

City of Hercules Finance Commission
Measure B and Measure C Annual Report
Fiscal Year Ending June 30, 2019

Purpose

This is the Annual Report by the Finance Commission as the Oversight Committee for Measure B - Transactions and Use Tax Revenues (originally adopted as Measure O in June 2012) and Measure C - Utility Users Tax Rate Revenues (originally adopted as Measure A in June 2013). This report fulfills the Finance Commission requirements specified in City of Hercules Municipal Code to:

- Provide oversight under Title 8 (Finance Revenue and Taxation), Chapter 9 (Temporary Transaction and Use Tax).
- Provide oversight under Title 8 (Finance Revenue and Taxation), Article 4 (Continuation of Increase to Utility Users Tax Rate).

Conclusions

Measure B:

For Fiscal Year ending June 30, 2019, local add-on half cent (0.50%) transaction and sales tax revenues approved by Hercules voters were spent in accordance with the voter approved Measure O adopted in June 2012 and subsequently extended by the voter approved Measure B adopted November 2015. Measure B would retain the half cent (0.50%) add-on until such time as the City Council determines it is no longer necessary.

Henceforth in this document, we will use Measure B to reference this voter approved measure.

Measure C:

For Fiscal Year ending June 30, 2019, incremental two percent (2%) Utility User Tax (UUT) funds approved by Hercules voters were spent in accordance with the voter approved Measure A adopted in June 2013 and subsequently extended by the voter approved Measure C adopted November 2015.

The City of Hercules established a UUT of six percent (6%) which will expire on January 1, 2025. In 2013 voters approved measure A which established a two percent (2%) increase to the UUT to a total of eight percent (8%) which would expire in 2018. In 2015 voters approved measure C which would extend the two percent (2%) UUT increase until January 1, 2025.

Henceforth in this document, we will use Measure C to reference this voter approved measures.

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Recommendations

- Recommend that the incremental sale and transaction use tax provided for in Measure B be retained since the City of Hercules has not yet achieved long term financial stability with adequate financial reserves.
- Recommend that the incremental Utility User tax provided for in Measure C be retained since the City of Hercules has not yet achieved long term financial stability with adequate financial reserves.
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- Monitoring of revenue from Measures B and C shall become a part of every regularly scheduled meeting of the Finance Commission.

Reporting Period and Scope

This annual report covers the Fiscal Year ending June 30, 2019.

This report focuses on the General Fund because this fund provides the funding for the concerns expressed on the Measure B and Measure C ballot measures.

Actions Taken

The Finance Commission provided Oversight for Measure “B” and Measure “C” by the following actions:

1. Met on the dates listed below.
 - a. Two meetings in 2020: January 15, February 19.
 - b. Six meetings in 2019: March 21, May 20, June 17, July 17, November 20, December 9.
2. Reviewed the Budgets, Financial Reports and variance analyses for the Fiscal Year ending June 30, 2019.
3. Reviewed periodic Long-Term Forecasts and Working Cash Balance reports prepared by City of Hercules Finance staff.
4. Reviewed City of Hercules audited Annual Financial Reports for the fiscal years ending June 30, 2019.
5. Reviewed CliftonLarsonAllen, LLP report on “Measure B – Transaction and Use Tax Revenues, Agreed-Upon Procedures”, November 21, 2019.
6. Reviewed CliftonLarsonAllen, LLP report on “Measure C – Utility Users Tax Rate Revenues – Agreed-Upon Procedures”, November 21, 2019.
7. Formed a sub-committee to develop this report.

