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MEMORANDUM

DATE: June 8, 2023
TO: Honorable Chair Marie Bowman and Members of the Board of Directors
Interim Fire Chief Rebecca Ramirez
Rodeo Hercules Fire Protection District
FROM: Richard D. Pio Roda, District Counsel
RE: **Permissible Uses of Measure O funds**

BACKGROUND

In 2016, Rodeo Hercules Fire Protection District voters approved the levy of a special tax on parcels located within the District to fund the lawful expenses of the District as authorized by the Fire Protection District Law of 1987. This parcel tax is commonly known as Measure O.

The Board requested information on the permissible uses of Measure O funds.

DISCUSSION

Measure O is a special tax imposed on parcels within the District. This type of tax is commonly known as a parcel tax, since it applies to all parcels within the District but is not based on the value of the parcel. A parcel tax is an excise tax on the privilege of consuming special district services. Specifically, Measure O was enacted to fund services within the District.

The proceeds of Measure O, through an ordinance that was presented to voters as the operative legislation (see attached), must be placed in a special account or fund to be used solely for any lawful purpose permissible to Fire Districts pursuant to California Health and Safety Code section 13800 *et seq.* District voters approved Measure O, and that the funds generated from Measure O could be used for any lawful purpose permissible to Fire Districts including but not limited to enhancing the existing level of fire prevention, emergency fire protection and paramedic response services through increasing staffing levels to operate and maintain the District's fire stations, maintaining and when necessary replacing fire protection

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and lifesaving equipment and apparatus to optimal levels of function and performance, and to fund capital improvements. California law provides that revenue from any special tax collected to fund fire protection services “shall be used for the service for which it was imposed, and for no other purpose.”¹

Therefore, Measure O funds may legally be spent for any lawful purpose permissible under Cal. Health & Safety Code Section 13800 *et seq.*, **including but not limited to** [emphasis added] staffing costs (including payment of pensions, fringe benefits, and other post-employment benefits), fire equipment and apparatus, construction, rehabilitation, and modernization of capital improvements, and training, for staff and the Board.

RDP:RDP

5384129.1

¹ Gov. Code § 53978(e).

Rodeo-Hercules Fire Protection District - Use of Measure O funds

Richard D. Pio Roda, District Counsel

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How was Measure O passed?

AGENDA ITEM 2

- Parcel Tax on 2016 general election ballot
 - Excise tax imposed on each parcel of property within the District for the privilege of receiving District services.
 - 2/3 vote of the electorate
 - Board Resolution containing the ballot question
 - Ordinance

What can Measure O funds be used for?

AGENDA ITEM 2

“The proceeds of the special tax funding replacement measure imposed by this ordinance shall be placed in a special account or fund to be used solely for any lawful purpose permissible to Fire District’s pursuant to California Health and Safety Code section 13800 et seq., including but not limited to enhancing the existing level of fire prevention, emergency fire protection and paramedic response services through increasing staffing levels to operate and maintain the District’s fire stations, maintaining and when necessary replacing fire protection and lifesaving equipment and apparatus to optimal levels of function and performance, and to fund capital improvements.”

- Chapter 5. General Powers and Duties
 - Cal. Health & Safety Code Sections 13860-13879
 - Employees
 - Acquire property
 - Enforce Fire Codes
 - Enter property to preserve life or safety
 - Acquire equipment for fire protection purposes
 - Enter into mutual aid agreements

NOTES on General Powers and Duties

AGENDA ITEM 2

- Fire Code enforcement
 - Establish changes or modifications more stringent than Building Code related to fire and panic safety
- Code enforcement to correct or eliminate hazards
 - Chief or staff can issue orders, citations and seek abatement
 - Abatement of hazardous weeds and rubbish

- On or before June 30 → Adopt a preliminary budget
- On or after July 1, amounts in the preliminary budget, except obligations for fixed assets and new permanent employee positions, are deemed appropriated until final budget adoption.
- On or before October 1 → Adopt a final budget and establish the appropriations limit

Next Steps:

- Conduct an annual audit

- Board hires, evaluates and terminates the Fire Chief
 - Fire Chief hires, supervises, evaluates, and terminates all other District employees
- In coordination with the Fire Chief:
 - Approve MOUs with labor groups





ORDINANCE NO. 2016-1

AN ORDINANCE OF THE RODEO HERCULES FIRE PROTECTION DISTRICT TO AUTHORIZE THE LEVY OF A SPECIAL TAX FUNDING REPLACEMENT MEASURE TO FINANCE FIRE PROTECTION AND EMERGENCY SERVICES AND AUTHORIZING AN INCREASE IN THE APPROPRIATIONS LIMIT FOR THE RODEO HERCULES FIRE PROTECTION DISTRICT;

THE PEOPLE OF THE RODEO HERCULES FIRE PROTECTION DISTRICT DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Authority, Purpose and Intent.

