

## MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SEBASTOPOL AND COUNTY OF SONOMA REGARDING MEASURE U AND MEASURE I

This Memorandum of Understanding regarding Measure U and Measure I (“MOU” or “Agreement”) is entered into as of December 17, 2024 (the “Effective Date”) between the City of Sebastopol (“City”) and the County of Sonoma (“County”). City and County may each be referred to herein as a “Party” or collectively as the “Parties.”

### Recitals

- A. At the November 5, 2024 General Municipal Election, voters in the City of Sebastopol approved Measure U, which enacted a ½-cent (0.5%) transactions and use tax on the sale of tangible personal property (hereinafter “Sales Tax”) for general purposes.
- B. At the November 5, 2024 General Municipal Election, voters in the County of Sonoma approved Measure I, which enacted a ¼-cent (0.25%) Sales Tax to support early childhood education and the local children’s health care safety net.
- C. Cities and counties are authorized to enact local Sales Taxes. However, the total amount of such Sales Taxes is generally limited to two percent (2.0%) pursuant to California Revenue and Taxation Code section 7251.1.
- D. California Revenue and Taxation Code section 7292.8 authorizes additional sales tax of a limited amount within Sonoma County.
- E. The California Department of Tax and Fee Administration (“CDTFA”) is the state agency responsible for collecting and administering Sales Taxes throughout California.
- F. CDTFA has opined that the second ¼-cent (0.25%) of the Sales Tax authorized by Measure U, and the entire ¼-cent (0.25%) of the Sales Tax authorized by Measure I rely on the same ¼-cent (0.25%) of statutory authority for local governments in Sonoma County to enact Sales Taxes. CDTFA has also opined that the first ¼-cent (0.25%) of the Sales Tax authorized by Measure U can be enacted by the City in compliance with applicable laws.
- G. CDTFA has informed the City and County that it is unable to implement both the second ¼-cent (0.25%) of the Sales Tax authorized by Measure U and the entire ¼-cent (0.25%) of the Sales Tax authorized by Measure I because that would result in a Sales Tax above the maximum amount within the incorporated limits of the City as authorized by applicable law.
- H. CDTFA has informed the City and County that it is seeking a formal opinion from the California Attorney General on how to implement Measure U and Measure I. However, it is unknown when the Attorney General will issue such an opinion, and it could take over six months.

- I. CDTFA suggested to the City and County that both Parties agree to only collect  $\frac{1}{8}$ -cent (0.125%) of the  $\frac{1}{4}$ -cent (0.25%) sales tax in question until CDTFA receives and implements an opinion from the Attorney General. CDTFA is willing to implement this proposal because it would not result in a Sales Tax within either the City or County above the maximum amount authorized by applicable law.
- J. CDTFA's proposal would result in the City collecting a  $\frac{3}{8}$ -cent (0.375%) Sales Tax from Measure U and the County collecting a  $\frac{1}{8}$ -cent (0.125%) Sales Tax for Measure I. This would be the uniform rate for Measure I throughout Sonoma County, not just within the City of Sebastopol, as the CDTFA is required to implement a countywide tax uniformly and cannot apply different rates to different jurisdictions.
- K. Measure I is estimated to raise approximately \$30.4 million annually, but under CDTFA's proposal only approximately \$15.7 million annually would be collected for Measure I. Measure U is estimated to raise approximately \$1.5 million annually, but under CDTFA's proposal only \$1.125 million would be collected for Measure U.
- L. The City and County both desire to implement an alternative arrangement that would allow the County to collect a greater amount of Measure I and the City to receive the amount of revenue estimated by Measure U.
- M. The City has agreed to waive the collection of the second  $\frac{1}{4}$ -cent (0.25%) of the Sales Tax authorized by Measure U so that the County may collect the full  $\frac{1}{4}$ -cent (0.25%) of the Sales Tax authorized by Measure I throughout Sonoma County.
- N. In exchange, the County has agreed to pay the City an amount equal to what the City would have received if it was collecting the second  $\frac{1}{4}$ -cent (0.25%) of the Sales Tax authorized by Measure U. The County will make this payment out of the revenue received from Measure I.
- O. This Agreement allows the County to collect approximately \$15.7 million more annually for Measure I compared to CDTFA's proposal, in exchange for providing the City with \$750,000 in funds.
- P. Absent this Agreement, the County would receive significantly less revenue for Measure I, which would result in significantly less money being available for the purposes specified in Measure I. Similarly, the City would receive less revenue for Measure U.
- Q. This Agreement serves the public interest by ensuring that the will of the voters is respected by enabling the City and County to both receive nearly all of the revenue estimated for Measure U and Measure I, as described in the official ballot documents for both measures. The public interest would be significantly harmed if the Parties did not enter into this Agreement since that would result in significant reductions in the amount of revenue the City and County would receive to carry out the purposes of Measure U and Measure I respectively.