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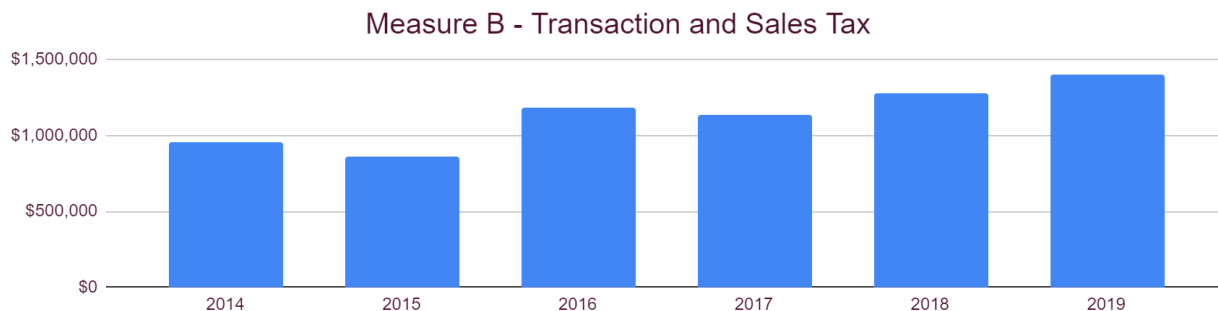
Findings

Measure B:

Measure B Transaction and Use Tax Revenue receipts are summarized as follows:

- Fiscal Year 2014 and Fiscal Year 2015 were based on Gallina, LLP reports on Agreed Upon Procedures – Measure B for the periods July 1, 2012 through June 30, 2015
- For periods July 1, 2016 through June 30, 2018 were based on CliftonLarsonAllen, LLP report on Agreed Upon Procedures – Measure O for the period ending June 30, 2016 and Agreed Upon Procedures- Measure B for the period ending June 30, 2017 and June 30, 2018.
- For period July 1, 2018 through June 30, 2019 is based on CliftonLarsonAllen, LLP report “Measure B – Transaction and Use Tax Revenues, Agreed-Upon Procedures”, November 21, 2019.

Fiscal Year	Actual Received Per General Ledger
Fiscal Year 2014 (ending June 30, 2014)	\$952,255
Fiscal Year 2015 (ending June 30, 2015)	\$863,323
Fiscal Year 2016 (ending June 30, 2016)	\$1,181,605
Fiscal Year 2017 (ending June 30, 2017)	\$1,130,251
Fiscal Year 2018 (ending June 30, 2018)	\$1,275,479
Fiscal Year 2019 (ending June 30, 2019)	\$1,403,874



Transaction and Use Tax revenue received in Fiscal Year 2019 under Measure B has been properly collected and paid into the General Fund as required per Ordinance 470 Section 8.9.12 “Use of Tax Proceeds” which states that “All proceeds of the tax levied and imposed under this Article shall be paid into the general fund for use by the City of Hercules.” This conclusion is based on the Finance Commission’s review of the City’s audited Annual Financial Reports, the Quarterly Financial Statements, and the CliftonLarsonAllen, LLP’s report “Measure B – Transaction and Use Tax Revenues, Agreed-Upon Procedures”, November 21, 2019, which states that proceeds of taxes

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levied and confirmed under Measure B were paid into the City's General Fund for use by the City with no exceptions.

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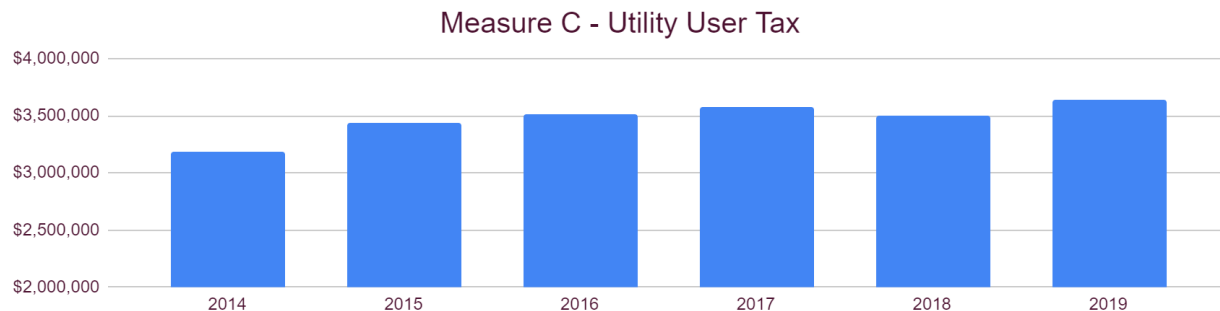
Findings (cont)

