

MEASURE Y FUND FOR CHILDREN AND YOUTH IMPLEMENTATION POLICY

**City of Pomona
Implementation Policy
authorized by Section 4 of
Measure Y**

Measure Approved Date: 11-5-2024

Policy Approved Date:

1.0 Purpose

It is the purpose and intent of this Policy to implement the Fund for Children and Youth Measure approved by the voters of the City of Pomona on November 5, 2024. This Policy is adopted pursuant to the authority set forth in Section 4 of the Measure, which reads as follows: *Enabling Legislation. The City Council may pass enabling legislation consistent with this Article regarding any aspect of the fund implementation not addressed in this Act, including reporting requirements. The City Council shall adopt such legislation to be effective by October 1, 2025, and shall amend such legislation as necessary in the future.*

Consistent with the law, which requires the City of Pomona to fully enforce and implement a voter-approved measure, the City Council adopted this Policy by adoption of Resolution No. 2025-49. This Policy provides for the interpretation of the Measure, establishment of procedures, and reconciliation of the Measure and the law, all to ensure that the Measure is fully implemented without delay or legal challenge.

2.0 Background

In 1911, California voters amended the state Constitution to provide voters the power to enact initiatives and referenda. The courts will generally go to great lengths to protect the rights of citizens with regard to initiatives and referenda. The courts have described the right to initiative and referendum as a fundamental right the voters have reserved to themselves, which must be construed in favor of the voter. The right to adopt laws by initiative and referendum is “one of the most precious rights of our democratic process. It has long been our judicial policy to apply a liberal construction to this power wherever it is challenged in order that the right not be improperly annulled.” (*Associated Home Builders, Inc. v. City of Livermore* (1976) 18 Cal.3d 582, 591.) All presumptions will favor the validity of initiative and referenda measures. Initiative and referenda measures “must be upheld unless their unconstitutionality clearly, positively, and unmistakably appears.” (*Legislature v. Eu* (1991) 54 Cal.3d 492, 501.)

On May 15, 2023, the City received a Notice of Intent to Circulate a Petition and proposed initiative measure, as described above, from a group of Pomona residents

who are proponents of the measure.

Sections 904 and 1601(a) of the City's Charter provide that local initiative measures to amend the City Charter shall follow the procedures set forth in the California Elections Code, except where in conflict with the Charter or Municipal Code. There are no conflicting provisions in the Charter or Code; therefore, the Elections Code governs the City's initiative procedure for proposing charter amendments. In accordance with the Elections Code, the City Attorney's office prepared and sent a ballot title and summary of the Measure to the proponents on May 26, 2023. The proponents then had six months from receipt of the ballot title and summary to gather enough signatures to qualify the Measure for the ballot.

On November 20, 2023, the proponents submitted a signed petition to the City Clerk's Office. As is standard practice, the City Clerk's Office forwarded the signed petition to the Los Angeles County Registrar of Voters to verify the validity of the petition signatures.

On January 24, 2024, after County verification, the City Clerk's Office notified the proponents that the petition contains 12,948 valid signatures. While local initiative ordinance measures typically require only the valid signatures of 10 percent of the City's registered voters to qualify, Elections Code section 9255(c) sets a higher threshold for initiative charter amendment measures, at 15 percent of the City's registered voters. According to the latest official report, there are 74,017 registered voters in the City of Pomona, and 12,948 signatures represent more than 15% of that number. Therefore, this initiative charter amendment qualified for the ballot.

At the February 5, 2024 Council meeting, the City Council received the City Clerk's Certificate of Sufficiency of Initiative Petition certifying that the measure had obtained the required number of signatures. At that time, the City Council chose the option, under the Elections Code, to direct staff to prepare a financial analysis. Staff prepared an impartial and informational report analyzing the impact of the Measure on the City's finances, ability to provide public services, land use and development regulations, and the like. After presentation of the report, the Council placed the Measure on the November 5, 2024 Statewide and Municipal General Election ballot. The voters approved the measure. As a result, the City must implement the Measure.

3.0 POLICY

3.1 FUNDING

3.1.1 Annual Appropriation to the Fund as Set Forth in Section 1802

Section 1802 - Amount and Source of Funding.

Section 1802(j) states that the City shall set aside a portion of the annual actual unrestricted general purpose revenues of the City to be transferred to the Children and Youth Fund in the

amounts specified in the measure. The annual amount of actual unrestricted general purpose revenues are supposed to be calculated by the City Manager and must include all of the following sources of revenue received by the City: (1) Property Taxes, (2) General Sales and Use Taxes, (3) Utility Users Tax, (4) Property Transfer Tax, (5) Transient Occupancy Tax, (6) Fines, forfeitures and penalties, (7) Interest from general fund reserves, and (8) other revenues that the City can use for any lawful, municipal purpose. The City shall not define which revenues are to be considered unrestricted general purpose revenues in a manner inconsistent with the measure.

