

**RODEO HERCULES FIRE PROTECTION DISTRICT
RESOLUTION NO. 2016-4**

RESOLUTION OF THE RODEO HERCULES FIRE PROTECTION DISTRICT CALLING AN ELECTION TO BE HELD ON NOVEMBER 8, 2016, FOR VOTER CONSIDERATION OF A LOCAL FIRE PROTECTION AND EMERGENCY SERVICES SPECIAL TAX FUNDING REPLACEMENT MEASURE ORDINANCE, FOR THE CONTINUED MAINTENANCE OF LOCAL FIRE PROTECTION AND EMERGENCY RESPONSE SERVICES; ESTABLISHING POLICIES AND PROCEDURES IN CONNECTION WITH SUCH AN ELECTION; REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF CONTRA COSTA TO CONSOLIDATE THE DISTRICT'S ELECTION WITH THE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2016; REQUESTING CERTAIN SERVICES OF THE REGISTRAR OF VOTERS OF CONTRA COSTA COUNTY WITH RESPECT TO THE CONSOLIDATED GENERAL ELECTION; AND PROVIDING FOR SUBMITTAL OF BALLOT ARGUMENTS AND REBUTTALS AND AUTHORIZING THE FILING OF AN IMPARTIAL ANALYSIS

RECITALS

WHEREAS, for the better part of the last seven years the Rodeo Hercules Fire Protection District has seen significant loss of revenue, primarily due to loss of property value in the merged City of Hercules redevelopment area, involuntary tax shifts and reassessment of the Phillips 66 Refinery. Revenue to the Fire District is primarily derived from property based sources, and is used to support emergency response, prevention and support activities within the Fire District; and

WHEREAS, currently state law defines the type and level of revenue that is available to special districts to support fire protection and emergency medical services. Cities and counties exercise the broad powers of taxation that are granted to general-purpose governments by the California Constitution. Special districts, however, are limited to revenue sources specifically authorized by the Legislature. Fire protection districts are an autonomous unit of local government with sovereignty over internal fiscal issues but are restricted by law to specific revenue sources. Fire districts have specifically enumerated police powers but limited authority to raise revenue and collect fees to cover the actual costs of providing service or the impact of additional service needs; and

WHEREAS, in 1978 California voters passed Proposition 13. Prop. 13 reduced property tax rates on homes, businesses, and farms by about 57 percent. According to the State Constitution, property tax rates may not exceed 1 percent of the property's market value and valuations may not grow by more than 2 percent per annum unless the property is sold. At the time of sale the property value is re-assessed. Proposition 13 also requires that all state tax rate increases must be approved by a two-thirds vote of the Legislature and local tax rates must be approved by a vote of the people. Since the passage of Proposition 13, the Fire

District has relied increasingly on other revenue sources to finance fire protection and emergency response services; and

WHEREAS, State Law determines the formula allocation of property tax revenue. Following the passage of Proposition 13, the Legislature adopted temporary measures to reallocate the reduced property tax revenue among counties, cities, and special districts and to provide some fiscal relief to local agencies with drastically reduced revenues. In what became known as the *bailout bill*, Senate Bill 154 allocated post-Proposition 13 property tax revenues on a *pro-rata* basis. For example, if a special district received 25 percent of the property tax revenue within a tax rate area prior to 1978, then following Proposition 13, the district would continue to receive 25 percent of the reduced revenue within the tax rate area. Senate Bill 154 also provided additional funds to special districts for other programs. Assembly Bill (AB) 8 provided a permanent solution for distributing property tax revenues. AB 8 adopted the allocation formula contained in Senate Bill 154 (SB 154); however, rather than providing the block grants of SB 154, AB 8 increased the *share* of property tax revenue allocated to local governments by shifting property tax revenue away from schools. School losses were back-filled from the State's general fund; and

WHEREAS, in the mid-1980s, the Legislature required counties to shift some of their property tax revenue to cities that had never received property tax revenue or had relatively low levels of property tax revenue. In FY 1992-93 and again in FY 1993-94, the Legislature *permanently* shifted property tax revenues from counties, cities, and special districts back to schools in roughly the same proportion as the benefit received under AB 8. In November 2004, state voters approved Proposition 1A, which establishes a constitutional amendment protecting local property tax revenue. Property tax revenue cannot be reallocated by the State unless approved by two-thirds vote of the Legislature and the Governor declares a *significant financial hardship*. The revenue shifts are considered loans; and