Measure C:

Measure C Utility Users Tax (UUT) Rate Revenues are summarized as follows:

- For the periods July 1, 2013 through June 30, 2015 based on Gallina LLP's reports on Agreed Upon Procedures for Measure A
- For FY 2016 the CliftonLarsonAllen, LLP's report "Agreed-Upon Procedures Measure A – Utility Users Tax Rate Revenues, June 30, 2016"
- For FY 2017 and 2018 "Agreed Upon Procedures Measure C- Utility Users Tax Rate Revenues, June 30, 2017 and June 30, 2018"
- For period July 1, 2018 through June 30, 2019 is based on CliftonLarsonAllen, LLP report on Agreed Upon Procedures – Measure C for the period ending June 30, 2019.

Fiscal Year	Actual UUT with Measure C	Estimated UUT w/o Measure C	Increase in Revenue due to Measure C
Fiscal Year 2014 (ended June 30, 2014)	\$3,182,013	\$2,201,950	\$980,063
Fiscal Year 2015 (ended June 30, 2015)	\$3,439,914	\$2,163,601	\$1,276,313
Fiscal Year 2016 (ended June 30, 2016)	\$3,515,565	\$2,224,000	\$1,291,565
Fiscal Year 2017 (ended June 30, 2017)	\$3,576,053	\$2,306,607	\$1,269,446
Fiscal Year 2018 (ended June 30, 2018)	\$3,502,264	\$2,219,720	\$1,282,545
Fiscal Year 2019 (ended June 30, 2019)	\$3,642,120	\$2,310,030	\$1,332,091



Utility Users Tax revenue received under Measure C has been properly collected and paid into the General Fund per Ordinance 481, Section 8-8.402 "Use of Additional Tax Proceeds" which states that "All proceeds of the tax levied and imposed under this Article shall be paid into the general fund for use by the City of Hercules". This conclusion is based on the Finance Commission's review of the City's audited Annual Financial Report for the Fiscal Year ending June 30, 2019, and CliftonLarsonAllen, LLP's report "Measure C – Utility Users Tax Rate Revenues – Agreed-Upon Procedures", November 21, 2019.

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Findings (cont)

Effect on General Fund:

The General Fund had a surplus in Fiscal Years ending June 30, 2014-June 30, 2019 as shown by the Annual Reports for each respective year.

	2014	2015	2016	2017	2018	2019
General Fund Revenue	\$12,638,059	\$13,573,615	\$14,018,112	\$14,859,520	\$16,490,956	\$17,563,562
General Fund Expenses	\$11,200,782	\$10,213,252	\$11,046,540	\$11,784,637	\$12,929,170	\$14,615,734
Surplus	\$1,437,277	\$3,360,363	\$2,971,572	\$3,074,883	\$3,561,786	\$2,947,828

Measure B and Measure C revenues increased revenue to the General Fund starting in Fiscal Year 2014.

The following is a summary for the fiscal years ending June 30, 2014 through June 30, 2019:

Revenue Source	Actual FY					
	2014 ^{2,3}	2015 ^{2,3}	2016 ^{2,3}	2017 ^{4,5}	2018 ^{4,5}	2019 ^{6,7}
General Fund	\$10,844,803	\$11,588,959	\$11,544,942	\$12,459,823	\$13,883,386	\$14,827,597
Measure B	\$952,256	\$863,323	\$1,181,605	\$1,130,251	\$1,275,479	\$1,403,874
Measure C	\$841,000	\$1,121,333	\$1,291,565	\$1,269,446	\$1,332,091	\$1,332,091
Total ¹	\$12,638,059	\$13,573,615	\$14,018,112	\$14,859,520	\$16,490,956	\$17,563,562

