



## AGENDA REPORT

Meeting Date: 07/27/2021

**SUBJECT: CITIZENS' AUDIT REVIEW AND MEASURE LL OVERSIGHT COMMITTEE –  
MEASURE LL REPORT FOR THE FISCAL YEAR 2019-20**

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**RECOMMENDATION:** The Citizens' Audit Review and Measure LL Committee recommends that the City Council:

1. Establishes factors to be considered prior to using the Measure LL Reserve funds; and
2. Conduct a Sensitivity Analysis focusing on the variability of Measure LL revenue and identify a hierarchy of LL priorities (e.g.: (I) full-time public safety positions, (II) Utility Undergrounding, (III) Beach clean-up/kelp removal, (IV) full-time porter position, (V) contracted pressure washing of sidewalks.

**APPROPRIATION REQUESTED:** \_\_\_\_\_ **FUND:** \_\_\_\_\_

**Submitted By:**   
Gavin Curran, Director of Admin Services

**Approved:**   
Shohreh Dupuis, City Manager

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### SUMMARY OF THE MATTER

The Citizens' Audit Review and Measure LL Oversight Committee is pleased to present the Measure LL report to the City Council for the Fiscal Year (FY) 2019-20. A copy of the Measure LL Report, without attachments, is included with this Agenda Report (Attachment 1). A complete copy of the report is available in the City Clerk's Office and the City's website.

The City of Laguna Beach Measure LL Vital Services Measure was approved by the voters in November 2016 and enacted a 2% Transient Occupancy Tax ("Hotel Tax") paid by tourists who stay in local hotels and other lodging establishments. The Hotel Tax became effective on January 1, 2017. On December 13, 2016, the City Council passed Resolution 16.102, establishing a Citizens' Audit Review and Measure LL Oversight Committee ("Committee"). The Committee's responsibilities include annually reviewing the expenditures of the Measure LL Fund and providing a subsequent public report to the City Council as to whether the Measure LL funds were expended on items of the type described in Resolution 16.068 and the ballot measure.

The Committee concluded that the use of Measure LL funds during FY 2019-20 was consistent with the ballot measure material and related ballot measure resolutions. Further, analysis of both the approved city budget, the Comprehensive Annual Financial Report, and the external financial audit has demonstrated the Measure LL funds were properly budgeted and accounted for. Lastly, it is the Committee's position that the revenue from Measure LL resulted in enhanced service delivery and thereby positively impacted the community during FY 2019-20.

**ATTACHMENTS**

1. Measure LL Report (Pgs. 3-35)

**Report Prepared By:**

Kris Ryan, Finance Manager

**Coordinated With:**

**CITIZENS' AUDIT REVIEW AND  
MEASURE LL OVERSIGHT COMMITTEE  
ANNUAL MEASURE LL REPORT  
FISCAL YEAR 2019-20**

**Report Presented  
To the Laguna Beach City Council**

Mayor Bob Whalen  
Mayor Pro Tem Sue Kempf  
Councilmember Peter Blake  
Councilmember Toni Iseman  
Councilmember George Weiss

**Report Prepared by  
The Citizens' Audit Review and Measure LL Oversight Committee**

Julian Harvey -- Chair  
Peter Stevenson -- Vice-Chair  
Glenn Gray  
Matt Lawson  
John Thomas

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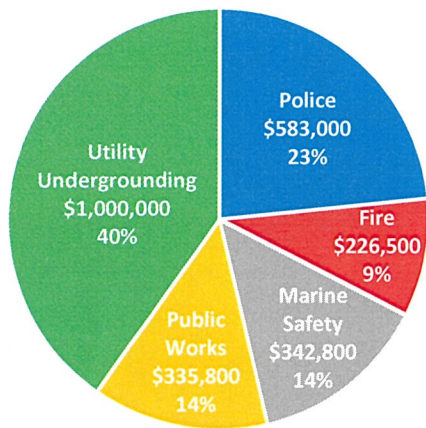
## Addendum

- 1 Background
  - 1.1 Measure LL Informational Flyers
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- 2 Financial Documents
  - 2.1 Revenue Report, Source City Finance Division
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  - 2.3 Staff Report: June 30, 2020, FY 2020-21 Adopted Budget and FY 2019-20 Revisions
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  - Attachment A Police Department Information
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  - Attachment E Minutes of City Council meetings June 28, 2016; July 26, 2016

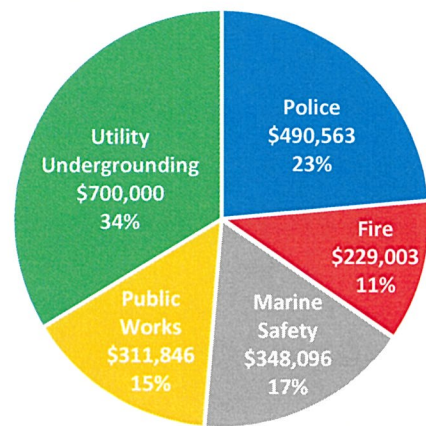
**I. Executive Summary**

This Measure LL (LL) Annual Report includes the financial information of the LL Fund and the accomplishments of the programs funded by LL for the fiscal year (FY) ended June 30, 2020. LL revenues and expenditures for FY 2019-20 are typically audited and made available to the Committee in December or January following the end of the fiscal year. Therefore, the Measure LL Annual Report produced by the Measure LL Citizens Audit Oversight Committee is typically presented to the City Council near the end of the first quarter of the following calendar year.

**Budgeted Expenditures**



**Actual Expenditures**



For FY 2019-20, Measure LL actual revenue was \$1.97 million and actual expenditures totaled \$2.08 million. These represent a decrease from FY 2018-19 revenue of 21% and a decrease in expenditures of 13%. Actual revenue collected during FY 19-20 was \$1,970,645, which was less than the budgeted revenue projections of \$2,694,800 by \$724,155. Thus, actual funds available for FY 2019-20, including available balance on July 1, 2020, reserves, and funding for carryovers from FY 18-19 was \$2,765,296. This includes \$212,005 set aside in the Reserve Fund and available as a recessionary contingency.

Due to the reduced revenue, the City Council adjusted the budget at two City Council meetings, resulting in actual expenditures of \$2,079,508 which was \$408,592 lower than the originally budget of \$2,488,100. The available balance in the Measure LL fund as of 06/30/2020 was \$679,788, which includes a carryover appropriation to FY 20-21 of \$6,000.

Budgeted and actual expenditures of Measure LL funds by the department for 2019-20:

Department/ Project	Budgeted	%	Actual	%
Police	\$ 583,000	23%	\$ 490,563	23%
Fire	226,500	9%	229,003	11%
Marine Safety	342,800	14%	348,096	17%
Public Works	335,800	14%	311,846	15%
Undergrounding	1,000,000	40%	700,000	34%
<b>Total Expenditures</b>	<b>\$ 2,488,100</b>	<b>100%</b>	<b>\$ 2,079,508</b>	<b>100%</b>

### **Essential Findings**

1. Expenditures of Measure LL funds are consistent with the ballot measure material, resolutions related to the ballot measure, the approved budget, and Comprehensive Annual Financial Report.
2. In terms of data provided, the departments receiving Measure LL funds not only track "inputs" of resources but also track "outputs" in terms of improved service deliverables.
  - a. The Committee found that the data provided by the departments receiving Measure LL funds indicated that Measure LL funds were used effectively and as intended.
  - b. Similar to FY 18-19, the Committee has identified a continuing challenge in terms of the performance data in light of the ballot measure language: the general inability to distinguish between additional costs or impacts on the relevant departments attributable to visitors versus those attributable to residents.
3. In addition to reviewing whether Measure LL funds were spent according to the ballot measure and the approved city budget, the Committee exercised due diligence in carefully examining the level of value brought to the residents of Laguna Beach by use of LL funds. Through this process, the Committee found the departmental performance data useful for insight into the most cost-effective uses of public funds. The Committee has verified that primarily through augmented service delivery, the use of LL funds has resulted in a positive impact in the community through enhanced public safety and cleaner public spaces (beaches, public sidewalks, and restrooms).
4. The Committee found that the use of Measure LL funding was for enhanced or additional services rather than for providing alternate sources of funding for existing services.
5. If the retirement contributions for employees paid from Measure LL were eventually to result in incremental unfunded pension liability, the Committee found there could be a possibility that any such shortage could become an obligation of the general fund (Repeat).
6. In the Measure LL report filed for fiscal year ending June 30, 2019, the Committee recommended that the City provide clarity on the terms "other services and improvements" and "vital services" to ensure the use of funds were consistent with the ballot measure material. At the City Council meeting on October 13, 2020, Mayor Bob Whalen clarified that "other services and improvements" does include "vital services" and that the allocation of funds for the purposes of beautification and cleaning of sidewalks and bathrooms are appropriate.
7. For city departments to continue their efforts to develop performance measurements to help recognize success and identify problem areas in the services funded by Measure LL.

8. To the extent practicable, the departments attempt to identify additional services and improvements needed, and additional costs to accommodate Laguna’s millions of visitors.
9. On October 13, 2020, the City Council approved the Measure LL Reserve at 20%. The Committee recommends that the City maintain a 20% reserve in the Measure LL Fund of budgeted appropriations. The Committee also recommends prioritizing the use of mid-year or year-end savings to maintain the reserve.

## **Recommendations**

Recommendations: Based on its review of Measure LL revenue and expenditures, the Committee recommends the following:

1. With the pandemic in sharp focus as the quintessential “rainy day,” the Committee recommends the establishment of factors to be considered prior to the future tapping of Measure LL reserve funds. (Repeat)
2. The Committee recommends the City conduct a Sensitivity Analysis focusing on the variability of Measure LL revenue and identify a hierarchy of LL priorities (e.g.: (I) full-time public safety positions, (II) Utility Undergrounding, (III) Beach clean-up/kelp removal, (IV) full-time porter position, (V) contracted pressure washing of sidewalks. While non-binding, an institutional understanding of an agreement on the primary functions to be funded based on need will aid in the budgeting and decision-making processes. (Repeat)

## **Conclusions**

The Committee has verified that the use of Measure LL funds during Fiscal Year (FY) 2019-20 was consistent with the wording of the ballot measure and related Council resolutions. Further, analysis of both the approved city budget, the Comprehensive Annual Financial Report, and the external financial audit has demonstrated the LL funds were properly budgeted and accounted for. It is also the Committee’s position that the revenue from Measure LL resulted in enhanced service delivery and thereby positively impacted the community during FY 2019-20.