WHEREAS, in 1992, the State of California found itself in a serious deficit position. To meet its obligation to fund education at specified levels under Proposition 98, the state enacted legislation that shifted partial financial responsibility for funding education to local government (cities, counties, and special districts). The state instructed county auditors to shift allocation of local property tax revenues from local government to *educational revenue augmentation funds* (ERAF), directing specified amounts of city, county, and other special district property taxes be deposited into these funds to support schools; and

WHEREAS, Proposition 172, referred to as the Local Public Safety Protection and Improvement Act of 1993, passed shortly after the dramatic Laguna Fire in Orange County. This measure provides a dedicated revenue source for public safety purposes. Revenue may be distributed to cities and counties for law enforcement services, fire services, district attorneys, and corrections. In Contra Costa County, during fiscal year 2014/15 this tax measure generated approximately \$71 million. Special district fire agencies in Contra Costa County do not receive any funding from Proposition 172; and

WHEREAS, the majority funding source for the Fire District is property tax revenue. Each local government agency shares a portion of this revenue based on an established percentage or allocation factor. Geographically these are referred to as tax rate areas. The Fire District receives 95 percent of its revenue from property taxes and assessments. Additional taxes or assessments require voter or landowner approval. The percentage of approval required

depends on the type of funding mechanism sought. California Constitution Article XIII A (Prop. 13) limits the property tax to a maximum 1 percent of assessed value. The assessed value of property is capped at the 1975-1976 base year rate plus inflation or 2 percent per year. Property tax declines in value are reassessed at the lower market value. Property is reassessed to current full value upon a change in ownership (with certain exemptions). Property tax revenue is collected by counties and allocated amongst cities, counties, school districts, and special districts. The share of property tax revenue allocated depends on a variety of factors, including historical allocations of tax dollars, the number of taxing entities in a tax rate area, etc.; and

WHEREAS, after property tax, special taxes are the principal revenue source for funding fire protection operations. Section 4, Article XIII A of the California Constitution authorizes cities, counties, and special districts to impose non-ad valorem special taxes with two-thirds approval of the voters. The primary alternative that fire protection districts can use to generate revenue requires two-thirds approval of the voters. Proposition 62 reinforced the two thirds requirement in 1986 – a statutory initiative intended to close Proposition 13 loopholes, and again in 1996, by Proposition 218, which created the *Right to Vote on Taxes Act*; and

WHEREAS, benefit assessments are used by local governments to pay the costs of providing fire suppression, flood control and other services to a particular community. These charges are based on the concept of assessing only those properties that directly benefit from the services or improvements financed. These assessments are allowable for fire districts under California Health and Safety Code § 13800. Because these charges are based on specific benefit, they are not subject to Proposition 13 limitations, but are subject to Proposition 218. The Fire District currently has three property owner based benefit assessments (two of which pre-date Prop. 218's requirements and one which was approved under Prop. 218, but pursuant to settlement of litigation, expires in 2017), which amount to over 20% of the overall ongoing revenue to the Fire District; and

WHEREAS, redevelopment agencies also divert District property tax revenues. When local governments created redevelopment project areas, the growth in property tax revenue within the project area was diverted to the redevelopment agency rather than being shared by other local jurisdictions. Redevelopment agencies use the revenue from property tax growth to finance improvements intended to revitalize the project area. After the redevelopment work is complete – typically in 30 to 40 years – the growth in property tax revenues is reallocated among other local governments in the area. In 2012, the State of California eliminated Redevelopment Agencies and set about their dissolution to effectively restore funds to the other local public agencies. The Fire District currently loses over \$800,000 dollars annually to the former City of Hercules redevelopment agency and an additional \$750,000 of annual pass-through is subordinated to the City of Hercules where it sits with the County Auditor-Controller in a special account, and is tracked on the Successor Agency to the City of Hercules Redevelopment Agency ROPS (Recognized Obligation Payment Schedule); and

WHEREAS, given these State takeaways and with funding scheduled to expire, the Rodeo Hercules Fire Protection District needs a funding replacement to save local fire stations and maintain and protect fire protection and emergency response services to minimize loss of life and property value in the event of fire and medical emergencies; and

WHEREAS, this funding replacement if approved by voters simply replaces essential funding to maintain our local Fire Protection and Emergency Medical Services; and

WHEREAS, most 9-1-1 emergencies in our community are medical, such as heart attacks and strokes and this funding replacement measure if enacted would help residents receive emergency medical care quickly; and

WHEREAS, without a funding replacement response times will increase; and

WHEREAS, with an oil refinery, freeway, and railway in Rodeo-Hercules Fire Protection District, we are at risk of experiencing an incident, such as an explosion that could have thousands of victims; and

WHEREAS, if adopted by voters this funding replacement would help maintain both of our fire stations and professional firefighters essential to quality response in these types of emergencies; and