Revenue Source	Actual FY					
	2014 ^{2,3}	2015 ^{2,3}	2016 ^{2,3}	2017 ^{4,5}	2018 ^{4,5}	2019 ^{6,7}
General Fund	85.8%	85.4%	82.4%	83.9%	84.2%	84.4%
Measure B	7.5%	6.4%	8.4%	7.6%	7.7%	8.0%
Measure C	6.7%	8.3%	9.2%	8.5%	8.1%	7.6%
Total ¹	100%	100%	100%	100%	100%	100%

Notes to tables above:

1. Total General Fund Revenue per audited Financial Statements for each year.
2. Measure B Transactions and Use Tax Revenues per Gallina (FY14-15) and CliftonLarsonAllen (FY16) agreed upon procedures report for Measure O.
3. Measure C Utility Users Tax Rate Revenues per Gallina (FY14-15) and CliftonLarsonAllen (FY16) agreed upon procedures report for Measure A.
4. Measure B revenue based on agreed upon procedures report for Measure A or Measure C for each respective year.
5. Measure C revenue based on agreed upon procedures report for Measure O or Measure B for each respective year.
6. Measure B revenue based on CliftonLarsonAllen, LLP report on "Measure B – Transaction and Use Tax Revenues, Agreed-Upon Procedures", November 21, 2019.
7. Measure C revenue based on CliftonLarsonAllen, LLP report on "Measure C – Utility Users Tax Rate Revenues – Agreed-Upon Procedures", November 21, 2019.

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Findings (cont)

Without the Measure B or Measure C revenues, the City would have had a deficit in Fiscal Year 2014 and would have had much smaller surpluses for the Fiscal Years 2015 through 2019.

The following is a summary for Fiscal Years ending June 30, 2014 to June 30, 2019 if Measure B and C Revenues were excluded.

General Fund	Actual FY					
	2014	2015	2016	2017	2018	2019
Revenue (excluding Measures B & C)	\$10,844,803	\$11,588,959	\$11,544,942	\$12,459,823	\$13,883,386	\$14,827,597
Expenditures	\$11,200,782	\$10,213,252	\$11,046,540	\$11,784,637	\$12,929,170	\$14,615,734
(Deficit) / Surplus	\$(355,979)	\$1,375,707	\$498,402	\$675,186	\$954,216	\$211,863

The Annual Financial Report for the Fiscal Year ending June 30, 2019 summarized the objectives of the General Fund.

“General Fund - This fund is used to account for all revenue and expenditures necessary to carry out basic governmental activities of the City that are not accounted for through other funds. For the City, the General Fund includes such activities such as police, planning, engineering, public works, operations and maintenance, and legal and administrative services”.

The General Fund provides the funding for the issues expressed in the Measure “O” and Measure “A” ballot language:

- Measure O (MeasureB):** "Local Temporary Emergency Funding Measure. To address Hercules' Fiscal Emergency, stabilize city finances, offset budget shortfalls/the impact of State budget cuts on local services, prevent reductions to the number of police officers/crime investigators, protect/maintain crime prevention, childcare, youth sports and recreation programs and other general City services, shall the City of Hercules establish a 1/2 cent sales tax legally ending after 4 years.
- Measure A (Measure C):** “City of Hercules Fiscal Accountability/Services Protection Measure. To restore Hercules to financial stability, enhance fiscal accountability, continue to maintain our own local Police Department, and prevent drastic cuts to neighborhood police officers, youth/senior programs, and other services, shall Hercules modernize its utility users tax with equal treatment of taxpayers regardless of technology, increase the rate by 2% for 5 years, maintain current low-income exemptions, with citizens’ oversight, independent audits, and local control of revenues.”

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Findings (cont)

Based on the impartial ballot analysis by the City Attorney, Measure “O” did not limit use of Measure “O” funding to a specific purpose:

“Because Measure O does not limit the use of tax revenue to a specific purpose, the proposed tax is a general tax, requiring a majority vote (approval by more than fifty percent (50%) of City voters voting in the election) for passage. Therefore, the City shall use the funds for a variety of purposes, including but not limited to addressing the City's Fiscal Emergency; increasing police officer staffing, which is below Recommended Safety Levels; maintaining current levels of emergency services; providing additional funding for neighborhood police patrols, emergency response times, crime prevention and investigation resources; earthquake preparedness; after-school programs for children and teens; senior services; and parks.”