## **II. Purpose of this Report**

The purpose of this report is to convey to the City Council the results of the review by the Citizens' Audit Review and Measure LL Oversight Committee of the annual year-end expenditures report for the fiscal year ended June 30, 2020, produced by the City.

As specified in Resolution 16.102<sup>1</sup>, the public report to the City Council shall address whether the Measure LL funds have been expended on items of the type described in Resolution 16.068 or the other items described in the Measure LL ballot measure. (See Addendum 1, Attachment 1.2.)

In Resolution 16.068, the City Council expressed its intent to prioritize spending options for future Measure LL revenue for the following purposes:

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<sup>1</sup> See Addendum, Item 1.2

- Protect beaches from pollution
- Provide fire and police protection, and emergency response services
- Utility undergrounding to prevent fires and power outages
- Improve the cleanliness of public areas such as sidewalks and streets; and
- Provide other services and improvements.

### **III. Purpose of the Committee and Scope of this Review**

As specified under “Qualifications of Appointed Public Member” in Resolution 18.009 (See Addendum 1, Attachment 1.2) of the City of Laguna Beach adopted February 27, 2018, this Audit Review and Measure LL Oversight committee is comprised of residents of the City of Laguna Beach and the purpose of the Committee shall include, as specified in the adopted resolution:

1. Participating in the selection of the City's external financial auditors.
2. Reviewing the results of the annual financial audit.
3. Review any internal control weaknesses and legal compliance issues identified in the course of the annual financial audit and provide any necessary recommendations to the City Council.
4. Reviewing the expenditures of the Measure LL Fund annually and providing a subsequent public report for distribution to the City Council.

The Committee is comprised of residents living in the community who have volunteered their time and who have been selected by the City Council from a pool of applicants in a public process, based on their respective qualifications to serve on the Committee.

An audit review committee is a practical means for a governing body to provide much needed independent review and oversight of the government's financial reporting processes, internal controls, and independent auditors. An audit review committee also provides a forum separate from management in which auditors and other interested parties can candidly discuss concerns. By effectively carrying out its functions and responsibilities, an audit review committee helps to ensure that management properly develops and adheres to a sound system of internal controls, that procedures are in place to objectively assess management's practices, and that the independent auditors, through their own review, objectively assess the government's financial reporting practices.

It is the responsibility of the audit review committee to provide independent review and oversight of a government's financial reporting processes, internal controls, and independent auditors.

This is consistent with the purpose, as specified in the adopted ordinance.

Item #1 above, selection of the City's external auditors was completed prior to expansion of the role of this Committee, and items #2 and #3 are addressed annually in a separate report pertaining to the City's audited annual financial report known as the Comprehensive Annual Financial Report.

- This report addresses duty #4 above: Reviewing the expenditures of the Measure LL Fund annually and providing a subsequent public report for distribution to the City Council.



#### **IV. Methodology**

The Committee relies on the accounting policies and procedures of the City Finance Department and independently reviews the adopted budgets and internal financial reports of the City, and compares this financial information to the ballot measure and to the Comprehensive Annual Financial Report (CAFR) audited by an independent external auditor.

The full Committee met several times, and a sub-committee was formed to draft this report.

The Committee met on:

- February 24, 2021
- March 10, 2021
- April 14, 2021
- May 12, 2021
- May 26, 2021

The meetings are open to the public, with a dedicated, ongoing agenda item for the Committee to hear comments from the public. The members of the Committee:

- Reviewed and referred to ballot measure material outlining the intended uses of the funds generated by Measure LL.
- Reviewed the initial fiscal year 2019-20 budget approved by the City Council for the use of Measure LL funds.
- Reviewed subsequent changes to the budget as approved by the City Council.
- Reviewed internal accounting reports prepared by staff.
- Reviewed the Comprehensive Annual Financial Report for the fiscal year ended June 30, 2020, for compliance with the internal accounting reports pertaining to Measure LL.
- Met with the heads of the Police, Fire, Marine Safety, and Public Works Departments.
- Received and reviewed data and other information provided by the Police, Fire, Marine Safety, Water Quality, and Public Works Departments.
- Reviewed and discussed performance criteria and measures with the departments to assess the effectiveness of the Measure LL budget allocations and expenditures.
- Met with staff and had conversations with the City Council liaison to the Committee.
- Through staff, solicited feedback from the City Manager and City Council regarding feedback from the prior year's Measure LL report, and suggestions for this year's report.
- Reviewed the financial audit of the City's financial statements for the fiscal year ended June 30, 2020.
- Discussed the results of the external financial audit and the Comprehensive Annual Financial Report in terms of compliance with the internal accounting reports pertaining to Measure LL with members of the audit firm without city staff being present.
- Discussed, considered, and assessed the City's uses of Measure LL funds against their intended purpose.

## **V. Description of Programs and Services Funded by Measure LL**

### Police Department:

The approved programs for the Police Department are shown below. Additional information is included in Addendum 3: Attachment A.

- Two (2) additional Beach Patrol Officers, hired in March 2017, assigned to address public nuisance issues, Laguna Beach Municipal Code violations, incident-related traffic control, and community outreach in addition to work in conjunction with OC Parks & OC Lifeguards.
- Includes Equipment and Uniforms for Beach Patrol Officers.
- One (1) additional Community Outreach Officer hired May 2017, to work with the homeless and mentally ill populations by connecting them to necessary services, resources, and long-term solutions with the assistance of the County of Orange.
- Includes Equipment and Uniforms for Community Outreach officer.
- Two (2) full-time jailer positions beginning in FY 2017-18. This program has a total cost of \$135,000 with \$39,400 funded by Measure LL.
- Main Beach / Heisler Park directed patrol to reduce and prevent crime and prevent and reduce public nuisance conduct. This focused effort directly improves conditions for residents in the area and ensures an enjoyable and positive experience for visitors.

### Fire Department:

The approved programs for the Fire Department are shown below. Additional information is included in Addendum 3: Attachment B.

- One (1) Civilian Fire Marshal hired June 2017 to oversee the department's Fire Prevention, Community Education, and Vegetation Management programs in addition to providing improved turnaround time and customer interactions for plan checks and inspections. Measure LL funds cover 70% of the cost of the Fire Marshal adjusting for time spent performing plan check functions paid from the General Fund.
- Includes Vehicle for Fire Marshall.
- Funding to upgrade three (3) firefighter positions to paramedic status. This provides for paramedic coverage at all four fire stations within the City.

### Marine Safety Department:

The approved programs for the Marine Safety Department are shown below. Additional information is included in Addendum 3: Attachment C.

- Two (2) additional Marine Safety Officers hired February 2017 to provide additional 200 days of lifeguard tower service, focus on high-impacted beaches year-round and allow for a second rescue patrol unit, thus reducing response time.
- Additional 100 tower lifeguard days for coverage at Crescent Bay, Main Beach, and Treasure Island area for non-summer lifeguard towers in high demand areas. Beginning FY 2017-18.
- Enhanced lifeguard coverage for heavily impacted Main Beach.

Public Works Expenditures, including Utility Undergrounding:

The approved programs for the Public Works Department are shown below. Additional information is included in Addendum 3: Attachment D.

- Summer Main Beach Restroom Cleaning and Kelp Cleaning
  - Increase Main Beach & Heisler Park Restroom cleaning by five times its current service level during the peak period only (June through September).
  - Enhanced Beach Cleaning & Kelp Removal. Lead Worker for Enhanced Cleaning.
- Downtown Beautification (Detailed treatment of heavily stained sidewalks as well as other beautification treatments and special planting areas.)
- Improve the cleanliness of public areas such as sidewalks and streets:
  - Increase Downtown & Pacific Coast Highway (PCH) Steam Cleaning by four times its current service level.
  - Increase Downtown & PCH Daily Cleaning by three times its current service level.
  - Vehicle and Equipment for Lead Worker for Enhanced Cleaning.
  - Sidewalk Steam Cleaning.
  - Sidewalk Detailed Cleaning and Daily Maintenance.
- Utility Undergrounding, Incentive, and funding for Construction along major evacuation routes.

**VI. Examination of Measure LL Budget:**

Approved Measure LL Budget

The Measure LL FY 2019-20 budget was approved June 18, 2019 as a part of the two-year FY 2019-20 and FY 2020-21 budget. (See Addendum 2: Attachment 2.6). The City's overall budget, including items related to Measure LL, is reviewed at regular intervals by the City Council. As the financial impacts of COVID-19 became apparent, the City Council made budget adjustments at the City Council meeting April 7, 2020.

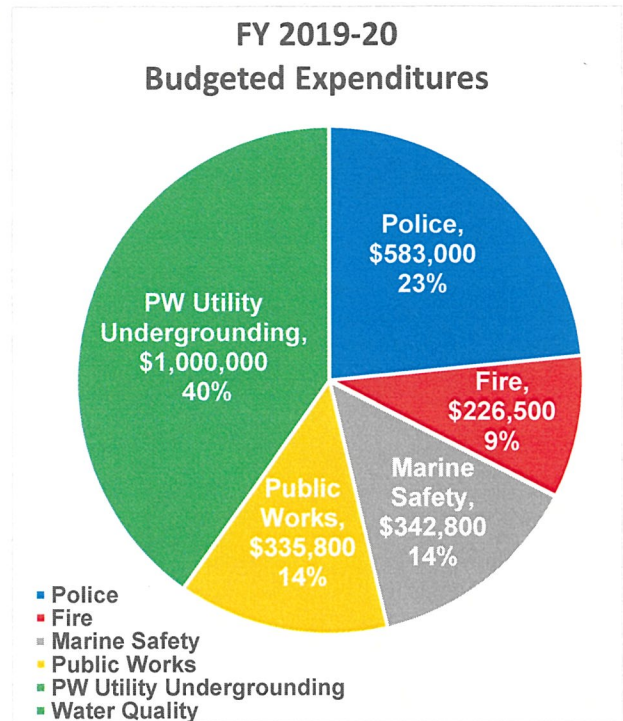
The June 18, 2019, budget projected revenue for the fiscal year 2019-20 to be \$2,694,800 while expenditures were budgeted to be 2,488,100. There was also \$49,800 in carryovers from FY 2018-19 available.