By law, the City may adopt development impact fees and various user fees, which must reflect the actual costs of services. Proposition 26, Proposition 218, and the Mitigation Fee Act (Government Code Section 66000) all identify various fees and changes for which the City must account for and ensure that they do not exceed the reasonable cost of providing the service or impact, unless approved by the voters as a tax. The user fees are currently in the General Fund. For tracking purposes, the city will separate accounts for these fees and will not include them in the calculation of the General Fund transfer to Measure Y. Examples of these amounts are: Cost recovery, charges for services, reimbursements, GASB entries, Intergovernmental revenues, permits and fees.

Every fiscal year during budget adoption, an estimated amount will be allocated in the budget for the General Fund transfer to the Youth and Children Fund. This amount will be transferred in quarterly installments, each equal to one-fourth of the estimated total, on July 1, October 1, January 1 and April 1. By October 31, amounts will be trued up based on actual unrestricted general fund revenues, excluding any revenues that are classified as cost recovery or those that reimburse the General Fund for the cost of providing services.

3.1.2 Separate Accounting for Administration and Evaluation Purposes as Set Forth in Section 1804

Section 1804 - Eligible Uses.

Section 1804(d) provides that each fiscal year a maximum of ten percent (10%) of the Children and Youth Fund can be used for costs related to administering the Children and Youth Fund, including staff support, basic infrastructure, support for the agencies administering the contracts, and overhead costs; and an additional amount of five percent (5%) to evaluate the results the use of the Fund.

Every fiscal year during budget adoption, an estimated amount will be allocated in the budget for the General Fund transfer to the Youth and Children Fund. This amount will be transferred in quarterly installments, each equal to one-fourth of the estimated total, on July 1, October 1, January 1 and April 1. By October 31, amounts will be trued up based on actual unrestricted general fund revenues, excluding any revenues mentioned above in Section 3.3.1.

3.2 APPLICATION TO ACCOUNTABILITY BOARD [Reserved for Later Adoption]

3.3 ESTABLISHMENT OF DEPARTMENT AND OPERATIONS PER SECTION 1807

3.3.1 Role of City Manager

Section 1807 - Creation of Department of Children and Youth.

The Department of Children and Youth shall be deemed a division within the City Manager's Office. This Department, through the City Manager, shall provide the Accountability Board with staff assistance as necessary to enable the Accountability Board to fulfill its functions and duties. The City Manager shall have the discretion to appoint a Staff Liaison, who, in addition to the Director, shall assist in preparing agendas, overseeing compliance with meeting notice requirements in the Ralph M. Brown Act, and recording minutes for all regularly scheduled Accountability Board meetings and subcommittee meetings.

Measure Y, the Charter provision creating the Department of Children and Youth, does not address operational issues related to employment laws and processes, internal purchasing requirements, decision-making policies, among others, that ensure the proper functioning of a city department within a City Charter that has created a Council-Manager form of government. However, Section 1807 states: "The Office shall operate under the auspices of the City Manager."

Measure Y also contains provisions which are in direct conflict with the Charter Council-Manager form of government. Notwithstanding these direct conflicts, this Policy will reconcile the differences with the primary goal of respecting the will of the voters and implementing Measure Y through the City's Chief Administrative Officer, the City Manager.

Section 603 of the City Charter reads as follows:

Sec. 603. - Powers and Duties.

The City Manager shall be the head of the administrative branch of the City government and shall be responsible to the Council for the proper administration of the City's affairs. Without limiting the generality of the foregoing sentence, the City Manager shall have the power and duty:

- (a) To appoint, and when necessary, to suspend or remove **any or all officers and department heads of the City**, except for elective officers and those officers and department heads whose appointment powers are vested in the Council. All such appointments and removals shall be subject to the approval of the Council before becoming effective. The performance of all officers and department heads appointed by the City Manager shall be reviewed by the City Manager at least once a year.
- (b) To serve as the Chief Personnel Officer of the City.
- (c) To prepare and submit annually to the Council the proposed operating budget and capital improvement program, and after adoption, to be responsible for their administration.
- (d) To prepare and submit to the Council, as of the end of each fiscal year and at such other times as directed by the Council, a comprehensive report regarding the City's administrative activities.
- (e) To keep the Council fully informed of the City's financial condition and future needs, and to make recommendations for Council consideration.

(f) To prepare and periodically review rules and regulations governing the contracting for purchasing, storing, distribution, use or disposal of all supplies, materials, equipment or other property or services required by the City or any office, department or branch of the City government, and to recommend such rules and regulations to the Council for adoption.