Based on the impartial ballot analysis by the City Attorney, Measure “A” did not limit the Measure “A” funding to a specific purpose:

“Because Measure A does not limit the use of tax revenue to a specific purpose, the City may use the funds for a variety of purposes, including but not limited to maintaining financial stability and accountability; maintaining the Hercules Police Department; maintaining neighborhood police patrols, improving 9-1-1 response times; expanding neighborhood crime prevention programs; attracting business to Hercules; and preventing cuts to street maintenance.”

The City Council approved the City of Hercules budget for Fiscal Year 2019. However, the budget for Fiscal Year 2019 did not include any specific priorities for the use of Measure B or Measure C funds.

The City of Hercules increased its balance in the Fiscal Neutrality Fund to \$3,883,282 from June 30, 2018 to June 30, 2019. This balance as of June 30, 2019 equals 13.5% of the Final Total Expenditures for Fiscal Year ending June 30, 2019 of \$28,671,900.

Finance Commission Members:

Zania Harris, Chair, MS-HR, MPA

Lori Tretasco, Vice-Chair

Diana Galieva

Edward Ulle

Finance Commission Measure B and Measure C Sub-Committee:

Diana Galieva

Edward Ulle

Report approved by the Finance Commission on Sept. 16, 2020

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Appendices

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Appendix 1: Measure “O” Background

On July 24, 2012, Measure O, “Transactions and Use Tax Revenues” was passed by a majority vote of the City of Hercules and the Hercules City Council passed, approved and adopted Ordinance 470 amending the Hercules Municipal Code by establishing a four year temporary transactions and use tax of 0.50% to be administered by the State Board of Equalization.

Per Section 8.9.13 of Ordinance 470:

“A Citizen’s Oversight Committee is hereby established to oversee expenditures of the revenues received by the City from the sales and use taxes imposed pursuant to this chapter, and to ensure that tax revenues are spent by the City in a manner consistent with the voter approved measure adopting this chapter as well as any voter approved or council approved priorities adopted to implement the provisions of this chapter.”

Per Section 8-9.17 paragraph (a) of Ordinance 470:

“The Committee is charged with the following responsibilities:

- (1) Reviewing all appropriations of revenues received by the City from the sales and use taxes imposed pursuant to the provisions of this chapter to determine whether such funds are to be used as provided for in this chapter and the voter approved measure that adopted this chapter;
- (2) Reviewing the audit prepared by an independent auditor retained by the City to perform the City’s Comprehensive Annual Financial Report to determine whether such funds have been spent as provided for in this chapter and the voter approved measure; and
- (3) Prepare and issue the committee’s own annual report settling forth their findings in regard to the foregoing.”

On August 20, 2014, the Measure O Citizen’s Oversight Committee approved the Measure O Annual Report for the Fiscal Year 2013 (July 1, 2012 to June 30, 2013).

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Appendix 2: Measure “A” Background

On June 4, 2013, Measure A “Utility Users Tax Rate Revenues” was passed by a majority vote of the City of Hercules and the Hercules City Council passed, approved, and adopted Ordinance 475 modernizing Title 8, Chapter 8 of the Hercules Municipal Code with respect to the existing 6% Utility Users Tax, and establishing a five year temporary increase of 2% to the Utility Users Tax. The Ordinance established citizens’ oversight with the existing Citizens Finance Advisory Committee (which became the Citizen’s Finance Commission) appointed by the Hercules City Council.

Per Section 8-8.404 of Ordinance 475, “The Citizens Finance Advisory Committee, which is appointed by the City Council, shall meet at least monthly and review all revenue and expenditures under this Chapter in order to ensure that the funds are spent in accordance with the voter approved measure adopting this Chapter as well as any voter approved or council approved priorities adopted to implement the provisions of this Chapter. The City Manager shall appoint an ex-officio staff person to serve as secretary of the Committee and to ensure that meetings are held in a timely fashion.”