Expenditures by department were budgeted to be:

• Police Department	\$ 583,000
• Fire Department	\$ 226,500
• Marine Safety Department	\$ 342,800
• Public Works Department	\$ 335,800
• PW Utility Undergrounding	<u>\$1,000,000</u>
Total Budgeted Expenditures:	\$2,488,100

Discussion with Auditors

The City’s financial statements were audited by the accounting firm CliftonLarsonAllen LLP. The previous audit firm, White Nelson Diehl Evans, was acquired by CliftonLarsonAllen LLP on November 1, 2020. A subcommittee comprised of members of the LL Committee interviewed the designated auditor without the presence or involvement of city staff. The auditor explained that while the Measure LL Fund was not specifically examined since it is part of the General Fund, their firm provided “reasonable assurance that the financial statements are not materially misstated.” The auditor added that while the Measure LL Fund was not audited separately, the audit of the City’s financial statements as a whole revealed no “material weaknesses,” but did identify “significant deficiencies” which were outlined in the Government Accounting Standards (GAS) letter provided as a component of the financial audit. As part of its audit review function, the Citizens’ Audit Review and Measure LL Oversight Committee will prepare a separate report on its examination and assessment of the external audit of the City’s financial statements for FY 2019-20.



**VII. Actual Revenue and Expenditures**

Measure LL Summary - FY 2019-20

Department	Adopted Budget*	Actual Revenue	Actual Expenditures	Carryover
Measure LL Revenue	2,694,800	1,970,645		
<u>Expenditures</u>				
Police Department	583,000		(490,563)	-
Fire Department	226,500		(229,003)	(6,000)
Marine Safety	342,800		(348,096)	-
Public Works	1,335,800		(1,011,846)	-
	<u>2,488,100</u>	<u>1,970,645</u>	<u>(2,079,508)</u>	<u>(6,000)</u>
			Net Increase (Decrease)	(114,863)
			Available Beginning Balance	<u>794,650</u>
			Ending Available Balance	<u>679,788</u> **

\* Adopted Budget for FY 2019-20 are the amounts originally approved on June 18, 2019. These amounts do not include any subsequent budget adjustments.

\*\* To Measure LL Available Fund Balance for future programs.

Measure LL Revenue for the Fiscal Year Ended June 30, 2020

According to the budget, adjusted as described above, fiscal year 2019-20 Measure LL revenues were projected to be \$2,694,800. However, actual revenue was \$1,970,645, falling short of projections by \$724,155 – due primarily to early impacts of the COVID-19 pandemic.

Actual revenue includes \$1,970,645 collected as detailed in the table of Measure LL Revenue by Quarter below, which includes interest income of \$18,840.

Measure LL revenues by quarter are included in the following Table 2.

<b>QUARTER</b>	<b>FY 2019-20 Actuals</b>	<b>FY 2020-21 Estimate*</b>
July through September	879,395	
October through December	537,700	
January through March	348,089	
April through June	205,461	
Total	<u>\$1,970,645</u>	<u>\$1,510,000</u>

\* Actuals are added at the end of the Fiscal Year

Note: The dramatic decrease in actual revenue for the January through March and April through June periods were a result of the COVID-19 pandemic.

The FY 2019-20 Finance Division revenue reports are included as Addendum 2: Attachment 2.1 & 2.2. Additional financial information is also available in the FY 2019-20 Comprehensive Annual Financial Report (CAFR).

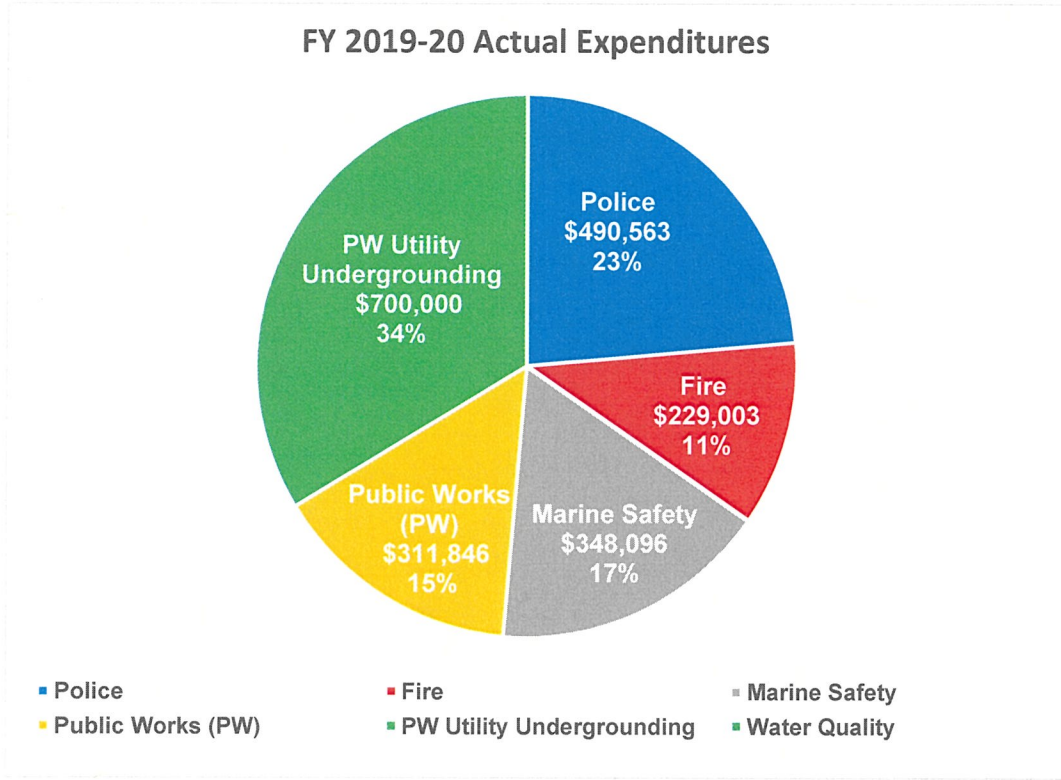
Measure LL Expenditures for the Fiscal Year Ended June 30, 2020, and Available Funds:

Actual expenditures during 2019-20 of \$2,079,508 plus \$6,000 carried over to 2020-21 left an available balance on 6/30/2020 of \$679,788.

As the chart shows, actual expenditures by department for FY 2019-20 were:

- Police Department                   \$ 490,563
  - Fire Department                     \$ 229,003
  - Marine Safety Department       \$ 348,096
  - Public Works Department       \$ 311,846
  - Undergrounding                     \$ 700,000
- Total Expenditures:                   \$2,079,608

### FY 2019-20 Actual Expenditures



Measure LL Available Funds Balance June 30, 2020:

At the June 30, 2019, culmination of FY 2018-2019, and the beginning of the FY 2019-2020, the Measure LL fund had an available balance of \$532,844 in addition to a reserve of \$212,005 and carryovers of \$49,800, for a total available funds of \$794,649.

In addition to the beginning balance of \$794,650, the actual revenue collected for fiscal year 2019-20 was \$1,970,645. This brought the total funds available for expenditure in 2019-20 to \$ 2,765,296. After actual Measure LL expenditures for fiscal year 2019-20 of \$2,079,508, and carryovers to \$6,000 to FY 20-21, the ending FY 2019-2020 available balance was \$679,788.

This is summarized as described in the calculations below and in greater detail on the spreadsheet on the following page.

Beginning Fund Balance July 1, 2019	\$ 794,650	(including reserves and carryovers)
Plus Actual Revenue Received	\$ 1,970,645	(including interest earned of \$18,840)
<hr/>		
Totals Funds Available for FY 2019-20	\$ 2,765,296	
Less Actual FY 2019-20 Expenditures	\$ 2,079,508	
Less Carryover into FY 19-20	\$ 6,000	
<hr/>		

**Leaves an Available Balance including Reserves June 30, 2020 \$ 679,788**

Measure LL Summary

	FY 2018-19			FY 2019-20		
	A	E	F	G	E	F
	Approved Budget	Actual	Carryover to FY 19-20	Approved Budget	Actual	Carryover to FY 20-21
<u>Beginning Fund Balance *</u>		695,697			794,650	
<u>Revenue Received</u>						
Measure LL TOT Revenue**	\$2,288,000	2,501,576		2,694,800	1,970,645	
<u>Expenditures</u>						
<u>Police Department</u>						
Two (2) Beach Patrol Officers	156,200	177,362		151,200	159,530	
Beach Patrol Equipment and Uniforms				500	-	
One (1) Community Outreach Officer	147,700	167,700		171,000	181,498	
Outreach Officer Equip and Uniforms				900	400	
Two (2) Full Time Jailers	39,400	39,372		39,400	39,400	
Main Beach/Heisler Park Patrol		100,491		220,000	109,736	
<b>Total Police Department</b>	<b>343,300</b>	<b>484,925</b>	<b>-</b>	<b>583,000</b>	<b>490,563</b>	<b>-</b>
<u>Fire Department</u>						
One (1) Civilian Fire Marshall	188,400	118,901		115,700	122,646	
Vehicle for Fire Marshal			40,000			
Upgrade three firefighters to paramedic	107,700	93,462		110,800	106,357	6,000
<b>Total Fire Department</b>	<b>\$296,100</b>	<b>212,363</b>	<b>40,000</b>	<b>226,500</b>	<b>229,003</b>	<b>6,000</b>
<u>Marine Safety</u>						
Two (2) Marine Safety Officers 200 additional lifeguard Tower days	215,300	224,826		232,000	238,384	
Part-time 100 additional lifeguard days	20,000	20,490		20,700	19,383	
Main Beach/Heisler Park Patrol		40,827		90,100	90,328	
<b>Total Marine Safety</b>	<b>\$235,300</b>	<b>286,143</b>	<b>-</b>	<b>342,800</b>	<b>348,096</b>	<b>-</b>
<u>Public Works</u>						
Summer Main Beach Restroom Cleaning and Kelp Cleaning	83,100	44,677		60,000	40,005	
Downtown beautification		24,554				
Lead Worker for Enhanced Cleaning	134,400	112,057		111,600	116,500	
Vehicle and Equipment for Lead Worker for Enhanced Cleaning	4,000	4,000				
Sidewalk Steam Cleaning	67,700	67,700		37,900	37,900	
Sidewalk Detailed Cleaning and Daily Maintenance	92,500	91,806		126,300	117,442	
Utility Undergrounding, Incentive and funding for Construction along major evacuation routes***	1,000,000	1,069,813		1,000,000	700,000	
<b>Total Public Works</b>	<b>1,381,700</b>	<b>1,414,606</b>	<b>-</b>	<b>1,335,800</b>	<b>1,011,846</b>	<b>-</b>
<u>Water Quality</u>						
Water Quality Video Inspection	\$0.00	4,586	9,800		-	
<b>Total Expenditures and Balance</b>	<b>2,256,400</b>	<b>2,402,624</b>	<b>49,800</b>	<b>2,488,100</b>	<b>2,079,508</b>	<b>6,000</b>
<Less> Reserve****		(212,005)		<Less> Reserve		
<Less> Carrovers		(49,800)		<Less> Carrovers	(6,000)	
<b>Balance to Measure LL Available Fund Balance</b>		<b>532,844</b>			<b>679,788</b>	