Pursuant to the authority of Sections 13911 and 13913 of the California Health and Safety Code, and other applicable law, there is hereby levied and assessed a special tax by the Rodeo Hercules Fire Protection District on all parcels of real property in the Rodeo Hercules Fire Protection District for each fiscal year.

Section 2. Special Tax Imposed.

A special tax funding replacement measure for the purpose specified in Section 4 of this ordinance shall be imposed on all parcels of real property in the Rodeo Hercules Fire Protection District for each fiscal year, commencing with fiscal year 2017-2018. The maximum amount of the special tax for fiscal year 2017-2018 shall be \$216.00 per parcel. Beginning with fiscal year 2017-2018 and for each fiscal year thereafter, the maximum amount of the special tax shall increase by the lesser of (i) three percent or (ii) the percentage by which the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose Area published by the Bureau of Labor Statistics of the United States Department of Labor, or any successor to that index, increased in the twelve months prior to March of the calendar year in which the adjustment is made. In no event shall the special tax for any parcel for any year be less than the amount established for the preceding year. If or when applicable, for parcels divided by Tax Rate Area lines, the amount of the special tax for the portion of the parcel within Contra Costa County shall be calculated the same as set forth above. For properties wholly within Contra Costa County and divided by Tax Rate Area lines into multiple parcels, the property shall be taxed as a single parcel.

The records of the Contra Costa County Assessor as of March 1st of each year shall determine each parcel to be charged and the person or entity financially responsible for the calculation and payment of the special tax applicable to that parcel in the following fiscal year.

For the purposes of this ordinance, the term "parcel" shall mean a parcel of real property having a separate assessor's parcel number as shown on the last equalized assessment roll of Contra Costa County.

Section 3. Annual levy; Public Hearing.

The Board of Directors shall annually by an affirmative vote of at least a majority of its members establish the amount of the special tax levy, in an amount that does not exceed the maximum amount specified in Section 2 of this ordinance. The special tax funding replacement measure shall not be measured by value of the property.

The Board of Directors shall conduct a public hearing regarding the proposed annual levy of the special tax funding replacement measure during the budget hearing for the applicable year. Notice of the public hearing shall be published in accordance with District procedures at least ten (10) days prior to the hearing.

Section 4. Special Fund, Use of Tax Proceeds, Annual Report, District Formation of an independent 2016 Special Tax Funding Replacement Measure Oversight Committee

The proceeds of the special tax funding replacement measure imposed by this ordinance shall be placed in a special account or fund to be used solely for any lawful purpose permissible to Fire District's pursuant to California Health and Safety Code section 13800 et seq., including but not limited to enhancing the existing level of fire prevention, emergency fire protection and paramedic response services through increasing staffing levels to operate and maintain the District's fire stations, maintaining and when necessary replacing fire protection and lifesaving equipment and apparatus to optimal levels of function and performance, and to fund capital improvements.

The Fire Chief, or his designee, including but not limited to the District's chief fiscal officer, shall file an annual report with the Board. The annual report shall at a minimum, report upon the

following: (a) The amount of tax proceeds collected and expended; and (b) The status of any project required or authorized to be funded in accordance with this section.

The Board of Directors shall form and appoint members to an independent 2016 Special Tax Funding Replacement Measure Independent Oversight Committee who shall receive, review, and advise the Board upon the Annual Report. At a minimum, members of the Oversight Committee shall be residents or property owners within the District, and registered to vote.

Section 5. Collection.

The special tax replacement funding measure imposed by this ordinance shall be collected in the same manner, on the same dates, and shall be subject to the same penalties and interest as other charges and taxes fixed and collected by the County of Contra Costa on behalf of the Rodeo Hercules Fire Protection District. Said special tax replacement funding measure, together with all penalties and interest thereon, shall constitute a lien upon the parcel upon which it is levied until it has been paid, and said special tax, together with all penalties and interest thereon, shall, until paid, constitute a personal obligation to the Rodeo Hercules Fire Protection District by the persons who own the parcel on the date the tax is due.

Section 6. Amendment.

The Board of Directors shall be empowered to amend this ordinance by an affirmative vote of at least a majority of its members to carry out the general purposes of this ordinance, to conform the provisions of this ordinance to applicable state law, to modify the methods of collection, or to assign the duties of public officials under this ordinance.

In no event shall the Board of Directors amend this ordinance to increase the maximum amount of the special tax established in section 2 of this ordinance, unless approved by two-thirds of the voters voting thereon.

Section 7. Exemptions.