- R. The Parties intend this to Agreement to remain in effect until either CDTFA is able to implement an opinion from the Attorney General regarding the administration and implementation of Measure U and Measure I, or legislation is enacted allowing the full amount of Measure U and Measure I to be collected by CDTFA.
- S. The Parties desire to enter into this MOU to establish the duties and responsibilities of each Party with regard to the matters set forth herein.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Recitals.

The above recitals are true and correct, and are incorporated into this Agreement by reference as though fully set forth herein.

2. Partial Waiver of Sales Tax by City.

The City knowingly and voluntarily agrees to waive the collection of the second ¼-cent (0.25%) of the ½-cent (0.5%) Sales Tax authorized by Measure U. Accordingly, CDTFA will only collect a ¼-cent (0.25%) Sales Tax for Measure U. The City agrees to execute any and all relevant documents required by CDTFA and necessary to implement this Section.

3. Payment to City.

3.1. As consideration for City's performance of Section 2, the County agrees to pay the City an amount equal to the amount received by the City for the ¼-cent (0.25%) Sales Tax collected by CDTFA and remitted to the City as a result of the implementation of Measure U (the "County Payment").

3.2. Each month, the City shall notify the County in writing of the amount of the County Payment and shall provide appropriate supporting documentation requested by the County. Such documentation shall consist of reports or statements from CDTFA identifying the amount collected by CDTFA and remitted to the City as a result of the implementation of the ¼-cent (0.25%) Sales Tax for Measure U. The amounts reported by CDTFA shall be definitive for the purposes of determining the monthly County Payment.

3.3. The County shall remit the County Payment to the City within ten (10) business days of receipt of City's written identification of the amount of the monthly County Payment. Payment shall be made in the manner mutually agreed upon by the Parties.

3.4. The County shall make the County Payment out of the funds it receives from Measure I. The Parties agree that the County's obligations under this Section 3 are contingent upon the County actually receiving funds from CDTFA from the collection of the Sales Tax authorized by Measure I.

3.5. The Parties understand and acknowledge that CDTFA will begin collecting Measure U and Measure I on April 1, 2025, and that CDTFA remits funds to the jurisdictions two months in arrears. For illustrative purposes only, the sales tax collected in April 2025 will be remitted to jurisdictions in June 2025.

4. Term of the Agreement.

This term of this Agreement (“Term”) shall commence on the Effective Date and shall terminate on the earlier of: 1) implementation by CDTFA of an opinion from the California Attorney General regarding the administration and implementation of Measure U and Measure I, or 2) the implementation by CDTFA of legislation enacted that allows for the collection of the full amount of Measure U and Measure I without offset or deduction. The Parties understand and acknowledge that CDTFA implements changes to the Sales Tax rates only on the first day of the calendar quarter that occurs one hundred and ten (110) days after the change is finalized.

5. No Recovery of Funds.

The County expressly agrees that in the event the Attorney General issues an opinion prohibiting the City from collecting, or it is otherwise legally determined that the City cannot collect, the full ½-cent (0.5%) Sales Tax authorized by Measure U, the County irrevocably waives and relinquishes any right to clawback, recoup, or otherwise recover from the City in any way all or a portion of the County Payments. Without limiting the foregoing, the Parties agree that this waiver does not limit the County’s ability to cease the County Payments after the Term expires. The provisions of this Section shall survive the termination or expiration of this Agreement.

6. Indemnification.

To the fullest extent permitted by law, the County shall indemnify, defend, and hold harmless the City, its officers, officials, employees, and agents from and against any and all demands, claims, actions, litigation or other proceedings, liability, damages and costs (including but not limited to reasonable attorney fees) (collectively, “Claims”), that arise out of County’s implementation of this Agreement, specifically including, but not limited to, remittance of Measure I funds to the City.. The County’s obligations under this Section shall not extend to Claims that are the result of the City’s gross negligence or willful misconduct; nor shall the County’s obligations extend to claims regarding the City’s authority to waive the second ¼ cent of its sales tax under Measure U. The provisions of this Section shall survive the termination or expiration of this Agreement.