\* Beginning Fund Balance for FY 2019-20 includes a reserve of \$212,005 and funding \$49,800 for carryovers from Fiscal Year 2018-19

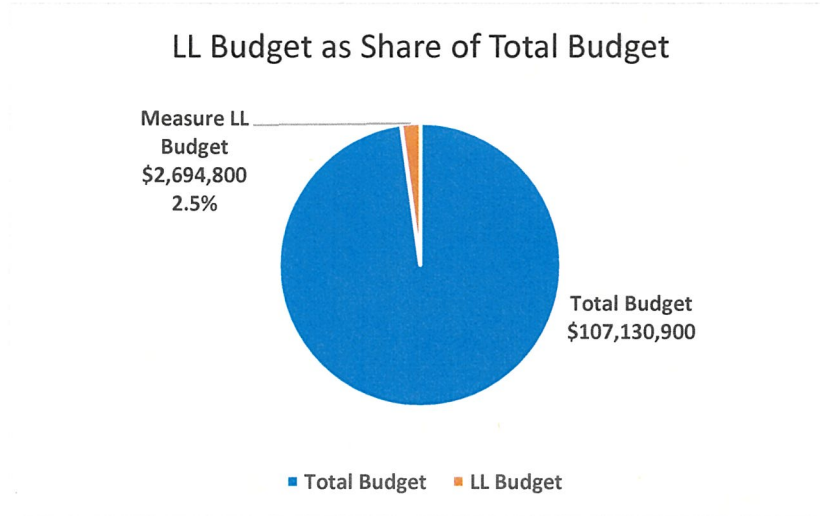
\*\*Includes interest revenue

\*\*\* Includes Transfer Out for the Purchase of Rule 20A Credits

\*\*\*\* Budgetary Reserve lowered due to a reduction in estimated revenue for Fiscal Year 2017-18 of \$12,000

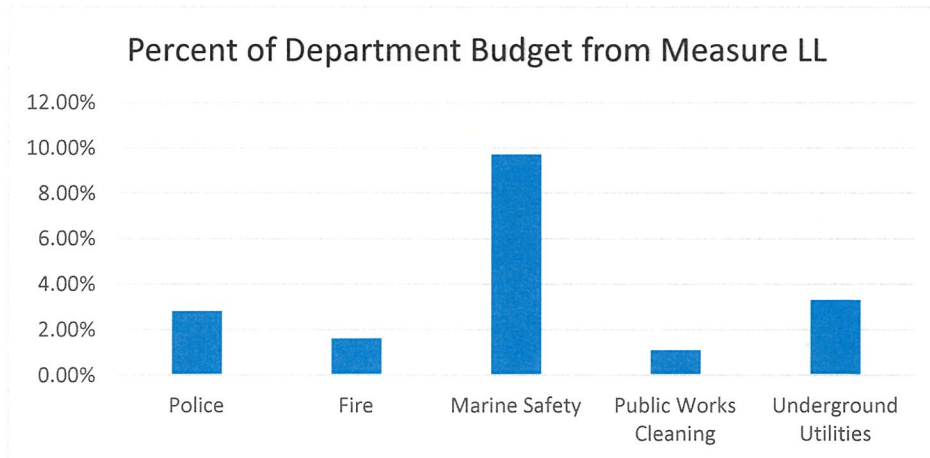
**VIII. Review and Discussion of Performance Criteria**

For perspective, fiscal year 2019-20 budgeted revenue attributable to Measure LL of \$2,694,800 is equivalent to 3.9% of General Fund Revenue of \$69,969,000 (excluding Measure LL funds) and 2.5% of the city’s total budget of \$107,130,900 (including Measure LL funds).



And the portion of each department’s budget that is provided by the Measure LL budget is described in the table and chart below.

The portion of Department Budgets from Measure LL		
Department	Measure LL Budget	% Of Dept Budget
Police	\$583,000	2.8%
Fire	\$226,500	1.6%
Marine Safety	\$342,800	9.7%
Public Works	\$335,800	1.1%
Undergrounding	\$1,000,000	3.3%





Departmental use of performance metrics

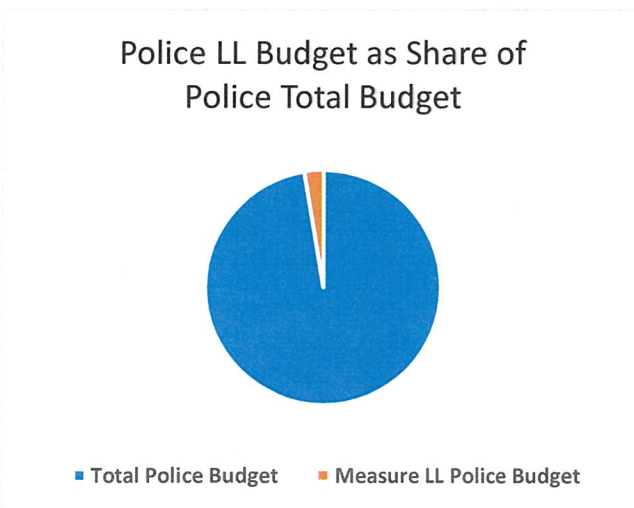
In performing oversight duties with respect to the funds raised and spent under Measure LL, the Committee sought not only to ascertain whether those resources had been allocated to City activities in accordance with the language of the ballot measure, but also whether these additional expenditures had actually achieved measurable improvements in City “vital services,” particularly with respect to public safety. Accordingly, the Committee met with the Chiefs of Police Department, Fire Department, Marine Safety and representatives from Public Works Department, including the Director of Public Works to review metrics they had created to determine not just where the money had been spent but also what their respective departments had actually been able to accomplish with those incremental funds used. The Committee learned that these City departments appeared mindful of tracking not only taxpayer “inputs” of resources but also “outputs” in terms of improved service deliverables.

Since Measure LL revenue is intended as supplementary funding, the Committee this year as in prior years recommended the operating departments in receipt of LL funds develop performance measures to identify and highlight how the funding has served to enhance service delivery. In Resolution 16.068, the City Council expressed its intent to prioritize spending of Measure LL revenue for the following purposes:

- Protect beaches from pollution;
- Provide fire and police protection, and emergency response services;
- Utility undergrounding to prevent fires and power outages;
- Improve the cleanliness of public areas such as sidewalks and streets; and
- To provide other services and improvements

Following the development of these measures, the department heads from Police, Fire, Marine Safety and Public Works provided an overview of each of their department’s allocation of the funds. Presented during regular public sessions of the Citizens’ Audit Review and Measure LL Oversight Committee, the reports from each department provided a detailed account of how the supplementary funding had been used during the period in question, any measurable impacts to the community, and a glimpse at how future Measure LL allocations would possibly be expended. The following summary broken down by department includes the respective performance criteria and outcomes:

**Police – Assessment of Measurable Enhanced Service Delivery**



For perspective: Fiscal Year 2019-20 Measure LL fund allocation of \$583,000 (excluding carryovers) to the Police Department represents 2.8% of the Police department budget of \$20,724,400 (including Measure LL Funds).

Hired initially to primarily address public nuisance issues in South Laguna, the allocation of LL funding for two (2) Beach Patrol Officers (BPO’s) has proven effective upon examination of the police department’s performance measures. Foot patrols, community engagement and education and citations have contributed to a continued reduction in overall crime and improvement in conditions for residents and visitors through the mitigation and prevention of problems in impacted areas (Main

Beach, Heisler Park, South Laguna). While the number of citations continues to decline year over year, it is important to note that the two (2) additional BPO's were hired in 2017 to specifically address significant nuisance and criminal activity in and around South Laguna's beaches. Because of the COVID-19 pandemic, beginning in March 2020, the City & State mandated closing of all public facilities, included beaches and most retail establishments. The closures, however, did not reduce the visitors to the city beaches as it became a refuge from the heat of the summer and the public's wanting for some outdoor activities.

The Committee has also identified that Measure LL funding has afforded the police department a greater ability to deploy resources where the greatest needs are. An example of this followed an increase in unwanted activity in the Main Beach and Heisler Park areas beginning in 2018. Measure LL funds allowed the department to staff an information canopy at Main Beach Thursday through Sunday, providing a consistent police presence as both a deterrent and engagement opportunity whereby officers can engage with and educate the public in an informal setting. In December 2019, an additional police canopy was deployed in Heisler Park to address an increase in nuisance conduct and criminal behavior. Furthermore, with increase of beach visitors during the Covid-19 pandemic of 2020 and anticipation of greater visitor activity in 2021 and beyond these funds will be in place as needed.

The data provided by the police department related to activity demonstrate the effectiveness of this strategic use of supplemental LL funding. Notably, from 2019 to 2020, police activity at Main Beach shifted from responding to reports of crime (assault & battery, theft), to proactive high-visibility foot patrol. The results are significant: assault & battery incidents have declined considerably, and theft has been reduced to the point it no longer accounts as a source of activity.

The Measure LL funded Community Outreach Officer (COO) allows for focused outreach and engagement with the vulnerable homeless and challenging mentally ill population, allowing for more direct connections with service providers and resources. This supplementary position has greatly improved the police department's capacity and capabilities by not diverting valuable police time while also reducing homelessness and its impacts citywide. Specifically, the LL funded position has allowed for seven (7) day a week coverage, with one Community Outreach Officer focusing on Main Beach and the other at the Alternative Sleeping Location (ASL). The COO's work at the ASL has directly resulted in a reduction in unwanted activity and resultant calls for service to the ASL. Through a partnership with the Orange County Health Care Agency (OCHCA), an outreach and engagement team are in place Fridays and Saturdays, availing the homeless population with additional resources with the goal of getting them off the streets and into long-term, supportive housing. Community Outreach Officer position resulted in one hundred and seventy-two (172) referrals to case management. As a result, twenty-three (23) homeless individuals are no longer living on the streets and received various short and long-term supportive housing placements and sixteen (16) other people were reunited with friends and/or family at various locations around the country through "Project Homecoming." It is critical to note that in addition to the outreach and engagement work which would otherwise not be performed, by addressing the issues generated by homelessness this position allows Patrol officers to remain available in the field for emergency response and proactive crime prevention.