WHEREAS, national best practice standards recommend 39 firefighters and 3 fire stations for a community our size and with only 6 on-duty firefighters at any given time and 2 fire stations, our Fire District is falling short of this standard; and

WHEREAS, without a funding replacement the Fire Protection District will only be able to afford 3 on-duty firefighters, pushing the District even further away from best practice standards for a community our size; and

WHEREAS, approving the associated ordinance establishing the tax funding will maintain and protect fire protection and emergency response services in the Rodeo Hercules Fire Protection District; and

WHEREAS, approving the associated ordinance establishing the tax will help ensure rapid response times for fire and emergency services are maintained; and

WHEREAS, the District wishes to continue to address fire safety and emergency response priorities that the public has identified such as maintaining 911 emergency response times, firefighter/paramedic staffing levels, maintaining fire protection and lifesaving equipment and keeping both of the District's fire stations open full time; and

WHEREAS, if the voter-approved funding is not approved, the District's 911 emergency response times may be detrimentally affected because of reduced staffing, it will be more difficult to maintain fire protection and lifesaving equipment to optimal levels and the District will likely have to close one of the two fire stations; and

WHEREAS, approving the ordinance establishing the tax will require independent financial audits and yearly reports to the community to ensure that all funds are spent as locally promised; and

WHEREAS, approval of the ordinance will ensure that all money raised will be utilized specifically for local fire protection and paramedic response services; and

WHEREAS, if approved by the voters, Measure ___ funds will remain in the Rodeo Hercules Fire Protection District and cannot be taken away by the State; and

WHEREAS, in an effort to assure that essential fire protection and paramedic response services continue to be provided to citizens at a necessary and minimum level and additional funding be provided for maintaining fire protection and lifesaving equipment, and staffing levels are maintained to keep the District's two fire stations open full-time, the Board of Directors directed Staff and the General Counsel to prepare a proposed ordinance ("Ordinance") providing for the RODEO-HERCULES FIRE PROTECTION DISTRICT SAVE LOCAL FIRE STATIONS MEASURE, for consideration by the voters on the November 8, 2016 ballot; and

WHEREAS, the Board of Directors desires that the Ordinance be submitted to the voters as a ballot measure for consideration at a Consolidated General Election on November 8, 2016, in accordance with the provisions of this resolution; and

WHEREAS, the Board of Directors recognizes the need to authorize the expenditure of additional revenues for the purpose of paying for staff time, attorneys' fees, consulting services, and for reimbursing the County for including the Ordinance in the consolidated General Election for November 8, 2016; and

WHEREAS, on June 8, 2016, and August 10, 2016 the Board of Directors adopted Resolution Nos. 2016-1 and 2016-4 by which, among other things, the District called and ordered a Consolidated General Election to be held on Tuesday, November 8, 2016, for the purpose of electing two Board members of the Board of Directors and for placing the LOCAL FIRE PROTECTION AND EMERGENCY SERVICES SPECIAL TAX FUNDING REPLACEMENT MEASURE ORDINANCE onto the ballot and by which the District requested the Board of Supervisors of the County of Contra Costa (the "Board of Supervisors") to consolidate that General Election with the General Election on November 8, 2016, and by which the District requested the Board of Supervisors to issue instructions to the Registrar of Voters of the County of Contra Costa (the "Registrar of Voters") to provide specified services to the District including any and all steps necessary for the holding of the consolidated election; and by which the Board of Directors authorized reimbursing Contra Costa County based on Contra Costa County's established consolidation rate; and

WHEREAS, California Elections Code sections 9281 through 9287 establish procedures for filing arguments in favor of a ballot measure, and filing rebuttal arguments; and

WHEREAS, California Elections Code Section 9313 authorizes the filing by the County Counsel of an impartial analysis regarding ballot measures proposed by special districts; and

WHEREAS, on November 6, 1996, the voters of California approved Proposition 218, which added Articles XIIC and D to the California Constitution; and

WHEREAS, Article XIII C, section 2(d) of the California Constitution requires that any special tax must be approved by a two-thirds vote of the voters voting on the issue of the imposition of the tax; and

WHEREAS, based on all of the information presented at the August 10, 2016 meeting of the Board of Directors, both written and oral, including the staff reports, minutes, and other relevant materials, the Board of Directors finds that under CEQA Guidelines 15060(c)(2) and 15378, subdivisions (2) and (4) of subdivision (b), this tax does not constitute a project under CEQA and therefore review under CEQA is not required.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Rodeo Hercules Fire Protection District that:

SECTION 1. The foregoing recitals are true and correct and are hereby incorporated by reference.