Per Section 8-8.406 of Ordinance 475:

“(a) The Committee is charged with the following responsibilities:

- (1) Reviewing all appropriations of revenues received by the City from the sales and use taxes imposed pursuant to the provisions of this Chapter to determine whether such funds are to be used as provided for in this Chapter and the voter approved measure that adopted this Chapter;
- (2) Reviewing the audit prepared by an independent auditor retained by the City to perform the City’s Comprehensive Annual Financial Report to determine whether such funds have been spent as provided for in this Chapter and the voter approved measure; and
- (3) Prepare and issue the committee’s own annual report settling forth their findings in regard to the foregoing.”

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Appendix 3: Measure “B” and Measure “C” Background

On July 28, 2015 the Hercules City Council unanimously approved placing the City of Hercules Financial Stability and Essential Services Continuation Measures, on the November 3, 2015 ballot to protect and maintain essential city services and fiscal stability.

On November 3, 2015, Measure B, “Transactions and Use Tax Revenues” was passed by a majority vote of the City of Hercules. Measure B extends indefinitely the Measure “O” half-cent per dollar local sales tax previously scheduled to end in 2016.

Measure B states, “Whereas the tax extension would be in effect until the Finance Commission finds, and the City Council approves by a 2/3 vote, that the City has achieved long term financial stability with adequate financial reserves.”

On November 3, 2015, Measure C “Utility Users Tax Rate Revenues” was passed by a majority vote of the City of Hercules. Measure C extends the Measure “A” 2 percent utility user’s tax that was previously scheduled to sunset in 2018, now scheduled to sunset in 2025.

Measure C states, “**Measure C** would extend the 2013 voter approved two percent (2%) UUT increase. If adopted, Measure C would make the eight percent (8%) total rate effective until January 1, 2025. The City Council could terminate the two percent (2%) increase at any time before January 1, 2025 and reduce the total UUT rate to six percent (76%) either on its own initiative or at the recommendation of the City’s Finance Commission upon a determination that the additional two percent (2%) increase provide for in **Measure C** is no longer necessary because the City has met its goal of achieving long term financial stability with adequate financial reserves.”

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Appendix 4: Finance Commission Background

On November 23, 2014, the Hercules City Council passed and adopted Ordinance 481 to amend the Hercules Municipal Code as follows:

1. Added Title 2, article 6, Section 202.601 through Section 2-2.609 to create the Finance Commission.
2. Amended Title 8, Chapter 8, Article 4, to provide for the Finance Commission oversight of Measure A, "Utility Users Tax Rate Revenues"
3. Amended Title 8, Chapter 8, Article 9, to provide for the Finance Commission oversight of Measure O, "Transactions and Use Tax Revenues"

Per Section 2.2.609 of Ordinance 481, "The Finance Commission shall be advisory to the City Council with no authority to direct staff and shall have the following duties:

- (a) Quarterly review of City's financial status; review and comment on audit reports; review and comment on the proposed budget; and review and comment on items of extraordinary financial impact.
- (b) Make recommendations to the City Council with respect to budget priorities.
- (c) Review and comment on the City's annual operating and capital improvement budgets
- (d) Advise the City Council on matters of policy and public interest related to the management of the City's finances and budget.
- (e) Serve as the Oversight Committee for Measure "A" including providing an annual report to ensure that Utility User Tax funds are spent in accordance with the Voter Approved Measure adopted in June, 2013.
- (f) Serve as the Oversight Committee for Measure "O", including providing an annual report, to ensure that the Sales Tax revenues approved by Hercules voters are spent in accordance with the Voter Approved Measure adopted in June 2012.
- (g) Take on any additional review and advisory functions assigned by the City Council by duly adopted Resolution."

On November 25, 2014, the Hercules City Council appointed the two members of the Measure O Citizens Oversight Committee and the three members of the Citizens Finance Committee to the Finance Commission.