The special tax funding replacement measure shall not be imposed upon any parcel that is exempt from the special tax pursuant to any provision of the Constitution, California State law, or any paramount law. The special tax funding replacement measure shall not be imposed upon

any parcel owned and occupied by a person or persons 65 years of age or older. The special tax funding replacement measure shall not be imposed upon any parcel occupied by a person or persons financially responsible for paying the property tax upon the parcel who is 65 years of age or older. A qualified owner or occupant must file an application for the exemption with the District no later than January 31 annually. The Board of Directors by resolution may adopt exemptions to the special tax imposed by this ordinance.

Section 8. Appropriations Limit.

The appropriations limit of the Rodeo Hercules Fire Protection District established under Article XIII B, Section 6 of the California Constitution shall be increased by the proceeds received from the special tax funding replacement measure imposed by this ordinance.

Section 9. Exemption from CEQA

This Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The special tax authorized by this Ordinance is a special tax that can only be used to fund the projects, facilities, and services described in the Ordinance but does not approve any specific projects or services. As such, under CEQA Guidelines section 15378(b)(4), the special tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project or service that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have such effect, the District would undertake the required CEQA review for that particular project or service. Therefore, pursuant to CEQA Guidelines Section 15060, review of the Ordinance under CEQA is not required. Prior to commencement of any project or service funded by the special tax, any necessary environmental review required by CEQA shall be completed. The District shall perform CEQA analysis for the project prior to approving the project or service, if the project or service requires analysis under CEQA.

Section 10. Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or applications, and to this end the provisions of this ordinance are declared to be severable. The Board of Directors, and the

electorate by referendum, do hereby declare that they would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, parts or portions thereof, be declared invalid or unconstitutional.

Section 11. Effective Date.

This ordinance shall be adopted and become effective only if approved by two-thirds of the voters voting thereon, at an election to be held on November 8, 2016.


Section 12. Termination.

This Ordinance shall continue unless and until it is rendered null and terminated by a vote of the voters of the District. Notwithstanding the previous sentence, Section 5, relating to collection and enforcement of liens or obligations for the special tax procedures shall continue in full force and effect until all such collections have been completed.

Section 13. Attestation.

The Chairperson of the Board is hereby authorized to attest to the adoption of this ordinance by signing where indicated below.

I hereby certify that the foregoing ordinance was PASSED, APPROVED AND ADOPTED by the people of the Rodeo Hercules Fire Protection District voting on the 8th day of November, 2016.


Ernie Wheeler
Chairperson of the Board

**RODEO HERCULES FIRE PROTECTION DISTRICT
MEMORANDUM**

DATE: June 14, 2023
To: BOARD OF DIRECTORS
From: Rebecca Ramirez, Interim Fire Chief
Subject: Budget 101

BACKGROUND:

To give the general public a more transparent understanding of District finances, staff have prepared a presentation for review prior to adoption of the Fiscal Year 2023-2024 Preliminary Budget Adoption.

The Rodeo-Hercules Fire Protection District (RHFD) is a single service Special District governed by a 5-member Board of Directors and the Fire Protection District Law of 1987 (Health & Safety Code §13800, et seq.)

BUDGET PROCESS:

CA H&S § 13890 requires that on or before June 30th of each year, a district board shall adopt a preliminary budget with the final budget adoption occurring by September 30th. The budget is developed using a collaborative process with staff, Board ad hoc committee, and other stakeholders.

MAJOR REVENUE SOURCES:

The Contra-Costa County Auditor-Controller’s Office maintains the District’s funds, which are:

General Fund: *(Unrestricted- can be used for many things)*

General fund revenues are comprised of property taxes, two benefit assessments, miscellaneous revenues, and possible grant revenues.

Measure O Fund: *(Restricted- has rules regarding usage)*

Measure O is a special tax held in its own account, used in accordance with Ordinance 2016-01.

Capital Fund: *(Restricted- has rules regarding usage)*

The Capital account is reserved for funds allocated for capital improvements.

Hercules Developer Impact Fees: *(Restricted- has rules regarding usage)*

Rodeo Developer Impact Fees: *(Restricted- has rules regarding usage)*

Developer Fees are placed in their own accounts and used in accordance with Government Code §66000.

EXPENDITURES:

All expenditures by the RHFD are in furtherance of its Mission Statement, focusing on Health & Safety, Operations, and Personnel. The two reoccurring areas most often focused on are Personnel and Supplies/Services.

FUND BALANCES

The overall “fund balance” includes all unspent funds which remain at the end of the fiscal year, June 30th. It can be thought of as a savings account held in reserve. That fund balance is often further distributed into several “fund balances” which exist to essentially earmark and/or designate how certain money not included in the recurring budget (personnel and supplies/ services) will be spent. Some fund balances are held as reserve only, while others are intended to be utilized during a specific fiscal cycle.

Ideally the budget expenditure should not exceed budget revenues. The result is what is referred to as a balanced budget.