The partial funding of two (2) full-time jailer positions with Measure LL revenue has also resulted in greater availability of Patrol resources where and when most needed and most effective. These mobile jailers perform the essential functions of transporting, processing, and booking of suspected offenders. Without the burden of performing these functions, Patrol resources remain in the field and available for emergency response, to perform proactive crime prevention and address quality of life concerns.

An assessment of annual crime rate reductions from 2019 to 2020 reveals a 5% decrease in reported crime year over year. Ample research and evidence support the premise that by addressing

unlawful/nuisance activity and addressing quality of life issues citywide, crime is reduced commensurately. Through the direct funding of additional/supplemental positions in the police department, it is reasonable to infer that Measure LL funding played a significant role in that reduction. As pointed out earlier, the year over year reduction in larceny (theft) is significant. The City had a high of 436 thefts in 2016 and has since dropped to 278 thefts in 2020 (-36%). Often a crime of opportunity, the continued marked decline supports the premise that the department's efforts in the form of uniformed presence and community education have been particularly effective.

### Overall Crime Reduction of 5% from 2019-2020

*Provided by the Laguna Beach Police Department*

PROPERTY CRIMES	2017	2018	2019	2020	Change 2019-2020
Burglary	90	42	46	45	-1
Larceny	358	316	257	278	+21
Auto Theft	30	25	23	30	+7
Arson	1	3	1	5	+2
<b>Totals</b>	<b>479</b>	<b>386</b>	<b>327</b>	<b>358</b>	<b>+31 (+9 ½%)</b>

VIOLENT CRIMES	2017	2018	2019	2020	Change 2019-2020
Murder	0	0	1	1	0
Sexual Assault	7	5	18	5	-13
Robbery	13	6	5	14	+9
Aggravated Assaults	21	21	16	20	+4
Simple Assaults	149	158	191	132	-59
<b>Totals</b>	<b>190</b>	<b>190</b>	<b>231</b>	<b>172</b>	<b>-59 (-26%)</b>

Totals of Part I Property & Violent Crimes	2018=	2019=	2020=	Change '19-'20
	576	558	530	<b>-28 (-5%)</b>

### Fire – Assessment of Measurable Enhanced Service Delivery

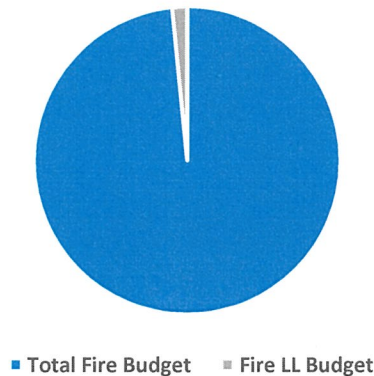
For perspective: Fiscal Year 2019-2020 Measure LL fund allocation of \$226,500 (excluding carryovers) to the Fire Department represents 1.6% of the Fire department budget of \$14,016,000 (including Measure LL funds). The hiring of a civilian Fire Marshal in July 2017 has greatly increased the Fire Department's ability to conduct fire prevention work. With the primary mission to oversee the City's fire prevention efforts, the allocation of Measure LL funding for this position has resulted in increased public education and increased field inspections with the goal of identifying potentially hazardous conditions. The following data points for 2020 illustrate the volume of the work being done and its impact to the overall safety of the City, its residents, businesses, and visitors:

- i. Inspections: 26 per month / 309 annually

- ii. Plan Reviews: 39 per month / 471 annually
- iii. Building Related Consultations: 28 per month / 310 annually

As impactful as the above statistics, the full-time Fire Marshal has reduced the timelines for many critical review periods. The average turnaround time for plan reviews of fire protection systems, building and concept plans is ten (10) days (including weekends and holidays). Plan reviews are conducted within two (2) weeks 80% of the time, and within one (1) week 42% of the time. Inspections are conducted within one (1) week of request 95% of the time, and consultations within two (2) days 90% of the time.

**LL Budget as Share of Fire Budget**



While the above clearly indicate vastly improved customer service delivery for applicants and homeowners, the byproduct of enhanced safety through rigorous review and inspection cannot be overlooked. Furthermore, the LL funded position has produced tangible results which represent broad and marked improvements to fire safety citywide through:

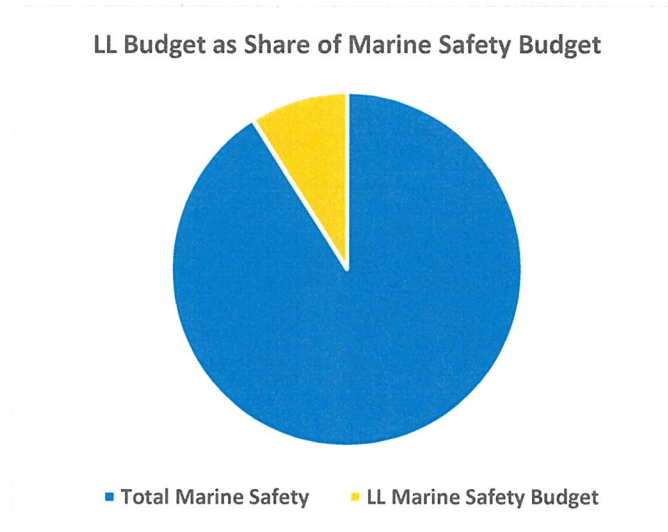
- Creation of guidelines, checklists, and policies for wildland fire prevention and building fire life safety.
- Close coordination with both the Laguna Beach County Water District and South Coast Water District for better communication concerning hydrant location and water flow reports (includes an update of the report).
- Major update of municipal fire code amendments and fuel modification guidelines.
- Close coordination with City contracted Wildland Program Defense Manager to expand Fuel Break Program.
- Management of Weed Abatement Program.
- Supervision and coordination of duties of part-time Fire Prevention Officer.
- Management of goat and hand crew contracts in all existing fuel modification zones in the Fuel Break Program.

Prior Measure LL funding provided an additional three (3) paramedic trained positions resulting in the ability to deploy paramedic personnel to all four (4) fire stations, reducing the response time for providing qualified personnel to begin administering Advanced Life Support (ALS). Further, LL funds allow for the ability to surge staff two (2) additional Advanced Life Support units during holidays, storm and Red Flag staffing, and other peak events.

In addition, Measure LL funding provided additional Advanced Life Support (ALS) capabilities, for the additional the 3 paramedics and the needed equipment to support the Paramedic Assessment Unit (PAU) at station 2 & 3.

### Marine Safety - Assessment of Measurable Enhanced Service Delivery

For perspective: Fiscal Year 2019-2020 Measure LL fund allocation of \$342,800 (excluding carryovers) to the Marine Safety Department represents 9.7% of the Marine Safety Department budget of \$3,519,300 (including Measure LL funds).



Charged with delivering lifeguard services along six (6) miles of Laguna Beach’s world-famous shoreline, the Marine Safety Department received Measure LL funding to enhance safety in the marine environment. A year-round destination, Laguna Beach draws millions of visitors throughout the year<sup>2</sup> – the majority of whom come to enjoy its great beaches. To maximize the impact of its portion of Measure LL funding, Marine Safety hired two (2) full-time Marine Safety Officers (MSO’s) and also allocated a portion of its Measure LL budget toward part-time salaries to staff additional tower days – notably at heavily used and impacted Main Beach.

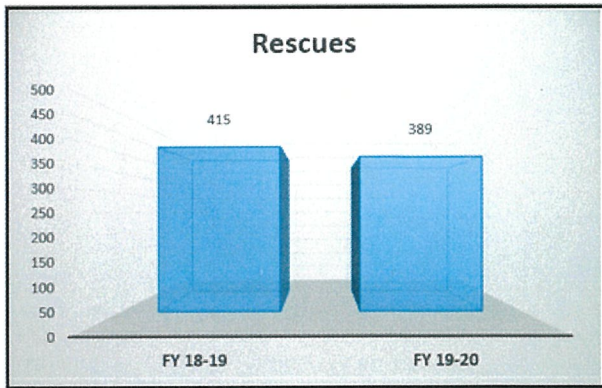
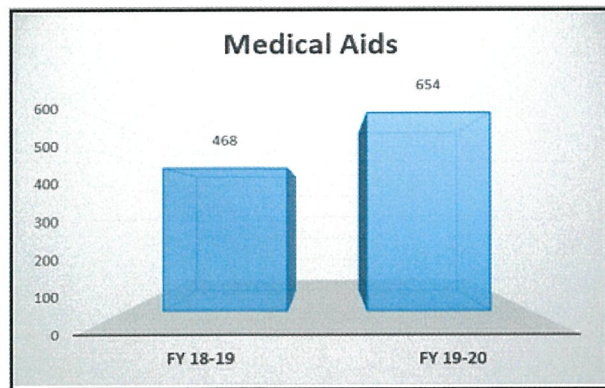
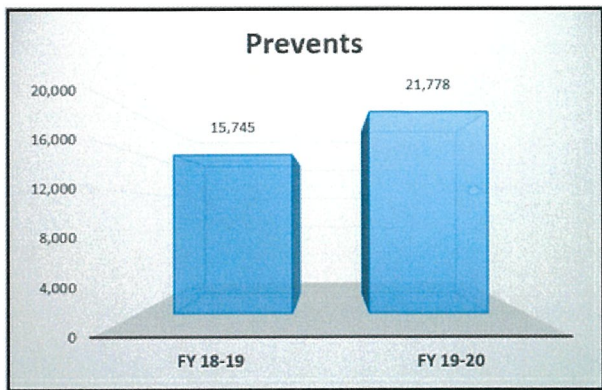
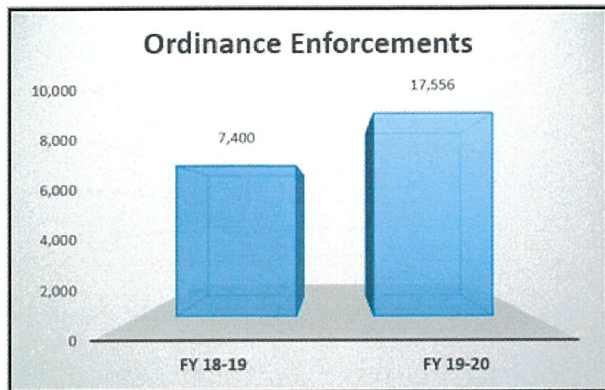
An examination of the impacts of the Measure LL funding reveals a direct and significant public safety enhancement to the City’s marine environment. Staff funded by Measure LL were responsible for 389 rescues, 654 medical aids and 17,556 ordinance enforcement contacts in FY 19-20. It is important to highlight the 21,778 preventive actions, which are advisements made to individuals engaged in potentially dangerous behavior, which could result in injury, the need for a water rescue, or death. Without these added positions funded through Measure LL, rescues, medical aids, ordinance enforcement, and preventive actions would not have been made. The unique topography of Laguna’s coastline demands regular and frequent visits by Marine Safety personnel to isolated coves to promote a safe environment, and to their credit, Marine Safety has also committed to leveraging technology in the form of remote cameras and drones as helpful tools to gain situational awareness of activity at beaches which are difficult to reach and observe.