SECTION 2. The Board of Directors does hereby submit for adoption by the qualified voters of the Rodeo Hercules Fire Protection District at the General Election of November 8, 2016, the following question:

<p>RODEO-HERCULES FIRE PROTECTION DISTRICT SAVE LOCAL FIRE STATIONS MEASURE. To prevent closing local fire stations, maintain local fire protection/emergency services, rapid 9-1-1 emergency response times, firefighter/paramedic staffing levels, and lifesaving rescue equipment, shall Rodeo-Hercules Fire Protection District replace an expiring property assessment with an \$18 monthly parcel tax to maintain stable local funding until ended by voters, that cannot be taken by the State, providing \$2,500,000 annually, exempting seniors, with citizen oversight, independent annual audits, all funds staying local?</p>	<p>YES</p>	
	<p>NO</p>	

SECTION 3. The full text of the proposed measure to be submitted to the voters is attached as Exhibit A (the "Measure") hereto and shall be made available to the public upon request. If two-thirds of the qualified voters voting on the Measure vote in favor of it, the Measure shall be deemed adopted and shall be effective upon its adoption. Revenue from the tax would be used only for fire protection programs, as described in Exhibit A. The proposed tax is a tax on real property, with flat rates by property type, not based on the value of property, as set forth in Exhibit A. The tax would be in effect until ended by the voters. The Measure would authorize the District to request that the Contra Costa County Treasurer-Tax Collector collect the tax with regular property tax.

SECTION 4. The Board of Supervisors of Contra Costa County is hereby requested to consent and agree to the consolidation of the General Election described in this Resolution with the General Election on Tuesday, November 8, 2016, and to issue instructions to the Contra Costa County Registrar of Voters to take any and all steps necessary for the holding of the Consolidated General Election. This request is made pursuant to California Elections Code section 10403, and the Board of Directors acknowledges that the consolidated election will be held and conducted in the manner prescribed in California Elections Code Section 10418.

SECTION 5. The Board of Supervisors of Contra Costa County is hereby requested to permit the Contra Costa County Registrar of Voters to provide such services as may be necessary to properly and lawfully hold and conduct a Consolidated General Election in the territory of the District on November 8, 2016, pursuant to this Resolution, including but not restricted to the providing and printing of ballots and polling place cards, election supplies, voting booths, flags, registration lists and any other materials and services required to lawfully conduct the election. The District recognizes that additional costs will be incurred by the County by reason of this Consolidated General Election, and the District agrees to reimburse the County based on the County's established rates. This request is made pursuant to California Elections Code section 10002.

SECTION 6. All arguments submitted for and against the measure, as well as all rebuttals shall be done and printed in accordance with Elections Code sections 9316 and 9317. The dates by when arguments submitted for, and against the measure, as well as all rebuttals, are set by the District elections official, in coordination with the Contra Costa County Registrar of Voters.

SECTION 7. In accordance with Elections Code section 9313, the County Counsel is requested to file an impartial analysis of the measure, not to exceed 500 words, showing the effect of the measure on the existing law and the operation of the measure.

SECTION 8. (a) The District elections official is directed to file a certified copy of this Resolution with the Board of Supervisors of Contra Costa County and the Contra Costa County Elections Department. The District elections official is hereby authorized and directed to take all steps necessary to place the measure on the ballot.

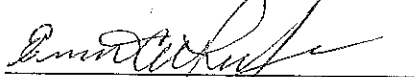
(b) In all particulars not recited in this Resolution, and except as provided for in Elections Code sections 10403 and 10418, the election shall be held and conducted as provided by law for holding consolidated general elections.

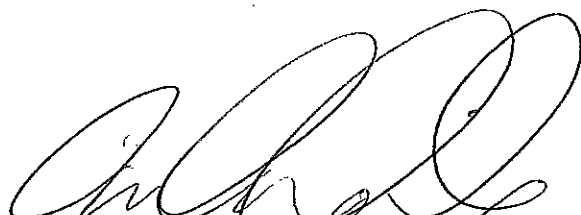
SECTION 11. The Acting Fire Chief is authorized to make all approvals, expend funds, enter into any agreements, and take any and all actions necessary or appropriate to carry out and implement the terms of this Resolution and to administer the District's obligations, responsibilities and duties to be performed herein.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Rodeo Hercules Fire Protection District at a regular meeting held on the 10th day of August 2016, by the following vote:

AYES:	5
NOES:	0
ABSENT:	0
ABSTAIN:	0

ATTEST:


Ernie Wheeler, Chairperson


Andrew Gabriel, Board Secretary