighters – and the focus of Section 12-68 of Measure H on use of measure proceeds for additional personnel; and 3) how the Parties' maintenance of effort obligations under this Agreement will be construed in the event of future economic downturns that may result in recipient agencies' general fund revenues available to fund fire related services being reduced below 2021-2022 levels." The authority granted to the City Manager pursuant to this Resolution is further subject to such changes to the funding agreement deemed necessary or appropriate by the City Manager and approved by the City Attorney to affect the intended purposes of the City Council's direction pursuant to this resolution.
4. **Severability.** The City Council hereby declares that every section, paragraph, sentence, clause, and phrase of this resolution is severable. If any section, paragraph, sentence, clause or phrase of this resolution is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.
5. **Resolution Effective Immediately.** This resolution shall take effect immediately upon its adoption.

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE:	I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 27th day of January 2025, by the following vote:	Approved as to form: _____ City Attorney
AYES:		
NOES:		
ABSENT:		
ABSTAIN:		
ATTEST:	_____ City Clerk	_____ Mayor