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<sup>2</sup> Marine Safety statistics estimate annual beach visitors in 2020 at over 6,300,000.

Another notable data point from the chart below is in the “Ordinance” category. The enforcement by Marine Safety staff of local ordinances, which are enacted to promote safety and minimize nuisance and criminal behavior, complements the efforts of the Beach Patrol Officers and other police employees. The combined efforts result in a greater impact toward resolving trends long term while enhancing safety and enjoyment for all in the marine environment.

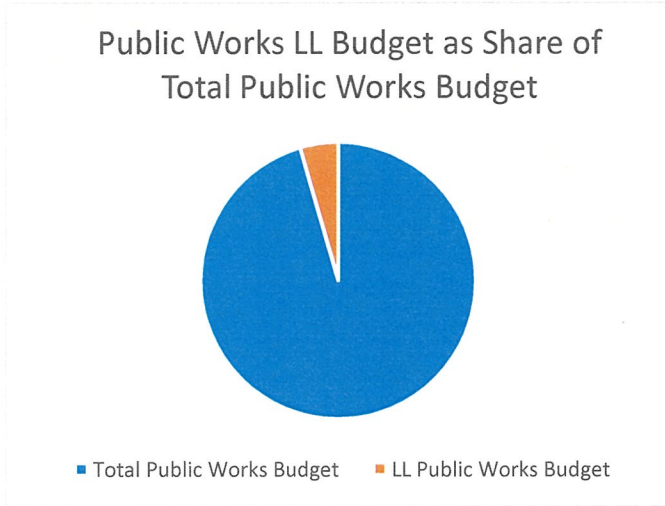
**Measure LL Marine Safety Statistics**



*Provided by the Laguna Beach Marine Safety Department*

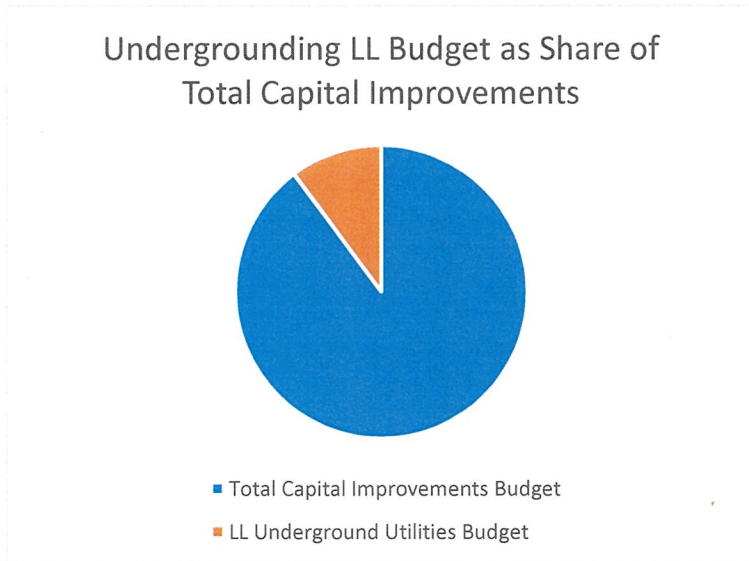
Similarly, the additional Measure LL funded tower days for the fiscal year provided direct enhancement to public safety service at some of the most popular and crowded beaches. Without lifeguards in these towers on these days, beachgoers are at far greater risk of injury, drowning and death. Moreover, there is a significantly greater likelihood of unwanted and/or nuisance behavior on unguarded beaches. A compelling example of the impact of Measure LL funds was at Main Beach, with an additional 187 ten (10) hour tower days staffed using the funding.

**Public Works - Assessment of Measurable Enhanced Service Delivery**



For perspective: On the surface, Fiscal Year 2019-2020 Measure LL fund allocation of \$1,335,800 (excluding carryovers) to the Public Works Department represents 4.4% of the total Public Works department budget of \$30,347,500.

It is important to note, however, that Public Works is responsible for Capital Improvements throughout the City, and accordingly, its department budget includes \$7,066,600 for Capital Improvements, which includes undergrounding of utilities budgeted in Measure LL of \$720,000. Therefore, the share of Measure LL funds allocated to Public Works excluding Undergrounding is \$315,800 representing 1.0 % of the Public Works budget, excluding Capital Improvements. The \$720,000 of Measure LL funds (excluding carryovers) allocated to Undergrounding represents 10.2% of Capital Improvements.



The Public Works Department is using Measure LL funding in three (3) broad categories: utility undergrounding; cleanliness of public sidewalks, restrooms, and public spaces; and downtown enhancements. In terms of undergrounding, Measure LL funds have been used strategically to purchase

undergrounding “credits” from other municipalities for a discount. These “Rule 20A” credits were purchased by the City at a price of approximately 55% of face value, and the credits are being used to pay costs associated with undergrounding utilities along Coast Highway and Bluebird Canyon Road. This effective leveraging of the Measure LL funds helps the City fund the undergrounding of key routes throughout the City.

In terms of cleanliness and sanitation, Measure LL funds have resulted in 112 additional hours per week dedicated to the cleaning of downtown and PCH sidewalks. Also, 98 additional hours of public restroom cleaning during summer months have been realized through the funding, and a Lead Maintenance Worker has been dedicated to the downtown area to oversee the cleaning contractors and serve as quality control.

Finally, approximately 120 tons of kelp were removed from City beaches during the reported fiscal year. This effort has been funded by Measure LL in the past; however, due to one-time budget reductions in the Public Works Measure LL budget approved in April 2020, this expense was paid for through the Public Works general budget.

Because of the COVID-19 pandemic, beginning in March 2020, the City temporarily closed all public facilities and reduced public works projects. This closure included City beaches and most retail establishments. The closures, however, did not reduce visitor traffic to our city and the public’s desire to recreate at our beaches as it became a refuge for the heat of the summer and the public’s need for a safe outdoor venue.

## **IX. Essential Findings**

In the exercise of its Measure LL oversight function, the Committee identified “essential findings,” deemed noteworthy by the Committee not only in terms of relevance but as specific and instructive elements for residents to gain a broader understanding of the positive impacts and the evolution of this program.

1. Expenditures of Measure LL funds are consistent with the ballot measure material, resolutions related to the ballot measure, the approved budget, and Comprehensive Annual Financial Report.
2. In terms of data provided, the departments receiving Measure LL funds not only track "inputs" of resources but also track "outputs" in terms of improved service deliverables.
  - a. The Committee found that the data provided by the departments receiving Measure LL funds indicated that Measure LL funds were used effectively and as intended.
  - b. Similar to FY 18-19, the Committee has identified a continuing challenge in terms of the performance data in light of the ballot measure language: the general inability to distinguish between additional costs or impacts on the relevant departments attributable to visitors versus those attributable to residents.
3. In addition to reviewing whether Measure LL funds were spent according to the ballot measure and the approved city budget, the Committee exercised due diligence in carefully examining the level of value brought to the residents of Laguna Beach by use of LL funds. Through this process, the Committee found the departmental performance data useful for insight into the most cost-effective uses of public funds. The Committee has verified that primarily through augmented service delivery, the use of LL funds has resulted in a positive impact in the community through enhanced public safety and cleaner public spaces (beaches, public sidewalks, and restrooms).



4. The Committee found that the use of Measure LL funding was for enhanced or additional services rather than for providing alternate sources of funding for existing services.
5. If the retirement contributions for employees paid from Measure LL were eventually to result in incremental unfunded pension liability, the Committee found there could be a possibility that any such shortage could become an obligation of the general fund (Repeat).
6. In the Measure LL report filed for fiscal year ending June 30, 2019, the Committee made a recommendation that the City provide clarity on the terms “other services and improvements” and “vital services” to ensure the use of funds were consistent with the ballot measure material. At the City Council meeting on October 13, 2020, Mayor Bob Whalen clarified that “other services and improvements” does include “vital services” and that the allocation of funds for the purposes of beautification and cleaning of sidewalks and bathrooms are appropriate.
7. For city departments to continue their efforts to develop performance measurements to help recognize success and identify problem areas in the services funded by Measure LL.
8. To the extent practicable, the departments attempt to identify additional services and improvements needed, and additional costs to accommodate Laguna’s millions of visitors.
9. On October 13, 2020, the City Council approved the Measure LL Reserve at 20%. The Committee recommends that the City maintain a 20% reserve in the Measure LL Fund of budgeted appropriations. The Committee also recommends prioritizing the use of mid-year or year-end savings to maintain the reserve.

## **X. Recommendations**

As stated earlier in the Executive Summary, based on its review of Measure LL revenue and expenditures, the Committee recommends the following:

1. With the pandemic in sharp focus as the quintessential “rainy day,” the Committee recommends the establishment of factors to be considered prior to the future tapping of Measure LL reserve funds.
2. The Committee recommends the City conduct a Sensitivity Analysis focusing on the variability of Measure LL revenue and identify a hierarchy of LL priorities (e.g.: (I) full-time public safety positions, (II) Utility Undergrounding, (III) Beach clean-up/kelp removal, (IV) full-time porter position, (V) contracted pressure washing of sidewalks. While non-binding, an institutional understanding of an agreement on the primary functions to be funded based on need will aid in the budgeting and decision-making processes.