(g) To ensure that all State and federal laws pertaining to the City, the provisions of this Charter, and City ordinances are enforced.

(h) To prescribe such general administrative rules and regulations, consistent with this Charter and City ordinances, as the City Manager may deem necessary or proper for the general conduct of the administrative offices and departments.

(i) To attend all Council meetings, unless excused from attendance by the Council or inability to attend because of sickness, scheduled vacation, executive leave, or absence from the City on official business, and to participate in the deliberations of the Council but without the right to vote.

(j) To exercise and perform such other powers and duties as may be prescribed by this Charter or as may be delegated to or required of the City Manager by the Council, provided that such actions are **not inconsistent with the provisions of this Charter.**

The City Manager will implement Measure Y in a manner consistent with the Charter and the powers set forth above, demonstrating good faith in carrying out the will of the voters.

3.3.2 Hiring of Director and Other Department Staff

Charter Section 603(a) states that the City Manager shall “appoint, and when necessary, to suspend or remove, any or all officers and department heads of the City ...” Recognizing that Section 1807 has a conflicting provision which states that: “The Department shall be staffed by an Executive Director who is hired and evaluated by the Accountability Board and who is an employee of the City” this Policy will reconcile the differences to ensure implementation of the Measure. The City’s employee recruitment, hiring, and evaluation processes all comply with State law and are based on best practices in local government to protect the City and its employees. The City does not have policies or legal authority permitting the hiring of a “city employee” by anyone other than the City Manager. Recognizing that the intent of Measure Y is to provide for an independent Director of the Department of Children and Youth, the City will appoint and employ the Director in accordance with this Policy.

Hiring of Department Director

For the reasons discussed above in this Policy, the City Manager shall initiate the appointment process for the Department of Children and Youth’s first Director so that the Director can assist in forming the Department and creating the first Accountability Board. The City Manager shall comply with all existing personnel rules and procedures for creating the job description, securing City Council approval of the position, salary, and benefits, in a manner consistent with the process for creating and filling any new Director position.

The City Manager shall work with the Human Resources Director to create a memorandum outlining the process for evaluating the Director and incorporating the Measure Y-mandated involvement of the Accountability Board into the evaluation and future hiring processes. The memorandum shall also outline the process for disciplining or terminating the Director in a manner consistent with the City's employment rules and policies.

Hiring of Other Department Staff

Section 1807 of Measure Y states that other "staff shall be hired by the Executive Director as needed to perform the functions of the Department." Under the existing Charter provisions, employee policies and laws, no single Department Director can unilaterally hire their own staff. The City's existing personnel rules and policies must apply to all City employees. The Executive Director of the Children and Youth Department shall work cooperatively with the City Manager to hire additional staff, and the City Manager shall cooperate in good faith to ensure that adequate staffing levels are maintained, given the funding provided.

4.0 – 6.0 Reserved for Later Adoption

7.0 ETHICS AND CONFLICTS OF INTEREST [Reserved for Later Adoption]

8.0 AWARDING GRANTS [Reserved for Later Adoption]

9.0 RESOLVING POLICY CONFLICTS TO AVOID LEGAL CHALLENGES

The City Manager and City Attorney are legally required to ensure that Measure Y is implemented to carry out the will of the voters. This Policy is an example of the City's good faith in implementing Measure Y while also reconciling inconsistencies and legal conflicts with the City Charter and state laws. To ensure a collaborative process to shape Measure Y policy and resolve conflicts without legal challenges, the City will use the following process:

1. Any person or organization that has concerns about how the City is implementing Measure Y or this Policy may submit a letter of concern to the City Manager. The letter should provide a description of the concern, reference the section of Measure Y or the Policy which they believe is not being properly implemented, and provide examples or specific facts.
2. The City Manager shall assign a person to review the concern, contact the person who submitted the letter of concern, and prepare a written response.
3. If the person who submitted the letter of concern is not satisfied with the response, they may request an in-person meeting with the City Manager and City Attorney.
4. If the matter is not resolved following the meeting with the City Manager and City Attorney, the City Manager may request that the Mayor appoint an ad hoc committee of the City Council to review the matter.
5. If the matter is not resolved by the ad hoc committee, the City may, but is not required to, request that the matter be referred to outside legal counsel for review.

The intent of this process is to provide a collaborative conflict resolution process to ensure the implementation of Measure Y.

10.0 Not All-Inclusive

This Policy does not claim to have addressed all issues that may arise in the City's good faith efforts to implement Measure Y. In accordance with Section 4 of the Measure, the City Council may amend this Policy in the future.