7. Modification.

The provision of this Agreement and all of the covenants and conditions set forth herein may be modified or amended only by a written duly authorized and executed by both Parties.

8. Entire Agreement.

This Agreement contains the entire understanding between the Parties relating to the transaction contemplated by this Agreement, notwithstanding any previous negotiations or agreements

between the Parties or their predecessors in interest with respect to all or any part of the subject matter hereof. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged in this Agreement and shall be of no further force or effect. Each Party is entering this Agreement based solely upon the representations set forth herein and upon each Party's own independent investigation of any and all facts such Party deems material.

9. Notices.

All notices required or provided for under this Agreement shall be in writing and shall be addressed as follows:

City: City of Sebastopol  
Attn: City Manager  
7120 Bodega Avenue  
[dschwartz@cityofsebastopol.gov](mailto:dschwartz@cityofsebastopol.gov)

With Copies To:  
Alex Mog, City Attorney, [alex.mog@redwoodpubliclaw.com](mailto:alex.mog@redwoodpubliclaw.com)  
Mary Gourley, City Clerk, [mgourley@cityofsebastopol.gov](mailto:mgourley@cityofsebastopol.gov)

County: Auditor-Controller-Treasurer-Tax Collector

Jennifer Murray  
585 Fiscal Drive, Suite 100  
Santa Rosa, CA 95403  
[Jennifer.Murray@sonoma-county.org](mailto:Jennifer.Murray@sonoma-county.org)

With Copies To:  
Robert Pittman, County Counsel, [Robert.Pittman@sonoma-county.org](mailto:Robert.Pittman@sonoma-county.org)  
Christina Rivera, County Executive, [Christina.Rivera@sonoma-county.org](mailto:Christina.Rivera@sonoma-county.org)

A Party may change its address by giving notice in writing to the other Party. Thereafter, all notices shall be addressed and transmitted to the new address. Notices shall be deemed given and received upon personal delivery, or, if mailed, upon the expiration of seventy-two (72) hours after being deposited in the United States mail. Notices may also be given by overnight courier, which shall be deemed given the following day, or by facsimile, which shall be deemed given upon verification of receipt if received before 5:00 p.m. on a regular business day or else on the next business day. The Parties will accept notice by email transmission, which shall be deemed given upon verification of receipt if received before 5:00 p.m. on a regular business day or else on the next business day.

10. Approval, Consent, and Agreement.

Wherever this Agreement requires a Party's approval, consent, or agreement, the Party shall make its decision to give or withhold such approval, consent, or agreement in good faith, and shall not withhold such approval, consent, or agreement unreasonably or without good cause.

11. Independent Agencies.

The Parties render their services under this Agreement as independent agencies. None of either Party's agents or employees shall be agents or employees of the other Party.

12. Construction of Captions.

Captions of the sections of this Agreement are for convenience and reference only. The words in the captions in no way explain, modify, amplify, or interpret this Agreement.

13. Default.

In the event of any Party's default of any material obligation under this Agreement, the non-defaulting Party shall give the defaulting Party written notice of and a reasonable time to cure the default

14. Severability.

Should any part of this Agreement be determined to be unenforceable, invalid, or beyond the authority of either Party to enter into or carry out, such determination shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the Parties.

15. Successors and Assigns.

The terms and provisions of this Agreement shall extend to and be binding upon and inure to the benefit of any successor or assign of the Parties.

16. Governing Authority.

This Agreement shall be governed by the laws of the State of California.

17. Authorization.

Each person signing on behalf of a Party to this Agreement represents that he or she is duly authorized to do so by the Party he or she represents, and in signing this Agreement, each person binds such Party hereto.

**IN WITNESS HEREOF, the Parties have caused their authorized representative to execute this Agreement as of the Effective Date.**

CITY OF SEBASTOPOL

Signed by:  
By: Don Schwartz  
4EB87FD724BC48B...  
Don Schwartz, City Manager

COUNTY OF SONOMA

Signed by:  
By: Peter Bruland  
F636F5E5E5C74A4...  
Peter Bruland for  
M. Christina Rivera, County Executive

Attest

Signed by:  
By: Mary Gourley  
E295A57143F8473...  
Mary Gourley, City Clerk/ACM

Approved as to form

Signed by:  
By: Alex Mog  
66BDB79D572A4EB...  
Alex Mog, City Attorney

Approved as to form

Signed by:  
By: Robert Pittman  
832ECAD12681407...  
Robert Pittman, County Counsel