## **XI. Conclusions**

Based on its review, and consistent with its findings below, the Committee concludes that the use of Measure LL funds is consistent with the intent of the ballot measure material, resolutions related to the ballot measure, the approved budget, and the audited Comprehensive Annual Financial Report. Further, the Committee concludes that the strategic and thoughtful use of these critical funds by the relevant departments is having a positive impact on the community in the form of enhanced public safety, and improved cleanliness and aesthetics throughout high-use public spaces, including beaches, public restrooms, and downtown sidewalks.

## **ADDENDUM**

### 1 Background

- 1.1 Measure LL Informational Flyers
- 1.2 Resolutions 16.063, 16.068, 16.102, 17.011, 18.009
- 1.3 Staff Report: March 22, 2016 Item 1
- 1.4 Staff Report: March 22, 2016 Item 2
- 1.5 Staff Report: May 10, 2016
- 1.6 Staff Report: June 28, 2016 with Survey Questions and Results
- 1.7 Staff Report: July 26, 2016
- 1.8 Staff Report: December 13, 2016 Measure LL Recommended Service Enhancements, Accounting, And Oversight Committee

### 2 Financial Documents

- 2.1 Revenue Report, Source City Finance Division
- 2.2 Expenditure Report, Source City Finance Division
- 2.3 Staff Report: June 30, 2020, FY 2020-21 Adopted Budget and FY 2019-20 Revisions
- 2.4 Staff Report: April 7, 2020, Modifications to FY 19-20 Budget
- 2.5 Staff Report: February 25, 2020, Mid-Year Budget Update
- 2.6 Staff Report: June 18, 2019, FY 2019-20 and 2020-21 Adopted Budget
- 2.7 Measure LL Fund Year over Year Summary Spreadsheet

### 3 Attachments

- Attachment A Police Department Information
- Attachment B Fire Department Information
- Attachment C Marine Safety Department Information
- Attachment D Public Works Information
- Attachment E Minutes of City Council meetings June 28, 2016; July 26, 2016

## **1 Background: What is Measure LL?**

- On November 8, 2016, Laguna Beach voters overwhelmingly approved Measure LL. 85.48% of Laguna's 16,868 registered voters turned out, and Measure LL was approved by 72.9% of those voting. The measure increased the City's transient occupancy tax, commonly known as the "hotel tax" or "TOT," from 10% to 12%, resulting in approximately \$2,000,000 per year in additional General Fund revenue.
- Prior to the ballot measure, a community survey commissioned by the City indicated substantial respondent support for an increase in TOT of 4%, or approximately \$4,000,000 per year.
- The June 28, 2016, staff report (Addendum 1, Attachment 1.6 & 1.7) that included results of the community survey, also included information that TOT rates of Orange County cities were as high as 15% while Laguna's TOT rate was 10% - though Laguna also has a Business Improvement District fee of 2% that is typically assessed on hotel room receipts separate from the TOT.
- After the results of the survey were provided, a sub-committee of two City Council members met with the hotels and Visit Laguna and following that meeting the City Council agreed to a ballot measure increasing transient occupancy tax to 12%.
- By resolution 16.063, the measure was titled: "Laguna Beach Vital Services Measure." (See Addendum 1: Background – 1.2)
- The premise for the increase in TOT was that costs attributed to visitors added to the City's costs of providing necessary services, though no estimate of the amount of additional costs was included in ballot materials.
- The ballot measure was a general tax, rather than a special tax which would have further restricted use of the funds, though the City Council adopted a non-binding resolution expressing the intent to prioritize Measure LL spending for specified purposes.
- And while ballot material does not so state, the initial budget approved after the measure was passed by the voters referenced "enhanced services" to distinguish from funds being used for existing services.
- Revenues received from Measure LL are tracked by the City in a Special Revenue Fund. The intent of a Special Revenue Fund is to provide an extra level of accountability and transparency to taxpayers that their Measure LL dollars are going toward the intended purpose.

### How did the City choose the increase in TOT from 10% to 12%?

Ballot material stated that millions of visitors come to Laguna Beach every year, increasing congestion and demand for city services and resources. This results in higher costs for the City. At its March 22, 2016 meeting the City Council directed the City Manager to work with the utility undergrounding sub-committee to obtain proposals for a community survey to gauge community support for various options for funding the undergrounding of utilities (Addendum 1: Background–1.3 & 1.4).

At its May 10, 2016 meeting, the City Council authorized the City manager to execute an agreement with consulting firm FM3 to develop and implement a community survey that would include one or more questions about new revenue feasibility, including from transient occupancy (Addendum 1: Background – 1.5).

Item 14 of the June 28, 2016 City Council meeting is a staff report (Addendum 1, Attachment 1.6) with the survey question about increasing the transient occupancy tax and the result of the survey.

What TOT do other Orange County cities charge?

In addition to the question asked in the survey about an increase in transient occupancy tax, and the responses, the staff report also included the following:

The survey results indicate potential support for an increase in transient occupancy tax (TOT) and sales tax rates to fund a variety of community projects and unmet community needs. Revenue from TOT and sales tax are used for general operating expenses to fund public safety services such as police, fire, and marine safety in addition to other city services such as public works, water quality, and community services.

The City of Laguna Beach has a 10% TOT rate that is paid by hotel and motel guests for stays of thirty days or less. Three Orange County cities, La Habra, Rancho Santa Margarita, and Villa Park, have a 0% TOT rate while cities such as Anaheim and Garden Grove have a 15% TOT rate. A 4% TOT increase could provide the City with an additional \$4 million annually.

It is important to note that the City also has a 2% Business Improvement District (BID) fee that is typically assessed on hotel room receipts separate from the TOT. The BID funds activities that promote tourism and related tourist events in the City such as Visit Laguna Beach, Arts Commission and Cultural Arts, Laguna Art Museum, Laguna Playhouse, and Laguna College of Art and Design.

The complete list of Orange County city TOT rates is shown below.

**TOT Breakdown by City**  
As of January 1, 2016  
Sorted highest to lowest

City	Rate	City	Rate
Anaheim	15.00%	San Clemente	10.00%
Garden Grove	15.00%	San Juan Capistrano	10.00%
Buena Park	12.00%	Tustin	10.00%
Seal Beach	12.00%	Yorba Linda	10.00%
Santa Ana	11.00%	Fountain Valley	9.00%
Aliso Viejo	10.00%	Newport Beach	9.00%
Brea	10.00%	Costa Mesa	8.00%
Cypress	10.00%	Irvine	8.00%
Dana Point	10.00%	La Palma	8.00%
Fullerton	10.00%	Laguna Niguel	8.00%
Huntington Beach	10.00%	Los Alamitos	8.00%
Laguna Beach	10.00%*	Mission Viejo	8.00%
Laguna Hills	10.00%	Stanton	8.00%
Laguna Woods	10.00%	Westminster	8.00%
Lake Forest	10.00%	La Habra	0.00%
Orange	10.00%	Rancho Santa Margarita	0.00%
Placentia	10.00%	Villa Park	0.00%

\* Laguna Beach has a 2% Business Improvement District (BID) that is assessed on hotel/motel room receipts approved annually by the hotels/motels in Laguna Beach, which is separate from TOT. Other cities may have BID's as well with rates varying from city to city.

What increase in TOT were residents willing to support?

The survey included the question to the right asking if residents would support an increase in the transient occupancy tax of 4% from the current 10% to 14%, providing approximately \$4 million annually.

**Hypothetical Transient Occupancy Tax Measure**

**Laguna Beach Vital Community Services Measure**

To fund city services, infrastructure and improvements required to accommodate millions of annual visitors, including public safety, streets, sidewalks and parking, utility undergrounding, community facilities and other general services, shall the City of Laguna Beach adopt an ordinance to increase transient occupancy taxes paid only by hotel/short-term rental guests from 10% to 14% until lawfully terminated, providing approximately \$4 million annually with audits, public disclosure of expenditures, all funds only for Laguna Beach?



Q6. If this measure were on the ballot and there was an election today, do you think you would vote "yes" in favor of this measure or "no" to oppose it?

The survey found that more than 60% of respondents said they would support a transient occupancy tax increase from 10% to 14%, projected to provide approximately \$4 million annually.

The minutes of the City Council meeting of June 28, 2016 (Addendum 1, Attachment 1.6), reflects:

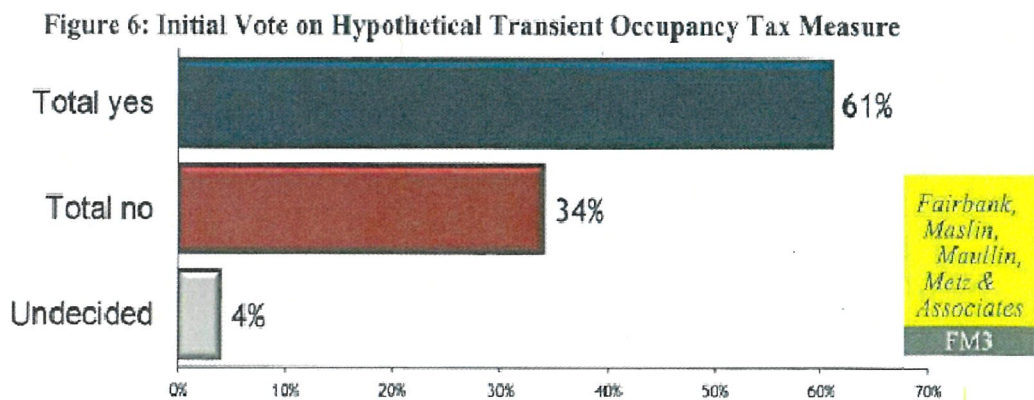
- Councilmember Bob Whalen and Councilmember Kelly Boyd were appointed to a subcommittee to consult with the hotels regarding the proposed Transient Occupancy Tax (TOT) increase.
- Mayor Steve Dicterow said he did not support any ballot measure.
- Councilmember Whalen said he supported pursuing an increase in the TOT from 10 to 13%.
- Councilmember Kelly Boyd said he would support an increase in the TOT from 10 to 11 or 12%, and the money could go towards public safety and additional patrol in the downtown area.
- The subcommittee was directed to bring back their recommendations regarding the percentage increase and proposed ballot language to the City Council on July 26, 2016.

The minutes of June 28, 2016, City Council meeting are included in Addendum 1, Attachment 1.6.

The minutes of July 26, 2016, City Council meeting (Addendum 1, Attachment 1.6) reflect:

- After meeting with hotels and Visit Laguna Beach the subcommittee believed that a two percent increase in the transient occupancy tax from 10% to 12% in addition to the previously assessed two percent Business Improvement District tax would be a reasonable increase.
- Councilmember Bob Whalen said the City did have additional first responder needs from the impact of increased visitors and added that the utility poles were a massive safety issue for the City. He said that two percent was a valid amount, but there needed to be other revenue sources.

**More than six-in-ten respondents (61 percent) said they would support a hypothetical ballot measure to fund city services, infrastructure and improvements required to accommodate the millions of visitors that come to Laguna Beach annually (Figure 6).** The measure would provide approximately \$4 million annually for public safety, street and sidewalk improvements, and removing utility poles and moving wires underground, among other services, by increasing the Transient Occupancy Tax (TOT), paid by guests in hotels and short-term rentals from ten percent to fourteen percent. Similar to the sales tax measure, the hypothetical Transient Occupancy Tax measure would be in effect until ended by voters and includes several provisions to ensure fiscal accountability including annual audits, public disclosure of expenditures, and requires that all funds generated by the measure only be used to support local services in Laguna Beach.



- Councilmember Rob Zur Schmiede said he believed the TOT could be raised three percent; however, he said there was a balance to maintain.
- Councilmember Kelly Boyd said the two areas that he believed were vital to the safety of the community were an increase in the City's emergency services, including police, fire and marine safety and the undergrounding of the utility poles. He said a two percent TOT increase was a good start.

The minutes of July 26, 2016, City Council meeting are included herein (Addendum 1, Attachment 1.7)

Resolution No. 16.068, (See Addendum 1: 1.2) adopted August 30, 2016, stated that:

- Millions of visitors visit Laguna Beach annually
- The millions of visitors increase demand on public safety services such as police, fire, and marine safety, which significantly increases costs to the City to provide those services.
- The visitors also increase the cost to the City of providing other services; and
- A Transient Occupancy Tax is paid only by visitors who stay in hotels and other lodging establishments for a period of thirty days or less.

The Resolution further explains that Measure LL would be a general tax that would raise revenue for general government purposes and that all proceeds would be placed in the City's General Fund.

The Measure was entitled "Laguna Beach Vital Services Measure":

An excerpt from Resolution 16.063 refers to the measure's title as "Laguna Beach Vital Services Measure" and specifies the wording of the ballot measure. (Addendum 1: 1.2)

**RESOLUTION NO. 16.063**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
LAGUNA BEACH, CALIFORNIA, CALLING AND GIVING NOTICE OF  
THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON  
TUESDAY, NOVEMBER 8, 2016 FOR THE SUBMISSION TO THE VOTERS OF A  
QUESTION RELATING TO A BALLOT MEASURE TO INCREASE THE  
TRANSIENT OCCUPANCY TAX, AS REQUIRED BY THE PROVISIONS OF THE  
LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES**

**SECTION 1.** Pursuant to the requirements of the laws of the State of California relating to General Law cities, there is called and ordered to be held in the City of Laguna Beach, California, on Tuesday, November 8, 2016, a General Municipal Election for the purpose of submitting to the voters of a question, bearing the title “Laguna Beach Vital Services Measure,” relating to a proposed ballot measure to increase the transient occupancy tax levied by the City of Laguna Beach.

**SECTION 2.** The City Council, pursuant to its right and authority, does order the following question to be submitted to the voters at the General Municipal Election:

<p><b>Laguna Beach Vital Services Measure</b></p> <p>To provide services and improvements needed to accommodate millions of annual visitors, protect beaches from pollution and provide fire, police protection and emergency response, parking, utility undergrounding to prevent fires and power outages, and other services and improvements, shall City of Laguna Beach adopt an ordinance increasing transient occupancy taxes paid only by hotel and other rental guests from 10% to 12% until ended by voters, providing approximately \$2,000,000 annually, with audits, all funds only for Laguna Beach?</p>	<p>YES</p> <hr/> <p>NO</p>
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Materials available on the city website at the time including a fact sheet and informational mailings also refer to the measure as “Measure LL: Laguna Beach Vital Services Measure.”



What was the justification for increasing TOT?

Examples of explanations for the need for the measure include: (Excerpt from ballot material follows:)



## Keeping Laguna Beach Beautiful

Millions of tourists come to Laguna Beach every year, which increases traffic and demand for city services and resources. This results in higher costs to: 1) maintain our clean beaches and streets; 2) provide quality public safety services such as police, fire and marine safety; 3) provide quality paramedic and 9-1-1 emergency response services; and 4) maintain other services that are utilized by tourists.

And from a Notice mailed to voters:

### What Is Measure LL?

Millions of tourists visit Laguna Beach every year and use city services, creating higher costs to maintain our beaches, public safety services, streets, public spaces and other services.

Measure LL educational flyers are included in Addendum 1: 1.1, and Measure LL resolutions are included in Addendum 1: 1.2.

### Why have an Oversight committee?

The ballot measure increased the Transient Occupancy Tax ("TOT") rate paid by visitors who stay in hotels and other lodging establishments from 10% to 12%. In FY 2018-19, this additional TOT generated approximately \$2.5 million.

Being a general tax, rather than a special tax, the City Council adopted non-binding Resolution 16.068 regarding how funds would be used and created the Measure LL Audit Oversight Committee. (See Addendum 1: 1.2)

The ballot measure was a general tax that required a majority of voters to approve the measure. Funds raised by the City attributable to a general tax can be used for general government purposes. The alternative to a general tax is a special tax, which requires the approval of 2/3 of voters to be adopted. Proceeds of a special tax can only be used for the purposes specified in the ballot initiative material, while proceeds from a general tax, such as Measure LL, can be used for general government purposes. Therefore, by approving Resolution 16.068, the City expressed its intent to prioritize spending options for Measure LL revenue for the following purposes:

- Protect beaches from pollution;
- Provide fire and police protection, and emergency response services;
- Utility undergrounding to prevent fires and power outages;
- Improve the cleanliness of public areas such as sidewalks and streets; and
- To provide other services and improvements.

After stating these prioritized spending options, the Resolution stated that the City intends to establish a Citizens Measure LL Audit Oversight Committee to review the annual year-end expenditure reports produced by the City for the next five years and to provide a subsequent public report to the City Council. The Resolution further stated that "Although this Resolution expresses the intent of the current City Council to prioritize spending options for future Measure LL revenues for certain purposes, this Resolution is non-binding on this or any future or subsequently constituted City Council, and the TOT is and shall remain a general tax as defined in Article XIII C § 1 (a) of the California Constitution."

Therefore, since the tax is a general tax, the Resolution could not be binding and could be changed in the future by the City Council. In an effort to show that the intent was that the funds would be used as specified in the resolution, the City created what is now referred to as The Citizens' Audit Review and Measure LL Oversight Committee whose purpose is to report to the City and the citizens how the funds have been used. In essence, the purpose of the Committee and the report is to provide a vehicle to provide information to the public which would enable the public to understand if the funds are being used for purposes other than what was specified in the ballot material and/or budgets approved by the City Council pursuant to the ballot measure.

After the ballot measure was approved on November 8, 2016, on December 13, 2016, the City adopted Resolution 16.102, (Addendum 1: 1.2) which stated:

1. A Measure LL Fund shall be established, which fund shall be used exclusively for the accounting and tracking of (a) revenue generated by the 2% increase in TOT and (b) expenditures approved by the City Council for the purpose of protecting of beaches from pollution; providing fire and police protection, and emergency response services; utility undergrounding to prevent fires and power outages; improving the cleanliness of public areas such as sidewalks and streets; and to provide other services and improvement. The City Council shall appropriate money from the fund in conjunction with the budget process.”

2. A Citizens' Measure LL Audit Oversight Committee shall be established for five years consisting of five members appointed by the City Council that will review the expenditures of the Measure LL Fund annually and provide a subsequent public report to the City Council as to whether the Measure LL funds have been expended on items of the type described in Resolution 16.068 or the other items described in the Measure LL ballot measure.

Will the funds be used for additional services or for existing services?

While ballot material does not so state, the initial budget approved at the December 13, 2016, City Council meeting, referenced “enhanced services” to distinguish from funds being used for existing services.

By Resolution 17.011 (Addendum 1: 1.2) adopted on February 28, 2017, the City Council changed the number of members and established a 7 (seven) - member Citizens’ Measure LL Audit Oversight Committee (“Committee”). The Committee is required to meet once a year following the completion of the City annual audit, to review and opine whether the Measure LL funds were used as approved, with additional meetings scheduled, as necessary.

At the December 13, 2016, City Council meeting, the City Council also approved the service enhancements funded by Measure LL and directed the City Manager to incorporate the Measure LL revenue and recommended program costs into the two-year budget for FY 2017-18 and FY 2018-19. Measure LL appropriations are listed by line item detail in the adopted budget.

Consistent with the language in the ballot measure, the Committee recognizes and acknowledges that visitors to the City draw on its services. Since the inception of the Measure LL committee, its members have discussed the potential benefits of quantifying the impacts of visitors in terms of vital service demands. To the extent that the departments can collect data providing better insight into the impacts of visitors on city resources, that information could prove helpful, though the Committee realizes there is a practical limit to how much time and effort it is reasonable to expend in data collection. Therefore, the Committee agreed that, to the extent practical, it would be useful for the departments to attempt to identify the additional impacts and additional costs on the departments attributable to visitors, but only if this effort does not represent a significant draw on resources. Further, although this concern was also

highlighted during the public comment portion of the LL meetings, the Committee also determined this assessment and evaluation is beyond its purview.

In summary, based on the premise that tourists increase the cost of providing city services, the intent of Measure LL is to increase revenue from tourists in an effort to generate sources of city funds that apply to those increased uses of city funds, or, in other words, to better link the sources and uses of city funds. While the ballot measure was a general tax, and not a special tax, the City expressed its intent to use the funds for specified purposes and the Citizens' Measure LL Audit Oversight Committee was established to produce a public report to the City Council regarding use of the funds attributable to Measure LL.